

# Gambling regulation

Councillor handbook  
(England and Wales)

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# Foreword

The 2005 Gambling Act was a pivotal point in gambling regulation in the UK. By liberalising previous gambling legislation, it established gambling as a mainstream leisure and social activity. Recent data shows that in the year to December 2017, 45 per cent of people had participated in some form of gambling, almost evenly split between men, 48 per cent, and women 41 per cent.

But even since the Gambling Act was introduced, the gambling landscape has changed significantly. Technological developments mean that significant numbers of people gamble remotely; 18 per cent of those who gambled in 2017 gambled online. This has gone hand in hand with a significant increase in the volume of gambling advertising, particularly linked to sports.

We have also seen significant changes in the physical presence of gambling in our local areas. While much of the concern that accompanied the introduction of the Act centred on the prospect of large scale casinos, in practice it has been patterns of betting shop clustering and the use of fixed odds betting terminals inside those betting premises, that have generated significant political and public concern.

As this handbook was being updated, the Government's consultation in its review of gaming machines and social responsibility measures closed. Having lobbied for several years for a substantial reduction in fixed odds betting terminal (FOBT) stakes, we are hopeful that the review will deliver this and remove high stakes gambling from our high streets.

Originally developed in 2015 to provide an overview of the responsibilities binding on licensing authorities and gambling operators in their areas, this handbook has been updated to coincide with the revision by licensing authorities of their statement of licensing principles by January 2019. The changes introduced two years ago to both statements of principles and the licensing conditions and codes of practice – which sought to tailor local approaches to licensing and strengthen operator social responsibility measures – have begun to embed, and there is a now a range of good practice for councils to build on.

Licensing statements, backed up by local area profiles, provide an opportunity for authorities to set out how gambling will be regulated in their areas, and their expectations of operators. They can be used to identify areas where the risk of harm from gambling may be greater due to the particular characteristics of an area, and how these risks can be mitigated. The Local Government Association (LGA) encourages all of its members to ensure they develop statements of principles, area profiles specific to their locality, and to make use of the range of tools that are available.

I hope you find the handbook useful.



**Councillor Simon Blackburn**

Chair, LGA Safer and Stronger Communities Board

# The regulatory framework – an overview

The Gambling Act 2005 (the Act) consolidated and updated previous gambling legislation, creating a framework for three different types of gambling: gaming, betting and lotteries. Gambling can take the form of non-remote gambling, which takes place in a gambling premises, and remote gambling, which is typically undertaken by phone or online. Councils do not have any regulatory responsibilities in relation to remote gambling.

The Department for Digital, Culture, Media and Sport (DCMS) is the lead government department for gambling issues.

## The Gambling Commission

The Gambling Commission is responsible for regulating gambling in accordance with the Act, and for issuing operating licences to gambling businesses and personal licences to individuals. In regulating gambling, the Commission is required to have regard to the three licensing objectives for gambling, which are:

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

## Principles to be applied by licensing authorities



The Commission is **required to aim to permit gambling**, providing that it is consistent with the licensing objectives.

To help fulfil its role, the Commission attach licence conditions and issue codes of practice relating to how gambling facilities should be provided, and guidance to licensing authorities (district councils and unitary authorities) on how to implement their responsibilities under the Act.

## Licensing authorities and types of gambling

Licensing authorities<sup>1</sup> are a key partner in gambling regulation, with a responsibility for overseeing non-remote gambling in their local areas. This involves:

- setting the local framework for gambling through their statement of principles
- considering applications and issuing licences for premises where gambling takes place, with conditions where appropriate
- reviewing or revoking premises licences
- issuing permits for some forms of gambling
- undertaking inspection and enforcement activities, including tackling illegal gambling.

Although betting shops are the most commonly recognised gambling premises, councils are responsible for overseeing gambling in many different types of business:

- betting shops
- bingo halls
- adult gaming centres
- family entertainment centres (FECs)
- casinos
- race-courses and other tracks (defined as sporting venues, eg football or rugby stadiums)
- alcohol licensed premises and clubs that have gaming ('fruit') machinesmembers' clubs with gaming permits.

<sup>1</sup> District and unitary councils

While most gambling establishments require a premises licence before they are able to operate, licensing authorities issue 'permits' to unlicensed family entertainment centres (uFECs) (typically found in seaside resorts, motorway service stations or airports) and to alcohol licensed premises and clubs.

Licences or permits enable businesses to provide specified maximum numbers and types of gaming machine. There are different types of gaming machines, with varying stakes (the amount allowed to be gambled at one time) and prizes (the amount the machines are allowed to pay out), and some types of machine are only allowed in specific premises. This is outlined in the table in Annex 1. Maximum stakes and prizes are set by the DCMS, and are currently subject to a triennial review. At the time of publication, with the Government's consultation on stakes closing only in January 2018, the majority of stakes and prizes look set to remain unchanged, with the exception of an expected significant reduction in the maximum B2 stake ('FOBTs', commonly found in betting shops) and an increase in prize gaming stakes and prizes.

Like the Gambling Commission, **licensing authorities are bound by a statutory aim to permit** and must grant premises licences so long as applications are in accordance with:

- the Gambling Commission's codes of practice
- the guidance to local authorities
- the licensing authority's own statement of principles
- the three licensing objectives.

Since the Act was introduced, a number of licensing authorities have been frustrated at their limited grounds to refuse premises applications. Authorities that have tried to reject applications – on the basis that there are already clusters of betting shops on their high streets – have generally seen their decisions overturned on appeal. This is partly because the licensing objectives under the Act are different to those under the Licensing Act 2003, in that they do not include public

safety or the prevention of public nuisance, creating a very high bar for refusing premises applications on the basis of licensing objectives. More recently, however, Westminster Council refused an application for a premises licence in a street that already had a number of betting shops, on the grounds that it was in an area identified as being at high risk of harm from gambling due to the local characteristics. This demonstrates the importance of having an evidence based local area profile to draw on, and using this to inform the local statement of principles (see page 14).

### **Planning considerations, the aim to permit and gambling premises**

Councils have sometimes sought to use the planning system to prevent further openings of gambling premises (specifically betting shops) where they believe that additional premises will damage local high streets or economies. However, these decisions have been overturned, this time by the Planning Inspectorate, if councils have not been able to evidence that decisions have been reached on the basis of material planning considerations.

Following lobbying by the LGA and others, in 2015 the Government introduced changes to the planning system in England that remove permitted development rights from betting shops and payday loan shops, which are now 'sui generis', ie in a use class of their own. This means that anyone wishing to change the use of an existing building to a betting shop will need to apply for planning permission to do so.

To refuse new planning applications, a council would need to have valid planning grounds; in turn, this is likely to link back to the council's local planning policy and development plan. As with licensing statements, planning decisions will be stronger if they are linked back to evidence based criteria explicitly set out in local plans. The Planning Inspectorate has approved an amendment to Newham Council's local plan whereby small changes to places can now be assessed cumulatively rather than in isolation and which introduces limits to the numbers of betting shops (and other outlets) ensuring they are separated from each other in the street scene. This new policy

criteria also prevents new betting shops from locating in areas where there are already three units of the same use within a 400m radius (typical five minute walk). This is a welcome development.

The LGA would still like to see a statutory brake on the aim to permit included in the licensing framework. However, anecdotal evidence suggests that the planning change has led to a fall in the number of applications for new or relocated premises, and it remains to be seen what impact a reduction in FOBT stakes make have in areas where there are clusters of betting shops. We will continue to keep this area under review.

Under the Act, councils are required to recover the costs of the gambling licensing function, and have discretion to set fees up to specified maximum levels set for England and Wales by the Secretary of State. Fee setting is considered in more detail in the specific section later in this document.

Licensing fees should cover the costs of gambling licensing administration and the compliance/enforcement activity undertaken by a council. As with the Licensing Act 2003, councils have a range of licensing tools that can be used to address issues linked to gambling premises, specifically reviewing existing licences, imposing conditions or – in the most serious cases – revoking licences. However, there is also scope for councils to use other more appropriate powers to tackle certain types of challenges. For example, certain anti-social behaviour powers may be better suited to dealing with anti-social behaviour issues linked to gambling premises. This is considered in more detail in the subsequent section on managing individual premises and enforcement.

## Operators

Gambling businesses are required to have an operator licence issued by the Gambling Commission before they can operate in Great Britain. Operator licences can be issued for up to ten different types of gambling activity<sup>2</sup> and a separate licence is needed for both remote and non-remote gambling of the same types.

An operator licence gives a general authorisation for a business to provide gambling facilities, but a business wishing to provide non-remote gambling facilities in a licensing authority area is required to apply for a premises licence that is specific to the particular premises.

Operators are required to comply with conditions attached to both their operator and individual premises licences. They are also required to adhere to the mandatory provisions in the Gambling Commission's Social Responsibility Code of Practice and take account of the provisions in the Ordinary Code of Practice (although these are not mandatory).

The Licence Conditions and Codes of Practice (LCCP) were updated in April 2015, and have introduced significant new responsibilities for operators in relation to their local premises.

**Since April 2016, all non-remote licensees that run gambling premises have been required to assess the local risks to the licensing objectives arising from each of their premises, and have policies, procedures and control measures to mitigate them.**

Licensees are required to take into account the licensing authority's statement of principles in developing their risk assessments – licensing authorities can challenge risk assessments if they feel there is evidence that local risks have not been taken into consideration (for example, if there are generic risk assessments for different premises).

Local risk assessments should also be undertaken or reviewed and if necessary updated by operators:

- when applying for a new licence or to vary a premises licence to reflect significant changes
- to local circumstances, including those identified in the statement of principles
- when there are significant changes at the premise which may affect mitigation of local risks.

Operators are advised to share their risk assessments when submitting such applications.

## A partnership approach to local regulation

In line with the principles of better regulation, the Gambling Commission are encouraging operators and licensing authorities to work together in partnership. The LGA also recognises the value of this approach, having convened a 'Betting Commission' in 2014 to bring together councils and representatives of the betting shop industry to discuss council concerns about clustering and fixed odds betting terminal (FOBT) machines.

The Betting Commission did not reach agreement on the changes that councils wish to see in relation to council powers in this area, and the LGA policy position remains that councils need stronger powers to shape their local high streets by refusing licences if there is already a concentration of gambling premises in the area.

However, the work of the Betting Commission indicated that there is willingness across the betting shop industry to work collaboratively to tackle local issues linked to betting shops, as evidenced in some of the later case studies in this document.

<sup>2</sup> The ten types of operator licences are for: casinos; bingo; general betting; pool betting; gaming machines for adult gaming centres; gaming machines for family entertainment centres; gambling machines – technical; gambling software operating; lottery operating.

# Role of councillors and the licensing authority

## Overview

Under the Act, the licensing authority's responsibilities are delegated to the authority's licensing (or regulatory) committee, which is likely to be made up of non-executive/cabinet councillors.

The licensing committee is likely to be responsible for considering and proposing the authority's gambling policy through developing the statement of principles prior to its approval by full council, and for taking decisions on specific licence applications or issues.

However, two core functions are not delegated and remain the responsibility of the full council:

- a resolution not to issue casino premises licences
- adopting the licensing statement of principles.

Fee-setting is not delegated to the licensing committee by default, but a licensing authority may choose to delegate this function.

Otherwise, fee-setting remains a council function and cannot be delegated to a cabinet or executive committee. As in other areas, fees should be reviewed annually.

Decision-making in respect of individual cases, whether applications for licences or relating to existing licences, may be further delegated from the licensing committee to a sub-committee, or to an officer. Officers may not, however, exercise delegated powers in the following circumstances:

- where an application has been made for: a premises licence; a provisional statement (in relation to a premises expected to be built); a club gaming or club machine permit; or to vary an existing premises licence, and representations have been made

- where an application has been made to transfer a licence, and a representation has been made by the Gambling Commission or a responsible authority
- in the case of a review of an existing premises licence.

## Interested parties and responsible authorities

Unlike the Licensing Act 2003 framework, representations may be made by or on behalf of 'interested parties' defined as:

- people living sufficiently close to a premises to be likely to be affected by it
- whose business interests may be similarly affected
- people representing them (eg advocates, neighbours/residents /tenants associations, MPs, councillors, etc).

It is up to the licensing authority to determine whether a person is an interested party with regard to a particular premises or application, and this should be decided on a case-by-case basis. However, the licensing authority's statement of principles should set out the principles the authority will apply in doing so. The Gambling Commission's 'Guidance to licensing authorities' advises that this may include:

- the size of premises (eg, a larger premises might be expected to affect people over a broader geographical area)
- nature of the premises
- distance of the premises to a person making the representation

- the potential impact of the premises, eg number of customers, routes likely to be taken to visit the premises
- the circumstances of the person who lives close to the premises.

The Commission also states that licensing authorities should take a broad interpretation of business interests, to include partnerships, charities, faith groups and medical practices. In respect of gambling businesses themselves, it advises that authorities consider the size and catchment of a premises, and whether the person making the representation has business interests in the catchment area which might be affected.

Representations may also be made by 'responsible authorities', defined under the Act as the:

- licensing authority
- Gambling Commission
- police
- fire and rescue service
- planning authority
- an authority with responsibility for minimising the risk of pollution to the environment or of harm to human health in the area where the premises is situated, ie environmental health
- local safeguarding board
- Her Majesty's Revenue and Customs.

## Decision making and conditions

In circumstances where the committee or sub-committee considers specific cases, it sits as a quasi-judicial body and therefore must follow the rules of natural justice – **anyone affected by a decision has a right to be heard and no one should be a judge in his own cause. All decisions should be made without 'fear or favour', however difficult they may be.**

In general, the volumes of applications and cases dealt with in respect of the Act will be significantly less than in relation to alcohol

or taxi licensing. However, in broad terms, committees have similar options available to them when considering an application/issue relating to a gambling premises as they do in relation to alcohol licences and taxis:

- to grant a licence, with or without conditions, or refuse it
- when reviewing a licence
  - do nothing
  - introduce conditions on a premises licence
  - revoke a licence.

Licensing authorities may attach specific conditions to premises licences, in addition to the mandatory and default conditions that apply either because they are set out in the Act or in regulations made by the Secretary of State. In relation to an individual premises, they may also choose to disapply default conditions set out in regulations which would otherwise apply to all premises licences.

The Gambling Commission's Guidance to Licensing Authorities (GLA) advises that premises licence conditions issued by authorities should be:

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

The GLA also states that 'decisions on conditions should be taken on a case by case basis. [Licensing authorities] must aim to permit the use of premises for gambling and so should not attach conditions that limit their use except where it is necessary in accordance with the licensing objectives, the Commission's codes of practice and guidance, or their own policy statement. Conversely, licensing authorities should not turn down applications for premises licences where relevant objections can be dealt with through the use of conditions.'

## Good practice on licensing conditions

In any area of licensing, conditions must not:

- exceed the council's powers set out in the controlling legislation ('ultra vires')
- be unreasonable or disproportionate ('Wednesbury unreasonable')
- be beyond the applicant's powers to comply with
- be for an ulterior motive
- **but must** be clearly stated in order that they can be properly understood to be complied with and enforced.

Both applicants seeking new licences and the holders of existing licences will have the right of appeal to the local magistrates' or crown court if they are aggrieved by the decision of the licensing committee.

## Training of councillors

No councillor should be permitted to sit on a licensing committee or sub-committee without having been formally trained. The 2017 post-legislative scrutiny report by the House of Lords Select Committee into the Licensing Act 2003 was emphatic on the need for councillors to receive appropriate levels of training before sitting as a member of a licensing committee or sub-committee.

It is important that training does **not** simply relate to procedures, but also covers the making of difficult and potentially controversial decisions, and the use of case study material can be helpful to illustrate this.

All training should be formally recorded by the council and require a signature from the councillor.

In addition to in-house training, there are a number of independent training providers, including the professional bodies – the National Association of Enforcement and Licensing Officers (NALEO), and the Institute of Licensing (IoL). The LGA has also made available a free online module on regulatory

services for all councillors to use: [https://lms.learningnexus.co.uk/ivy\\_lms/idxlms.htm](https://lms.learningnexus.co.uk/ivy_lms/idxlms.htm)<sup>3</sup>

## Appearance of bias

While third party lobbying of elected members is legitimate and certain members may make representations to the licensing committee on behalf of 'interested parties', it is crucial for the licensing authority and its committee to ensure that there is neither actual nor an appearance of bias in its decision-making. It should also be remembered that concerns about political lobbying were the basis of the concerns which lead to the first Nolan Committee on Standards in Public Life.

Section 25 of the Localism Act 2011 does not prevent members from publicly expressing a view about an issue or giving the appearance of having a closed mind towards an issue on which they are to adjudicate. However it is recommended that to avoid an appearance of bias the following advice should be observed:

- No member sitting on the licensing sub-committee can represent one of the interested parties or the applicant. If s/he wishes to do so s/he must excuse him/herself from membership of the sub-committee which is considering the application. Case law has also established they should not be in the room for the hearing once an interest has been declared.
- If a member who sits on the licensing sub-committee is approached by persons wishing to lobby him/her as regards the licence application then that member must politely explain that they cannot discuss the matter and refer the lobbyist to his/her ward member or the licensing officer who can explain the process of decision making. If the member who sits on the licensing sub-committee wishes to represent them then s/he will need to excuse him/herself from the licensing sub-committee.
- Members who are part of the licensing

<sup>3</sup> To register for log in details to access the e-learning course email [elearning@local.gov.uk](mailto:elearning@local.gov.uk)

sub-committee must avoid expressing personal opinions prior to licensing sub-committee decision. To do so will indicate that the member has made up his/her mind before hearing all the evidence and that their decision may not be based upon the licensing objectives nor the statement of licensing principles.

- Political group meetings should never be used to decide how any members on the licensing sub-committee should vote. The view of the Ombudsman is that using political whips in this manner may well amount to findings of maladministration. It may be advisable that the chair of the licensing sub-committee should state, during proceedings, that no member of the sub-committee is bound by any party whip.
- Councillors must not be members of the licensing sub-committee if they are involved in campaigning on the particular application.
- Other members (ie, those who do not sit on the licensing sub-committee) need to be careful when discussing issues relating to matters which may come before the licensing sub-committee members as this can easily be viewed as bias/pressure and may well open that sub-committee member to accusations of such. While a full prohibition upon discussing such issues with committee members by other members may be impractical and undemocratic, local authorities are advised to produce local guidance for members on how such matters can be dealt with<sup>4</sup>. Such guidance could include a definition of what is viewed as excessive, eg attempting to obtain a commitment as to how the member might vote.

- Members must also be aware of the need to declare any pecuniary or non-pecuniary interests in matters that may come before them, whether these relate to policy issues or to specific applications.
- Members must not pressurise licensing officers to make any particular decisions or recommendations as regards applications.
- Behaviour is also governed by the member's code of conduct which councillors should have regard to, and most authorities also have a member/officer protocol which governs how members and officers should interact and the differences in their roles and responsibilities
- Councillors should consult their monitoring officers for further advice where necessary.

4 'It is undemocratic and impractical to try to prevent councillors from discussing applications with whomever they want; local democracy depends on councillors being available to people who want to speak to them. The likely outcome of a prohibition would be that lobbying would continue but in an underhand and covert way.' (Nolan Committee Report into Standards in Public Life 285 p. 72)

# The licensing authority statement of principles

Under section 349 of the Act, licensing authorities are required to prepare a statement of principles that they propose to apply in relation to their regulatory responsibilities in gambling. Statements of principles typically run for a period of three years. There is nothing to prevent an authority from updating its statement more frequently if it wishes to, but the three yearly cycle must still be followed.

In previous years, the LGA has produced a template statement of principles for licensing authorities to adopt. However, following changes to the licensing conditions and codes of practice, reflected in the updated guidance to licensing authorities published in March 2015, we have produced the guidance below to assist licensing authorities in reviewing and considering their statements.

## Objective and purpose

The objective of the statement of principles is to provide a vision for the local area and a statement of intent that guides practice: licensing authorities must have regard to their statement when carrying out their licensing functions. The statement cannot create new requirements for applicants outside of the Act, and cannot override the right of any person to make an application under the Act, make representations or seek a review of a licence. However, it can invite people and operators in particular to consider local issues and set out how they can contribute towards positively addressing them.

The updates to the licence conditions and codes of practice in 2015 have had a significant impact on the statement of principles. The **requirement for operators to**

**prepare local risk assessments in relation to all their premises from April 2016 means that licensing authorities should now set out their expectations of operators' risk assessments, ideally in their statements.**

This provides a real opportunity for councils to reflect local needs and issues in their gambling policies, in a similar way to licensing policy statements prepared under the Licensing Act 2003.

Most licensing authorities will not experience the same volume of applications in gambling as they do in other areas of licensing, but the issues of betting shop clustering and concern over FOBTs have shown that gambling generates extremely strong feeling. While licensing authorities may not have the power to refuse new applications or limit FOBT machines, developing detailed and robust statements of principles that reflect local circumstances will enable them to shape local gambling regulation as much as possible. A statement that reflects local circumstances and risks can help operators to better understand and proactively mitigate the risks to the licensing objectives.

Conversely, as in other areas of licensing, if an authority's statement of principles does not cover a specific issue, it will be in a significantly weaker position if it is ever challenged on a decision on that issue. It is always better to pre-empt legal challenge through a comprehensive statement of principles, and setting out a position in the statement should encourage an applicant to work with the council and community from the start to develop an application that will add to the local area, rather than detract from it.

As noted above, the changes to the LCCP in 2015 provided significant scope for authorities to develop statements of principles that are more closely tailored to their local circumstances. The Gambling Commission has recognised that developing more localised statements of principles will be an iterative process that takes place over time, as different information and more tools become available. However, as licensing authorities undertake the second reviews of their statement since the 2015 changes (with updated statements required by January 2019), the LGA strongly encourages authorities to look at the information and best practice that has been made available to support them, including:

- Geofutures' work with Westminster and Manchester Councils
- the Gambling Commission's [licensing authority bulletins](#), in particular the January 2018 bulletin.

The LGA believes that all licensing authorities should have an up-to-date statement including guidance for operators on risk assessments, as well as an accompanying local area profile.

## Process

In developing their statements, the Act requires licensing authorities to consult with:

- local police
- those representing the interests of gambling businesses in their localities
- people likely to be affected by it (or those who represent them).

Authorities may also wish to consult with:

- organisations including faith groups, voluntary and community organisations working with children and young people, organisations working with people who are problem gamblers, such as Gamcare, and advocacy organisations (such as the Citizen's Advice Bureau and trade unions)
- local public health team and mental health teams

- local businesses
- other tiers of local government (where they exist)
- responsible authorities.

It is good practice to clarify in the consultation which aspects of the current statement you are proposing to change.

Cabinet Office guidance on public consultations<sup>5</sup> state that the time required for a public consultation 'will depend on the nature and impact of the proposal (for example, the diversity of interested parties or the complexity of the issue, or even external events), and might **typically vary between two and 12 weeks**'.

Licensing authorities should look at the views submitted by consultees and consider carefully whether they should be taken into account in finalising their statements. A licensing authority should always be able to give reasons for the decisions it has made following consultation. However, they should ensure that they only consider matters within the scope of the Guidance, Act and Codes of Practice. Even if there is a large response regarding a certain issue, an authority may be unable to deal with the issue under the Gambling Act, although there may be other options for addressing issues raised (eg planning).

Given the requirement to undertake a consultation when the statement of principles is amended, authorities may wish to consider separating their statements into distinct segments (possibly by sector). This would ensure that they need only consult on the section they propose to amend, rather than on the full statement, if changes need to be made.

Licensing authorities are required to publish their statements four weeks prior to them coming into effect, eg on or by 3 January 2019 if the statement takes effect on 31 January 2019. Licensing authorities are required to publish a notice advertising the publication of the statement on or before it comes into effect.

<sup>5</sup> Cabinet Office 2016: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/492132/20160111\\_Consultation\\_principles\\_final.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/492132/20160111_Consultation_principles_final.pdf)

# Key issues for the statement of principles

## Legal requirements

Licensing authorities are required to include within their statements a number of points set out in statutory regulations:

- setting out the three licensing objectives that the statement is intended to uphold
- a commitment to upholding the statutory aim to permit gambling
- a description of the geographical area to which the statement applies (typically a plan of the area)
- a list of those consulted in preparing the statement
- the principles the licensing authority will apply in designating a competent body to advise it about the protection of children from harm and, if already determined, who this body is. In most places, this will be the local safeguarding children board, or following changes brought in under the Children and Social Work Act 2017, the new local multi-agency safeguarding arrangement (see page 23).
- the principles the licensing authority will apply in determining whether someone is an interested party for the purposes of premises licences or applications for them (see page 8)
- the principles to be applied in relation to exchanging information with the Gambling Commission or other bodies with whom licensing authorities are authorised to share information under the Act
- the principles to be applied in exercising inspection functions and instigating criminal proceedings (see page 19).

If the licensing authority has agreed a 'no casino' resolution, this should be included within the statement, alongside details of how (ie by full council) and when the decision was reached. Each licensing authority should publish a separate statement of principles, even where joint arrangements might exist between a number of local authorities.

## Local area profiles

The guidance for licensing authorities recommends that, like operators, licensing authorities complete and map their own assessment of local risks and concerns by developing local area profiles to help shape their statements. Although there is no mandatory requirement to do this, the LGA encourages all its members to do so as a matter of best practice. In simple terms, the objective of the profiles is to set out what your area is like, what risks this might pose to the licensing objectives, and what the implications of this are for the licensing authority and operators.

Licensing authorities are advised to keep their local area profiles separate to their statements, to **enable the profiles to be updated without the need to re-consult on amending the full statement of principles. However, the implications of the profiles for their regulatory approaches should be set out in the statement.**

Some councils have expressed concern about whether they have access to information about local risks, or whether there are any local gambling risks to be addressed at all. It may therefore be helpful to start from simple principles, and expect that for many authorities these profiles will develop over a

period of time. Public health colleagues may have useful data to contribute, in addition to that supplied by the police. Additionally, support organisations such as GamCare may be able to provide information about numbers of people accessing treatment for problem gambling in the area.

As stated, the aim of local area profiles is to build up a picture of the locality, and in particular the elements of it that could be impacted by gambling premises. This profile might therefore include reference<sup>6</sup> to:

- schools, sixth form colleges, youth centres, etc, with reference to the potential risk of under-age gambling
- hostels or support services for vulnerable people, such as those with addiction issues or who are homeless, given the greater risk of problem gambling among these groups
- religious buildings
- any known information about issues with problem gambling
- the surrounding night time economy, and possible interaction with gambling premises
- patterns of crime or anti-social behaviour in the area, and specifically linked to gambling premises
- the socio-economic makeup of the area
- the density of different types of gambling premises in certain locations
- specific types of gambling premises in the local area (eg, seaside resorts may typically have more arcades or FECs).

**Crucially, local councillors know and understand their areas as well as anyone, and are well-placed to contribute to the development of local area profiles.** The Gambling Commission also recommend engaging with responsible authorities and other organisations that can help build up a profile of both actual and potential local risks in developing local area profiles. This includes organisations involved in public health, mental

health, housing, education, welfare groups and community safety partnerships, and organisations such as Gamcare or equivalent local support organisations.

One issue to consider is whether there is a need to differentiate different parts of the licensing authority area in drawing up local area profiles, depending on the size and nature of the area.

A smaller authority may take the view that there are no reasons to distinguish one part of the borough from any other. In contrast, larger areas may wish to differentiate the area into segments or zones with different characteristics and risks, enabling them to outline different expectations for applications or operators based in each. For example, a larger licensing authority that has a specific geographic area with a higher density or specific type of gambling premises may wish to differentiate this from the rest of the borough. Similarly, smaller authorities may also find this approach suitable, for example if there is a busier town centre and surrounding rural area with a very different profile.

In February 2016, Westminster and Manchester Councils published the outcome of a piece of research<sup>7</sup> aimed at better understanding the issue of gambling related harm and local area vulnerability to it. The research considered different risk factors related to gambling, and went on to map these factors in terms of the local area. The maps developed by Westminster showing one particular hotspot area in the borough subsequently helped to support the authority's decision to refuse an application for an additional premises in an area with an existing cluster and high local risk factors.

The LGA (which part funded the research) has helped disseminate the findings and tools from the research to other licensing authorities, who may in future want to use these to develop their local area profiles.

<sup>6</sup> <https://www.geofutures.com/research-2/gambling-related-harm-how-local-space-shapes-our-understanding-of-risk>

<sup>7</sup> <https://www.westminster.gov.uk/gambling-research>

## Expectations of operators

Local area profiles will help the authority to develop its expectations of existing operators and new applicants in the licensing authority area. The statement of principles is the key tool for setting this out clearly, so that operators are clear what is expected of them.

### Risk assessments

As an example, the statement of principles is an **opportunity for a licensing authority to set out its expectations of the local risk assessments that operators must now undertake** in respect of all gambling premises. Where authorities do not set out any expectations, it is more difficult for them to raise objections where they are not satisfied with the assessments that operators subsequently prepare.

Operators are **required** to take into account the licensing authority's statement of principles in developing their risk assessments, so authorities should therefore specifically outline the issues they expect operators to cover within their risk assessments. Operators are not automatically required to share their risk assessments with licensing authorities except when they are applying for a new premises licence or to vary an existing one. However, the Gambling Commission is advising operators to do so. Authorities may use the statement of principles to clarify whether or not and how regularly they expect to receive a copy of each premises' risk assessment, and any expectations around risk assessments being kept on the premises to which they relate, rather than at head office.

Authorities will wish to ensure that the risk assessment covers the following broad headings:

- reference to any specific local risks (linked to the local area profile)
- how the operator proposes to mitigate these risks
- how the operator will monitor specific risks.

The statement should also set out if the licensing authority has any specific

expectations of risk assessments for different types of premises. This will be linked to broader expectations of operators (linked to activity and location), as set out below.

The Gambling Commission's [January 2018 bulletin](#) contains examples of [good practice on setting out expectations for local risk assessments](#).

### Applications and variations

The statement should also set out the licensing authority's expectations of new applications and the issues the authority will take into account in considering applications for new licences, permits or variations in different sectors or parts of the borough, depending on the risks associated with each.

This should include the information that the authority would expect to see as part of any such application, for example minimum standards for a plan and layout of the premises. It could also include a list of required information about staffing arrangements in the premises, or the security features that will be put in place.

Depending on the local area profile, authorities may wish to invite information at application stage about premises' intended participation in local business schemes (eg, if there is a BID) or other specific schemes such as Betwatch, if they are in place locally.

Similarly, authorities could invite applicants to outline specifically how individual premises will be implementing the various voluntary codes of practice that different sectors have developed, as well as the measures mandated in the licensing conditions and codes of practice.

**The key point is that the statement is an opportunity to clarify your expectations of businesses in relation to new applications, reducing the input and resources required at the time an application is submitted.**

### Sector/area specific expectations

The statement should be used to set out the licensing authority's expectations of operators of different types of premises, or (if relevant) of premises in different parts of the licensing authority area. If there are particular risks

associated with certain premises due to the facilities offered or their location, it is legitimate for the statement to set out upfront how it expects operators and premises to address this.

### **Local licensing guidance – South Leeds alcohol premises**

South Leeds is an area of deprivation, with increasing numbers of outlets to buy alcohol, but a decline in the number of pubs. NHS Leeds (as was) and the local community officers had increasing concerns about the availability of alcohol in the area, along with an increase in street drinking, and generalized disorder. The publication of the Joint Strategic Needs Assessment highlighted a disparity in the life expectancy of residents in the area in comparison with other areas in Leeds and the national average. Alcohol misuse is known to be a possible contributory factor for a lowered life expectancy.

The council's South Leeds area team formed the multi-agency South Leeds Alcohol Group with the objective of reducing the health harms in the area which were linked with alcohol. The group consisted of the police, health, community safety, treatment services, planning, environmental health and licensing. The group met monthly to look at a number of approaches. The availability of alcohol was seen as key, but there were not enough on-licensed premises to warrant a cumulative impact policy. The group looked at alternative options and looked towards licensing as a solution.

In 2012, changes to statutory guidance on the Licensing Act enabled councils to require operators to have regard for the local area when making their application. The group therefore developed Local Licensing Guidance specifically for postcode areas of LS10 and LS11 (also known as Inner South Leeds), which has a population of approximately 82,000. The guidance has helped premises ensure that they are able to identify and include appropriate control measures in their applications. Of the five applications received since the development of the guidance that didn't include appropriate control measures, the Health and the Licensing Authority

have negotiated with four premises who subsequently agreed to include additional control measures and a further application was withdrawn prior to hearing. The control measures included matters such as the positioning of alcohol within the store and agreement to display health information.

Similar approaches in gambling could include:

- **Under-age sales**
  - If a premises is based near a school or college, the measures might be required to manage a higher risk of attempted under-age sales.
  - If the premises is a FEC or UFEC, expectations for how the premises will manage the risk of children and young people understanding different types of machine and/or seeking to access them.
- **Security issues**
  - Staffing requirements, if the premises is open late, or located in an area with a busy night time economy or record of crime/anti-social behaviour.
  - Whether alcohol is permitted, eg in a premises on a seaside pier.
  - Requirement for CCTV, maglocks, door chimes, alarms, etc if there is a history of security incidents in the premises.
- **Signage**
  - For example, language requirements if there is a diverse local community where English may not be the first language.
  - Clear identification of different types of machine (eg gaming or skill machines) and/or prizes in premises where these may vary.
- **Staff issues**
  - Training requirements on particular issues relevant to the premises or area, eg) on different types of machine in a FEC/UFEC.

Another option is operator/premises participation in local schemes or industry best practice schemes (eg Safebet Alliance) designed to promote best practice and tackle

any issues. In the alcohol licensed trade, schemes such as PubWatch, Best Bar None, etc are common practice. This is far less common in relation to gambling, but may also have a role to play in some areas. Authorities could consider this as a default approach in specific areas, or as a first stage enforcement approach in areas where there are particular issues.

In relation to both existing operators and new applicants, the authority may wish to use the statement to outline a set of model licence conditions that operators could adopt if the local area profiles and risk assessments indicate it is necessary. The Gambling Commission's 'Guidance to licensing authorities' includes a helpful set of sample premises licence conditions arranged by security; anti-social behaviour; underage controls; player protection controls. These are listed in Annex 2.

## Enforcement approach

Licensing authorities **are required** to set out in their statement the 'principles that they will apply in exercising their inspection function and instigating criminal proceedings' (that is, their approach to enforcement). As a minimum, the statement should outline the authority's intended approach in relation to:

- information sharing and targeting activity
- inspection activity and visits
- dealing with non-compliance by premises
- tackling illegal gambling.

It should be noted that in setting out its approach to inspection and enforcement, the authority will also be providing an outline of the basis for its fee structure, see page 21.

As in other areas of regulatory services, in developing their enforcement strategy, **authorities should adopt a 'better regulation' approach** that recognises the requirements of the statutory regulator's code<sup>8</sup> and applies the

principles of proportionality and transparency, particularly in terms of consultation and engagement with regulated businesses.

The Gambling Commission is keen for licensing authorities to foster a partnership approach to local regulation, working jointly with local businesses to tackle issues linked to gambling premises. In previous discussions with the betting shop industry, it has been recognised that, despite the differing opinions held about clustering and machine stakes, a partnership approach is likely to be more effective in resolving issues linked to local betting shops. This could include ward councillors; council licensing teams and community safety teams; police licensing and community officers; betting shop managers and betting shop area managers, as well as town centre managers, representatives of the wider business community and other stakeholders listed above.

The Gambling Commission is currently developing guidance on developing Betwatch schemes.

There are different approaches that local areas can take for partnership working:

**Ealing Council** set up a Betwatch scheme following concerns raised by local residents and councillors about the proliferation of 13 betting shops in Southall town centre and associated crime and disorder and antisocial behaviour. In a single year, there were 89 allegations of crime where a gambling premises was named as the location of the incident in Southall. The Betwatch group drew up action plans for tackling the issues, as well as test purchase failures in three of the premises, and a 'Ban by one, ban by all' approach was introduced. Following the creation of the Betwatch scheme, crime within gambling premises decreased by more than 50 per cent on 2011 levels, alongside a significant reduction in public order offences and criminal damage incidents. Additionally, further underage test purchases took place in 2012 with no failures reported.

When concerns were raised about anti-social behaviour and crime associated

<sup>8</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/300126/14-705-regulators-code.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/300126/14-705-regulators-code.pdf)

with bookmakers on Deptford High Street, **Lewisham Council** involved bookmakers in the development of two general business initiatives – the Deptford High Street Charter and Lewisham Borough Businesses Against Crime initiative. Alongside this, individual bookmakers made changes in order to address the problems of anti-social behaviour in and around their premises, including installing external CCTV and signs highlighting that the area is under surveillance; making amendments to remove places where street drinkers would often congregate; setting up new CCTV systems within stores which are regularly monitored; introducing banning orders against some problem individuals; and changing management and staff. This work resulted in a reduction of incidents in and around the bookmakers. Following the work, a local BetWatch scheme has been established.

### **Two councils have primary authority agreements with major bookmakers and gambling trade associations covering the issue of age verification.**<sup>9</sup>

As with any other primary authority agreement, licensing authorities should therefore have regard to the plan agreed between the company and primary authority in developing their own programmes of activity and inspection. However, the primary authority relationship provides a useful mechanism to feedback general concerns about a particular operator, as the primary authority will have regular contact at senior levels with the operator: authorities should seek to reflect this in their enforcement approach.

### **Information sharing**

To help target their enforcement activity and resources, authorities could use their statements to request that operators/premises share relevant information with them, for example about test purchasing results (subject to the terms of primary authority agreements) or about incidents in premises, which managers are likely to be required to report to head office. A licensing authority might seek

information about numbers of self-excluded gamblers to help it develop its understanding about the risk of problem gambling in its area.

This type of information would help the authority to get a clearer picture of which premises may be experiencing issues, meaning that they can structure their inspection and enforcement activity appropriately.

### **Inspection activity and visits**

The statement should set out the activity the authority intends to undertake as part of its standard (that is, pre-planned) inspection activity, and the issues it will be looking at when it does visit. This will ensure that operators know what to expect in terms of the frequency and nature of licensing authority visits.

The Gambling Commission, working with the Leicester, Rutland and Leicestershire Licensing Forum and Leicestershire Local Economic Partnership, has developed a range of templates to help authorities when they visit gambling premises: [www.gamblingcommission.gov.uk/for-licensing-authorities/Licensing-authority-toolkit/Premises-assessments/Premises-assessments-templates.aspx](http://www.gamblingcommission.gov.uk/for-licensing-authorities/Licensing-authority-toolkit/Premises-assessments/Premises-assessments-templates.aspx) The Commission is encouraging authorities to make use of the templates.

The issues that licensing authorities may cover during their visits include:

- details of training policies and training undertaken by staff
- records of refusals to serve /admit on age grounds (subject to the terms of any primary authority agreements)
- records of any relevant incidents in or outside the premises, eg anti-social behaviour
- approach to managing self-exclusion and numbers of people currently self-excluded
- involvement/impact of any work in local schemes or partnership working with other local businesses
- reviewing paperwork relating to the purchase of games from licensed manufacturers

<sup>9</sup> The primary authority register is available to search at: <https://primary-authority.beis.gov.uk/par>

- interviews with staff members
- confirming that appropriate signage is in place.

### **Dealing with non-compliance/risks to the licensing objectives**

The statement should outline the steps the authority will take where there are reports of non-compliance, or there have been serious incidents linked to a premises. Authorities should make clear when and how they would expect to work with operators to try to resolve or address problems, and when an issue is so serious that it would expect to move immediately to initiate some form of enforcement action.

Authorities may wish to specifically cover:

- Dealing with test purchase failures (subject to the terms of any primary authority agreements). For example, the authority might require a premises to undertake certain measures to address this and undergo a follow-up test within a specified amount of time. A second failure would be expected to lead to enforcement action.
- Dealing with complaints from residents or neighbours. For example, an authority might have an established process to implement when it receives complaints about specific premises.
- Dealing with anti-social behaviour issues. For example, if an authority becomes aware that a premises is becoming associated with anti-social behaviour issues, it might in the first instance seek to work with the premises to address these through voluntary measures. If this is not successful in resolving the issues, the authority might then consider introducing conditions on the premises licence, or using other tools as appropriate.

The section on enforcement should set out the tools that licensing authorities will consider using to address issues that may be associated with gambling premises, often linked to alcohol and/or anti-social behaviour. Licensing authorities have the option under the Act to review, vary or impose conditions

on a premises licence, but in practice these might not be the most effective tools to use to tackle problems linked to anti-social behaviour. Instead, tools specifically designed to reduce anti-social behaviour<sup>10</sup>, such as dispersal powers, community protection notices or new public space protection orders, may have more of an impact. In very, very rare instances, where a premises is being used or likely to be used to commit nuisance or disorder and working with the operator had failed to address this, a closure notice may also be served.

### **Tackling illegal gambling**

The enforcement approach could also set out the authority's approach to illegal gambling, including how the authority intends to monitor the risk of illegal gambling or respond to any information linked to this risk. More information on illegal gambling is available on page 29.

<sup>10</sup> See Home Office guidance on ASB powers: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/670180/2017-12-13\\_ASB\\_Revised\\_Statutory\\_Guidance\\_V2\\_0.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/670180/2017-12-13_ASB_Revised_Statutory_Guidance_V2_0.pdf)

# Licensing fees

Unlike fees for alcohol licences under the 2003 Licensing Act, licensing authorities have some discretion to set premises licence fees for gambling establishments. Councils in England and Wales have devolved powers to set fees for premises licence applications and annual fees up to a prescribed maximum fee set out in the table below. Licensing authorities can delegate responsibility for setting fees to their licensing committee or officers.

As with other licensing fees, licensing authorities should set their fees on the basis of cost recovery, so that the income received from fees is 'as nearly as possible' equal to the cost to the authority of administering the Act. Licensing fees should be reviewed annually to ensure that income from licensing fees does not exceed the costs of administering the Act in any single financial year, and income from licensing fees should effectively be ring-fenced to support councils' gambling work.

Licensing authorities are expected to be transparent about the assumptions that they make in setting fees, and will need to have a clear understanding of the costs they incur in carrying out duties under the Act in order to set fees accurately.

Licensing authorities can set fees in relation to the different types of gambling premises licence, and within each class, may set:

- an application fee
- an annual fee; as the first annual fee is payable 30 days after a licence is issued, councils have discretion to set a lower first annual fee to reflect that checks will recently have been made as part of the application process

- a first/annual fee for a premises licence subject to a seasonal condition
- fees to:
  - notify a change of circumstance
  - apply to vary a licence
  - apply to transfer a licence
  - apply for a copy of a licence
  - apply for reinstatement of a licence
  - apply for a provisional statement.

DCMS has previously provided advice<sup>11</sup> on the type of costs that licensing authorities should include within their licensing fees. In relation to applications, any costs associated with the licensing authority of receiving, considering and determining the application may be included, including:

- staff costs
- overheads, IT, legal and other central support costs
- initial inspections
- Licensing Committee costs
- the cost of hearings and appeals.

In relation to annual fees, fees should cover:

- regulatory compliance and enforcement costs for the forthcoming year (eg inspection, holding reviews and enforcement activity); this would include any action in relation to illegal gambling, and could also include the cost of providing councillor training on gambling licensing

<sup>11</sup> Available on the LGA Gambling and Betting knowledge-hub <https://www.khub.net/>

- the costs associated with processing the annual fee (eg updating computer systems, register of gambling premises licences and processing fee)
- annualised periodic costs incurred by the licensing authority in respect of its three year licensing policy statements.

**Licensing authorities that have set their fees close to or at the maximum levels prescribed by government should be able to demonstrate why their fees are at higher levels than those set by other authorities.**

This may be because local costs (eg, salaries) are higher, or because they are undertaking a wider range of activities in relation to gambling premises, which can broadly be assessed from licensing authority returns to the Gambling

Commission. This could include an extensive under-age sales programme, or work to tackle illegal gambling.

Again, as with other licensing fees, we are aware that **operators and their trade associations maintain a close eye on fees, and will not be afraid to challenge licensing authorities they believe are over-inflating fees** and/or not using the income solely for the purpose of overseeing gambling regulation.

The LGA has published general guidance on fee setting<sup>12</sup>, which licensing authorities may find helpful in determining licensing fees for gambling premises.

<sup>12</sup> <https://local.gov.uk/open-business-lga-guidance-locally-set-licence-fees>

**Table of maximum fees for gambling premises**

Type of licensed premises	Maximum fee level					
	Application for premises licence	Annual fee	Application to vary a licence	Application to transfer a licence	Application for reinstatement of a licence	Application for provisional statement
<b>Regional casino</b>	15000	15000	7500	6500	6500	15000
<b>Large casino</b>	10000	10000	5000	2150	2150	10000
<b>Small casino</b>	8000	5000	4000	1800	1800	8000
<b>Converted casino</b>		3000	2000	1350	1350	
<b>Bingo</b>	3500	1000	1750	1200	1200	3500
<b>Adult gaming centre</b>	2000	1000	1000	1200	1200	2000
<b>Betting premises (track)</b>	2500	1000	1250	950	950	2500
<b>Family entertainment</b>	2000	750	1000	950	950	2000
<b>Betting premises (other)</b>	3000	600	1500	1200	1200	3000

Source: The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007  
SI No 479/2007

# Protecting vulnerable people

Protecting children and other vulnerable people from being harmed or exploited by gambling is one of the three licensing objectives. Ensuring that this objective is upheld is one of the core responsibilities licensing authorities must meet.

## Children and young people

It is an offence under the Act **to invite, cause or permit** a child (anyone aged under-16) or young person (anyone who is not a child but is aged under-18) to gamble. There are certain exceptions to this; for example participation in a lottery or football pools, or use of a category D gaming machine. It is also an offence **to permit** a child or young person to **enter** a casino, betting premises (other than a racecourse or track) or adult gaming centre. Again, there are exceptions to this, for example children and young people may enter family entertainment centres providing that they cannot access category C machines, and similarly can enter bingo establishments.

### Operator responsibilities

The Gambling Commission's codes of practice deal extensively with the issue of access to gambling by children and young people. **The 2015 changes to the LCCP significantly strengthened the responsibilities that are binding on operators in this area.** Specifically, operators and premises are required to:

- Have **policies and procedures designed to prevent underage gambling**, and monitor the effectiveness of them.
- **Ensure that their policies and procedures take account of the structure and layout of their premises.** This is intended to ensure

that issues such as the line of sight between counters and entrances in premises are taken into account. Test purchasing results have indicated that where the line of sight to entrances or gambling facilities is restricted, it is harder to perform successfully. This might particularly be the case in premises with limited staff numbers.

- **Take all reasonable steps to ensure staff understand their responsibilities to prevent** under-age gambling, including the legal prohibitions on children and young people entering gambling premises.
- **Operate a Think 21 policy**, whereby staff check the age of customers who appear to be under 21<sup>13</sup>.

**Larger operators and casinos are now required to conduct underage test purchasing or take part in a programme of test purchasing, and provide the results of these exercises to the Gambling Commission.** Many of these operators will have a primary authority agreement in place with a council covering age related sales. Smaller operators are advised to monitor the effectiveness of their policies and procedures for preventing underage gambling, but are not specifically required to undertake test purchasing.

### Role of licensing authorities

Licensing authorities also have an important role to play in ensuring that operators uphold the licensing objective in relation to children and young people. The Act requires that authorities designate in writing a body to

<sup>13</sup> This is an ordinary code provision rather than a mandatory social code provision, but in practice it appears to be adopted by all operators. It is also part of the Association of British Bookmakers voluntary code.

advise them on the protection of children from harm, and the principles for choosing this body must be set out in the authority's statement of principles. These principles are likely to include that the body should cover the whole licensing authority area, have sufficient resources, and be accountable to a democratically elected organisation, rather than a particular group. The Gambling Commission's 'Guidance to licensing authorities' states that 'such a body may, but will not necessarily, be the local safeguarding children board'.

It is worth noting that following changes brought in under the Children and Social Work Act 2017, new local multi-agency safeguarding arrangements will replace local safeguarding children boards.

Whoever the licensing authority nominates, the important issue is that it has ongoing engagement with that body in relation to gambling and wider licensing issues, rather than simply nominate them.

Licensing authorities can also use their statements of principles to set out their expectations of operators and individual premises in relation to preventing children and young people as well as other vulnerable people from gambling. This might include specific expectations of premises in the vicinity of schools or sixth form colleges or addiction treatment centres. For example, a council may make specific recommendations relating to line of sight or door chimes in premises where there is a particular risk of children or young people seeking access to gambling.

Thought should also be given to safeguarding outside of premises, for example there could be expectations that unaccompanied children should not be left outside.

### **Safeguarding tools for operators in Sheffield**

Sheffield City Council, like many local authorities, has concerns about the clustering of gambling premises, in particular where these are located in places that might attract children and vulnerable people – near schools, leisure centres or substance misuse treatment

services. As part of the council's licensing project, the Safeguarding Children's Board has developed a number of tools to support partners, including the trade, to understand their safeguarding responsibilities, and signpost to agencies that can offer support where concerns are raised.

Working in partnership with licensees and their staff, the council have produced an advice leaflet and a downloadable risk assessment tool for operators. Engaging with local forums like Licencewatch and neighbourhood community groups meant that the council was able to use existing relationships with the trade to raise the profile of safeguarding in relation to betting shops and encourage operators to undertake a safeguarding risk assessment and know how to report safeguarding concerns. The risk assessment involves operators demonstrating how they have considered the risks in the local context and how they have mitigated these, for example implementing policies around supervision, recording and reporting issues, or discouraging adults leaving children outside premises.

Alongside this, the council is also developing training around safeguarding vulnerable people and the impacts of problem gambling on communities and families, which they hope will supplement existing training betting shop staff already receive around self-exclusion and age verification. As well as supporting the council and other key partners to identify safeguarding issues, the new tools have also been well received by businesses, many of whom have welcomed the opportunity to play a role in the community and make sure that problem gamblers, or those at risk, get the help they need.

Councils should also consider how under age testing programmes can help ensure the licensing objectives are met. Many councils operate their own underage test purchasing through trading standards and/or licensing teams, particularly in response to complaints or intelligence. Larger operators are now responsible for conducting/taking part in under-age testing and sharing these results

with the Gambling Commission. Although these results are not automatically provided to **licensing authorities, licensing authorities may choose to ask for copies of test purchasing results as part of their local risk assessment expectations and use this evidence to help target their own activity in this area** (subject to the terms of any primary authority agreements which have agreed a formal plan in respect of underage sales and testing).

If there is evidence of ongoing failures by premises to prevent under-age gambling, licensing authorities will wish to consider whether it is appropriate to review the relevant licences and potentially include conditions aimed at addressing the issue.

### **New conditions for operators failing second underage test**

A number of independent gambling operators had new conditions attached to their premises licences to strengthen underage gambling controls.

Further to the programme of test purchasing conducted in 2014 by local authorities in partnership with the Gambling Commission, East Lindsey District Council, Brighton and Hove City Council and Hastings Borough Council reviewed premises licences where operators failed to challenge an underage test purchaser for a second time.

Two adult gaming centre operators, a family entertainment centre and a betting shop were subject to premises licence reviews. These operators had submitted improvement plans to their authorities after failing a first test purchase exercise, but the latest re-tests demonstrated that weaknesses in controls had not been remedied.

Examples of the conditions now attached to premises licences include:

- a requirement for the licensee to have a Think 21 or Think 25 policy
- a requirement for regular test purchasing to be undertaken, to ensure the licensee monitors the effectiveness of their controls

- the use of magnetic locks to restrict access to premises
- the use of an infra-red beam system to alert staff to the presence of customers in age-restricted areas
- barriers to reduce the risk of children crossing from family entertainment centre premises into adult gaming centre premises
- re-positioning category D gaming machines away from entrances to adult gaming centre premises, to reduce the attraction of children to those areas
- induction and refresher training for staff.

Operators cooperated with the local authorities during the review processes, and some offered up further measures to strengthen their controls in addition to the formal licence conditions, such as:

- improving staff supervision of customers by moving age-restricted gaming machines to areas in front of manned areas or a staff counter
- assigning a member of staff to have specific duties for supervising the age-restricted area.

In addition to managing the risk of under-age sales, councils could also consider how they can work with premises that may be able to identify children or young people who are truanting or in relation to whom there are safeguarding issues. As societal awareness of child sexual exploitation increases, it may be the case that premises that children and young people legitimately visit have a role to play in understanding and potentially highlighting the risk if they observe any warning signs. Councils and the police are developing training for other types of licensees (eg taxi drivers, takeaway owners) in relation to child sexual exploitation; there may be value in ensuring this type of material is available to staff working in family entertainment centres, for example. Again, the statement of principles can be used to set out any expectations in this area.

# Gambling related harm and problem gamblers

The licensing objectives also aim to prevent other vulnerable people from being harmed or exploited by gambling. People who are vulnerable to gambling related harm may risk becoming problem gamblers, where problem gambling is defined as an individual's gambling that disrupts or damages personal, family or recreational pursuits. In a severe form it becomes an addiction which is recognised as a clinical psychiatric diagnosis, 'disordered gambling'.

The 2017 Health Survey for England found that in the previous year 53 per cent of men and 44 per cent of women had gambled, and that problem gambling rates were 1.2 per cent for men and 0.1 per cent for women.

## Operator responsibilities

Under the social responsibility code, gambling licensees are required to have and put into effect policies and procedures designed to promote socially responsible gambling that reduces the risk of (or seeks to identify) problem gambling. The requirements on non-remote operators are summarised below:

- **Provision of information on gambling responsibly.** Licensees are required to make information available about how to gamble responsibly and access information/help about problem gambling. This must be displayed prominently throughout premises (eg, posters), next to ATMs and on screens. The information should include:
  - the availability of measures designed to control gambling, eg setting time or monetary limits, timeouts or reality checks
  - options for self-exclusion (see below)
  - options for seeking further help and advice.
- **Fixed odds betting terminals.** Operators providing B2 gaming machines must ensure that they automatically offer users the choice to set time or monetary alerts for both staff and customer. With effect from April 2015, anyone wishing to stake more than £50 on a B2 gaming machine must do so using account based play, or do so via a premises manager. The implications for this requirement are likely to change once the Government's triennial review, which is expected to reduce maximum B2 stakes to between £2-£50, has concluded.
- **Customer interaction.** Licensees are required to have policies and procedures in place governing customer interaction where there are concerns that a customer is displaying signs of problem gambling. These will include the types of behaviour that may trigger an intervention; staff training in this area, and the circumstances when staff may consider refusing services to customers.
- **Layout of premises.** Operators must also ensure that their policies and procedures take account of the structure and layout of the premises. Licensing authorities can also ask for more information when considering premises applications to ensure they are satisfied that there are no impediments to supervision of the premises).
- **Self-exclusion.** Licensees must have procedures for self-exclusion that ensure those individuals who wish to self-exclude from gambling are prevented from participating in gambling. These should include closing customer accounts and

removing individuals from marketing lists. Operators are expected to maintain registers of self-excluded individuals, and apply their procedures either through photo identification or alternative measures. Individuals who self-exclude must also be signpost to counselling and advice.

Since April 2016, self-exclusion schemes have operated on a multi-operator basis, meaning that an individual who self-excludes from one operator should be able to self-exclude from all operators offering the same type of gambling in the same locality. Trade bodies for different sectors of the gambling industry have led on the development of multi-operator self-exclusion arrangements for each sector. Licensing authorities may wish to understand how premises fulfil the requirement to participate in multi-operator schemes as part of their compliance work.

Operators must also ensure that their policies and procedures for customer interaction and self-exclusion take account of the structure and layout of the premises

Alongside the requirements that are binding on gambling operators and premises, **many sections of the industry have developed their own voluntary codes to promote responsible gambling.** However, these codes will only have an impact if they are genuinely implemented by local premises. Licensing committees should question applicants on what practical steps will be put in place under these codes, with particular reference to any local risks or issues that may need addressing. For instance, a premises potentially opening in the vicinity of an addiction treatment centre is likely to need significantly enhanced safeguards around entry and exclusion.

## Role of licensing authorities/councils

Licensing authorities will need to consider how they ensure that the objective of protecting children and other vulnerable people from being harmed or exploited by gambling is being met in their area.

In terms of their specific regulatory role for gambling licensing, authorities should think about how the statement of principles, local area profile and local requirements of operators can support the objective. As set out in earlier sections of this document, this can mean taking into account the location of gambling premises in relation to areas that may be deemed to be higher risk in terms of gambling related harm. It will also involve drawing on relevant local data about groups who are vulnerable, such as those with co-morbid addictions, or groups who are known to be more likely to experience issues with problem gambling, for example the homeless.

Developing evidence relating to specific risks and/or areas as part of their work on the statement of principles will help to inform the measures that operators are expected to take to address such risks, if they are above and beyond the mandatory conditions that operators must already adhere to. It can sometimes be challenging to identify this evidence, given that problem gambling is a hidden addiction in comparison to much more visible problems such as alcoholism or drug addiction. However, there is scope for councils to consider a range of data (for example, from public health teams or the Citizens Advice Bureau). Additionally, more evidence is likely to become available following the wider adoption of the methodology underpinning Westminster and Manchester's research into area vulnerability to gambling related harm.

To ensure that their efforts in regard to protecting people from harm are being targeted effectively, licensing authorities should also think about how they can work with local operators to ensure that operators are effectively implementing their responsibilities in this area.

Alongside their licensing role, councils can also think about other ways in which they may be able to support local residents who are experiencing or at risk of gambling related harm. The LGA is clear that problem gambling is not a public health responsibility, in the sense of being one of the issues councils assumed responsibility for treating the public

health function transferred back to local government. However, it is an issue that can impact individual residents, their families or carers and wider communities, and there is scope for councils to provide assistance without assuming responsibility for treatment options.

For example, councils will already be coming into contact with problem gamblers in a variety of contexts – through their work on financial inclusion, housing issues, homelessness, family breakdown and other addiction services. This will not always be apparent in the discussions councils have with individuals in these services. Councils can therefore think about how they can ensure that frontline staff are aware of the issue of problem gambling, can begin to screen for it and know where to signpost people experiencing gambling problems.

### **Leeds's problem gambling research project**

In March 2017, Leeds City Council published the findings of a research project into problem gambling. The research was commissioned by the council's financial inclusion team and involved a review of national and local data and evidence on problem gambling, detailed discussions with gamblers and operators in Leeds and assessing the support services available to problem gamblers in the city.

The project concluded that the gambling market and gambling patterns in Leeds reflect those in other large metropolitan areas. Notably, it concluded that gambling behaviour and problem gambling are not equally distributed across England, with problem gambling rates higher for those living in more northern areas (or London), major urban areas, urban areas which are more densely populated, English metropolitan boroughs, London boroughs, and wards classified as industrial, traditional manufacturing, prosperous and multi-cultural.

The researchers estimated that problem gambling rates in Leeds, at 1.8 per cent, are broadly twice the national average of 0.9 per cent. Rates of at risk gambling appeared to be consistent, at 5-6 per cent. This equates to around 10,000 people in Leeds who are problem gamblers, with a further 30,000 at risk,

roughly the same number of people with drug addictions in the city.

The research revealed that provision of support for problem gamblers was underdeveloped and fragmented. Awareness about problem gambling amongst existing organisations for example those providing support for people with addictions and debt issues was low and gambling addiction was not screened for. Leeds identified various different areas of provision that could link up better, including wider work around debt and the health and wellbeing agenda.

In response to the research the council has been working hard to raise awareness around problem gambling through a publicity campaign targeted at the general public and encouraging self-referrals, as well as training for frontline staff to help them identify people who have potential problem gambling issues, and where to signpost them for support.

The LGA is developing new guidance for councils on problem gambling, drawing on this research.

### **Support for problem gamblers**

GambleAware, formerly known as the Responsible Gambling Trust is an independent charity committed to minimising gambling-related harm through the provision of education, prevention and treatment services, as well as research to broaden understanding of gambling related harm. Funded by donations from the gambling industry, GambleAware supports GamCare (as the main national treatment provider) and gives grants to several other treatment providers including Gordon Moody Association and the National Problem Gambling Clinic in London.

The LGA and others have called for the Government to replace the current system of voluntary donations with a mandatory levy.

# Illegal gambling

Licensing authorities are entitled to use income from licensing fees to tackle instances of illegal gambling in their areas. Illegal gambling occurs where gambling takes place without the necessary licences or permits in place, or in a premises that isn't entitled to host a particular type of gambling. The typical types of illegal gambling that licensing authorities are likely to encounter locally are illegal poker clubs and illegally supplied or illegally sited gaming machines.

## Poker

Poker can be played legally in casinos, and can also be played in non-domestic/residential venues in certain specified circumstances, where:

- In the case of alcohol licensed premises, no participation fees are levied and stakes and prizes do not exceed those set in statutory regulations.
- In the case of clubs, participation fees, stakes and prizes do not exceed those set in statutory regulations.
- In the case of members' clubs with club gaming permits, participation fees do not exceed those set in statutory regulations; monies are not deducted from stakes or prizes; and clubs are not run wholly or mainly for the purpose of gaming. The Commission advises councils to scrutinise applications for club gaming permits carefully, warning that experience has shown that clubs will go to 'great lengths to disguise the true nature of their activities'.
- Poker takes place on a non-commercial basis that is not for private profit or gain, for example a poker night held to raise money for charity.

As a broad guide, where poker taking place outside of a casino involves a 'rake' (ie a commission fee taken by the person operating the game which exceeds statutory fees), it is possible that the game may be operating illegally.

The Gambling Commission's 'Guidance to licensing authorities' on illegal gambling urges councils not to discount taking action in relation to illegal poker clubs on the basis that they have not received complaints against them. The Commission states that: '[councils are] very unlikely to receive complaints about such clubs, unless it is issues such as local noise and nuisance [as] the people attending the club do so from choice. [However] the club is effectively operating as an illegal casino and none of the protections afforded in a casino are in place, such as personal licence holders and anti-money laundering safeguards'. As in other areas of regulatory services, it may be the case that wilful non-compliance in relation to gambling controls is evidence of a wider disregard for the law and in some cases serious criminal behaviour.

### **Reigate Social Club and its withdrawal of a club premises certificate and cancellation of a club gaming permit after an investigation into alleged illegal poker**

A joint visit was undertaken to a club where illegal poker was allegedly taking place, involving the police, the local authority and the Gambling Commission. The visit identified customers who were not members, poker only being played on the premises and rakes being taken by the house.

The local authority decided to revoke the club premises certificate, which also allowed the club gaming permit to be revoked and the premises were closed.

The first action was therefore to cancel the club-gaming permit. The second action was to withdraw the club premises certificate under section 90 of the Licensing Act 2003. Although there is a right of appeal under s181 and schedule 5 part 2 paragraphs 14 and 15 of the Licensing Act 2003, there is no provision for the certificate to be effectively re-instated pending the appeal. The decision therefore takes effect once the notice is given to the club.

The consequence of that is that paragraph 17(2)(c) of schedule 12 to the Gambling Act comes into effect and this provides that because the club gaming permit was granted under paragraph 10 (i.e. the fast track procedure), it “shall lapse if the club premises certificate on which the application relied ceases to have effect.”

Two months later those involved in the previous club tried to apply for new permission under a new name to reopen the club but the local authority refused the application on the basis of their previous behaviour.

## Gaming machines

There are controls relating to both the supply and provision of gaming machines:

- manufacturers and suppliers of gaming machines must be licensed by the Gambling Commission
- a premises wishing to site a gaming machine typically requires a licence or permit, either:
  - an operator licence from the Commission and a premises licence from the licensing authority
  - an alcohol premises licence from the licensing authority
  - a gaming machine permit from the licensing authority.

Gaming machines may be illegally manufactured or supplied in order to avoid tax (machine games duty) and licence fees, and may not have the technical standards required by the Gambling Commission. The Gambling

Commission advises operators and other venues entitled to provide gaming machines to ensure that they only obtain machines from Commission-licensed manufacturers: this might be something that licensing authorities wish to confirm as part of their compliance work in this area.

While the Gambling Commission is responsible for compliance issues relating to the manufacture and supply of machines, licensing authorities are responsible for compliance and enforcement where gaming machines are illegally sited, ie the required licences or permits authorising the machines (or number of them) are not in place. Typically, this issue has tended to occur in relation to pubs, clubs, social clubs and takeaways.

### Illegal machines operation in the London Borough of Enfield

In June 2016 Enfield’s Licensing Enforcement Team coordinated and led a multiagency, intelligence-led operation designed to address the concerns of residents, businesses and the police about the unlawful activities of a minority of businesses engaging in various types of environmental crime and criminal behaviour. Operation Bandit involved local police, Her Majesty’s Revenue and Customs (HMRC) officers and Enfield Council enforcement officers and involved two separate enforcement operations one in June and one in December 2016.

The operation was very successful, as a result:

- Fifteen premises were visited and 29 illegal gaming machines were discovered operating within these businesses. All illegal machines were seized by the police and total of £248 was recovered from these machines.
- All premises received a warning, with one premises undergoing a review of its licence, which was subsequently revoked. Costs of the operation were paid by a premises.
- HMRC will be applying fines to the premises owners for non-payment of duty.

## Intelligence and compliance action

Licensing authorities can work with the Gambling Commission in relation to illegal gambling, to draw on their experience and share intelligence. The Commission operates 'local authority compliance events' through which it will alert licensing authorities to intelligence it has received about allegations or evidence of illegal gambling affecting their areas. The Commission and licensing authorities might also receive or uncover evidence or concerns about illegal gambling on, for example, online poker forums, from the police, and from the gambling industry.

The Gambling Commission have developed a range of template letters for dealing with the types of illegal gambling that licensing authorities might experience, which can be accessed on their website.

### **Lewisham – illegal gaming machines in takeaways**

In January 2012, the Commission received information suggesting there may be gaming machines in a number of takeaways in the Lewisham area, without the required licence and/or permit. The Commission forwarded the information to the London Borough of Lewisham under the local authority compliance event (LACE) process. On receipt of the intelligence, the LA took the following action:

- The six venues mentioned were visited. Each was found to have an unauthorised gaming machine.
- Suitable advice was given and all the machines were deactivated on the understanding they will be removed.
- Each was written to and given a formal warning that further offences will result in legal proceedings.
- The six venues were revisited by the enforcement team within fourteen days to ensure compliance.

This is a reoccurring problem. All takeaways in Lewisham are visited on a regular basis,

and every owner has previously been verbally advised concerning the legal position. Initially all unauthorised machines were removed. In the event of further offences of this nature the licensing manager has agreed that the offender will be prosecuted and the matter extensively publicised at a local level.

# Sector specific issues

## Casinos

Unlike other types of gambling premises, the number of casinos is strictly limited and if a licensing authority does not already have an existing casino or is not a permitted area eligible to launch a competition for a casino licence, it is not currently possible to issue a casino licence for that area.

When the Act was introduced in 2005, 186 casino premises licences issued under previous legislation 'were converted' to the new regime. Converted licences can only be used in the licensing authority area in which it was granted, or its successor authority, but there is scope for these premises to relocate. There are fifty three licensing authority areas that were designated in 1969 as 'permitted areas' entitled to have a casino.<sup>14</sup>

Additionally, fifteen English and Welsh licensing authority areas<sup>15</sup> are permitted to issue a casino premises licence under the Act. These areas were selected following open competition; casinos authorised under this route can only be built at the location specified in the application. The Act specifies two

different types of casino licence; for a large or small casino.

As part of its statement of principles, licensing authorities are entitled to pass a 'no casino resolution' or to state that it would welcome a casino if the opportunity to bid for a premises licence were to become available. As outlined above, a 'no casino' resolution must be agreed by the council, rather than delegated to the licensing committee. The Gambling Commission advises that as the overall number and locations of casinos may be varied at some point in the future, it is still appropriate for licensing authorities to consider and determine their approach to casinos. However, when considering any additional work beyond this determination, councils should recognise that the likelihood and timescale of any change to existing numbers and permitted areas is unclear.

## Alcohol licensed premises

The Act allows alcohol licensed premises to offer certain types of gambling activity, within certain parameters. In particular, gambling must remain ancillary to the main purpose of the premises, and the exemptions and entitlements are reliant on the premises holding a valid alcohol licence. Licensing authorities should be alert to the possibility of someone seeking an alcohol licence solely for the benefit of the gambling entitlements. . The following policy objectives summarise the key elements that underpin the approach to controlling where gaming machines may be played:

- with very few low risk exceptions, non-remote gambling should be confined to dedicated gambling premises

<sup>14</sup> Permitted areas under the 1968 Act: Birkenhead, Birmingham, Blackpool, Bolton, Bournemouth, Bradford, Brighton, Bristol, Cardiff, Coventry, Derby, Dudley, Great Yarmouth, Hove, Huddersfield, Kingston upon Hull, Leeds, Leicester, Liverpool, London, Luton, Lytham St Annes, Manchester, Margate, Newcastle upon Tyne, Northampton, Nottingham, Plymouth, Portsmouth, Ramsgate, Reading, Ryde, Salford, Sandown/Shanklin, Scarborough, Sheffield, Southampton, Southend-on-Sea, Southport, Stockport, Stoke-on-Trent, Sunderland, Swansea, Teesside/ Middlesbrough, Torbay, Walsall, Warley, West Bromwich and Wolverhampton.

<sup>15</sup> Permitted areas under the 2005 Act: Great Yarmouth, Hull, Leeds, Middlesbrough, Milton Keynes, Newham, Solihull, Southampton (large casinos); Bath and North East Somerset, East Lindsey, Luton, Scarborough, Swansea, Torbay, Wolverhampton (small casinos).

- the distinctions between different types of licensed gambling premises are maintained
- gambling activities are supervised appropriately
- within casino, bingo and betting premises, gaming machines are only made available in combination with the named non-remote activity of the operating licence.

Alcohol licence holders are automatically entitled to make available two gaming machines (category C or D) for use in alcohol licensed premises. To do so, the person holding the licence must notify the licensing authority of their intention to make gaming machines available for use, and pay the prescribed fee. If the person ceases to be the holder of the relevant licence for the premises, the entitlement ceases, and the new holder would subsequently need to apply.

Licensing authorities can make an order that removes the automatic entitlement to two gaming machines under certain circumstances. However, they may also replace the entitlement to two gaming machines by issuing licensed premises gaming machine permits for any number of C or D gaming machines in licence premises.

Where licensing authorities have concerns regarding pubs and the number of machine permits they seek to obtain, their licensing statement of principles can be used to make clear their expectations of alcohol licensed premises and their adherence to the:

- **Code of Practice for gaming machines in alcohol licensed premises**
- **Code of Practice for equal chance gaming in alcohol licensed premises.**

One recent issue in alcohol licensed premises relates to the possibility of bingo in pubs. The Greene King pub chain applied to the Gambling Commission for a bingo operating licence, but was refused a licence. Greene King appealed the refusal but the Upper Tier Tribunal ruled in early 2016 that the Gambling Commission had acted within its powers when it refused to grant Greene King a bingo operating licence to provide commercial bingo in its pubs.

Although this case appears now appears to be resolved, licensing authorities are advised to notify the Gambling Commission if any existing bingo operator licence holder or pub company seek to operate commercial bingo in a pub, or in the event of any other licence applications outside of usual practice.

### **Family entertainment centres and unlicensed family entertainment centres**

Family entertainment centres are premises (other than an adult gaming centre) wholly or mainly used for making gaming machines available for use. These can be either licensed or unlicensed.

An unlicensed family entertainment centre is subject to limited regulation under a uFEC permit, but is only entitled to make Category D machines available (see Annex 1 for an overview of machines, stakes and prizes). The entity making machines available on the premises (the arcade operator) does not need a Commission operating licence. However the entity supplying machines to the business (the machine supplier) must be licensed by the Commission.

A licensed family entertainment centre is entitled to make both Category C and D machines available. It is subject to similar controls to many other gambling businesses – the premises need a full premises licence from the licensing authority and the entity making machines available on the premises requires a Commission operating licence, as does the supplier of the machines.

Only premises that are wholly or mainly used for making gaming machines available may hold an uFEC gaming machine permit or an FEC premises licence. Both a licensed FEC and an uFEC are classified as ‘premises’. Therefore, it is generally not permissible for such premises to correspond to an entire shopping centre, airport, motorway service station or similar: typically, the machines should be in a designated, enclosed area. The Gambling Commission has issued guidance to licensing authorities outlining its view that it is ‘highly undesirable for FEC/uFECs to be granted for entire venues.’ These uFEC permits have to be renewed every 10 years, with a

rolling programme of renewal starting from 2017, which provides an ideal opportunity for licensing authorities to ensure that the premises is still eligible for such a permit.

Licensing authorities must be aware of the distinction between machines that are defined as 'skill with prize' (SWP) machines and gaming machines. SWP machines must not have any mechanism that determines the outcome of the game: the game must operate in a consistent manner, and must be genuinely achievable, providing time and opportunity to win using skill, and not be influenced by chance. A game that contains an element of chance is a gaming machine.

SWPs are not caught as gaming machines and therefore do not count towards the B3 machine allowance in a family entertainment centre, or an alcohol licensed premises, members club, adult gaming centres or bingo premises. They may however be liable for Machine Games Duty and operators should confirm with Her Majesty's Revenue and Customs (HMRC) if they need to be registered.

Some operators have deployed machines as ostensibly SWPs, when in fact they contain elements of chance or other features which would make them properly gaming machines; or indeed contain a function that allows them to be switched between a "skill" game and a gaming machine. In such cases, these machines should be treated as gaming machines.

# Checklist for councillors in England and Wales

This list is intended to help you focus on the key issues your authority should consider in developing its approach to local gambling regulation.

- Has the authority mapped local gambling provision/premises in the local area?
- Is the authority aware of any specific gambling related risks in the local area?  
How might these be mitigated?
- Has your authority used this to develop a local area profile to support your licensing statement of principles?
- Has the authority set out an approach to preventing gambling by children and young people?
- What is the authority's approach to tackling illegal gambling?
- Has the authority engaged with local public health, addiction and treatment charities, CAB, homeless charities etc about problem gambling in the locality?
- Has the authority engaged with local operators and premises in developing its approach?
- Has the authority clearly set out its expectations of operator local risk assessments?
- Has the authority clearly set out its expectations of operators in relation to children and young people, including in those sectors where children and young people might legitimately frequent premises?
- Has the authority developed and shared with operators its approach to compliance and enforcement?
- Has your authority undertaken any underage sales or broader compliance activity over the past year?
- How might partnership working local operators support the authority's approach to local gambling regulation?
- How might tools and powers outside the Gambling Act support the authority's approach to gambling regulation?
- Can the authority demonstrate how it has reached the fee levels it has set?
- Has the authority ensured that licensing and planning policies share a common approach to new premises for gambling?

# Glossary/definitions

<b>Term</b>	<b>Description</b>
2003 Act	The Licensing Act 2003, covering alcohol, late night refreshment and regulated entertainment.
The Act	The Gambling Act 2005.
Betting	Betting is defined as making or accepting a bet on the outcome of a race, competition or other event or process or on the outcome of anything occurring or not occurring or on whether anything is or is not true. It is irrelevant if the event has already happened or not and likewise whether one person knows the outcome or not. (Spread betting is not included within this definition).
Bingo	There are essentially two types of bingo: cash bingo, where the stakes paid make up the cash prizes that can be won and prize bingo, where various forms of prizes can be won, not directly related to the stakes paid.
Book	Running a 'book' is the act of quoting odds and accepting bets on an event, hence the term 'Bookmaker'.
Casino games	A game of chance, which is not equal chance gaming. Casino games includes Roulette and black jack, etc.
Child	For the purposes of the Gambling Act 2005, anyone under the age of 16
Coin pusher or penny falls machine	A machine of the kind which is neither a money prize machine nor a non-money prize machine.
Crane grab machine	A non-money prize machine in respect of which every prize which can be won consists of an individual physical object (such as a stuffed toy) won by a person's success in manipulating a device forming part of the machine so as to separate, and keep separate, one or more physical objects from a group of such objects.
Default condition	These are prescribed in regulations and will be attached to all classes of premises licence, unless excluded by the licensing authority.
Equal chance gaming	Gaming which does not involve playing or staking against a bank.
Fixed odds betting	If a gambler is able to establish what the return on a bet will be when it is placed, (and the activity is not 'gaming' see below), then it is likely to be betting at fixed odds.
Fixed odds betting terminals (FOBTs)	FOBTs are a type of gaming machine which generally appear in licensed bookmakers. FOBTs have 'touch-screen' displays and look similar to quiz machines familiar in pubs and clubs. They normally offer a number of games, roulette being the most popular.

<b>Term</b>	<b>Description</b>
Gaming	Gaming can be defined as ‘the playing of a game of chance for winnings in money or monies worth, whether any person playing the game is at risk of losing any money or monies worth or not’.
Gaming machine	Any type of machine allowing any sort of gambling activity including betting on virtual events but not including home computers even though users can access online gaming websites.
Licensing authority	A district, borough or unitary authority responsible for licensing gambling and other activities.
Licensing objectives	The licensing objectives are three principal goals which form the basis of the Gambling Act. Stakeholders who have an interest in the Act need to try and promote these objectives: The licensing objectives are: <ul style="list-style-type: none"> <li>• preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime</li> <li>• ensuring that gambling is conducted in a fair and open way</li> <li>• protecting children and other vulnerable persons from being harmed or exploited by gambling.</li> </ul>
Lottery	A lottery generally refers to schemes under which prizes are distributed by chance among entrants who have given some form of value for their chance to take part. A lottery is defined as either a simple lottery or a complex lottery.
Mandatory condition	A condition which will be set by the Secretary of State (some are set out in the Act and some will be prescribed by regulations) which will be automatically attached to a specific type of premises licence. The licensing authority will have no discretion to alter or remove these conditions.
Money prize machine	A machine in respect of which every prize which can be won as a result of using the machine is a money prize.
Non-money prize machine	A machine in respect of which every prize which can be won as a result of using the machine is a non-money prize. The winner of the prize is determined by: <p>(i) the position in which the coin or token comes to rest after it has been inserted into the machine, together with the position of other coins or tokens which have previously been inserted into the machine to pay a charge for use, or</p> <p>(ii) if the insertion of a single coin to pay the charge for use enables the person using the machine to release one or more tokens within the machine, the position in which such tokens come to rest after being released, together with the position of other tokens which have previously been so released.</p>
Non-remote gambling	Gambling that takes place in a physical premises
Remote gambling	Gambling which people participate in via remote communications, eg telephone, internet etc
Young person	For the purposes of the Gambling Act 2005, anyone who is not a child but is aged under 18.

# Annex 1 Gaming machines – allowances, stakes and prizes (as at February 2018)

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

\*This handbook was updated prior to the conclusion of the Government's review of gaming machines and social responsibility measures, the consultation for which closed in January 2018. The consultation indicated that Government was expected to leave maximum stakes and prizes unchanged, with the exception of B2 stakes, which were expected to be reduced to £50 or below.<sup>16</sup>

<sup>16</sup> The category B2 is not actually a traditional slot machine. It refers to a type of gaming machine known as a fixed odds betting terminal (FOBTs). These are a new type of gaming machine which generally appear in licensed bookmakers. FOBTs have 'touch-screen' displays and look similar to quiz machines familiar in pubs and clubs. They normally offer a number of games, roulette being the most popular. Current stakes are listed on the Gambling Commission's website: [www.gamblingcommission.gov.uk/for-gambling-businesses/Compliance/Sector-specific-compliance/Arcades-and-machines/Gaming-machine-categories/Gaming-machine-categories.aspx](http://www.gamblingcommission.gov.uk/for-gambling-businesses/Compliance/Sector-specific-compliance/Arcades-and-machines/Gaming-machine-categories/Gaming-machine-categories.aspx)

Machine category							
Premises Type	A	B1	B2	B3	B4	C	D
Large casino (machine/table ratio of 5-1 up to maximum)		Maximum of 150 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine/table ratio)					
Small casino (machine/table ratio of 2-1 up to maximum)		Maximum of 80 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine/table ratio)					
Pre-2005 Act Casinos (no machine/table ratio)		Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead					
Betting premises and tracks operated by pool betting		Maximum of 4 machines categories B2 to D					
Bingo Premises				Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4	No limit C or D machines		
Adult gaming centre			Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4	No limit C or D machines			
Family entertainment centre (with premises licence)					No limit C or D machines		
Family entertainment centre (with Permit)					No limit on category D machines		
Clubs or miners' welfare institutes with permits				Maximum of 3 machines in categories B3A or B4 to D			
Qualifying alcohol licensed premises					1 or 2 machines of category C or D automatic upon notification		
Qualifying alcohol licensed premises with gaming machine permit					Number of category C-D machines as specified on permit		
Travelling fair						No limit on category D machines	
	A	B1	B2	B3	B4	C	D

# Annex 2 Sample of premises licence conditions

[www.gamblingcommission.gov.uk/for-licensing-authorities/GLA/Guidance-to-licensing-authorities.aspx](http://www.gamblingcommission.gov.uk/for-licensing-authorities/GLA/Guidance-to-licensing-authorities.aspx)

This section provides examples of conditions that have been attached to premises licences by licensing authorities, with some amended for illustrative purposes. Licensing authorities should note that these are not blanket conditions but have been imposed in a number of circumstances to address evidence based concerns. Part 9 of this Guidance to Licensing Authorities (GLA) provides further details on the principles licensing authorities should apply when exercising their discretion to impose premises licence conditions.

The conditions listed below have been grouped under specific headings for ease of reference. There will inevitably be some overlap between those conditions that address different concerns, for example those related to security and to anti-social behaviour.

## 1. Security

- 1.1 No pre-planned single staffing after 8.00pm and, when this is unavoidable, for a Maglock to be in constant use.
- 1.2 A minimum of two members of staff after 10.00pm.
- 1.3 A minimum of two members of staff will be on duty throughout the whole day.
- 1.4 The premises will have an intruder alarm and panic button.
- 1.5 Maglock systems are employed and access is controlled.
- 1.6 Requirements for full-height security screens to be installed.
- 1.7 A requirement for 50 per cent of the shop frontage to be clear of advertising so that staff have a clear view and can monitor the exterior of the premises.
- 1.8 The premise shall maintain a 'safe haven' to the rear of the counter.
- 1.9 The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of a Metropolitan Police Crime Prevention Officer. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of police or an authorised officer throughout the preceding 31-day period.
- 1.10 A member of staff from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open to the public. This member of staff must be able to show a member of the police or authorised council officer recent data or footage with the absolute minimum of delay when requested.
- 1.11 A monitor shall be placed inside the premises above the front door showing CCTV images of customers entering the premises.

1.12 If at any time (whether before or after the opening of the premises), the police or licensing authority supply to the premises names and/or photographs of individuals which it wishes to be banned from the premises, the licensee shall use all reasonable endeavours to implement the ban through staff training.

## 2. Anti-social behaviour

- 2.1 The Licensee shall develop and agree a protocol with the police as to incident reporting, including the type and level of incident and mode of communication, so as to enable the police to monitor any issues arising at or in relation to the premises.
- 2.2 The Licensee shall take all reasonable steps to prevent street drinking of alcohol directly outside the premises and to ban from the premises those who do so.
- 2.3 The Licensee shall place a notice visible from the exterior of the premises stating that drinking alcohol outside the premises is forbidden and that those who do so will be banned from the premises.
- 2.4 Notices indicating that CCTV is in use at the premises shall be placed at or near the entrance to the premises and within the premises.
- 2.5 The Licensee shall place and maintain a sign at the entrance which states that 'only drinks purchased on the premises may be consumed on the premises'.
- 2.6 The Licensee shall implement a policy of banning any customers who engage in crime or disorder within or outside the premises.
- 2.7 The Licensee shall install and maintain an ultraviolet lighting system in the customer toilet.
- 2.8 The Licensee shall install and maintain a magnetic door locking system for the customer toilet operated by staff from behind the counter.

2.9 Prior to opening the Licensee shall meet with the Crime Prevention Officer in order to discuss any additional measures to reduce crime and disorder.

## 3. Underage controls

- 3.1 The Licensee shall maintain a bound and paginated 'Think 21 Refusals' register at the premises. The register shall be produced to the police or licensing authority forthwith on request.
- 3.2 Customers under 21 will have to provide ID.
- 3.3 The premises will operate a 'challenge 25' policy and prominent signage and notices will be displayed showing the operation of such policy.
- 3.4 Compulsory third party test purchasing on a twice yearly external system and the results to be reported to the Local Authority and police. In the first twelve months (from the date of the Review) two additional internal test purchase operations to be carried out.<sup>17</sup>
- 3.5 A physical barrier (ie a supermarket metal type or similar) acceptable to the licensing authority, and operated in conjunction with the existing monitored alert system, to be put in place within three months from the date of the review.
- 3.6 No machines in the Unlicensed Family Entertainment Centre to be sited within one metre of the Adult Gaming Centre entrance.

## 4. Player protection controls

- 4.1 Prominent GamCare documentation will be displayed at the premises.

<sup>17</sup> In some cases it will be more practical to request test purchasing to be carried out on a minimum number of occasions (eg at least twice a year) rather than during a specific timeframe (eg once every six months). For example, it would not be practical to impose a condition on premises within a holiday park that requires test purchasing to be carried out 'once every six months' as the park may not be open for business during the winter months.

- 4.2 There shall be no cash point or ATM facilities on the premises.
- 4.3 The Licensee shall train staff on specific issues related to the local area and shall conduct periodic refresher training. Participation in the training shall be formally recorded and the records produced to the police or licensing authority upon request.
- 4.4 New and seasonal staff must attend induction training. All existing staff must attend refresher training every six months.
- 4.5 All notices regarding gambling advice or support information within the vicinity of Chinatown must be translated into both simplified and traditional Chinese.
- 4.6 Infra Red Beam to be positioned across the entrance to the premises. To be utilised whenever:
  - (a) the first member of staff is not positioned within the Cash Box, or
  - (b) the second member of staff is not on patrol.



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