



## HERTSMERE BOROUGH COUNCIL

### GAMBLING ACT 2005

### STATEMENT OF PRINCIPLES

2022 – 2025

This Policy is effective from January 3 2022 and is scheduled for review no later than 31 January 2025.

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## **PART A: THE REGULATION OF GAMBLING IN HERTSMERE**

### **1.0 INTRODUCTION**

- 1.1.1 Gambling in the UK is authorised by the Gambling Act 2005 (“the Act”) which permits a wide range of gambling activities to be lawfully carried out. Many of these activities are enjoyed as a recreational pastime integrated into the culture of modern British society and are familiar to many people. These include events such as the Grand National, the national lottery, seaside arcades, fruit machines in pubs and charity fund raising games such as raffles.
- 1.1.2 Whilst a lawful activity, it is recognised that it can cause harm to people within our society and therefore requires regulation. This regulation is split by the Act into a two-tier approach with a national regulator The Gambling Commission (“the Commission”) and a local regulator called the Licensing Authority.
- 1.1.3 Hertsmere Borough Council (“The Council”) is the Licensing Authority for its borough and regulates premises in its area that provide facilities for gambling and also localised lower risk activities that do not require approval from the Commission.
- 1.1.4 Those wishing to provide gaming activities in the Borough have a statutory right to apply to the Council for a licence. Those who may be affected by the grant of that licence have the right to submit a representation to the Council against it. The Council is required to consider each application or representation on its own merits and to take decisions in line with the statutory principles imposed by the Act.
- 1.1.5 The adoption of this Policy is a requirement of the Act and must be reviewed by the Council every three years setting out the principles which it proposes to apply, as the Licensing Authority, when considering applications and exercising its functions under the Act.

### **1.2 Authorised activities**

- 1.2.1 The Act provides the following definitions in relation to gambling activities.
- (a) ‘Gambling’ means either gaming, betting or taking part in a lottery;
  - (b) ‘Gaming’ means playing a game of chance for a prize.
  - (c) ‘Betting’ means making or accepting a bet on the outcome of a race, competition, or any other event; the likelihood of anything occurring or not occurring; or whether anything is true or not true.
  - (d) A ‘lottery’ is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process, which relies wholly on chance.

### **1.3 Licences under the Gambling Act 2005**

- 1.3.1 The Act creates 3 categories of licence:
- (i) Operating licences
  - (ii) Personal licences

(iii) Premises licences

1.3.2 The Commission is responsible for the licensing of operators and individuals. The Licensing Authority is responsible for controlling the activities carried out premises within its area. In addition to these licences, the Licensing Authority is also responsible for the grant of range of notices, permits and registrations, as well as the regulation of various exemptions permitted by the Act.

## **1.4 Consultation**

1.4.1 Before adopting this Policy and following any review, the licensing authority is required by the Act to consult with the following:

- (a) The Chief Officer of Police;
- (b) Those who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area; and
- (c) Those who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.

1.4.2 The Council is not limited by the Act to only consult the above, and has a duty to consider and consult more widely with any person that may be affected by Council's functions under the Act. The Council shall list, as an appendix to this policy those consulted. This will include the Responsible Authorities set out below.

## **2.0 THE REGULATORY BODIES**

### **2.1 The Functions of the Licensing Authority**

2.1.1 As the Licensing Authority the Council is required to receive, consider, grant or refuse applications in respect to, and where granted ensure compliance with, the following licences, permit, registration and notices.

- (a) Premises Licences;
- (b) Provisional Statements;
- (c) Club Gaming Permits and/or Club Machine Permits;
- (d) Club Machine Permits in Commercial Clubs;
- (e) unlicensed Family Entertainment Centres permits
- (f) Licensed Premises Gaming Machine Permits
- (g) Register small society lotteries below prescribed thresholds;
- (h) Issue Prize Gaming Permits;
- (i) Receive and Endorse Temporary Use Notices;
- (j) Receive Occasional Use Notices;

2.1.2 The Council will maintain a register of all permits and licences issued by it.

2.1.3 Licensing authorities are not involved in the licensing of remote gambling this is regulated by the Gambling Commission via Operating Licenses. The National Lottery is regulated by the National Lottery Commission and Spread Betting is regulated by the Financial Services Authority.

## **2.2 The Gambling Commission**

2.2.1 The Commission is a statutory body created by the Act to be responsible for regulating the gambling industry. The Commission has the following statutory functions:

- (a) The issuing of operating licenses to businesses carrying out gambling activities;
- (b) The issuing of personal licences to those individual managing or occupying positions in a gambling business who may play a role in influencing how gambling is conducted.
- (c) Publishing codes of practice;
- (d) Publishing statutory guidance to licensing authorities.

## **2.3 Responsible authorities.**

2.3.1 The Responsible Authorities are defined in the Act as required to receive, and may submit a representation in respect to, applications made to the Licensing Authority. These are:

- (a) The Council's Licensing Department (as licensing authority);
- (b) The Gambling Commission;
- (c) The Police Licensing Officer;
- (d) Fire Protection Manager;
- (e) The Council's Planning Department (as planning authority);
- (f) The Council's Environmental Health team (environmental protection);
- (g) HM Revenue and Customs
- (h) Hertfordshire Safeguarding Children's Board;

2.3.2 The Licensing Authority expects that each of the authorities above take responsibility, and are accountable for, the specific areas of risk that they are tasked with preventing or protecting the public from.

2.3.3 The risk of crime and disorder stemming from a gambling premises is expected to be dealt with or brought to the licensing authorities' attention, by the Police. Fire Safety issues are expected to be raised by the Hertfordshire Fire and Rescue Service. Issue in relation to the suitability of a premises in a particular location or the presence of other premises that could cause a risk, should be raised by the Planning department. Disorder issues creating a nuisance by the Environmental Health service.

2.3.4 The Hertfordshire Safeguarding Children's Board is designated by the Council as the responsible authority expected to raise any issues of concern relating to children and young persons affected by Gambling.

2.3.5 Notwithstanding the above, issues relating to any of the objectives may be made by any authority, but the weight attached to a representation may vary depending on the individual merits of the concern and the expertise of the party raising it.

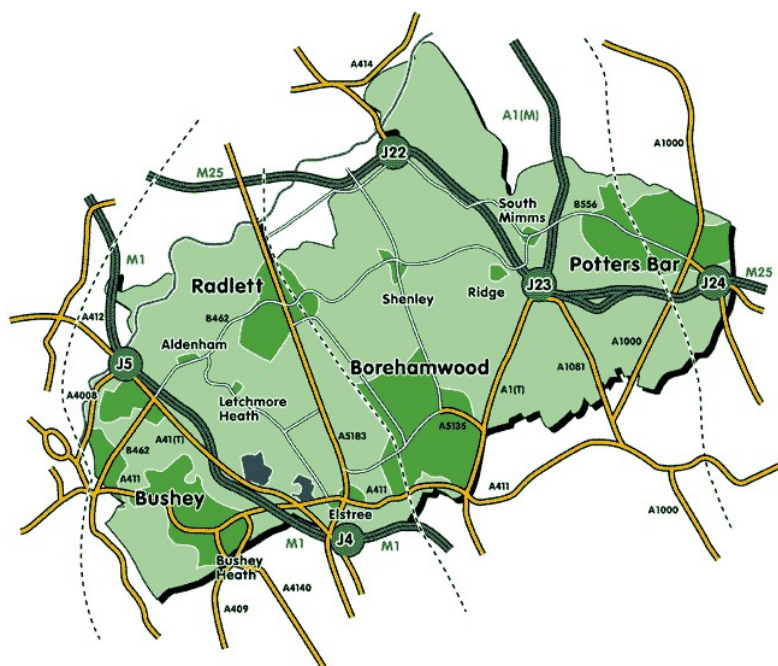
## **2.4 The Licensing Authority's responsible authority role**

- 2.4.1 The Licensing Authority has three distinct functions. The first is an administrative function receiving, processing and recording applications. The second is as a decision maker, determining applications in line with the statutory principles and considering representations. The third function is that as of a responsible authority.
- 2.4.2 As a responsible authority the licensing authority is able to submit representations in respect to applications, as well as applying to review licences already granted. Where it is considered by Licensing Authority appropriate to consider certain issues before determining an application, an Officer of the Licensing Authority may submit a representation. When submitting a representation, the Licensing Authority officer may require any of the other responsible authorities to attend in order to provide specialist evidence to assist the committee, even though that responsible authority may not have submitted a representation of their own.
- 2.4.3 There is not a responsible authority named within the Act traditionally associated with considering the risk of harm to vulnerable people from Gambling. The Licensing Authority will therefore consider these issues as a responsible authority and may ask for evidence and support from any other authority or charity specialising in this area.

### **3.0 THE BOROUGH OF HERTSMERE**

- 3.1.1 The Hertsmere district was formed on 1 April 1974, by merging the former area of Bushey Urban District and Potters Bar Urban District with Elstree Rural District and part of Watford Rural District (the parish of Aldenham).
- 3.1.2 The borough covers an area of around 39 Miles and name 'Hertsmere' was invented for the new district by combining the common abbreviation of 'Hertfordshire' ('Herts') with 'mere', an archaic word for boundary. Hertsmere has a population of over 100,000 residents concentrated in four main towns: Borehamwood (pop. 35,000), Potters Bar (pop. 22,000), Bushey (pop. 22,000) and Radlett (pop. 9,000). Hertsmere boasts wide tracts (around 80%) of Green Belt countryside dotted with attractive villages and much of the land is still given over to agricultural use.
- 3.1.3 These four towns each have their own distinct identity and characteristics when it comes to their respective demographics and alcohol / entertainment venues. There are also a number of picturesque rural villages within Hertsmere including Shenley, Letchmore Heath, Aldenham and Ridge.





3.1.4 The Borough's location is within easy access to the A1 (M), M1 and M25 which all run through the Borough. It is this road link that makes up the Hertsmere logo. The rail network links Borehamwood/Elstree and Radlett to Kings Cross St Pancras on Thameslink in 18 – 20 minutes and Potters Bar to Kings Cross St Pancras in 20 minutes. The M25 provides good access to Heathrow, Stansted and Gatwick Airports as well as the Channel Tunnel via the M20, and the M1 provides quick access to Luton Airport.

3.1.5 Hertsmere is the most southerly borough in Hertfordshire and borders the London Boroughs of Barnet, Enfield and Harrow to the south / southwest and by Hertfordshire's Three Rivers District Council, Watford Borough Council, St. Albans City and District Council, and Welwyn & Hatfield Borough Council to the west and north / northeast.

#### 4.0 THE STATUTORY PRINCIPLES

4.1 The Act imposes a duty on the Licensing Authority to aim to permit the use of a premises for gambling in so far as it thinks it is:

- (a) In accordance with any relevant code of practice;
- (b) In accordance with any relevant guidance issued by the Gambling Commission;
- (c) Consistent with the licensing objectives and
- (d) In accordance with the Council's statement of principles.

#### 4.2 Codes of Practice

4.2.1 The Gambling Commission issue licence conditions and codes of practice (LCCP) for each specific area of gambling and premises type. The codes of practice are split between legally binding Social Responsibility Codes (SRC) and ordinary code provisions (OCP) that are not.

### **4.3 Gambling Commission Guidance**

4.3.1 The Commission publish guidance to Local Authorities to assist them in their duties. The Licensing Authority shall have regard to this guidance.

### **4.4 The Licensing objectives**

4.4.1 The licensing objectives set out in the Gambling Act are:

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

### **4.5 This Statement of Principles**

4.5.1 Whilst termed as a “statement of principles” in the Act, this document is in essence a Policy as to how the Licensing Authority will exercise its functions. The term “policy” is therefore used in preference to the statutory language.

## **5.0 INTERESTED PARTIES**

5.1.1 The Act permits interested parties to make representations about licence applications, or apply for a review of an existing licence. The Council has a statutory discretion to exercise when considering if a person is an interested party or not.

5.1.2 The Act states that a person will be an interested party if in the opinion of the licensing authority that person:

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

5.1.3 Each case will be decided upon its own merits and the Council will not apply a rigid rule as to who is, or is not, an interested party. When making a decision the Council will have regard to any updated Gambling Commission Guidance, government guidance or case law.

### **5.2 Business Interests**

5.2.1 The Council will interpret the term “business interests” widely and where appropriate organisations which do not carry out business activities in the traditional sense, will be considered as included – this includes Schools, Churches, faith groups, charities and medical practices.

- 5.2.2 It is common for other gambling related businesses to submit representations in respect to competitors applying for a licence. Such businesses can fall within the definition of an interested party and representations will therefore be considered.

### **5.3 Democratically elected Officials**

- 5.3.1 Democratically elected individuals such as an MP, Councillor or a Parish Councillor, may also be an interested party in their own right and submit a representation. In such cases the same test set out above will apply. A Councillor, an MP or a parish council will normally be permitted to represent their constituencies by making a representation in respect to an application or premises, even though as an individual they may fall outside of the requirements stated in 4.1.2 above. This is because part of their role is to represent their constituent in such matters and falls within the wider interpretation of a “business interest”. The Council also acknowledges that elected officials are governed by Codes of conduct in public office and to act in good faith. The Licensing Authority considers that, as abuse of an elected officials role would lead to sanctions or removal by the electorate, representations from such public officials will be taken at face value. Applicants of course would have the right to challenge any such objector at a hearing.

Elected individuals may also represent an interested party who has submitted a representation if asked to do so. Interested parties are responsible for contacting and making arrangements with any person who they wish to be represented by, and may be required to confirm this in writing to the Council. Individuals should ensure that the Councillors is not part of the Licensing Committee dealing with the licence application or has any other conflicting interest.

### **6.0 EXCHANGE OF INFORMATION**

- 6.1.1 The Council accepts that there is a need, and an expectation, for regulatory bodies to exchange and share information. Any matter contained within the licensing register held by the Council will be provided to the Gambling Commission in such reasonable form as they may require and shall provide, upon reasonable request and in such reasonable time period, any document held by the Council in relation to a Gambling matter that the Commission may request.
- 6.1.2 The Council shall not seek to unduly delay the sharing of information between regulators and other responsible authorities where permitted by law. The Council will exercise its powers under section 115 of the Crime and Disorder Act 1998 to exchange data and information with the police and other partners to fulfil its statutory objective of reducing crime in the area.
- 6.1.3 Details of applications and representations which are referred to a Licensing Sub-Committee for determination will be detailed in reports that are made publicly available in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000. Personal details of people making representations will be disclosed to applicants.

### **7.0 ENFORCEMENT**

- 7.1.1 The Licensing authority accepts that its role is not just to grant licences but to ensure that activities are carried out in compliance with them, their conditions and the provisions of the Act and its subordinate regulations. The Council believes that it would be wrong to simply rely on complaints to be made by the public as the sole reason for carrying out inspections and compliance activity. The specialist nature of Gambling activities is such that the harm that could be caused by the non-compliance of a business may only be detected following a proactive inspection.
- 7.1.2 The Licensing authority is aware of the burden caused to businesses by duplicating requirements of other regulatory regimes and will endeavour to avoid this where possible as well as unnecessary inspections and bureaucracy. The Authority will seek to have a mix of proactive compliance checks and inspections as well as reactive work investigating complaints.
- 7.1.3 The Council has its own enforcement policy and will have regard to this, as well as the Gambling Commission's Guidance to Licensing Authorities and the regulators code. The Council is committed to the principles of good regulation and shall ensure that all regulatory activities are:
- Proportionate
  - Accountable
  - Consistent
  - Transparent
  - Targeted.
- 7.2 The Licensing authority's main role will be to ensure that activities are not conducted from premises without a licence or in compliance with any licence granted, as well as the licensing objectives. There are a range of different types of premises that may be licensed under the Act and the Council does not believe that the same type or level of enforcement is necessary for all premises, and notes that some premises may require less or more measures due to their location, size or activity carried out.
- 7.2.1 Inspection will be based on the principles of risk assessment, a graduated response and the targeting of problem premises. The frequency of inspections will be determined on risk-based criteria with high-risk operations receiving more attention than premises carrying lower risk. Premises found to be fully compliant will attract a lower risk rating whereas those where breaches are detected will attract a higher risk rating and be inspected again more frequently until such time as the risk rating diminishes.
- 7.2.2 Some premises may be designated as a higher risk due to their location or the nature of the area surrounding the premises and such ratings may not necessary be a reflection on the business itself.

## **PART B - PREMISES LICENCES: STATEMENT OF PRINCIPLES - CONSIDERATION OF APPLICATIONS FOR PREMISES LICENCES**

### **8.0 PREMISES LICENCES**

#### **8.1 GENERAL**

8.1.1 A Premises licence can authorise the provision of gambling facilities for the following premises:

- (a) Adult gaming centre
- (b) Family entertainment centre
- (c) Casino
- (d) Bingo
- (e) Betting premises
- (f) Track Betting premises

8.1.2 To provide any of the above gambling activities at a premises in Hertsmere, a business shall require two licences:

1. An operating licence from the Gambling Commission
2. A premises licence from the Licensing Authority.

8.1.3 This policy does not preclude any application being made and considered on its own merits, but where there are concerns, the onus is on the applicant to show how the concerns can be overcome and the measures they are willing to implement to satisfy the authority that the objectives will not be undermined.

8.1.4 Each premises licence type permits the licence holder to also provide a different number and category of machines. Machines are allocated a category indicated by a letter, currently these are Category D, C, B and A. Regulations set the level of stakes and prizes, the lowest pay-in's and pay-outs are found in category D machines and the highest with Category A machines. Category B is further sub-divided into a range of different categories.

8.1.5 Category D machines can be played by children and all other category of machines must only be played by adults.

#### **8.2 ADULT GAMING CENTRES (AGCs)**

8.2.1 An AGC's premises licence allows the licence holder to make Category B, C and D gaming available for use on the premises. The licence holder is required to hold a gaming machines general operating licence from the Commission.

8.2.2 Under 18's are not permitted to enter an AGC but the machines on the premises may be attractive to children due to their similarities with non-gaming machines or category D machines provided in other establishments. Gaming machines also provide opportunities for solitary play and immediate pay-outs which may encourage repetitive and excessive play which could cause harm to vulnerable people.

### **8.3 LICENSED FAMILY ENTERTAINMENT CENTRES (FEC)**

- 8.3.1 The Act creates 2 classes of family entertainment centres, one which is licensed as a premises (FEC) and one which is licensed by the way of a permit (unlicensed FECS – dealt with under the section on permits).
- 8.3.2 Persons operating a licensed FEC must hold a ‘gaming machine general operating licence (Family Entertainment Centre)’ from the gambling commission.
- 8.3.3 Only Category C (over 18s only) and category D (under 18s permitted to play) gaming machines are permitted.
- 8.3.4 FEC’s are common at seaside resorts, airports and motorway service stations and provide a range of amusements, gaming and non-gaming, attractive to a range of customers. A wide range of children and vulnerable people may find themselves in proximity to the premises and tempted to play on gaming machines.
- 8.3.5 By their nature these premises may not be used by regular customers which may make it difficult for an operator to identify patterns of play or behaviour which indicate a problem. There is an increased opportunity for those who have self-excluded themselves, or been banned, from other premises to access the gaming facilities. By allowing children to enter and play category D machines the operator must mitigate the risk of those children playing on the category C Machines.

### **8.4 BINGO PREMISES**

- 8.4.1 Bingo is not defined in the Act but the characteristics of the game are generally recognised and understood by most people in the UK. The game is a form of equal chance gaming that can be played in various forms.
- 8.4.2 Bingo premises are also permitted make available category B, C and D gaming machines. The number of category B machines must not exceed 20% of the total number of gaming machines on the premise, but there is no limit on the number of C and D machines that may be provided. Children and young persons are permitted to enter bingo premises but not allowed to play bingo or access category B or C gaming machines. Young persons, aged 16 and 17, may be employed in bingo premises provided that their duties are not connected with the gaming or gaming machines.
- 8.4.3 Applicants are expected to consider carefully the presence of children and young people in the premises, whether as guests or employees. An application may chose to operate an over 18’s only policy to mitigate the risk of children accessing gaming facilities. If children are permitted into the premises the licence holder should consider the overall suitability of the environment and ensure that provisions are in place to prevent children playing bingo or category C or B machines, as well as considering whether parental supervision is expected and can be enforced. Operators should consider having appropriate safeguarding policies and training.
- 8.4.4 Licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises in order to prevent underage

gambling. If category D machines are provided the licensee should consider if they are aimed solely at children and whether that is appropriate.

- 8.4.5 The primary purpose of a bingo premises licence is to allow facilities for playing bingo to be provided from the premises. Licence holders are also expected to monitor and have regard to the number of customers playing machines as opposed to playing bingo. The Licensing Authority will need to be satisfied that bingo can be played by customers at the premises at all times that the premises is open.
- 8.4.6 The Licensing Authority accept that remote bingo games are permitted and can be provided at a Bingo premises. However, the Licensing Authority do not consider it acceptable for a Bingo Premises to rely solely on the fact that customers can sit in the bingo hall and play a remote game of bingo if they wish to, where the main function of customers on the premises is the playing of gaming machines.
- 8.4.7 The Licensing Authority would take a dim view of any attempt to change the layout of a premises, or to add additional licensed premises, where the purpose appears to be, or the effect would be, to increase the percentage of category B machines to be made available.
- 8.4.8 Whilst Category B machines can be made available as 20 per-cent of the total machines available in the premises, an operator would be discouraged from installing 5 D machines that are never played simply to provide a further higher pay out machines. The Licensing Authority would therefore expect a responsible operator to ensure that the number of machines provided on the premises is no more than necessary to fulfil the demand for playing that category of machine by customers.
- 8.4.9 Where hand held gaming, devices are to be used in bingo premises, the Licensing Authority expects applicants to demonstrate how use of these devices will be monitored by staff.

## **8.5 BETTING PREMISES**

- 8.5.1 The Act contains a single class of licence for betting premises but the types of business are varied and include High Street bookmakers, bookmakers located in self-contained facilities at race courses and the general betting premises licences required by track operators.
- 8.5.2 Under 18 are not permitted to enter betting premises and operators must ensure that their policies and procedures take account of the structure and layout of their gambling premises in order to prevent underage gambling. Children and young people are not allowed to be employed at a licensed betting premises.
- 8.5.3 Licensed betting premises may make available for use up to 4 gaming machines of category B, C or D. The Licensing Authority acknowledges that premises will normally provide 4 machines that are category B2 (fixed odd betting terminals (FOBT's) and relatively recently the government reduced the maximum stakes and prizes for these machines due to the risk of harm to the public.

- 8.5.4 Self-Service Betting Terminals (SSBTs) are not classed as gaming machines and an unlimited number may be made available. SSBT's allow a bet to be made on a live event or future outcome via the machine, rather than with a member of staff. Whilst this can provide business advantages and customer convenience in some instances, the machines also present risks to be considered.
- 8.5.5 There is an express power for licensing authorities to restrict the number of SSBTs, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence. Applicants are expected to state, and once licensed keep the licensing authority informed of, the number of SSBT's to be in use at the premises.
- 8.5.6 This licensing authority will 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 SSBT's by children and young persons or by vulnerable people.
- 8.5.7 The Authority would also have significant concerns if SSBT's were used, or relied on, predominantly at a premises in order to ensure that betting facilities were available, whilst taking significant custom through FOBT's.

## **8.6 TRACKS**

- 8.6.1 A track is defined as a horse-race course, dog track or other premises on any part of which a race or other sporting event takes place or is intended to take place. Track premises are exempt from the restriction on inviting or permitting a child or young person to enter gambling premises. Those under 18 must however be prevented from accessing any areas in which gaming machines of Category C or above are provided and not allowed to bet.
- 8.6.2 Tracks may be subject to more than one premises licence but each licence must relate to a specified area of the track. This authority will therefore expect an applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities.
- 8.6.3 The holder of a track premises licence does not need an operating licence and is not authorised to provide gaming machines. However, gaming machines could be provided under a track betting licence if the holder also holds a pool betting operating licence issued by the commission. This permits up to 4 gaming machines to be made available within categories B2 to D on the track. Other than category D machines, machines should be located in areas from which children are excluded.
- 8.6.4 Track premises may also be used to provide SSBT's if the holder of the premises licence also holds the appropriate betting operator licence. There is no restriction on the number of SSBTs that may be in use but operators must, by virtue of their operating licence conditions, supervise such terminals to prevent them being used by those under 18 years of age. The statements in relation to SSBT's made above apply equally here.



8.6.5 Operators for track premises licences will be expected to have relevant procedures in place to protect children and the vulnerable. Particularly where a number of licences may exist in respect to the same track.

## **8.7 CASINOS**

8.7.1 Under the provisions of Section 166 of the Gambling Act 2005 an authority may resolve not to issue casino premises licences. However, due to the effect of regulations issued under the Act, it is not currently possible for a premises to be licensed as a Casino in the Borough of Hertsmere.

8.7.2 This licensing authority therefore considers the making of a resolution to not issue casino licences to be unnecessary. Should the legislation change, this matter will be considered and reviewed by the Council and this Policy will be updated.

## **9.0 APPLICATIONS**

### **9.1 New Premises Licences/ Variations**

9.1.1 Applications must be made in accordance with legislative requirements and advertised as prescribed in regulations. Failure to do so correctly shall render an application invalid and will need to be re-submitted. Where an application is to be submitted the applicant may incur additional advertising expenses.

9.1.2 The Licensing authority is happy for applicants to submit an application informally to the Council's licensing team in order to check that the application will be valid before formal submission. The Licensing team may make an additional charge for its professional services in assisting an applicant in this way.

9.1.3 Applicants are expected to provide sufficient information for the application to be assessed which they consider to be relevant to the application. The applicant may therefore choose to submit a statement or other document to the Licensing Authority, along with a Local Area Risk Assessment, addressing the matters in this Policy to enable the Licensing Authority and responsible authorities to determine the application.

### **9.2 Plan**

9.2.1 The applicant must submit a plan or plans of the premises with their application which must show:

- (a) The extent of the boundary or perimeter of the premises;
- (b) Where the premises include, or consist of, one or more buildings, the location of any external or internal walls of each such building;
- (c) Where the premises form part of a building, the location of any external or internal walls of the building which are included in the premises;
- (d) 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

- (e) The location of each point of entry to and exit from the premises, including in each case a description of the place from which entry is made or to which exit leads.
- (f) The location and extent of any part of the premises which will be used to provide facilities for gambling in reliance on the licence (except for a track premises).

9.2.2 The Licensing Authority may consider that these minimum requirements are insufficient to allow it fulfil its obligations and make a decision. The Licensing Authority may ask for such additional information to be shown on the plan as it deems necessary to enable it to discharge its duties effectively.

9.2.3 Applicants may therefore choose to submit a plan that also shows the location of each facility for gambling provided, whether a machine, terminal or manned service desk. Fire equipment, capacity limits, CCTV locations, staff only areas and customer toilets may also be shown.

9.2.4 Licence will be granted on the basis of the plan provided by the applicant. The authorisation to provide gaming facilities will only apply to the premises whilst it remains in the physical condition notified to the Licensing authority on the plan as part of the application.

9.2.5 Any alterations made at the premises which differ from that reflected in the plan attached to the licence will breach the permission granted and the provision of gambling facilities will be unlawful. In such circumstances licence holder may be required to apply to vary their licence to reflect the changes or if the changes are substantial, apply for a new licence.

### **9.3 PROVISIONAL STATEMENTS**

9.3.1 Section 204 of the Gambling Act allows for an application to be made to the licensing authority for a provisional statement in respect of premises that the applicant:

- (a) expects to be constructed;
- (b) expects to be altered; or
- (c) expects to acquire a right to occupy.

9.3.2 There is no need for the applicant to hold an operating licence or to have the legal right to occupy the premises in order to apply for a provisional statement. Developers may therefore wish to apply for a provisional statement before entering into a contract to buy or lease property or land or to judge the viability of obtaining a premises licence.

9.3.3 The process for considering an application for a provisional statement is generally the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same manner and responsible authorities and interested parties may make representations.

9.3.4 The holder of a provisional statement is not authorised to provide gambling and apply for a premises licence once the premises are constructed, altered or acquired.

However, the prior grant of a provisional licence constrains the licensing authority in the matters it can consider when determining the subsequent premises licence application. 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.

9.3.5 The effect of a provisional statement means that the Licensing Authority may only refuse an application for a premises licence (or grant it on terms different to those attached to the provisional statement) by reference to matters:

- (a) which could not have been raised by objectors at the provisional statement stage;
- (b) which in the authority's opinion reflect a change in the operator's circumstances; or
- (c) where the premises has not been constructed in accordance with the plan submitted with the application.

#### **9.4 GENERAL REQUIREMENTS FOR ALL PREMISES LICENCE APPLICATIONS**

9.4.1 The Licensing Authority expects all applicants for gambling Premises Licences to ensure there is adequate provision for staff to supervise persons using the licensed premises. This is to identify those who have self-excluded, vulnerable persons, under age persons and persons who may become aggressive.

9.4.2 Applicants should be willing to share with the authority examples of the training staff undertake and those training records.

9.4.3 Applicants must take the structure and layout of the premises into account when considering their own policies and procedures. For example, where it is not possible for counter staff to supervise persons using gambling facilities such as gaming machines, the Licensing Authority would expect applicants to volunteer conditions that floor walkers will be used or that counter staff will be able to view all areas of the premises on CCTV provided to the counter area where it can be clearly seen.

9.4.4 Arrangements must be made for how staff will deal with customers who become aggressive and ejecting patrons who are, for example, self-excluded, vulnerable or under age. This will include staff training and ensuring there are appropriate numbers of staff to deal with problems.

9.4.5 Staff should be in a position to monitor entrances and gaming machines and challenges should be initiated at the earliest opportunity.

9.4.6 Where access to premises is age restricted, the Licensing Authority expects applicants to have a Challenge 25 policy in place and to train its staff in recognising acceptable forms of identification. Posters should also be displayed stating that the relevant policy is in place and that users may be challenged.

9.4.7 All applicants should keep an Incident Book in which details are recorded of persons who have self-excluded, persons who have been ejected or refused admission,

persons who have been excluded by the operator, and any crime or disorder that occurs on, or in association with, the licensed premises.

- 9.4.8 Applicants should demonstrate how they will identify self-excluded persons and how staff will be informed. A selection of hard copy photo's kept behind a counter not only poses data protection issues it requires regular review of such information to be enforced. Staff turnover and changes to shift patterns can increase the risk of excluded persons being allowed to gamble.

## **9.5 Local Risk Assessment**

- 9.5.1 Licence holders are required by their current Licence Conditions and Codes of Practice (LCCP) issued by the Gambling Commission to assess the local risks to the licensing objectives posed by the gambling facilities at each of their premises and to have policies, procedures and control measures in place to mitigate those risks. When making their assessments operators must have regard to the local authority's policy.
- 9.5.2 The Licensing Authority does not expect to detail the form that such assessments should take nor what each individual business may choose to call them. It is the responsibility of each operator to comply with their obligation under the LCCP and compile their risk assessment in such form as they consider appropriate for their business and/or the local area.
- 9.5.3 Licensees must carry out and share their risk assessment with the licensing authority when applying for a premise licence. The Licensing Authority also expects risk assessments to be provided upon request. A copy should be kept at the individual premises where it can be made available for inspection without undue delay at all times by any authorised person. The Council expects an operator to ensure that its staff know of the risk assessment and where it can be found.
- 9.5.4 The Licensing Authority accepts that national operators may choose to use the same style of form in respect to all their premises and will have national policies and procedures. The Authority is supportive of this as a consistent approach can benefit the operator's business as well as promote the licensing objectives locally by providing certainty to staff, customers and regulators.
- 9.5.5 The Licensing Authority is also clear however that to comply with the requirements of the LCCP an operator must ensure that the assessment carried out considers the local risk to the gambling objectives posed by each individual premises. In making these risk assessments local operators must take in to account the relevant matters identified within this statement of licensing policy. Generalised assessments may therefore fail to identify appropriate issue.
- 9.5.6 The Licensing Authority expects operators will consider first the generally accepted risks of gambling. Following this it is expected that an operator will then identify if the gambling premises is in close proximity to any premises, building or organisation which may pose an additional risk.

9.5.7 For instance premises which children or vulnerable people are likely to attend, or persons could leave from in a vulnerable condition, should be identified. These premises include:

- (i) Educational facilities (schools, colleges etc.)
- (ii) Youth clubs, parks, playgrounds; E
- (iii) Entertainment venues such as bowling alleys and cinemas etc;
- (iv) Bus stops,
- (v) Fast food restaurants,
- (vi) Retail shops.
- (vii) Community centres.
- (viii) Hospitals and other medical facilities;
- (ix) Mental health providers;
- (x) Gambling care providers;
- (xi) Alcohol or drug support facilities;
- (xii) Any other treatment or therapy centres in relation to addiction or impulsive behaviour;
- (xiii) Homeless or rough sleeper shelters, hostels and support services.
- (xiv) Pubs, Bars and clubs;
- (xv) Other Gambling premises
- (xvi) Pawn broker/pay day loan businesses in the vicinity.
- (xvii) Banks

9.5.8 Next the operator may wish to consider the likely footfall passing the premises. For instance, is it on a route to a premise of a type listed above, or are there a number of such premises in the area that may pose additional risks by increasing the number of children or vulnerable people expected in the area.

9.5.9 Fourthly, the operator should consider the surrounding local area and any risks that may be present that are not directly attributable to the location of it or any other premises. This should include:

- (a) The crime level of the area;
- (b) Issues of anti-social behaviour,
- (c) underage drinking;
- (d) Street drinkers,
- (e) Drug dealing
- (f) The ethnicity, age, economic makeup of the local community.
- (g) Unemployment levels;
- (h) Levels of deprivation,

9.5.10 Lastly, the operator should consider any risks that are presented by the physical layout and design of the premises to the public, customers or in respect to its staff as well as the behaviour and activity of its customers. For instance:

- (a) Advertising and marketing materials that may be attractive to children;
- (b) Display of promotion and offers externally;
- (c) If the frontage of the premises is largely glass it could be subject to damage or break in;
- (d) Gambling activities may be seen easily when the premises door is opened

- (e) Blind spots that may prevent staff monitoring customer behaviour or provide cover for criminal acts.
- (f) The location and coverage of working CCTV and how the system will be monitored;
- (g) The layout of the premises so that staff have an unobstructed view of persons using the premises;
- (h) An assessment of the number of staff necessary to work at that premises, and with reference to certain days and times;
- (i) Where lone working is permitted, the supervisory and monitoring arrangements when that person is absent from or distracted from supervising the licensed area;
- (j) Are measures in place to assess that staff are not vulnerable and are otherwise restricted from gambling at the premises;
- (k) Are there suitable measures in place to stop congregation, littering or anti-social behaviour by customers outside of the premises.

9.5.11 One a risk assessment is compiled it must be reviewed and updated:

- (i) to take account of significant changes in local circumstances, including those identified within this policy;
- (ii) when there are significant changes at a licensee's premises that may affect their mitigation of local risks;
- (iii) when applying for a variation of a premise licence;

9.5.12 However, it is encouraged those operators consider it a live document that is capable of being updated frequently and have systems in place to allow for the monitoring of activities that will identify additional risks. Operators should monitor data at its premises such as:

- (a) Gaming trends that may reflect a pay day or benefit payments;
- (b) The number of interventions that occur or where a concern has been reported by an individual's gambling;
- (c) The number of self-exclusions and repeated self-exclusions;
- (d) The number of leaflets relating to self-exclusion or help that may be taken by customers;
- (e) Incidences of underage gambling or refused attempts at underage gambling;
- (f) Staff turnover, staff sick days, staff complaints and staff disciplinary action;
- (g) Staff training;
- (h) Arrangement with other local gambling premises for an exchange of information regarding self-exclusions and gaming trends;

9.5.13 Subject to commercially sensitive and data protection matters, it is expected that operators are able to provide data relating to the above to the Licensing authority to assist the Council in developing its own local area profile and to identify areas where further regulation is needed.

9.5.14 Operators are responsible for identifying the risks in relation to their premises and the above is given as an indication of the Licensing Authorities expectations.

Operators must consider this policy but is not obliged to consider all of the above to be matters of relevance in respect to their individual premises. Likewise, there may be matters not listed above that operator's do consider of risk. Once a risk is identified it is the operator's responsibility to satisfy the Council that they have appropriate measures in place, to mitigate that risk.

- 9.5.15 The Licensing Authority will monitor and review the risks and relevant issues affecting its local area and may revise this statement of principles to identify any specific local area where there is evidence of specific or additional risks.

## **9.6 Review of premises licences**

- 9.6.1 Responsible authorities and interested parties may apply to the Licensing Authority to review any premises licence that has been granted. Once an application is received the Licensing Authority must consider whether to grant or reject that application.

- 9.6.2 If granted the licensing authority must notify the premises licence holder and other responsible authorities within 7 days. The Licensing Authority is also required to comply with statutory provisions requiring the application to be advertised in order for representations to be made. Representations can be made by responsible authorities and interested parties during a 28 day period, beginning 7 days after the grant of the review.

- 9.6.3 After the end of the 28-day period for representations to be made the licensing authority must carry out the review by holding a hearing. The purpose of the review hearing will be to determine whether the licensing authority should take any of the following actions:

- (a) add, remove or amend a licence condition imposed by the licensing authority;
- (b) exclude a default condition imposed by the Secretary of State (e.g. 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.

- 9.6.4 In determining what action, if any, should be taken, the licensing authority must have regard to any relevant representations as well as the Statutory Principles outlined in paragraph 3.0 of this Policy. The considerations and expectations outlined in this Policy for applications for licences shall also be relevant to the consideration of a review.

- 9.6.5 The Council will not grant applications for a review where the grounds on which it is sought do not raise an issue relevant to the statutory principles that must be applied by the Council, or where the grounds are frivolous, vexatious, or substantially the same as those either specified in an earlier review application or in a representation to a premises licence.

- 9.6.6 Additionally, a review application will be rejected if the grounds are such that it will certainly not cause the authority to wish to take the action outlined in 9.6.3 above.

9.6.7 Applications related to general objections about gambling as an activity, the demand or need for gambling premises, planning, public safety and traffic congestion issues are likely to be considered frivolous, not related to the statutory principles and not sufficient to cause the Council to take any of the permitted steps it is able to on review.

## **10.0 DECISION MAKING AND DISCRETION**

### **10.1 Context**

10.1.1 The Licensing Authority's approach when determining applications, is restricted to the Statutory Principles stated in Paragraph 3.0 of this Policy. The Licensing authority cannot take into account matters that are not relevant to those principles and this includes moral objections to gambling or matters relating to need or commercial demand for gambling premises.

10.1.2 The following paragraphs set out the Licensing Authority's position on a number of issues that may be of relevance to applications made for licences, whether to take enforcement action or when considering an application to review a licence.

### **10.2 Definition of Premises**

10.2.1 A Premises can only benefit from the grant of one premises licence. However, 'Premises' is defined in the Act as including "any place" and a single building could be sub-divided into separate "places" with each having their own premises licence.

10.2.2 The Licensing Authority accepts the principle behind this and that a business could, for instance, hold a licence for the ground floor of a building and a separate licence for the first floor. However, the Licensing Authority is also aware that this principle could be stretched by operators to the extent that the objectives are undermined or to seek to circumvent safeguards within the Act.

10.2.3 The Licensing Authority will assess whether a premises can rightly be regarded as separate to another on its own individual merits by looking at the circumstances relevant to that place. The factors that the authority will be considering are as follows:

- (a) Is the premises operated by a different business, or the same business?
- (b) Is managerial control, or the proposed licence holder, different?
- (c) Are there permanent and physical features separating the premises?
- (d) Is the premises reasonably distinct from any other premises within the building?
- (e) Is the activity proposed to be carried out the same as the other premises?
- (f) Do the premises have a separate registration for business rates?
- (g) Is the premises' neighbouring premises owned by the same person or someone else?
- (h) Can each of the premises be accessed from the street or a public passageway?
- (i) Can the premises only be accessed from any other gambling premises?
- (j) Can the restrictions on access set out in the Act, regulations and codes of practice between the premises be reasonably complied with;



10.2.4 In addition to the restrictions on access (below), the Licensing Authority will also consider whether further measures are necessary to promote the objectives, particularly to prevent harm to vulnerable persons and children. For instance, if age checks are carried out at the boundary of each separate premises, or if a person is excluded from gambling due to a concern by the operator of one premises, is their sufficient means in place to prevent that person from continuing to gamble in another area.

10.2.5 This statement of principles envisages that the Licensing Authority will consider these issues upon application (or enforcement) in its role as a responsible authority and may take steps to bring this to the attention of a Licensing Authority sub-committee to carry out the relevant decision-making functions.

### **10.3 Primary use of premises**

10.3.1 The Act distinguishes between different types of premises licences which authorise a specific gaming activity. The operator may be permitted to provide other ancillary gaming facilities under the terms of that premises licence, but the Act clearly gives importance to the need for specified licences. The Licensing Authority expects that the activity authorised by the licence applied for will be the predominant activity provided at the premises.

10.3.2 The Licensing Authority would therefore expect the majority of the premises, or the predominant use of that premises, to be designed to facilitate gaming of the type authorised by the premises licence sought.

10.3.3 The use of a premises for an activity that is not the primary one authorised would raise significant concerns about the suitability of a licence holder to provide gambling activities responsibly.

10.3.4 This statement of principles envisages that the Licensing Authority will consider these issues upon application (or enforcement) in its role as a responsible authority and may take steps to bring this to the attention of a Licensing Authority sub-committee to carry out the relevant decision-making functions.

### **10.4 Access to premises**

10.4.1 Regulations under the Act govern the access to gambling premises by setting default and mandatory conditions. The broad principle is that where a premises is restricted to only allowing those aged 18 or over to enter, access to it cannot be direct from another premises licensed for gambling. Direct access is allowed between gambling premises if both are permitted to allow children to enter.

10.4.2 The purpose of the requirement to protect children and vulnerable people from harm. Examples of the risks which this provision aims to prevent are those where someone under age has unlawfully entered one premises and is able to remain undetected or continue to gamble by moving into another premises, or where a person is either excluded from gaming or is able to enter more high-risk gaming by moving to the second premises.

- 10.4.3 Operators are required to prevent access to facilities by people underage and also have a duty to recognise and assist those who may be vulnerable or have a gambling problem. Clear separation between premises is therefore necessary to ensure that the appropriate operator takes responsibility for complying with their duties and any failing by one operator will not affect another operator or cause harm to any individual.
- 10.4.4 ‘Direct access’ is not defined in the Act and the Licensing Authority will consider each matter on its own merits. This may involve consideration of physical barriers, the time it takes to travel between the premises, whether any checks are carried out upon the entry to the next premises or whether there is any facility not related to gaming or under the control of the businesses providing the gaming between the two gambling premises.
- 10.4.5 The authority will also consider whether in all the circumstances, given the purposes of the legislation and the licensing objectives, is it reasonable to considered that an individual has left a gaming environment when moving between two premises and the measures comply with legislative provisions and the objectives of the Act.
- 10.4.6 This statement of principles envisages that the Licensing Authority will consider these issues upon application (or enforcement) in its role as a responsible authority and may take steps to bring this to the attention of a Licensing Authority sub-committee to carry out the relevant decision-making functions.
- 10.5 Premises not yet built**
- 10.5.1 Where a premises is not yet constructed or only part constructed and applicant may chose to apply for either a provisional statement and then a premises licence once ready to operate or simply to apply for a premises licence.
- 10.5.2 Where an applicant is satisfied that they can provide sufficient details about how the premises will operate, the applicant may choose to apply for a premises licence instead of a provisional statement. This is entirely choice of the applicant.
- 10.5.3 However, where an applicant chooses to apply for a licence in respect of premises which are not yet in their final condition, the applicant must to satisfy the Licensing Authority as to how they will comply with all the relevant legislative provisions, default and mandatory conditions, as well as ensuring that the authority has enough information to consider the impact of the premises on the licensing objectives and the local area.
- 10.5.4 Anything that is provided by an applicant in support of a premises licence application for premises not yet in their finished form may be conditioned by the Licensing Authority. This is so that there is an assurance that what is presented to and approved by the authority will be accurately reflect the premises once it begins to trade. This also ensures that if there are any alterations the applicant will need to apply to vary the licence and provide an opportunity for responsible authorities and interested parties to re-consider the changes.

10.5.5 If an applicant cannot present something in such final form as to be conditioned accurately by the Council, the applicant should choose to apply to a provisional statement.

10.5.6 This statement of principles envisages that the Licensing Authority will consider these issues upon application in its role as a responsible authority and may draft the relevant matters to be conditioned and/or take steps to bring this to the attention of a Licensing Authority sub-committee to carry out the relevant decision-making functions.

## **10.6 Location**

10.6.1 An applicant can apply for a premises licence anywhere in the Borough. However, the Licensing Authority will have regard to the location of any premises and its effect on the licensing objectives, when considering an application. When considering the suitability of a location the Licensing 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.

10.6.2 The nature of a premises and the gambling activities proposed will have some bearing on whether or not the grant of a licence in a specific location is likely to undermine the licensing objectives. The Licensing Authority will use its own local knowledge as well as any available evidence to identify any potential harm. Where a harm is identified, the authority will consider the likelihood of that harm occurring and if that harm can be addressed by conditions, rather than refusal.

10.6.3 The Licensing authority does not consider it suitable for gambling premises to be located near any premises or business used by children or vulnerable persons or where there is likely to be a significant footfall of children or vulnerable people.

10.6.4 The possible impact of a gambling premises in, or near to a residential area will also be considered. There may be an increased concern if an area has a high proportionate of families or children, levels of deprivation, unemployment or levels of substance, alcohol or gambling addiction higher than the norm.

10.6.5 Whilst issues of demand are not relevant, a high volume of gambling premises may undermine the licensing objectives. The Council will consider the impact of a premises in the context of the effect it will have alongside any other gambling related premises. An applicant for a licence to permit gambling at a premises which is near to another gambling premises will be expected to address how they will work with the other premises to ensure that the objectives of the Act are not undermined.

10.6.6 The Council will also consider the level of organised crime in the area or the possibility that the premises may attract crime, or criminals into the area – for instance by allowing a means of money being laundered via cash purchases.

## **10.7 Duplication with other regulatory regimes, such as Planning and Building regulations**

- 10.7.1 The Licensing Authority is prohibited by the Act from considering the likelihood of an applicant obtaining planning permission or building regulations approval. This does not however mean that the considerations of the Council's planning or building regulation departments are not relevant. Whilst the issue of whether a gambling premises may or may not receive planning permission cannot be considered, the Council can consider whether the proposed area has been earmarked for certain uses, or premises near to the proposed gambling site may be granted planning permissions that would raise concerns – such as the building of a new school.
- 10.7.2 The Licensing Authority will not take into account whether a premises has, or is compliant with, any planning or building consents. Additionally, Fire or health and safety risks will also not be taken into account by the Licensing authority. These matters are governed by separate legislation and the responsibility of separate Council departments or other bodies.
- 10.7.3 The Licensing regime is not a mechanism for ensuring that a business complies with other regulatory legislation. The grant of a licence does not mean that the premises will obtain, or has obtained, any other relevant permission needed to trade lawfully.
- 10.7.4 The Licensing Authority does however consider breaches of other regulatory regimes to be serious and it may not be compatible with the Licensing Authority's duties under the Act to grant licences in some instances. Deliberate or reckless breaches of other regulatory regimes may be presented as evidence that an applicant or licence holder:
- (a) Cannot be trusted to comply with comply with the legislative provisions of the Gambling Act, the Codes of practice and Licence conditions;
  - (b) Does not have the appropriate honesty to ensure that gambling is conducted in a fair and open way;
  - (c) Is dishonest and therefore cannot be trusted to prevent gambling activities being a source of, or associated with, crime and disorder;
  - (d) Cannot be trusted to ensure that measures to protect children and vulnerable people are implemented.
- 10.7.5 The Licensing Authority will only consider the alleged non-compliance of an applicant or licence holder in very limited circumstances relevant to its statutory duties under the Act. The Licensing Authority must have confidence that an applicant can understand and comply with the regulating provisions in order to ensure that the provision of gambling facilities does not pose a harm to the public. Failing to comply with other regulatory regimes may result in the Licensing Authority not being satisfied that an applicant is suitable.
- 10.7.6 Evidence will be required of the alleged breaches and the actions taken by the relevant enforcing authority to satisfy itself that the non-compliance is either wilful or due to significant incompetency. This would be evidence by another authority by showing that the applicant or licence holder has clearly been told of the breach and has chosen not to rectify that breach having had reasonable opportunity to do so.

10.7.7 The Licensing authority would not expect responsible authorities to present a case to it suggesting an applicant is not suitable without having taken considerable steps of their own to resolve the issue.

## **10.8 Credit/ATM/Credit and debit cards**

10.8.1 The Act requires a condition to be placed on casino and bingo premises licences that prohibit the provision of credit in connection with gambling or any involvement of the licence holder in the provision of credit to customers.

10.8.2 The licensing authority believes that responsible operators would discourage gambling by use of credit facilities and would be re-assured by operators who have proposals and systems in place to prevent payment by credit cards.

10.8.3 Cash dispensers (ATM's) are permitted to be located in any premises provided that the ATM is sited in such a position that people playing on any gaming machine must cease to play that machine and move away from it, to withdraw cash. Such machines may accept credit cards and provided that the premises licence holder has no connection with the transaction, or commercial arrangement with the installer of the ATM to profit either directly or indirectly from the transaction of withdrawing cash.

10.8.4 Notwithstanding that using a credit card to withdraw cash maybe lawful, the ability to do so raises concerns in relation to vulnerable people who may be gambling more than they can afford. Whilst in a multi-use premises or building an ATM from which credit cards can be used may be acceptable it should be located a suitable distance away from a gaming area to minimise the risk of encouraging individuals to gamble more than necessary.

10.8.5 In a premises that is solely used for gaming the Licensing Authority consider that, if an ATM is necessary, it should be one that does not allow the use of credit cards.

10.8.6 Where debit cards are used operators are encouraged to consider not accepting contactless payments or to have additional security measures in place. The contactless feature of a debit card may be used without any assurance that the user of the card is the authorised owner. Contactless payments may be authorised by an individual's bank without that person having the funds or by going into their overdraft.

## **10.9 Hospitality and complimentary benefits**

10.9.1 The licensing authority accept that some premises provide a form of hospitality to their customers but would have concerns where premises provide free food and drink, or cut-price food and drink, with the intention of keeping customers within the gambling environment.

10.9.2 Where refreshments are provided the licensing authority considers it reasonable that the operator can provide the means to allow customers to consume refreshments away from the gaming area and the provision of such refreshment used as an opportunity to allow customers to take a break from gambling where necessary.

10.9.3 Provided that there is no evidence of any harm to their customers, the provision of refreshments is something that the Licensing Authority will leave to the discretion of each operator. Should there be evidence of concern, operators would be expected to satisfy the authority that the provision of refreshment has been adequately risk assessed and monitored alongside the wider ranging obligation of an operator to promote the gambling objectives.

10.9.4 Benefits such as VIP schemes should not be used to target individuals based upon their disposable income or as a reward for, or incentive to, additional and frequent gambling at increased stakes.

## **11.0 THE LICENSING OBJECTIVES**

### **11.1 The Three objectives**

11.1.1 The statutory principles require the Council to only aim to permit gambling that is reasonably consistent with the Licensing Objectives. The three objectives are:

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

11.1.2 The Licensing Authority seeks to assist applicants by setting out the following considerations that will be applied when determining applications under the Act.

### **11.2 *Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime***

11.2.1 The Licensing Authority will consider the effect of a premises on the levels of crime and disorder in the area in which it is located. Where the premises is a new premises, the authority will consider any existing levels of crime, the type of crime and any measures that the applicant will implement.

11.2.2 There is no definition of the term 'disorder' in the Act and the Gambling Commissions guidance is that 'disorder is intended to mean activity that is more serious and disruptive than mere nuisance'.

11.2.3 Whilst general issues of public nuisance are not likely to meet the criminal threshold or to be considered as 'disorder', extreme or persistence public nuisance or anti-social behaviour are considered by this authority to fall within crime and disorder.

11.2.4 An area suffering from high levels of crime (particularly if associated with gambling or premises used for gambling), may not be a suitable location for a gambling premises.

11.2.5 The Licensing Authority will consider whether the layout, lighting and fitting out of the premises have been designed so as to minimise conflict and opportunities for crime and disorder.

- 11.2.6 The Licensing Authority will consider whether sufficient management measures are proposed or are in place to prevent the premises being a source of, or associated with crime or disorder, or used to support crime either as a place of association, to avoid apprehension or to use gaming facilities as a means to launder money.
- 11.2.7 Where there is a concern that a premises may attract disorder or be subject to a risk of crime the Licensing Authority may require that the entrances to the premises are controlled by one or more SIA registered door supervisor's. Door supervisors may only be needed at certain times or on certain days.
- 11.2.8 CCTV will generally be expected to operate and to cover the entrance to the premises as well as all the area within and premises may be conditioned to ensure that customers do not congregate outside
- 11.2.9 With the exception of track betting licences, applicants for a premises licence will need to hold an operator's licence from the Commission to provide gambling facilities. The licensing authority will not normally expect to have to ascertain if the applicant is suitable to be involved in providing gambling facilities.
- 11.2.10 The Licensing Authority does not consider it to generally be appropriate to duplicate the consideration of an applicant's suitability made by the Gambling Commission, but in some instances it may be necessary. Whilst the Commission approve an organisation to operate nationally, the Licensing Authority of Hertsmere has the responsibility for premises in its area and as such, where an applicants suitability is considered relevant to a localised issue or the specific operation of a premises, the matter may be taken into account.
- 11.2.11 However, an applicant may apply for a premises licence whilst still in the process of obtaining an operator licence from the Commission. If, in such cases, there is evidence that the applicant may be not be suitable, or is subject to enforcement action by the Commission or another authority, the Licensing Authority may consider that matter. This could result in the refusal of an application or the adjournment of a decision pending the grant of the operator licence.
- 11.2.12 When it comes to local issues of Crime and Disorder the Licensing Authority expect to be led by the Police and appropriate evidence provided in any representation. This does not prohibit any other responsible authority or interested party from raising such issues, but where they are not raised by the Police, sufficient evidence is likely to be necessary.

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

- 11.3.1 This Licencing Authority does not expect to deal with issues of fairness and openness frequently as this will be addressed by the commission via operating and personal licences. Whilst the Licensing Authority will consider each application on its own merits, it will look more closely at applications for types of premises that can be operated without the need to hold an operator's licence, such as premises licences authorising betting on a track.

11.3.2 Applicants are expected to address how they intend to ensure that gambling will be conducted fairly and openly. The Licensing Authority may also wish to impose conditions to ensure that the environment in which betting takes place is suitable.

11.3.3 The Licensing Authority will need to consider:

- (a) Whether the layout, lighting and fitting out of the premises have been designed so as to ensure gambling is conducted in a fair and open way.
- (b) Whether sufficient management measures are proposed or are in place to ensure that gambling is conducted in a fair and open way.
- (c) Whether the management and operation of the premises is open and transparent.
- (d) Whether the operators of the premises have been or will be fully cooperative with enforcement agencies.
- (e) Whether the Commissions Codes of Practice have been complied with.

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

11.4.1 The Act defines a “Child” as an individual who is less than 16 years of age and a “young person” as an individual who is not a child, but less than 18 years of age. “children” therefore encompasses both ages. There is no definition in the Act of a “vulnerable person”.

11.4.2 The Commission has stated 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.”

11.4.3 The Licensing Authority does not consider this to be a full interpretation of the legislative term and whilst it agrees completely that the term “vulnerable person” does include the above as stated by the Commission, the Licensing Authority also believes it can have a wider application.

11.4.4 The Licensing Authority will not therefore limit itself only to the Commission’s definition and will be open to consider if any individual has, or a group of individuals have, a characteristic that would, on the balance of probabilities, make them more at risk of harm or exploitation by a proposed gambling activity.

11.4.5 The Licensing Authority expects operators to ensure appropriate measures are in place to prevent children and vulnerable people being harmed or exploited by gambling. Operators will need to ensure that:

- (a) They have a specific staff training programme to ensure that all staff members are able to identify children and vulnerable people and prevent them accessing gaming facilities;
- (b) They implement an effective proof of age scheme to ensure no one under the age of 18 is admitted to the premises or restricted areas;
- (c) They record and monitor attempts to access gaming facilities by children or vulnerable people.



- (d) The layout, lighting and fitting out of the premises is not designed to attract children and other vulnerable persons who might be harmed or exploited by gambling;
- (e) No promotional material associated with the premises could encourage the use of the premises by children or young people;
- (f) Suitable and prominent material advising customers of their options to obtain help if they are concerned about their gambling or their right to self-exclude.

11.4.6 Where Category C machines or above are provided at premises that also provides Category D machines the Council would expect operators to ensure that:

- (a) 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;
- (b) only adults are admitted to the area where these machines are located;
- (c) access to the area where the machines are located is supervised;
- (d) the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- (e) 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.

11.4.7 Operators may find it necessary to use door staff to prevent entry to a premises by children and/or use supervisors regularly walking the floor of the premises to identify any individual gambling who is under age, excluded or showing other signs of vulnerability.

11.4.8 The Council expects applicants and licence holders to have an awareness of issues that may affect children and vulnerable people surrounding their premises. For instance, the risks of Child Sexual Exploitation (CSE), children being exploited to commit crime (i.e. County lines) or modern slavery and human trafficking issues.

11.4.9 The Council would expect operators to consider the need to provide awareness training to their staff sufficient to identify risks of this type, the indicators of such risk and an open and transparent policy of reporting matters either to a manager or direct to the police. Any reports made should be recorded and reflected in the local risk assessment. Applicants are encouraged to visit The Hertfordshire Safeguarding Children Board (HSCB) website for advice on this subject. [www.hertssafeguarding.org.uk](http://www.hertssafeguarding.org.uk). Some operators may consider the likelihood of risk in respect to their premises and its local area to be low and chose not to carry out formal or detailed training. Operators should document their reasons in their local area risk assessment.

## 12.0 **Licence Conditions**

12.1.1 The majority of premises licences will have mandatory and/or default conditions attached to the licence as detailed in the Gambling Act 2005 (Mandatory and Default Conditions) Regulations 2007. Operators will also be obliged to follow the relevant code of practice. The imposition of conditions by the Licensing Authority may not

always be necessary but the Licensing Authority can attach conditions to a licence if it is believes that the compliance with those conditions will ensure that the operation of the premises is reasonably consistent with the licensing objectives.

12.1.2 The Act prohibits the Council from imposing conditions that:

- (a) Make it impossible to comply with an operating licence.
- (b) Relate to gaming machines and contradict the provisions in the Act.
- (c) Make activities, premises or parts of premises operate as a membership club
- (d) Relate to fees, winnings, stakes or prizes

12.1.3 The licensing authority expect an applicant to have identified any risks and have their own suggestions as to what may be appropriate mitigation to meet the licensing objectives effectively.

12.1.4 Any conditions attached to a licence will be:

- (a) relevant to the premises and the type of licence applied for,
- (b) related to the area where the premises is based;
- (c) related to the scale, type and location of premises;
- (d) consistent with the licensing objectives;
- (e) relevant to the need to make the proposed building suitable as a gambling facility; and
- (f) reasonable in order to achieve any of the above.

## **13.0 TRAVELLING FAIRS**

13.1 Travelling fairs can provide an unlimited amount of category D gaming machines and provide prize gaming, without the need for a permit. The machines and prize gaming must be provided in accordance with other statutory requirements and codes of practice.

13.2 To be exempt from the requirement to hold a permit or premises licence the fair must consist wholly or principally of providing amusements, be provided wholly or principally by persons who travel from place to place for the purposes of providing fairs and be held at a place that has been used for no more than 27 days in a calendar year for the purposes of providing a fair. Gambling facilities must only be no more than an “ancillary amusement” to the fair itself.

13.3 Where a travelling fair is intended to operate in the Borough the Licensing Authority would expect to be notified by the operator in advance. This may be done by a notice to the safety advisory group (SAG) or direct to the Licensing Authority. This will enable the Council to monitor the amount of days fairs operate on any particular site.

13.4 Where the Licensing Authority is aware of a travelling fair operating in its borough it shall inspect that the gambling provided is ancillary, gaming machines are located suitably and operated in line with relevant codes of practice.

13.5 The Act does not define “ancillary amusement” and the Licensing Authority will therefore consider the following factors:

- (a) The amount of space allocated for gambling as opposed to other amusements;
  - (b) The amount of income generated from gambling as opposed to other amusements;
  - (c) The footfall in relation to the gambling areas as opposed to the other amusements,
  - (d) The number of machines or individual prize gaming offerings as opposed to other amusements.
- 13.6 The List above is not exhaustive, and the Licensing Authority will have regard to Gambling Commission guidance and the overall reasonableness of the gambling provision to an objective observer.
- 13.7 The statutory maximum of 27-days in which the land may be used for a fair applies on a per calendar year basis to the land or premises and not in relation to individual fairs. The Licensing Authority expect that the owners of land are aware of their responsibilities when allowing travelling fairs to operate and may be liable for providing gaming facilities in breach of the legislation if they permit a fair to operate beyond this.
- 13.8 The Licensing Authority also expect fairs to be aware of this and if relying on a statutory exemption make such enquiries of the Council and the land owner to ensure they qualify for statutory exemption.
- 13.9 When calculating the period of 27 days the Licensing Authority will not count the days in which a fair is present for the purposes of setting up or packing away. The Licensing Authority will count any day on which the fair is open for members of the public to attend and access amusements, regardless of whether or not payment is required or gambling provided.
- 13.9.1 Applications for review by an interested party which follow either an earlier review application or representation against the grant of premises licence by that same interested party will be rejected unless the interested party can provide additional evidence or reasons as to why the Authority may be persuaded to act differently. The Authority will also take into account attempts to avoid this, for instance where the application is made by the business partner of the interested party who made the first application or representation. This would be considered as vexatious.
- 13.9.2 The more time that has elapsed between the first application or representation and the latest application for review the more likely it will be that the interested party will have sufficient evidence of concerns. The Licensing Authority will consider each matter on its own merits.

## **PART C - PERMITS/ NOTICES / REGISTRATIONS AND EXEMPTIONS**

### **14.0 STATEMENT OF PRINCIPLES -PERMITS**

#### **14.1 INTRODUCTION TO PERMITS**

14.1.1 Permits regulate the provision of gambling activities and the use of gaming machines in premises which do not hold a premise licence under the Gambling Act. They are required when a premise provides gambling at either low stakes or as an ancillary to the main function of the premises and Gambling Commission approval is not required.

14.1.2 The council is responsible for issuing the following permits:

- (a) Unlicensed family entertainment centre gaming machine permits;
- (b) Alcohol-licensed premises gaming machine permits;
- (c) Prize gaming permits;
- (d) Club gaming permits and club machine permits.

14.1.3 The Licensing Authority can only determine to grant or reject applications for any of the above permits but cannot attach conditions. The council will therefore consider a number of factors before determining an application to ensure that both the permit holder and the premises are suitable for the proposed gambling activities.

#### **14.2 UNLICENSED FAMILY ENTERTAINMENT CENTRE (uFEC) GAMING MACHINE PERMITS**

14.2.1 Unlicensed Family Entertainment Centres (uFECs) can be authorised to provide an unlimited number of category D machines. Category D machines have no age restrictions and these premises may appeal to children and young persons. The council will give particular weight to matters relating to child protection issues.

14.2.2 The Licensing Authority is permitted by the Act to consider the suitability of an applicant for a uFEC, and in making decisions it may, but need not, have regard to the licensing objectives but shall have regard to any relevant guidance issued by the Commission.

14.2.3 An application for a permit cannot be made in respect to a premises that holds a premises licence under the Licensing Act 2003 or a Club Gaming Machine Permit. Individual applicants must be over 18.

14.2.4 The Licensing Authority will require an application for a permit to be accompanied by:

- (a) Basic Criminal Record Disclosure of the applicant;
- (b) The applicant's policy and procedures to protect children from harm and gambling;
- (c) A plan of the premises identifying the location of machines.

14.2.5 Where the applicant is a company a Basic DBS will be needed to be provided by each director of the company and any other person in a position of authority at the premises.

14.2.6 The Council will expect applicants 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:

- (a) Measures/training for staff in relation to suspected truant school children on the premises;
- (b) Measures/ training covering how staff would deal with unsupervised very young children being on the premises;
- (c) Measures / training covering how staff would deal with children causing perceived problems on or around the premises;
- (d) Measures/ training covering how staff would identify the signs and symptoms of persons engaged in the illegal use of controlled drugs.
- (e) Policies/ procedures ensuring that staff are suitable to work with children or appropriately supervised;

14.2.7 Applicants will be expected to demonstrate:

- (a) A full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- (b) That staff are trained to have a full understanding of the maximum stakes and prizes;
- (c) An awareness of local school holiday times and how to notify the local education office should truants be identified.

14.2.8 Applicants must submit with their application a plan of the premises showing the exits/entrances to the premises, location of gaming machines, and the location of safety equipment such as fire extinguishers and CCTV cameras. The plan should be clear and legible to a scale of 1:100 or any other legible scale that may be agreed.

14.2.9 The applicant will be required to disclose their criminal record and any convictions that they may have received, which are not spent. Any conviction of a relevant offence under schedule 7 of the Gambling Act will result in refusal of the application. The Council will also consider any other offences that an applicant may have committed even if they are not listed as a relevant offence. Where the Council is not satisfied that the applicant is suitable, the application will be refused.

14.2.10 A permit lasts for 10 years and can be renewed 2 to 6 months before its expiry date. Applications outside of this time will not be accepted. The considerations in granting a renewal remain the same as when considering granting a new application.

### **14.3 GAMING MACHINES IN ALCOHOL LICENSED PREMISES – 3 OR MORE**

14.3.1 Premises wishing to make 3 or more category C or D gaming machines available for use require a Licensed Premises Gaming Machine Permit. The applicant must apply in respect to premises that the applicant holds a premises licence under the Licensing Act 2003 for, and which authorises the sale of alcohol for consumption on the premises.

- 14.3.2 An application must be accompanied by the prescribed fee and made in such form and manner that the Licensing Authority requires. Applicants must submit with their application a plan of the premises showing the exits/entrances to the premises, location of gaming machines. The plan should be clear and legible to a scale of 1:100 or any other legible scale that may be agreed with the Licensing Authority prior to submission.
- 14.3.3 The Licensing Authority will consider applications based upon the licensing objectives, any guidance issued by the Gambling Commission and, such other matters as it considers relevant.
- 14.3.4 The Licensing Authority does not wish to limit itself to what may or may not be relevant, as each application will be considered on their own merits. However, it expects that as a minimum the need to protect children and vulnerable persons from being harmed or exploited by gambling are relevant issues.
- 14.3.5 The Authority will therefore have regard as to whether:
- (a) The machines are appropriately supervised, either in sight of the bar or staff;
  - (b) Category D machines are clearly distinct from Category C machines;
  - (c) The machines are appropriately signed in compliance with legislative requirements;
  - (d) Staff levels are considered and reviewed to ensure effective supervision of machines;
  - (e) The provision of information /numbers for organisations such as GamCare.
  - (f) Staff training on recognising potential risks in relation to the machine.
- 14.3.6 If the Licensing Authority is not satisfied that appropriate measures have been taken by the applicant to comply with this policy the application will be refused or the number of machines permitted varied.
- 14.3.7 Licensed premises already permitted to provide gaming machines should consider documenting a risk assessment of the provision of their gaming machines and providing training for staff. Such measures should be reviewed regularly.
- 14.3.8 The Licensing Authority accepts that machines in licensed premises have been common for many years and generally do not pose issues. Therefore, where a premises has a permit in place prior to the adoption of this Policy, the authority shall leave it up to the operator to decide in the first instance whether or not they wish to document a formal risk assessment or their staff training. Existing operators know their premises, customers and the history of any problems they may have encountered with their machines and are best placed to decide this for themselves.
- 14.3.9 However, the Licensing Authority strongly recommends that any premises providing gaming machines consider carrying out a risk assessment, similar to that required of gambling premises and as detailed in paragraph 9.5 of this Policy. Operators should consider the location of their premises as well as the machines and also the additional risk of persons gambling whilst under the influence of alcohol. The more machines a premises wishes to make available the greater the risk that the operator needs to assess. The Licensing Authority would expect to see measures such as training,

supervision, and risk assessments documented and kept up to date where a premises seeks to provide more than 4 machines.

14.3.10 The holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the gaming machines and operators are expected to ensure that they can evidence an understanding of the Code of Practice, any conditions imposed on the permit and the risks associated with the use of the machines.

14.3.11 The Licensing Authority may make an order to 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; or
- (d) An offence under the Gambling Act 2005 has been committed on the premises.

14.3.12 Before making the order the Authority shall give the licence-holder a minimum of twenty-one days' notice of its intention to make the order and consider any representations which might be made. The authority will hold a hearing if the licensee requests. When considering whether or not to cancel a permit the Council will have regard as to whether the operator has reasonably assessed the risks posed by the machines.

#### **14.4 PRIZE GAMING PERMITS**

14.4.1 Gaming is '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.

14.4.2 Prize gaming may take place without a permit in various premises that hold a premises licence under the Act. However, if no other authorisation is in place a permit can be issued by the Local Authority following an application.

14.4.3 A permit only authorises prize gaming to be carried out within the limits set by the Act;

- (a) 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;
- (b) 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
- (c) participation in the gaming must not entitle the player to take part in any other gambling.

- 14.4.4 Regulations also set limits on participation fees, stakes and prizes.
- 14.4.5 Prize gaming may particularly appeal to children and young persons and the licensing authority will give weight to child protection issues. The applicant will be expected to set out the types of gaming that they are intending to offer and will also be expected to demonstrate:
- (a) That they understand the limits to stakes and prizes that are set out in Regulations;
  - (b) That the gaming offered is within the law;
  - (c) Clear policies that outline the steps to be taken to protect children from harm.
- 14.4.6 The Licensing Authority will only grant a permit if satisfied that the applicant is suitable to provide prize gaming and may require the applicant to provide a basic DBS disclosure with an application as well as consulting with the chief officer of police.
- 14.4.7 The authority will also request a plan of the premises showing the exits/entrances to the premises, location of gaming machines, and the location of safety equipment such as fire extinguishers and CCTV cameras. The plan should be clear and legible to a scale of 1:100 or any other legible scale that may be agreed.
- 14.4.8 In making its decision on an application the licensing authority does not need to (but may) have regard to the licensing objectives but will have regard to any Gambling Commission guidance.

#### **14.5 CLUB GAMING AND CLUB MACHINES PERMITS**

- 14.5.1 Members' clubs and miners' welfare institutes (but not commercial clubs) may apply for either a Club Gaming Permit or a Club Machine Permit (but not both). Commercial clubs may apply for a club machine permit.
- 14.5.2 A Club Gaming Permit allows the premises to provide:
- (a) Up to three machines of categories B3A, C or D.
  - (b) Equal chance gaming.
  - (c) Games of chance as set out in regulations.
- 14.5.3 A Club Machine Permit enables the premises to provide up to three gaming machines of categories B3A, B4, C or D.
- 14.5.4 The Licensing Authority must be satisfied that that the club meet the following criteria to be considered a members' club:
- (a) It must have at least 25 members;
  - (b) It must be established and conducted "wholly or mainly" for purposes other than gaming (unless gaming is permitted by separate regulations);
  - (c) It must be permanent in nature;



- 14.5.5 The Licensing Authority would also expect an applicant for a Club Gaming Permit to show that the club is a bona fide club that qualifies for the permit and not profit making.
- 14.5.6 The Licensing authority can only refuse an application on the grounds that:
- (a) The applicant does not fulfil the requirements for a members or minors' 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 permit has been committed by the applicant while providing gaming facilities;
  - (d) A permit held by the applicant has been cancelled in the previous 10 years; or
  - (e) An objection has been lodged by the Gambling Commission or the Police.
- 14.5.7 Clubs, which hold a Club Premises Certificate under the Licensing Act 2003 benefit from a 'fast-track' application procedure under which the Gambling Commission or the Police cannot object, and the grounds upon which a Licensing Authority can refuse a permit are limited to:
- (a) That the club is established primarily for gaming other than gaming prescribed under Schedule 12 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 10 years has been cancelled.
- 14.5.8 Whilst the authority cannot condition these permits, the provision of machines must comply with statutory restrictions and the relevant Commission Code of Practice about the location and operation of gaming machines.
- 14.5.9 The Licensing Authority will need to satisfy itself that a club meets the requirements of the Gambling Act 2005 to hold the permit applied for and may require additional information from the applicant:
- (a) Is the primary activity of the club something other than gaming?
  - (b) Are the club's profits retained solely for the benefit of the club's members?
  - (c) Are there 25 or more members?
  - (d) Are the addresses of members of the club genuine domestic addresses and do most members live reasonably locally to the club?
  - (e) Do members participate in the activities of the club via the internet?
  - (f) Do guest arrangements link each guest to a member?
  - (g) Is the 48 hour rule being applying for membership and being granted admission being adhered to?
  - (h) Are there annual club accounts available for more than one year?
  - (i) How is the club advertised and listed in directories and on the internet?
  - (j) Are children permitted in the club?
  - (k) Does the club have a constitution and can it provide evidence that the constitution was approved by members of the club?

(l) Is there a list of Committee members and evidence of their election by the club members?

14.5.10 When examining the club's constitution, the Licensing Authority would expect to see evidence of the following:

- (a) Who makes commercial decisions on behalf of the club?
- (b) Are the aims of the club set out in the constitution?
- (c) Are there shareholders or members? Shareholders indicate a business venture rather than a non-profit making club.
- (d) Is the club permanently established?
- (e) Can people join with a temporary membership? What is the usual duration of membership?
- (f) Are there long term club membership benefits?

14.5.11 Aside from bridge and whist clubs, clubs may not be established wholly or mainly for the purposes of gaming. The Licensing Authority may consider such factors as:

- (a) How many nights a week gaming is provided;
- (b) How the gaming is advertised;
- (c) What stakes and prizes are offered;
- (d) Whether there is evidence of leagues with weekly, monthly or annual winners;
- (e) Whether there is evidence of members who do not participate in gaming;
- (f) Whether there are teaching sessions to promote gaming such as poker;
- (g) Whether there is a tie-in with other clubs offering gaming through tournaments and leagues;
- (h) Whether there is sponsorship by gaming organisations;
- (i) Whether participation fees are within limits.

## **15.0 NOTIFICATION OF 1 OR 2 GAMING MACHINES IN ALCOHOL LICENSED PREMISES**

15.1.1 Premises licensed to sell alcohol for consumption on the premises may make available for use up to two gaming machines of categories C and/or D without a permit, provided that the licence holder gives formal notification to the Licensing Authority of their intention and pays the prescribed fee.

15.1.2 This exemption under section 282 of the Act provides that the premises must be licensed to sell alcohol for consumption on the premises without any restriction that the alcohol must only be sold with food. The licence holder must ensure that the machines are provided in compliance with the relevant code of practice.

15.1.3 The Licensing Authority can make an order to disapply the exemption if it thinks:

- (a) Provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- (b) Gaming has taken place on the premises that breaches a condition of section 282.
- (c) The premises are mainly used for gaming; or
- (d) An offence under the Gambling Act has been committed on the premises.

15.1.4 Before making the order the Authority shall give the licence-holder a minimum of twenty-one days' notice of its intention to make the order and consider any representations which might be made. The authority will hold a hearing if the licensee requests.

## **16.0 SMALL SOCIETY LOTTERY REGISTRATIONS**

16.1.1 The promotion or facilitation of a lottery is unlawful unless is either a:

- (a) Licensed lottery (authorised by the Gambling Commission) or an;
- (b) Exempt lottery.

16.1.2 Exempt lotteries that do not require a licence from the Gambling Commission are as follows:

- (a) Small society lotteries;
- (b) Incidental non-commercial lotteries;
- (c) Private lotteries;
- (d) Private society lottery;
- (e) Work lottery;
- (f) Residents' lottery;
- (g) Customers' lottery.

16.1.3 Only small society lotteries are required to register with the licensing authority in the area in which they operate. All other exempt lotteries do not require registration but must be conducted within the statutory restrictions. Charities or local organisations that conduct fundraising activities such as raffles, tombola's etc. should contact the Council or Gambling Commission if they are unsure how to conduct the activity within the limits imposed by statute.

16.1.4 Non-commercial societies wishing to promote lotteries can register with their local Council to be a promoter of a "small society lottery". A society is non-commercial if it is established and conducted for charitable purposes, for the purpose of enabling participation in or supporting sport, athletics or cultural activity or for any other non-commercial purpose other than that of private gain.

16.1.5 Societies should be aware that there are restrictions in place governing such lotteries and the individuals involved in the promotion of a small society lottery will commit a criminal offence if they carry out a lottery where:

- (a) The proceeds of one lottery may exceed £20,000;
- (b) The proceeds of all lotteries held during a calendar year exceed £250,000;
- (c) There is a prize value of £25,00 or more, which can be won by virtue of one ticket;
- (d) The society is not, or ceases to be, a non-commercial society;
- (e) The proceeds or profits of a lottery are misused or applied to a purpose other than that which the society stated the lottery was promoted for;

16.1.6 In addition to the above, a registered society may also commit offences if they:

- (a) Fail to file a lottery return within 3 months of holding a lottery;

- (b) Fail to be registered with, or maintain their registration with, the relevant local authority at any time in which the lottery is promoted.
- (c) Use tickets that do not comply with the requirements of the Act;
- (d) Invite, cause or permit a person under the age of 16 to participate in a lottery
- (e) Provide false or misleading information in relation to their application for registration or when providing a return to the Council.

16.1.7 A lottery ticket must be provided in a documentary form to the person purchasing it. This document must:

- (a) Identify the society;
- (b) State the price of the ticket;
- (c) State the date of the draw (or draws) or enables that date to be determined;
- (d) State the name and address of a member of the society who is designated by the society to be responsible for the promotion of the lottery (or an external lottery manager)

16.1.8 The price of each and every ticket must be the same and paid before the ticket is provided. A society can not use promotions where a purchaser receives a discount in relation to the more tickets they purchase.

16.1.9 Tickets can be electronic provided that they allow the person receiving the ticket to either retain it electronically or print it.

16.1.10 The Council may refuse an application for a small society lottery registration, if in their opinion:

- (a) The applicant is not a non-commercial society;
- (b) A person who will, or may, be connected with the promotion of the lottery has been convicted of a relevant offence as defined in Section 353 of the Act;
- (c) Information provided in or with the application for registration is false or misleading.

16.1.11 In assessing whether or not a society meets the requirement of being non-commercial, the Council will have regard to the submission of any record of lotteries held, filed with the authority by the promoting society.

16.1.12 Within 3 months after the date of the draw, or last draw, of any lottery promoted by a society, that society must submit to the Council a statement setting out:

- (a) The arrangements for the lottery held (including the dates on which tickets were available for sale or supply, the dates of any draw and the arrangements for prizes (including any rollover),
- (b) The proceeds of the lottery (i.e. the number of tickets sold and the cost of each ticket)
- (c) The amounts deducted by the promoter in respect of the provision of prizes;
- (d) The amounts deducted by the promoter in respect of other costs incurred in organising the lottery,
- (e) The amount applied to a purpose for which the promoting society is conducted,

- (f) Whether any expenses in connection with the lottery were defrayed otherwise than by deduction from proceeds, and, if they were—
- i). the amount of the expenses, and
  - ii). the sources from which they were defrayed.

16.1.13 Returns must be signed by 2 members of the society appointed by the society or its governing body and must include copy of that appointment. Failure to submit a return may be considered as evidence that the society, or the lottery promoted, does not meet the relevant criteria to hold a registration.

16.1.14 Applicants must be clear about the purpose that the society is set up to promote and ensure that at least 20% of the proceeds of the lottery go to that purpose. It is important that the distinction between “proceeds” and “profits” is understood. The proceeds of a lottery are defined as the total aggregate of the amounts paid in respect to the purchase of tickets. “Profits” are defined as the proceeds, minus any amounts deducted by the society for prizes or running costs.

16.1.15 Whilst the costs of running a lottery and providing the prizes may be deducted from the proceeds, this must only be done after the initial 20% has been allocated for the purposes the society is promoting. A Society therefore runs the risk of losing money if the remaining 80% of the proceeds do not cover the cost of running the lottery. This is a clear intention of the legislation to ensure that societies are not commercial or profit-making organisations.

16.1.16 Registrations last for one year and must be renewed, by the payment of an annual fee, before the expiry date of the registration. Renewals can be made at any time in the 2 months prior to the expiry of the registration. If a society applies to renew their registration and has not held a lottery during the preceding calendar year, the Council expects that they provide a statement to this effect in order to prevent the registration not being renewed due to concerns that the society may no longer qualify for small society lottery status.

16.1.17 The Council will endeavour to send reminders to the holder of a registration, usually by email, in advance of a registration expiring. However, the responsibility for renewing the registration and paying the required fee rests with the society holding the licence.

16.1.18 Once a registration has expired the Council may cancel the registration. A letter confirming the cancellation shall be sent to the society and the Gambling commission as soon as is reasonably practicable.

16.1.19 Whilst the Council has discretion as to whether it cancels the registration or not, the Council’s policy will be to cancel all registrations that have expired. This is in order to ensure that lotteries cannot continue to be promoted under the authority of a registration, where the promoter(s) may no longer be the society initially registered by Council. The register of small society lotteries is public, and the inclusion of a society on this register that may no longer operate or is operated by different members may pose a risk to the public of fraud.

16.1.20 A society that has allowed their registration to lapse can submit a further registration to the Council if it wishes to continue to hold lotteries. In exceptional circumstances the Council may choose not to cancel a registration and allow the renewal fee to be paid and the registration maintained.

16.1.21 Exceptional circumstances shall not include simply forgetting to renew or forgetting due to changes in personnel. The holding of a gambling activity to raise money for a society is a position of responsibility requiring compliance with a range of specific legislative provisions. Failing to have appropriate measures in place to renew a registration would raise concerns that the appropriate measures and organisation may not be in place to run a lottery correctly.

16.1.22 It is therefore important that all societies keep the Council updated with their contact details and it is encouraged that societies provide addresses or email's that are bespoke to the society and accessible to more than one person, rather than being reliant on one person.

## **17.0 TEMPORARY AND OCCASIONAL USE NOTICES**

### **17.1 TEMPORARY USE NOTICES**

17.1.1 Temporary Use Notices (TUNs) allow a person who holds an operator's licence to use a premises that is not licensed by the Licensing Authority for the provision of gambling. This allows operators authorised by the commission to carry out temporary short term gambling activities at a premises rather than applying for a premises licence but still allowing local authority consideration.

17.1.2 The Secretary of State determines what form of gambling can be authorised by a TUN and the relevant restrictions by issuing regulations. These restrictions are:

- (a) The TUN can only be used to offer gambling of a form authorised by the applicants operating licence, including consideration as to whether the form of gambling being offered on the premise will be remote, non-remote, or both;
- (b) Gambling under a TUN be made available on a maximum of 21 days in any 12 month period for any or all of a named set of premises;
- (c) It can only be used to permit the provision of facilities for equal chance gaming and where the gaming in each tournament is intended to produce a single overall winner. e.g. poker tournaments;
- (d) Gaming machines may not be made available under a Temporary Use Notice.

17.1.3 A TUN must be lodged with the licensing authority not less than three months and one day before the day on which the gambling event will begin. A fee is payable to the licensing authority to whom the notification is sent.

17.1.4 The application must be copied to the Commission, the police, HM Commissioners for Revenue and Customs and if applicable, any other licensing authority in whose area the premises are also situated.

- 17.1.5 The Licensing Authority, when in receipt of an application for a TUN, will consider whether gambling should take place, or should only take place with modification made to the TUN, The Licensing Authority will consider:
- (a) The suitability of the premises;
  - (b) The location of the premises, paying particular attention to its proximity to any schools, hostels or other sensitive premises;
  - (c) The CCTV coverage within the premises;
  - (d) The ability of the premises to provide sufficient staff and / or licensed door supervisors for the notice period;
  - (e) Whether the premises or holder of the operating licence have given the council any cause for concern at previous events in relation to the licensing objectives, the guidance issued by the commission, the relevant code of practice or this statement of principles.

## **17.2 OCCASIONAL USE NOTICES**

- 17.2.1 Occasional Use Notices (OUN's) can be applied for to permit the acceptance of bets at a track premises without the need for a premises licence, provided that betting does not occur on any more than 8 days in a calendar year at that track.
- 17.2.2 Those intending to utilise OUN's should note:
- (a) OUNs can only be relied upon for eight days or fewer in a calendar year and this period applies to the venue and not the individual who has submitted the notice.
  - (b) One OUN must be submitted for each day that the betting activity will be conducted on the premises. If betting activity is to be held over a period of eight consecutive days, the operator will be required to submit eight separate notices.
  - (c) The OUN must specify the day on which it has effect.
  - (d) An event running past midnight will require two OUN's as it covers 2 days.
  - (e) notice must be given to the licensing authority and the police, in writing, before the event starts.
  - (f) No premises licence can exist for the place which is the subject of the notice.
- 17.2.3 No objection or counter notice (refusal) to an OUN is possible unless the period of 8 days will be exceeded. The Licensing Authority will however consider whether the OUN is in relation to a premises that could correctly be considered as meeting the definition of a 'track.'
- 17.2.4 The definition of a track in the Act is wider than just relating to horses or dogs and includes places where races or other sporting events take place. This could include a variety of venues and the applicant will need to demonstrate that they are responsible for the administration or ownership of the land and satisfy the Council that the OUN relates to a time when the land or premises are being used as a track (i.e. for a race or sporting event).





## Appendix A – Categories of gaming machines permitted by premises type

Premises type	Machine category						
	A	B1	B2	B3	B4	C	D
<b>Large casino (machine/table ratio of 5-1 up to maximum)</b>							
<b>Small casino (machine/table ratio of 2-1 up to maximum)</b>							
<b>Pre-2005 Act casino (no machine/table ratio)</b>							
<b>Betting premises and tracks occupied by pool betting</b>							
<b>Bingo premises<sup>1</sup></b>							
<b>Adult gaming centre<sup>2</sup></b>							
<b>Licensed family entertainment centre</b>							
<b>Family entertainment centre (with permit)</b>							
<b>Clubs or miners' welfare institute (with permits)<sup>3</sup></b>							
<b>Commercial members Clubs</b>							
<b>Qualifying alcohol-licensed premises<sup>4</sup></b>							
<b>Qualifying alcohol-licensed premises (with licensed premises gaming machine permit)</b>							
<b>Travelling fair</b>							

<sup>1</sup> Premises licensed before 13 July 2011 may make available for use either a number that is 20% of the total number of gaming machines provided on the premises or 8 (whichever is the greater). B3A machines are not permitted in bingo premises.

<sup>2</sup> Premises licensed before 13 July 2011 may make available for use either a number that is 20% of the total number of gaming machines provided on the premises or 4 category B gaming machines (whichever is the greater).

<sup>3</sup> Members' clubs and miners' welfare institutes with a club gaming permit or with a club machine permit, are entitled to site a total of three machines in categories B3A to D but only one B3A machine can be sited as part of this entitlement.

<sup>4</sup> Commercial clubs with club machine or gaming permits are entitled to a total of three machines in categories B4 to D.

**APPENDIX B – GAMING MACHINES BY MAXIMUM STAKE AND PRIZES**

<b>Category of machine</b>	<b>Maximum stake</b>	<b>Maximum prize</b>
<b>A</b>	Unlimited – No category A gaming machines are currently permitted	
<b>B1</b>	£5	£10,000*
<b>B2</b>	£2	£500
<b>B3A</b>	£2	£500
<b>B3</b>	£2	£500
<b>B4</b>	£2	£400
<b>C</b>	£1	£100
<b>D – non-money prize</b>	30p	£8
<b>D – non-money prize (crane grab machines only)</b>	£1	£50
<b>D – money prize</b>	10p	£5
<b>D – combined money and non-money prize</b>	10p	£8 (of which no more than £5 may be a money prize)
<b>D – combined money and non-money prize (coin pusher or penny falls machines only)</b>	20p	£20 (of which no more than £10 may be a money prize)

\* With option of max £20,000 linked progressive jackpot on premises basis only

## APPENDIX C – ACCESS PROVISIONS

Type of premise	Access provisions
Casino	<ul style="list-style-type: none"> <li>• The principal entrance to the premises must be from a ‘street’;</li> <li>• No entrance to a casino is permitted from premises that are used wholly or mainly by children and / or young persons;</li> <li>• No customer must be able to enter a casino directly from any other premises which holds a gambling premise licence.</li> </ul>
AGC	<ul style="list-style-type: none"> <li>• No customer must be able to access the premises directly from any other licenced gambling premise.</li> </ul>
Betting shop	<ul style="list-style-type: none"> <li>• Access must either be from a ‘street’ or from another premises with a betting premise licence;</li> <li>• No direct access to a betting shop is permitted from any other premises.</li> </ul>
Track	<ul style="list-style-type: none"> <li>• No customer must be able to access the premises directly from a casino or AGC.</li> </ul>
Bingo premise	<ul style="list-style-type: none"> <li>• No customer must be able to access the premises directly from a casino, an AGC or a betting premise, other than a track.</li> </ul>
FEC	<ul style="list-style-type: none"> <li>• No customer must be able to access the premises directly from a casino, an AGC or a betting premise, other than a track.</li> </ul>

## APPENDIX D – DELEGATIONS

The matters stated on the left hand side will be delegated as follows:

Matter to be dealt with	Full Council	Licensing Committee	Licensing Subcommittee	Officers
Final approval of the Licensing Authority statement of policy	<b>X</b>			
Policy not to permit casinos	<b>X</b>			
Recommendation to Full Council to adopt Policy		<b>X</b>		
Recommendation to Full Council to permit or not permit Casinos.		<b>X</b>		
Approval to Consult on Policy.		<b>X</b>		
Typographical corrections to Policy or amendments required further to legislative changes;		Approval by Chair, with matter to be reported to next Committee		
Defining the Licensing Authorities “Responsible Authority Role”		<b>X</b>		
Application for premises licences			If representations received (and not withdrawn)	If no representations received or if withdrawn
Application for a variation to a licence			If representations received (and not withdrawn)	If no representations received or if withdrawn

Application for a transfer of a licence			If representations received (and not withdrawn)	If no representations received or if withdrawn
Application for a provisional statement			If representations received (and not withdrawn).	If no representations received or if withdrawn.
Review of a premises licence			<b>X</b>	
Application for club gaming/club machine permits			If representations received (and not withdrawn).	If no representations received or if withdrawn
Cancellation of club gaming/club machine permits			Where referred by Officers	<b>X</b>
Applications for other permits			Where referred by Officers	<b>X</b>
Cancellation of licensed premises gaming machine permits			Where referred by Officers	<b>X</b>
Consideration of temporary use notice			Where referred by Officers	<b>X</b>
Decision to give a counter notice to a temporary use notice			<b>X</b>	

## **APPENDIX E**

### **LIST OF THOSE PERSONS/ORGANISATIONS CONSULTED WITH IN THE FORMATION OF THIS POLICY.**

The adoption of this policy followed consultation during July, August and September of 2021.

Hertsmere Borough Council consulted with the following:

- 1) The Chief constable of Hertfordshire Constabulary
- 2) All responsible authorities listed in paragraph 2.3.1 of this statement.
- 3) Those who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area; namely:
  - a) All holders of a premises licence issued under the Gambling Act as of 16 July 2021.
  - b) All holders of a Small Society Lottery Registration as of 16 July 2021
  - c) A sample of all pubs and clubs licensed in the Borough.
- 4) Those who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005; namely: 175 organisations or individuals representative of:
  - a) local residents
  - b) businesses
  - c) prevention and treatment of gambling related harm
  - d) parish Council's

Additionally the Council advertised its consultation online via its website and social media channels and invited responses from all members of the public, residents of Hertsmere or who may have an interest in the development of this Policy.

## **APPENDIX F:**

### **STATEMENTS OF THE RESPONSIBLE AUTHORITIES**

The below statements do not form part of the council's own policy but are intended to assist applicants in knowing the expectations each authority may have, to assist the public in knowing when they should expect a responsible authority to lead on, or become involved in an issue and to assist the licensing authority as to its expectations and understanding of an authority's role when making decisions in respect to matters set out in this Policy.

#### **Statement of the Hertfordshire Fire and Rescue Service**

Hertfordshire Fire and Rescue Service works collaboratively with a wide range of partners, locally and nationally, to meet its statutory duties and deliver high quality services that support and safeguard the wellbeing of local people, the local economy and contribute to Hertfordshire's future prosperity. The service does everything it can to protect our communities from risk, prevent incidents from occurring and help our residents to live safe, healthy, fulfilling lives.

The primary tool used by Hertfordshire Fire and Rescue Service to ensure compliance and advice to business is through a risk based inspection and enforcement regime. The service also has responsibility to consider applications made across the county for planning or licensing permissions.

All business operators have a legal duty to carry out an appropriate risk assessment at their premises in relation to fire safety. This can form part of an operator's local area risk assessment that is required by the relevant gambling commission code of practice or it can be a separate document.

Hertfordshire Fire and Rescue Service shall notify the Licensing Authority in respect to an application where it wishes to raise a representation. Any matters outside of the licensing remit will be dealt with by the service directly with the applicant.

In addition to its ability to make representations and review licences, the service shall also support the Licensing authority in respect to enforcement action, reviews or representations taken by it, by providing evidence or attending relevant committee hearings where appropriate.

## **Statement of the Hertfordshire Constabulary**

The Police are the lead agency in respect to issues of crime and disorder stemming from the operation of premises that provide gambling activities in the borough and will work closely with the licensing authority on these issues. If there is a concern of criminal activity occurring in or from a gambling related premises the police will be the primary agency responsible for investigation of such offences and if there is appropriate evidence, bring it to the attention of the Licensing Authority.

The majority of gambling premises are not a significant source of crime and disorder but even minor issues stemming from a premises can have an impact, particularly where there are other local issues of crime and/or disorder.

Applicants for, and holders of, premises licences should consider these issues as part of their local area risk assessment (LARA). Operators can be the victim of criminal acts such as robbery, theft or criminal damage and should ensure appropriate measures are in place to protect their business interest. When requested, the police provide advice to businesses in this regard but would not normally do so when considering a licensing application. The police will assume that the operator has considered the risks to their own business and taken appropriate steps.

The police will consider the measures in place at a premises and the risk posed by its operation to its customers or the wider public. Operators are expected to have appropriate measures in place to consider the risk of crime being committed by those on its premises, its customers outside of and in close proximity to its premises, or by those directly in vicinity of the premises.

The police would ordinarily expect that premises are equipped with CCTV covering all of the inside areas and the outside areas of the premises. If the outside area includes any car park this should also be covered by the CCTV. CCTV should certainly be used in areas that may be hidden from the view of staff in their ordinary day to day role.

Where an operator considers that access to its premises is likely to be sought by those who it would not wish to allow entry to, for instance children, intoxicated customers, individuals associated with crime, those banned from the premises, or those who may pose a risk to staff or customers, the operator should consider the need for door staff. If an operators LARA identifies the possibility of access being sought by individuals of a medium or high risk, the police would expect the use of door staff to be considered and may ask for this to be added as a condition by the Licensing Authority.

If door staff are not used by an operator due to the risk being identified as low, the Police shall normally support the operators own risk assessment unless, or until such time, as there is evidence that additional measures are necessary.

The police will also expect operators to work constructively in their local environment with other businesses and proactively report, share and support other local business in dealing with issues of crime and disorder.



## **Hertfordshire Safeguarding Children Partnership– Gambling Policy Statement**

The Safeguarding Children Partnership is nominated by the Council under section 157 of the Gambling Act 2005 as being the appropriate body to advise Hertsmere Borough Council of any risks posed by the operation of premises providing gambling facilities to children and young people.

The activity of gambling can be harmful to people of all ages, but the law prohibits anyone under the age of 18yrs from gambling due to the significant harm that it can cause them.

The HSCP recognises that certain issues in relation to the protection of children from gambling are considered or regulated at a national level, for instance rules relating to advertising, general rules on access to premises and the availability of online gambling.

HSCP role is to focus on activities carried out a local level from physical premises in the County. HSCP's concerns will relate to preventing or controlling access to gambling premises and preventing the act of gambling by children. Risk assessments should identify risks and have measures in place to mitigate them. HSCP would expect operators to not allow the inside of the premises to be viewed and not to carry advertising on the front of its premises that may be attractive to children or contain images of popular professional sportsmen or celebrities that are likely to make gambling attractive to children.

Where gaming machines are provided in settings which children can access, for instance in pubs, clubs or family entertainment centres, the HSCP will expect the location of machines to be situated in areas where access to them, or the area, is controlled, clearly identified and under the physical supervision of a member of staff at all times.

Operators should consider a challenge 25 policy and the keeping of records such as challenge or refusal registers that provide evidence of the suitability of the procedures.

HSCP will also consider the wider picture of safeguarding of children – it would not normally be the case that the authorities would expect children to be present in or outside premises that provide gambling facilities. HSCP would expect operators to risk assess this, include it as part of their training procedures and be alert to instances where children and young people are regularly seeking access to the premises, being found inside premises or waiting outside premise for money or gifts from an adult who is gambling within.

## **Statement of the Hertsmere Borough Council Environmental Health Service**

The Council's Environmental Health department have two separate functions in relation to gambling applications and licences. The Environmental Protection team will assess the premises in terms of its effect on residents and neighbouring businesses, considering issues such as noise nuisance and the Commercial team will consider the health and safety impact of the business. Both teams may consider the previous compliance of the premises or an operator in respect to any other regulatory regimes dealt with by the department to assess the suitability of the operator or premises for the proposed gambling activities.

The department will also be made aware of, and consider, events that involve gambling – these may be those operated under either a Temporary Use Notice or Occasional Use Notice, or where gambling is an incidental part of a large event.

Whilst both of these separate teams are responsible authorities under the Act the gambling objectives do not relate to nuisance or public safety issues and the Council has separate statutory powers to resolve these issues.

Gambling premises do not ordinarily give rise to concerns about noise nuisance, but such disturbance could arise from the activities played inside a premises – for instance, use of a microphone to call bingo games, noise from gaming machines or customers cheering during a sporting event.

Certain types of entertainment, if provided, require authorisation by a separate premises licence under the Licensing Act 2003 and nuisance could be dealt with under that piece of legislation. If not, the Council's Environmental Health team could serve an abatement notice where the relevant evidential threshold has been met and a nuisance is caused. The breach of such a notice would be a criminal offence and the Council may consider that to undermine the licensing objective of preventing gambling from being a source of crime and disorder and review the premises licence.

Operators are expected to include an assessment of the impact of their premises on its neighbours and as part of their local area assessment and this should include issues such as noise, or other possible disturbances or nuisances such as deliveries or litter. This risk assessment should also be provided to the environmental health team upon application and the operator is expected to reasonably consider any formal advice given to them by the team.

The Environmental Health department accepts that issues solely related to noise are not grounds for a representation under the Gambling Act and does not expect to object to premises licence applications on the grounds of such issues. However, where there is evidence that a premises has been the source of complaints relating to noise the team may raise this with the Licensing Authority to consider whether the premises and the operator are suitable.

Anti-social behaviour in, or outside of a premises, is considered by the Council to be a form of disorder and falls under the Gambling licensing objectives. Complaints of disturbance in relation to such issues may result in review or, in respect to new applications, where there is evidence suggesting that this is likely to occur, the submission of a representation. Such issues may be considered by either the Environmental Health department or the Police and the environmental health team will work with both the Police and Licensing authority to ensure that the appropriate action is taken by the appropriate body.

Issues of health and safety may affect an operator's staff, their customers and the wider public. Operators have separate statutory duties to assess risks and implement appropriate measures. The Council has separate statutory powers to deal with breaches or failures in this area. However, the breach of these duties may also be criminal offences and relevant to the licensing objectives. In addition to taking action under separate legislation, the department may raise concerns with the Licensing Authority about the breach of these statutory duties where they call into question the suitability of the operator, the premises or present a risk of injury to the public which the operator would be criminal liable for.

Where necessary, and where it holds relevant evidence, the department will assist the licensing authority by providing statements to the Licensing authority or sub-committee or attending any sub-committee hearings.

The department can only submit representations based on the evidence or knowledge that it has at the time of an application. Residents close to a particular premises may have an entirely different experience or perspective than that evidence recorded by the Environmental team and should not assume that the Council are aware of all possible issues occurring. Residents are encouraged to submit their own representations where they have concerns.

## **Statement of the Hertsmere Borough Council Planning Authority**

The planning department do not expect to routinely object to applications for premises to be licensed in Hertsmere to provide gambling facilities. Such premises will require separate planning permission from the Council as the planning authority and the effect of the premises in respect to relevant planning matters will be considered at that time in line with the relevant planning policies that the Council has in place.

The lack of planning permission shall not ordinarily be a cause for the planning department to object to an application but applicants should note that the operation of the business without the appropriate planning consent will result in enforcement action by the planning department.

The planning department may apply to review the premises licence or assist the licensing team in a review, where it is considered that the breach of a planning permission by an operator of a gambling premises calls into question the suitability of that operator to effectively and responsibly manage their premises in compliance with the legal requirements. Where a planning enforcement notice has been served, and subsequently breached, a review of the premises licence may occur due to the crime and disorder objective being undermined.

The planning department may also consider raising representations or providing comments to the licensing authority to assist with the determination or enforcement of applications where it has information or evidence that may be relevant to the licensing authority's decision. The final decision as to whether the information is relevant will be that of the licensing authority.

For instance, if a large number of gambling premises, or a particular type of premises, already have planning permission in a particular location the planning department may notify the licensing authority of this. Whilst this would not necessarily be a formal representation by the planning department, it may assist the licensing authority in considering any other representations or assessing the impact, or potential impact of a premises.

Where representations under the Act have been received by the Council from residents or neighbouring businesses citing issues that relate to planning, the department will work with the licensing authority and if requested either provide a statement to the Licensing sub-committee or attend any hearing to provide the context of any planning related matter.