

*Readers Note: The changes since the last policy can be identified as follows:  
Text with 'strike through' is removed.  
Italic text is new.  
All other text is carried over from the previous policy.*



*DRAFT* GAMBLING  
LICENSING POLICY  
STATEMENT  
*2016-2018*

Gambling Policy Document – Adopted *31<sup>st</sup> January 2016*

Version History

Version No:	Period to which policy applies:	Review date:
1	2007-09	2009
2	2010-12	2012
3	2013-15	2015
4	2016-18	2016-17*

\* =Review date will be determined once the Gambling Commission have published their Guidance to Local Authorities

<b>SOUTHEND-ON-SEA BOROUGH COUNCIL</b> <b>GAMBLING LICENSING POLICY STATEMENT</b>
--

<u>Section</u>	<u>Contents</u>	<u>Page No</u>
<b><u>PART A</u></b>		
1.0	Introduction	4
2.0	The Licensing Objectives	4
3.0	Description of the District	4
4.0	Responsibilities under the Act	4
5.0	Statement of Licensing Policy	5
6.0	Consultation	5
7.0	Approval of Policy	7
8.0	Declaration	7
9.0	Responsible Authorities	7
10.0	Interested Parties	8
11.0	Exchange of Information	8
12.0	Public Register	8
13.0	Compliance and Enforcement	8
<b><u>PART B - PREMISES LICENCES</u></b>		
14.0	General Principles	9
15.0	Provisional Statements	12
16.0	Reviews	12
17.0	Adult Gaming Centres	12
18.0	(Licensed) Family Entertainment Centres	13
19.0	Casinos	13
20.0	Bingo Premises	13
21.0	Betting Premises	13
22.0	Tracks	14
23.0	Travelling Fairs	14
<b><u>PART C - PERMITS/TEMPORARY OR OCCASIONAL USE NOTICES/REGISTRATIONS</u></b>		
24.0	General	14
25.0	Unlicensed Family Entertainment Centre Gaming Permits	14
26.0	(Alcohol)Licensed Premises Gaming Machine Permits	15
27.0	Prize Gaming Permits	15
28.0	Club Gaming and Club Machine Permits	16
29.0	Temporary Use Notices	16
30.0	Occasional Use Notices	17
31.0	Small Society Lotteries	17
<b><u>ANNEXES</u></b>		
<u>Section</u>	<u>Contents</u>	<u>Page No</u>
6.1	Annex 'A' - List of Consultees	18
9.1	Annex 'B' - List of Responsible Authorities	20
34.0	Annex 'C' - Definitions	22
3.1	Annex 'D' - Map of the Area	27

## **PART A**

### **1.0 INTRODUCTION**

**1.1** This Statement of Licensing Policy sets out the principles by which Southend-on-Sea Borough Council, as the Licensing Authority under the Gambling Act 2005 (referred to in this document as 'the Act'), intends to apply in discharging its functions to license premises for gambling under the Act as well as:-

- designating the body responsible for advising the Authority on the protection of children from harm;
- determining whether or not a person is an "Interested Party";
- exchanging information with the Gambling Commission and others; and
- inspecting premises and instituting court proceedings for offences committed under the Act.

### **2.0 THE LICENSING OBJECTIVES**

**2.1** In exercising most of its functions under the Act, Licensing Authorities must have regard to the Licensing Objectives as set out in Section 1 of the Act. The Licensing Objectives are:-

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

### **3.0 DESCRIPTION OF THE DISTRICT**

**3.1** The County of Essex comprises 12 District and 2 Unitary Authorities. Southend-on-Sea Borough Council is one of those Unitary Authorities. The number of premises licensed under the Act ~~has seen~~ saw steady growth ~~when since~~ the legislation came into force ~~but~~ *started to stagnate in 2012 and decreased in 2013 and 2014*. A map of the area is attached to this Policy document at Annex 'D'

### **4.0 RESPONSIBILITIES UNDER THE ACT**

**4.1** The Act introduced a licensing regime for gambling, to be conducted by the Gambling Commission and by Licensing Authorities, depending on the matter to be licensed.

**4.2** Southend-on-Sea Borough Council is the Licensing Authority for the area shown on the attached map, whose responsibilities must be discharged by the Licensing Committee created under Section 6 of the Licensing Act 2003.

- 4.3** The Gambling Commission is responsible for issuing Operating and Personal Licences to persons and organisations who:-
- operate a casino;
  - provide facilities for playing bingo or for pool betting;
  - provide betting or act as intermediaries for betting.
  - make gaming machines available for use in Adult Gaming Centres and Family Entertainment Centres;
  - manufacture, supply, install, adapt, maintain or repair gaming machines;
  - manufacture, supply, install or adapt gambling machine software; or
  - promote a lottery.
- 4.4** The Licensing Authority is responsible for licensing premises in which gambling takes place. All types of gambling are included, other than spread betting and the National Lottery. It is also responsible for issuing permits for premises with gaming machines and for receiving notices from operators wishing to use unlicensed premises for gambling on a temporary basis. The Licensing Authority has additional responsibility for the registration of certain types of exempt Small Society Lotteries.
- 4.5** The Licensing Authority cannot become involved in the moral issues of gambling and must aim to permit the use of premises for gambling in so far as it thinks it :-
- a) in accordance with any relevant Code of Practice under Section 24 of the Act;
  - b) in accordance with any relevant Guidance issued by the Gambling Commission under Section 25;
  - c) reasonably consistent with the Licensing Objectives (Subject to paragraphs a) and b))and
  - d) in accordance with the Licensing Authority's Statement of Licensing Policy (subject to paragraphs a) and c)).

Before the Licensing Authority can determine an application for a Premises Licence, an Operating and Personal Licence, or both, must have been obtained from the Gambling Commission.

## **5.0 STATEMENT OF LICENSING POLICY**

- 5.1** The Licensing Authority is required by the Act to publish a Statement of Licensing Policy which contains the principles it proposes to apply when exercising its functions under the Act.
- 5.2** This Policy must be reviewed and published every three years. The Policy must also be reviewed from 'time to time' and any proposed amendments and/or additions must be subject to fresh consultation. The 'new' Policy must then be published.
- 5.3.** This Policy takes effect on *31 January 2016*, and replaces the policy previously in force.

## **6.0 CONSULTATION**

- 6.1** In producing this Policy, the Licensing Authority consulted widely before finalising and publishing it. In addition to the statutory consultees (listed below), the Council chose to

consult with additional local groups and individuals. A full list of all groups and persons consulted is provided at Annex 'A'.

**6.2** The Act requires that the following parties are consulted by the Licensing Authority:-

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

**6.3** The other groups and people consulted were:-

- Organisations, including faith groups and voluntary organisations working with people who are problem gamblers, Primary Care Trusts and the Citizens' Advice Bureau;
- Other elements of local government;
- Businesses who are, holders of Premises Licences;
- Responsible Authorities under the Act.

**6.4** Consultation took place between **xxxxx** and **xxxxx**

## **7.0 APPROVAL OF POLICY**

**7.1** This Policy was approved at a meeting of the full Council on **xxxxx** and was published via its website on **xxxxxx**. Copies are available on request.

**7.2** It should be noted that this Policy does not override the right of any person to make an application, to make representations about an application, or to apply for a review of a licence, as each case will be considered on its own merit and according to the requirements of the Act.

## **8.0 DECLARATION**

**8.1** The Licensing Authority declares that it has had regard to the Licensing Objectives, formal Guidance issued to Licensing Authorities and any responses from those consulted during the consultation process, and will adopt the Principles of Better Regulation.

**8.2** The Council recognises its responsibilities under equality legislation and will monitor the impact of these statutory duties through its various corporate schemes such as the Councils "**Comprehensive** Equality Policy".

## **9.0 RESPONSIBLE AUTHORITIES**

**9.1** A full list of the Responsible Authorities designated under the Act and their contact details are given in Annex 'B'. It should be noted that under the Act, the Licensing Authority itself is designated as a Responsible Authority.

**9.2** The Licensing Authority is required to designate, in writing, a body that is competent to advise it about the protection of children from harm. In making this designation the following principles have been applied:-

- the competency of the body to advise the Licensing Authority;
- the need for the body to be responsible for an area covering the whole of the Licensing Authority's area; and

- the need for the body to be answerable to democratically elected persons rather than any particular interest group etc.

**9.3** In accordance with the Gambling Commission's Guidance to Local Authorities, the Licensing Authority designates Southend-on-Sea Borough Council's Department of Children and Learning.

## **10.0 INTERESTED PARTIES**

**10.1** Interested Parties can make representations about licensing applications or apply for a review of an existing licence. An Interested Party is defined in the Act as follows:-

*'... a person is an interested party in relation to a premises licence or in relation to an application for or in respect of a premises if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, the person:-*

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

**10.2** Interested parties can be people who are democratically elected such as councillors and Members of Parliament. Where appropriate this will include county, parish and town councillors.

Interested parties can also be trade associations, trade unions, residents' associations and tenants' associations. Providing that these people represent those living or having business interests in the area which might be affected, no specific evidence of authorisation is required.

Otherwise, the licensing authority will generally require a third party to produce some form of authorisation to speak on behalf of an interested party.

**10.3** Whether a person is an interested party will be determined on a case by case basis. The types of organisations which may be considered to have business interests will be given a wide interpretation.

**10.4** In determining if a person lives or has business interests sufficiently close to the premises that they are likely to be affected by the authorised activities, the Licensing Authority will consider the following factors:-

- The size of the premises;
- The nature of the premises;
- The distance of the premises from the location of the person making the representation;
- The potential impact of the premises (e.g. number of customers, routes likely to be taken by those visiting the establishment);
- The circumstances of the complaint. This does not mean the personal characteristics of the complainant but the interest of the complainant, which may be relevant to the distance from the premises;
- The catchment area of the premises (i.e. how far people travel to visit); and
- Whether the person making the representation has business interests in that catchment area that might be affected.

**10.5** The Licensing Authority will decide if a representation made in respect of an application is valid based on the following factors:

- It is not frivolous or vexatious.
- It raises issues that relate to Guidance issued by the Gambling Commission.
- It raises issues that relate to this policy.
- It relates to the Licensing Objectives.

## **11.0 EXCHANGE OF INFORMATION**

**11.1** In its exchange of information with parties listed in Schedule 6 of the Act, the Licensing Authority will have regard to:-

- the provisions of the Act, which include the provision that the Data Protection Act 1998 will not be contravened;
- the Guidance issued by the Gambling Commission;
- relevant Legislation and Regulations

**11.2** In accordance with Section 350 of the Gambling Act 2005, the Licensing Authority may exchange information with the following statutory bodies or individuals:

- A constable or police force
- An enforcement officer
- A licensing authority
- Her Majesty's Revenue and Customs
- The Gambling Appeal Tribunal
- The Secretary of State
- Scottish Ministers
- Any other person or body designated by the Secretary of State in accordance with the Act.

**11.3** *The Licensing Authority may also exchange information provided by applicants with law enforcement agencies for purposes connected with the prevention and detection of crime, but we ~~The Licensing Authority~~ will not only share any personal details for this purpose unless required to do so by law.*

## **12.0 PUBLIC REGISTER**

**12.1** The Licensing Authority is required to keep a public register and share information in it with the Gambling Commission and others. Regulations prescribe what information should be kept in the register. Copies of the register may be obtained on payment of a fee.

## **13.0 COMPLIANCE AND ENFORCEMENT**

**13.1** In exercising its functions with regard to the inspection of premises and to instituting criminal proceedings in respect of offences specified, the Licensing Authority will follow best practice. This requires that actions should be

- Proportionate – Intervention will only be when necessary. Remedies should be appropriate to the risk posed and costs identified and minimised.
- Accountable – The Authority must be able to justify decisions and be subject to public scrutiny.
- Consistent – Rules and standards must be joined up and implemented fairly.
- Transparent – Enforcement should be open and regulations kept simple and user friendly.



- Targeted – Enforcement should be focused on the problems and minimise side effects.
- 13.2** The Licensing Authority will endeavour to avoid duplication with other regulatory regimes, so far as is possible, and adopt a risk based inspection programme.
- 13.3** The main enforcement and compliance role of the Licensing Authority in terms of the Act, is to ensure compliance with the Premises Licence and other permissions which it authorises. The Gambling Commission is the enforcement body for Operating and Personal Licences. Concerns about the manufacture, supply or repair of gaming machines are not dealt with by the Licensing Authority but will be notified to the Gambling Commission.
- 13.4** The Licensing Authority will keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of Local Authorities, and will have regard to best practice.
- 13.5** ~~The Licensing Authority's enforcement/compliance protocols, are available on request, as are details of the risk based approach to inspection.~~ *Where appropriate complaints will be investigated in accordance with the stepped approach outlined in the Regulatory Services Enforcement Policy. A copy of this document is available on the Council website. In the first instance we encourage complaints to be raised directly with the licensee or business concerned.*

## **PART B PREMISES LICENCES**

### **14.0 GENERAL PRINCIPLES**

- 14.1** Premises Licences are subject to the permissions/restrictions set out in the Act as well as the specific mandatory and default conditions detailed in Regulations issued by the Secretary of State. The Licensing Authority is able to exclude default conditions and also attach others, where it is thought appropriate.
- 14.2** In accordance with section 150 of the Act, premises licences can authorise the provision of facilities on:
- casino premises
  - bingo premises
  - betting premises, including tracks and premises used by betting intermediaries
  - adult gaming centre premises (for category B3, B4, C and D machines)
  - family entertainment centre premises (for category C and D machines) (note that, separate to this category, the licensing authority may issue a family entertainment centre gaming machine permit, which authorises the use of category D machines only).
- 14.3** Each case will be decided on its merits, and will depend upon the type of gambling that is proposed, as well as taking into account how the applicant proposes that the Licensing Objective concerns can be overcome.
- 14.4** The Licensing Authority is required by the Act, in making decisions about Premises Licences, to permit the use of premises for gambling so far as it thinks it:-

- a) in accordance with any relevant Code of Practice under Section 24 of the Act;
- b) in accordance with any relevant Guidance issued by the Gambling Commission under Section 25;
- c) reasonably consistent with the Licensing Objectives (Subject to paragraphs a) and b))and
- d) in accordance with the Licensing Authority's Statement of Licensing Policy (subject to paragraphs a) and c)).

#### 14.5 Definition of Premises

In the Act 'premises' is defined as including 'any place'. It is for the Licensing Authority (having due regard for the Gambling Commission Guidance) to determine on the merits of each application whether different parts of a building can be regarded properly as separate premises.

The Licensing Authority will pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed).

#### 14.6 Demand

Demand is a commercial consideration and is not an issue for the Licensing Authority.

#### 14.7 Location

Location will only be a material consideration in the context of the Licensing Objectives.

#### 14.8 Duplication with other Regulatory Regimes

Duplication with other statutory/regulatory regimes will be avoided where possible. The Licensing Authority will not consider whether a licence application is likely to be granted Planning Permission or Building Control consent.

#### 14.9 Licensing Objectives

Premises Licences granted must be reasonably consistent with the three Licensing Objectives. With regard to these Objectives, the following will be considered:-

- **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime –**  
The Licensing Authority is aware that there is a distinction between disorder and nuisance and that the prevention of nuisance is not a Licensing Objective under the Act.

Whilst the Licensing Authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime, it will pay attention to the proposed location of gambling premises in terms of this Licensing Objective.

Where an area has known high levels of organised crime, the Licensing Authority will consider carefully whether gambling premises are suitable to be located there and the need for conditions, such as the provision of Door Supervisors.

- **Ensuring that gambling is conducted in a fair and open way –**  
The Gambling Commission does not generally expect Licensing Authorities to be concerned with ensuring that gambling is conducted in a fair and open way.
- **Protecting children and other vulnerable persons from being harmed or exploited by gambling –**  
In practice, the Objective of protecting children from being harmed or exploited by gambling often means preventing them from taking part in, or being in close proximity to, gambling.

There is no definition of the term 'vulnerable person' in the Act, but this could include people who are gambling beyond their means and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, or substance misuse of alcohol or drugs.

The Licensing Authority will consider very carefully whether applications for Premises Licences in respect of gambling premises located close to schools, centres for gambling addicts, or residential areas where there may be a high concentration of families with children, should be granted.

#### 14.10 Conditions

The Licensing Authority is aware that the mandatory and default conditions imposed by the Gambling Commission will normally be sufficient to regulate gambling premises. In exceptional cases where there are specific risks or problems associated with a particular locality, specific premises or class of premises the Authority may consider attaching individual conditions related to the Licensing Objectives.

Any conditions attached to Licences will be proportionate and will be:-

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

In addition, the Licensing Authority will examine how applicants propose to address the Licensing Objectives. In considering applications the Licensing Authority will particularly take into account the following, if deemed appropriate:-

- Proof of age schemes;
- Closed Circuit Television;
- Door Supervisors;
- Supervision of entrances/machine areas;
- Physical separation of areas;
- Location of entrances;
- Notices and signage;
- Specific opening hours; and
- With particular regard to vulnerable persons, measures such as the use of self-barring schemes, provision of information, leaflets, helpline numbers for organisations such as Gamcare;

#### 14.11 It is recognised that there are conditions which the Licensing Authority cannot attach to Premises Licences. These are:-

- any conditions on the Premises Licence which make it impossible to comply with an Operating Licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Act specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated);
- conditions in relation to stakes, fees, and the winning of prizes.

#### 14.12 Credit

Credit facilities are prohibited from being provided in casinos and bingo licensed premises. Cash machines (ATM's) may be installed in such premises but the Licensing Authority may apply conditions as to where they are sited.

**14.13 Betting Machines [See Annex C for definition]**

In relation to Casinos, Betting Premises and Tracks, the Licensing Authority can restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a Betting Premises Licence or to a Casino Premises Licence (*where betting is permitted in the Casino*).

**14.14** When considering whether to impose a condition to restrict the number of betting machines in particular premises, the Licensing Authority, among other things, shall take into account:-

- the size of the premises;
- the number of counter positions available for person to person transactions; and
- the ability of staff to monitor the use of the machines by children and young persons or by vulnerable persons.

**14.15** In deciding whether to impose conditions to limit the number of betting machines, each application will be considered on its own merit and account will be taken of Codes of Practice or Guidance issued under the Act.

**15.0 PROVISIONAL STATEMENTS**

**15.1** An application for a provisional statement may be made in respect of premises which the applicant

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

The applicant should refer to the Act and the detailed information provided in the Guidance

**16.0 REVIEWS**

**16.1** Applications for a Review of a Premises Licence may be made by Responsible Authorities and Interested Parties.

**16.2** It is for the Licensing Authority to decide whether the review is to be carried out. This decision will generally be on the basis of whether the request for the review is relevant to the matters listed below:-

- Whether the grounds for the request raises issues relevant to the principles to be applied by the Licensing Authority and set out within the Licensing Authority Statement of Policy;
- Whether the grounds for the request are frivolous or vexatious.
- Whether the grounds for the request would certainly not cause the Licensing Authority to alter/revoke/suspend the Premises Licence;
- Whether the grounds for the request are substantially the same as previous representations or requests for a review.
- In accordance with any relevant codes of practice issued by the Gambling Commission.
- In accordance with any relevant guidance issued by the Gambling Commission.
- Reasonably consistent with the Licensing Objectives.

**16.3** In accordance with the Guidance. The Licensing Authority can also initiate a review of a Licence on the basis of any reason which it thinks is appropriate

**17.0 ADULT GAMING CENTRES**

**17.1** An Adult Gaming Centre is defined in Annex 'C'. Entry to these premises is age restricted.

17.2 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

## 18.0 **LICENSED FAMILY ENTERTAINMENT CENTRES**

18.1 A Licensed Family Entertainment Centre is defined in Annex 'C'. Entry to these premises is not generally age restricted although entry to certain areas may be restricted, dependent on the category of machines available for use.

18.2 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

## 19.0 **CASINOS**

19.1 A casino is defined in Annex 'C'. Entry to these premises is age restricted

19.2 The Licensing Authority is empowered to pass a resolution not to issue new licences for casinos in its area. No such resolution has been made.

19.3 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

### 19.4 **Betting Machines**

Conditions may be imposed, in accordance with paragraphs 14.13, 14.14 and 14.15 above.

19.5 In deciding whether to impose conditions to limit the number of betting machines, each application will be on its own merits and account will be taken of Codes of Practice or Guidance issued under the Act.

### 19.6 **Credit**

Credit facilities are prohibited in casinos, however, this does not prevent the installation of cash dispensers (ATMs) on the premises, although the Licensing Authority may attach conditions as to the siting of such machines.

## 20.0 **BINGO PREMISES**

20.1 Bingo is defined in Annex 'C'. Entry to these premises is not generally age restricted although entry to certain areas may be restricted, dependent on the category of machines available for use.

20.2 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

### 20.3 **Credit**

Credit facilities are prohibited in premises licensed for Bingo, however, this does not prevent the installation of cash dispensers (ATMs) on the premises, although the Licensing Authority may attach conditions as to the siting of such machines.

## 21.0 **BETTING PREMISES**

21.1 Betting is defined in Annex 'C'. Entry to these premises is age restricted.

21.2 The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

### 21.3 **Betting Machines**

Conditions may be imposed, in accordance with paragraphs 14.13, 14.14 and 14.15 above

**21.4** In deciding whether to impose conditions to limit the number of betting machines, each application will be on its own merits and account will be taken of Codes of Practice or Guidance issued under the Act.

## **22.0 TRACKS**

**22.1** A Track is defined in Annex 'C'. Entry to these premises may be age restricted. Please refer to the Gambling Commission Guidance.

**22.2** The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

## **22.3 Betting Machines**

Conditions may be imposed, in accordance with paragraphs 14.13, 14.14 and 14.15 above

**22.4** In deciding whether to impose conditions to limit the number of betting machines, each application will be on its own merits and account will be taken of Codes of Practice or Guidance issued under the Act

## **23.0 TRAVELLING FAIRS**

**23.1** The facilities for gambling (being category D machines and/or equal chance prize gaming without a permit) must amount to no more than an ancillary amusement at the fair. The Licensing Authority will determine whether this requirement is being met.

# **PART C PERMITS**

**24.0** The Act introduced a range of permits for gambling which are granted by Licensing Authorities. Permits are required when premises provide a gambling facility but either the stakes and prizes are very low or gambling is not the main function of the premises. The permits regulate gambling and the use of gaming machines in a specific premises. With the exception of limiting machine numbers on Licensed Premises Gaming Machine permits, the Licensing Authority may only grant or reject an application for a permit. No conditions may be added.

## **25.0 UNLICENSED FAMILY ENTERTAINMENT CENTRE GAMING MACHINE PERMITS**

**25.1** Where a premises does not hold a Premises Licence but wishes to provide Gaming machines, it may apply to the Licensing Authority for a Permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.

**25.2** The Licensing Authority will expect the applicant to show that there are written policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The suitability of such policies and procedures will be considered on their merits, however, they may include:-

- A basic Criminal Records Bureau or equivalent criminal record check for the applicant and the person having the day to day control of the premises;
- Proof of age schemes;

- How the applicant proposes to ensure that children will be protected from harm whilst on the premises;
- Training covering how staff would deal with:-
  - unsupervised, very young children being on the premises,
  - children causing perceived problems on/around the premises, or
  - suspected truant children

In addition applicants should be able to demonstrate a full understanding of maximum stakes and prizes (and that staff are suitably trained in this respect)

## **26.0 (ALCOHOL) LICENSED PREMISES GAMING MACHINE PERMITS**

- 26.1** There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have two gaming machines, of Categories C and/or D via a notification to the Licensing Authority.
- 26.2** Gaming machines can only be located on licensed premises that have a bar for serving customers.
- 26.3** Premises restricted to selling alcohol only with food, will not be able to have gaming machines or apply for a Permit.
- 26.4** Where an application for more than two gaming machines is received, the Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only machines. Measures will cover such issues as:-
- Adult machines being in sight of the bar;
  - Adult machines being in sight of staff who will monitor that the machines are not being used by those under 18;
  - Appropriate notices and signage; and
  - As regards the protection of vulnerable persons, the Licensing Authority will consider measures such as the use of self-barring schemes, provision of information, leaflets/help line numbers for organisations such as Gamcare.
  - Relevant codes of practice issued by the Gambling Commission

The Licensing Authority can decide to grant an application with a smaller number of machines and/or a different category of machines than that applied for but conditions other than these cannot be attached.

## **27.0 PRIZE GAMING PERMITS[See Annex C for definition]**

- 27.1** The Licensing Authority will expect the applicant to show that there are written policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The suitability of such policies and procedures will be considered on their merits, however, they may include:-
- A basic Criminal Records Bureau or equivalent criminal record check for the applicant and the person having the day to day control of the premises.
  - Proof of age schemes
  - How the applicant proposes to ensure that children will be protected from harm whilst on the premises.

- Training covering how staff would deal with:-
  - unsupervised, very young children being on the premises,
  - children causing perceived problems on/around the premises, and
  - suspected truant children

In addition applicants should be able to demonstrate a full understanding of maximum stakes and prizes (and that staff are suitably trained in this respect)

In making its decision on an application for a Permit, the Licensing Authority does not need to have regard to the Licensing Objectives but must have regard to any Gambling Commission guidance.

## **28.0 CLUB GAMING AND CLUB MACHINE PERMITS**

**28.1** Members' Clubs and Miners' Welfare Institutes may apply for a Club Gaming Permit and/or a Club Gaming Machine Permit, but are restricted by category and number of machines and to equal chance gaming and games of chance.

**28.2** Commercial clubs may apply for a club machine permit, subject to restrictions

~~**28.3.** A fast track procedure is available for premises that hold a Club Premises Certificate under the Licensing Act 2003.~~

**28.3** The gambling provided under the authority of a club gaming permit must also meet the following conditions:

(a) in respect of gaming machines:

no child or young person may use a category B or C machine on the premises

that the holder must comply with any relevant provision of a code of practice about the location and operation of gaming machines.

(b) the public, children and young persons must be excluded from any area of the premises where the gaming is taking place.

**28.4** Section 273 of the Act sets out the conditions that will apply to the club machine permit, including that in respect of gaming machines no child or young person uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

## **PART D**

### **OCCASIONAL AND TEMPORARY PERMISSIONS**

## **29.0 TEMPORARY USE NOTICES (TUN)**

**29.1** A 'TUN' is defined in Annex 'C'.

**29.2** A TUN may only be granted to a person or company holding an Operating Licence relevant to the temporary use of the premises. Regulations issued by the Secretary of State prescribe the activities to be covered. At present a Temporary Use Notice can only be issued for equal chance gaming.



- 29.3** For the purposes of a TUN, a set of premises is the subject of a TUN if any part of the premises is the subject of the Notice. This prevents one large premises from having a TUN in effect for more than 21 days per year by giving a Notice in respect of different parts.
- 29.4** The definition of a "set of premises" will be a question of fact in the particular circumstances of each Notice that is given. In considering whether a place falls within the definition of "a set of premises", the Licensing Authority will consider, amongst other things, the ownership/occupation and control of the premises.
- 29.5** The Licensing Authority will object to Notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.

### **30.0 OCCASIONAL USE NOTICES**

- 30.1** Occasional Use Notices (OUN) are defined in Annex 'C'.
- 30.2** The Licensing Authority has very little discretion as regards these Notices, aside from ensuring that a statutory limit of 8 days in a calendar year is not exceeded.
- 30.3** The Licensing Authority will, however, consider the definition of a track and whether the applicant is permitted to avail him/herself of the Notice.

### **31.0 SMALL SOCIETY LOTTERIES**

- 31.1** The definition of a Small Society Lottery is contained in Annex 'C' and these require registration with the Licensing Authority.

### **32.0 APPENDICES**

- 32.1** Appendices have been attached to this Statement providing further information and guidance and they are intended only to assist readers and should not be interpreted as legal advice or as constituent of the Licensing Authority's policy. Readers of this document are strongly advised to seek their own legal advice if they are unsure of the requirements of the Act, or the guidance or regulations issued under the Act.

### **33.0 DELEGATION OF POWERS**

- 33.1** The Licensing Authority has agreed a scheme of delegation for discharging its functions under the Act.

### **34.0 DEFINITIONS – Annex 'C'**

### **35.0 FEES – Annex 'E'**

### **36.0 USEFUL CONTACTS**

The Gambling Commission maintains a list of useful contacts on organisations involved in gambling and their contact details can be found on the Commission's website [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk) Some of these organisations provide codes of practice on their particular interest area.

ANNEX 'A'List of Consultees

*The draft policy was placed on the Council Website and in accordance with the Act* the following organisations and individuals were consulted as part of the formal consultation exercise on the Statement of Gambling Licensing Policy.

- ~~All responsible Authorities for the Gambling Act (as specified in Annexe 2).~~
- ~~Private Members' Clubs holding registrations;~~
- ~~Holders of Premises Licences and Permits under the Gambling Act 2005~~
- ~~Holders of Track Betting Licences;~~
- ~~Licensees of alcohol licensed premises who have given notification of the use of amusements with prizes machines~~
- ~~A sample of organisations who had previously sought registration for the purposes of local lotteries;~~
- ~~Religious groups including: Anglican Church (Prittlewell Vicarage), Bahai's in Essex, the Bishop of Bradwell, Churches Together in Southend, Greek Orthodox Community, Hindu Association, Mayor's Chaplain, Reform Synagogue, Roman Catholic Deanery (Leigh-on-Sea), Salvation Army (Southend), Society of Friends, Southend and Westcliff Hebrew Congregation, Southend Islamic Trust, Southend Sikh Society.~~
- ~~Educational establishments including local secondary schools, colleges of further education and Essex University.~~
- ~~Trade Associations including Business in Sport and Leisure, BACTA, the Casino Operators Association, the Bingo Association, the Association of British Bookmakers Ltd., the British Casino Association, Southend Seafront Illumination and Business Association Ltd (SSIBA).~~
- ~~Voluntary and support groups including Gamblers Anonymous, GamCare, Responsibility in Gambling Trust, Age Concern, Southend Mencap, Housing and Money Advice Service (Southend-on-Sea Borough Council), Youth and Connexions (Southend-on-Sea Borough Council), Womens Aid Federation of England, The Samaritans, Citizens Advice Bureau, Southend District Mental Health Association, Southend Association of Voluntary Services, South Essex Victims Support, NSPCC.~~
- ~~Other relevant authorities and organisations including Southend Transport Police, Business Regulation Team (Southend-on-Sea Borough Council), Trading Standards (Southend-on-Sea Borough Council), Southend Primary Care Trust, Youth Offending Service.~~
- ~~Leigh-on-Sea Town Council;~~
- ~~Leigh Society;~~

- ~~The Milton Conservation Society.~~
- ~~Licensing Consultants and Legal Advisers in private practice, including 21<sup>st</sup> Century Licensing, A Flaherty, Hook and Partners and Drysdales,~~
- ~~Club Watch (Southend),~~
- ~~Southend Crime Reduction Partnership (Executive Group)~~
- ~~Southend Ethnic Minority Forum,~~
- ~~Chinese Association Centre,~~
- ~~Essex Bangladeshi Welfare Association,~~
- ~~Residents and Tenants Associations, including Balmoral RA, King Pipers TA, Mendip RA, Peartree Plus RA, Riverstone RA, Sherwood Way TA, Snakes Lane TA, Triangle RA, Victory RA, Viking Court, WASH, Park RA, St. Lukes RA, Cecil Court RA.~~
- *The Police*

~~In addition to the above, copies of the draft Statement of Gambling Licensing Policy (and explanatory material) were made available at the Council's Customer Contact Centre, an item was placed on the Council's website and press releases were arranged.~~

In addition to those specifically consulted, ??? requests were received for copies of the draft Policy Document.

*(note the consultation list is deliberately light as this policy is a re-adoption of the previous policy pending the outcome of the Gambling Commission Guidance review. Once that review is complete this policy will be reviewed and the Licensing Authority will revert to the fuller consultation process used for all previous policy reviews).*

## ANNEX 'B'

**Contact Details for the Licensing Authority and Responsible Authorities**The Licensing Authority is:

The Licensing Authority  
 Public Protection Division (Floor 13)  
 Department of Enterprise, Tourism and the Environment  
 Southend-on-Sea Borough Council  
 Civic Centre  
 Victoria Avenue  
 Southend-on-Sea  
 Essex SS2 6ZG Telephone: 01702 534333

The Responsible Authorities are:

- a) The Chief Officer of Police  
 Essex Police, Licensing Unit  
 Southend Police Station  
 Victoria Avenue  
 Southend on Sea  
 Essex SS2 6ES
- b) The Fire and Rescue Authority  
 The Divisional Commander  
 Essex County Fire and Rescue Service  
 Southend and Rochford Community Command  
 Sutton Road (Rear of Fire Station)  
 Southend-on-Sea  
 Essex SS2 5PX Telephone 01702 614433
- c) The Local Planning Authority  
 The Development Control Section  
 Department of Enterprise, Tourism and the Environment  
 Southend-on-Sea Borough Council  
 Civic Centre  
 Victoria Avenue  
 Southend-on-Sea  
 Essex  
 SS2 6ZG  
 DX 2812 Telephone: 01702 215327

- d) The Local Authority with functions related to prevention of risk of pollution of the environment:-

The Environmental Protection Team  
 Public Protection Division (Floor 13)  
 Department of Enterprise, Tourism and the Environment  
 Southend-on-Sea Borough Council  
 Civic Centre  
 Victoria Avenue  
 Southend-on-Sea  
 Essex SS2 6ZG  
 DX 2812 Telephone: 01702 215811

- e) The body designated by the Licensing Authority as being competent to advise on the Authority about protection of children from harm.

The Department of Children & Learning  
 (Child Protection Advisor)  
 PO Box 59  
 Southend-on-Sea Borough Council  
 Queensway House  
 Essex Street  
 Southend-on-Sea  
 Essex SS2 5TB Telephone: 01702 534417

- f) The Gambling Commission  
 Victoria Square House  
 Victoria Square  
 Birmingham  
 B2 4BP Telephone: 0121 230 6500

- g) Her Majesty's Revenue and Customs  
 HMRC Banking  
 St Mungos Road  
 Cumbernauld  
 Glasgow  
 G2 4 Telephone: 0141 5553633

In relation to vessels only, the Navigation Authority having functions in relation to any place where the vessel is or is likely to be while activities are carried on in reliance on a premises licence. For this purpose, correspondence should be sent to:

Surveyor-in-Charge  
 Maritime & Coast Guard Agency  
 Marine Office  
 Central Court  
 1B Knoll Rise  
 Orpington, BR6 0JA Telephone: 01689 890400

Any further enquiries or assistance can be obtained from the Licensing Authority on the telephone number given above. These addresses were correct at the time of going to press but are subject to change without notice. Any change made will not form part of a review of the Council's Statement of Licensing Policy

ANNEX 'C'DEFINITIONS

**Please note, definitions listed below are for guidance only and do not form part of the Council's Statement of Licensing Policy**

Adult Gaming Centre	Premises in respect of which an Adult Gaming Centre Premises Licence has effect.
Authorised Local Authority Officer	A Licensing Authority Officer who is an authorised person for a purpose relating to premises in that Authority's area.
Betting	In this Act "betting" means making or accepting a bet on— (a) the outcome of a race, competition or other event or process, (b) the likelihood of anything occurring or not occurring, or (c) whether anything is or is not true.
Betting Machines	A machine designed or adapted for use to bet on future real events [not a gaming machine].
Bingo	Bingo is not given a statutory definition in the Act other than that it means any version of the game irrespective of by what name it is described. It is to have its ordinary and natural meaning. Two types of bingo are commonly understood: <ul style="list-style-type: none"> <li>• cash bingo, where the stakes paid make up the cash prizes that are won</li> <li>• prize bingo, where various forms of prizes are won, not directly related to the stakes paid.</li> </ul>
Casino	An arrangement whereby people are given an opportunity to participate in one or more casino games.
Casino Resolution	Resolution not to issue Casino Premises Licences.
Child	Individual who is less than 16 years old.
Club Gaming Machine Permit	Permit to enable the premises to provide gaming machines [3 machines of Categories B,C or D.]
Conditions	Conditions to be attached to licences by way of:- <ul style="list-style-type: none"> <li>❑ Automatic provision</li> <li>❑ Regulations provided by Secretary of State</li> <li>❑ Conditions provided by Gambling Commission</li> </ul>

	<p>□ Conditions provided by Licensing Authority</p> <p>Conditions may be general in nature [either attached to all licences or all licences of a particular nature] or may be specific to a particular licence.</p>
Default Conditions	<p>Conditions that will apply unless the Licensing Authority decides to exclude them. This may apply to all Premises Licences, to a class of Premises Licence or Licences for specified circumstances.</p>
Delegated Powers	<p>Decisions delegated either to a Licensing Committee, Sub-Committee or Licensing Officers.</p>
Disorder	<p>No set interpretation. However, likely to be connected to the way gambling is being conducted. In the case of Gambling Premises' Licences, disorder is intended to mean activity that is more serious and disruptive than mere nuisance.</p>
Equal Chance Gaming	<p>Games that do not involve playing or staking against a bank and where the chances are equally favourable to all participants.</p>
Exempt Lotteries	<p>Lotteries specified in the Gambling Act as permitted to be run without a licence from the Gambling Commission. There are four types:</p> <ul style="list-style-type: none"> <li>□ Small Society Lottery [required to register with Licensing Authorities.</li> <li>□ Incidental Non Commercial Lotteries.</li> <li>□ Private Lotteries.</li> <li>□ Customer Lotteries.</li> </ul>
Family Entertainment Centre (FEC)	<p>There are two types of FEC:-  A licensed FEC (ie one with a Premises Licence) has no limit on the number of category C or D machines permitted  An unlicensed FEC (ie one with a Permit) has no limit on the number of category D machines permitted</p>
Gaming & game of chance	<p>In the Act “gaming” means playing a game of chance for a prize.  and “game of chance”—  (a) includes—  (i) a game that involves both an element of chance and an element of skill,  (ii) a game that involves an element of chance that can be eliminated by superlative skill, and  (iii) a game that is presented as involving an element of chance, but</p>

	(b) does not include a sport
Gaming Machine	Machine covering all types of gambling activity, including betting on virtual events.
Guidance to Licensing Authorities	Guidance issued periodically by the Gambling Commission
Incidental Non Commercial Lottery	A lottery promoted wholly for purposes other than private game, and which are incidental to non commercial events [commonly charity fundraising events, lottery held at a school fete or at a social event such as a dinner dance]
Lottery	An arrangement which satisfies the statutory description of either a simple lottery or a complex lottery in Section 14 of the Act.
Members' Club	A club, as defined by the Licensing Act 2003, that must:- <ul style="list-style-type: none"> <li>□ Have at least 25 members;</li> <li>□ Be established and conducted 'wholly or mainly' for purposes other than gaming;</li> <li>□ Be permanent in nature;</li> <li>□ Not be established to make commercial profit;</li> <li>□ Be controlled by its members equally.</li> </ul>
Occasional Use Notice (OUN)	Betting may be permitted on a 'track' by an OUN without the need for a full Premises Licence.
Off Course Betting	Betting that takes place other than at a track, i.e. at a licensed betting shop.
Off Course Betting - Tracks	Betting that takes place in a self-contained betting premises with the track premises providing facilities for off course betting, i.e. on other events, not just those taking place on the track. Normally operates only on race days.
On Course Betting - Tracks	Betting that takes place on a track while races are taking place.
Operating Licence	Licence to permit individuals and companies to provide facilities for certain types of gambling. It may authorise remote or non remote gambling.
Permits	Authorisation to provide a gambling facility where the stakes and prizes are very low or gambling is not the main function of the premises.
Personal Licence	Formal authorisation to individuals who control facilities for gambling or are able to influence the outcome of gambling. Cannot be held by companies.



Pool Betting - Tracks	Betting offered at a horse racecourse by the Tote and at a dog track by the holder of the Premises Licence for the track.
Private Lotteries	<p>There are three types of Private Lotteries:</p> <ul style="list-style-type: none"> <li>❑ Private Society Lotteries - tickets may only be sold to members of the Society or persons who are on the premises of the Society;</li> <li>❑ Work Lotteries - the promoters and purchasers of tickets must all work on a single set of work premises;</li> <li>❑ Residents' Lotteries - promoted by, and tickets may only be sold to, people who live at the same set of premises.</li> </ul>
Prize Gaming	Where the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before play commences.
Prize Gaming Permit	A permit to authorise the provision of facilities for gaming with prizes on specific premises.
Responsible Authorities	<p>Public Bodies that must be notified of all applications and who are entitled to make representations in relation to Premises Licences, as follows:-</p> <ul style="list-style-type: none"> <li>❑ The Licensing Authority in whose area the premises is partly or wholly situated</li> <li>❑ The Gambling Commission</li> <li>❑ The Chief Officer of Police</li> <li>❑ Fire and Rescue Service</li> <li>❑ The Planning Authority for the local authority area</li> <li>❑ Environmental Health Service for the local authority area</li> <li>❑ The Body competent to advise on the protection of children from harm</li> <li>❑ HM Revenue and Customs</li> <li>❑ Authority in relation to vulnerable adults</li> <li>❑ Vessels only - the Navigation Authority whose statutory functions are in relation to waters where the vessel is usually moored or berthed, i.e. the Environment Agency, British Waterways Board, the Maritime and Coastguard Agency</li> </ul> <p>Full details of Responsible Authorities for the Borough are contained in Appendix 'B' to this Policy.</p>
Small Society Lottery	A lottery promoted on behalf of a non commercial society, i.e. lotteries intended to raise funds for good causes.

Society	The society, or any separate branch of such a society, on whose behalf a lottery is to be promoted.
Temporary Use Notice (TUN)	To allow the use of a premises for gambling where there is no Premises Licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling.
Tote [or Totalisator]	Pool betting on tracks.
Track	Sites where races or other sporting events take place, e.g. horse racing, dog racing or any other premises on any part of which a race or other sporting event takes place or is intended to take place.
Vehicles	Defined as trains, aircraft, sea planes and amphibious vehicles other than hovercraft. No form of commercial betting and gaming is permitted.
Vulnerable Persons	No set definition, but likely to mean group to include people who:- <ul style="list-style-type: none"> <li>□ gamble more than they want to</li> <li>□ gamble beyond their means</li> <li>□ who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs</li> </ul>
Young Person	An individual who is not a child but who is less than 18 years old.

**ANNEX 'D'**



**ANNEX 'E'**

Non statutory fees are reviewed by the Licensing Authority on an annual basis in accordance with the Gambling (Premises Licence Fees) (England and Wales) Regulations 2007. Details of current fees can be obtained by contacting

The Licensing Authority  
Public Protection Division (Floor 13)  
Department of Enterprise, Tourism and the Environment  
Southend-on-Sea Borough Council  
Civic Centre  
Victoria Avenue  
Southend-on-Sea  
Essex SS2 6ZG                      Telephone: 01702 534333

Email: [licact2003@southend.gov.uk](mailto:licact2003@southend.gov.uk)

or alternatively by viewing the Council's Website