



Havant
BOROUGH COUNCIL

STATEMENT OF PRINCIPLES

GAMBLING ACT 2005

January 2010

GAMBLING ACT 2005

STATEMENT OF PRINCIPLES

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PART A – GENERAL PRINCIPLES

1. Licensing Objectives

1.1 When dealing with licensing matters Havant Borough Council (“the Licensing Authority”) must have regard to the three licensing objectives set out in the Gambling Act 2005 (“the Act”). These 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 (“The Licensing Objectives”).

1.2 For the purposes of interpreting these objectives:

- the term “disorder” is interpreted as meaning an activity that is more serious and disruptive than mere nuisance;
- reference to “vulnerable persons” includes people who gamble more than they want to, people who gamble beyond their means and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol and/or drugs; and
- the phrase “harmed or exploited by gambling” can mean preventing children and vulnerable people from taking part in or being in close proximity to gambling and controlling advertising so that gambling products are not aimed at vulnerable people or advertised in such a way that makes them particularly attractive to such people.

2. Introduction

2.1 Duration of Statement

2.1.1 This statement of principles is the Licensing Authority’s published policy for the purposes of the Act. It will run for the period of three years approved at a meeting of Full Council on 16th December 2009 and commencing on 3^{1st} January 2010.

2.1.2 This policy will be applied in the exercise of the Licensing Authority’s functions under the Act during that period.

2.1.3 The policy may be reviewed from time to time and, in the light of any such review, it may be revised. Any such revision will be subject to consultation and publication before it takes effect.

2.1.4 Should you have any comments with regard to this policy statement, please send them via email or letter to the following contact:

Name: Senior Licensing Officer

Address: Havant Borough Council, Civic Offices, Civic Centre Road, Havant, Hampshire PO9 2AX. Email: licensing@havant.gov.uk

2.1.5 It should be noted that this policy statement will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

2.2 Content of Statement

2.2.1 A summary of information contained within this statement is attached as an index at the front of this document.

2.2.2 The licensable activities covered by this statement are:

Premises Licences

- adult gaming centres
- licensed family entertainment centres;
- casinos;
- bingo;
- betting premises;
- tracks;
- travelling fairs; and
- provisional statements.

Permits and Temporary and Occasional Use Notices

- unlicensed family entertainment centres;
- gaming machines on alcohol licensed premises;
- prize gaming;
- club gaming and club machine permits.
- temporary use notices; and
- occasional use notices.

2.2.3 The contents of this document are not a full or authoritative statement of the law or statutory guidance and do not constitute professional or legal advice.

2.2.4 This statement is published on the Licensing Authority's web-site and is available at the offices of the Licensing Authority during normal working hours.

2.2.5 The address of the Licensing Authority's web-site is www.havant.gov.uk/havant-7439

2.3 - Geographical application of Statement

2.3.1 The Borough of Havant provides a unique setting in urban South Hampshire between the South Downs and the Solent and has five main centres, Havant & Langstone, Waterlooville, Leigh Park, Emsworth and Hayling Island.

2.3.2 The Borough provides a range of attractions and activities for both residents and visitors to suit all tastes. Havant is a market town which has retained its character and charm and Langstone boasts a beautiful harbour frontage. Waterlooville is the modern business centre of the Havant Borough.

Emsworth is a delightful and picturesque fishing village and Hayling Island is a popular seaside resort but with quiet harbourside shores.

2.3.3 Tourism is a major part of the local economy and every year approximately 1.89 million day visits are made to the area with 300,000 staying visitors. Many people come on a regular basis to enjoy the Borough of Havant where the countryside meets the seashore.

2.3.4 The projected population for the Borough of Havant is currently almost 117,000. The Borough provides a range of attractions and activities for both residents and visitors to suit all tastes. It has a number of premises conducting gambling activities as follows:

16 Betting offices
57 Alcohol licensed premises
27 Members clubs
1 Bingo Hall
11 Amusement Arcades
1 Family Entertainment Centre
7 Family Entertainment Centre Machine Permits
3 Holiday Resorts with Bingo Premises Licences

There are currently no Casinos or Tracks within the Borough.

2.3.5 A map showing the extent of the Borough is produced at Appendix A

2.4 Consultation Process

2.4.1 Before publishing this policy statement the Licensing Authority has consulted with and taken into account comments from various persons/bodies who appeared to the Licensing Authority to represent the interests of persons carrying on gambling businesses in the district, together with persons/bodies who appeared likely to be affected by the exercise of the Licensing Authority's functions under the Act, namely:

- The Chief Officer of Police for Hampshire
- Association of British Bookmakers
- British Holiday and Home Parks Association
- The Bingo Association
- The British Casino Association
- Current holders of Betting Office and Bookmakers permits in Havant Borough
- Crime and Disorder Reduction Partnership
- British Institute of Innkeeping
- British Beer and Pub Association
- Environmental Services
- Social Services
- Citizens Advice Bureau
- GamCare

- The Gambling Commission
- British Amusement Catering and Trades Association
- Planning Authority
- Hampshire Fire and Rescue Service

2.4.2 A full list of comments made is available by request to :
Senior Licensing Officer, Havant Borough Council, Civic Offices, Civic Centre
Road, Havant, Hampshire, PO9 2AX

2.5 Declaration

2.5.1 In producing this licensing policy statement, the Licensing Authority declares that it has had regard to the Licensing Objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission and any responses received from those consulted on the policy statement.

2.6 Fundamental principles

2.6.1 In carrying out its functions the Licensing Authority will regulate gambling premises in the public interest.

2.6.2 Any application received will be considered on its merits and in accordance with the requirements of the Act.

2.6.3 The Licensing Authority will seek to avoid any duplication with other regulatory regimes so far as possible.

2.6.4 The Licensing Authority recognises that there is a clear separation between the Gambling Act, the Licensing Act 2003 and planning legislation and that licensing applications will be viewed independently of applications under the Licensing Act 2003 and planning.

2.6.5 The Licensing Authority will, in particular when considering its functions in relation to applications and enforcement, have regard to the Human Rights Act 1998.

3. Responsible Authorities

3.1 Responsible Authorities - General

3.1.1 The Act specifies various bodies as Responsible Authorities (“Responsible Authorities”). The contact details of all the Responsible Authorities in the area of the Licensing Authority can be found on the Council’s website at www.havant.gov.uk

3.1.2 The Responsible Authorities must be notified of applications in relation to Premises Licences and are entitled to make representations in relation to them.

3.2 Responsible Authority - Protection of Children from harm

3.2.1 In exercising the Licensing Authority's powers under section 157(h) of the Act to designate, in writing, a body competent to advise the Licensing Authority about protection of children from harm the following principles are applied:

- the need for the body to be responsible for an area covering the whole of the licensing authority's area;
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group; and
- whether the body has experience in relation to protection of children issues.

3.2.2 The Licensing Authority designates Havant Children Services for the purpose of providing advice about protection of children from harm.

4. Interested parties

4.1 Interested Parties – General

4.1.1 The Act identifies various categories of person who may be Interested Parties ("Interested Parties") in relation to an application for or in respect of a Premises Licence, namely a person who in the opinion of the Licensing Authority:

- lives sufficiently close to the premises to be likely to be affected by the authorised activities;
- has business interests that might be affected by the authorised activities; or
- represents persons who satisfy either of the two sub-paragraphs above. Interested parties can make representations about licence applications or apply for a review of an existing licence.

4.1.2 Interested parties can make representations about licence applications or apply for a review of an existing licence.

4.2 Interested Parties – Principles relating to determination

4.2.1 The Licensing Authority will apply various principles to determine whether a person is an Interested Party.

4.2.2 The Licensing Authority will consider each situation on its merits.

4.2.3 In determining whether a person lives "sufficiently close to the premises", the Licensing Authority will have regard to such of the following factors as it considers appropriate to the circumstances:

- the size of the premises
- the nature of the premises
- the distance of the premises from the location of the person making the representation

- what might, in the opinion of the Licensing Authority, be reasonably regarded as a potential impact of the premises (this might for example be influenced by the anticipated number of customers, routes likely to be taken by those visiting the premises etc)
- the nature of the complainant. This is not meant to cover the personal characteristics of the complainant, but the interest of the complainant where they may be relevant to the distance from the premises. For example, the Licensing Authority is likely to apply a wider interpretation to the meaning of “sufficiently close” where the complainant provides services attended by children or vulnerable adults; and such other factors as it considers are relevant.

4.2.4 In determining whether a business interest is “likely to be affected”, the Licensing Authority will have regard to such of the following factors as it considers appropriate to the circumstances:

- the size of the premises
- the “catchment” area of the premises (i.e. how far people travel to visit);
- the nature of the business that it is suggested might be affected
- such other factors as it considers are relevant.

4.2.5 In determining whether a person is regarded as representing a person in either of the other two Interested Party categories, the Licensing Authority in particular considers that the following may fall within this category:

- Members of Parliament or Elected Councillors;
- Residents’ and tenants’ associations; and
- Trade unions and trade associations

4.2.6 The Licensing Authority will not necessarily consider a person as representing one of the other categories of Interested Party unless the person can demonstrate:

- that they have specifically been requested in writing to represent that person and/or business in relation to the submission of the representation; and/or
- that, in the case of a body, it represents a significant number of persons that have made submission with regard to the representation.

Interested parties may also be represented by other persons such as Councillors, MPs etc. Care should be taken when approaching Councillors that they are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the Senior Licensing Officer on (02392) 446653 for advice.

5. Responsible Authorities and Interested Parties

5.1 Responsible Authorities and Interested Parties - representations

5.1.1 Representation made by a Responsible Authority or Interested Party, which is not withdrawn, will normally result in a hearing taking place.

5.1.2 In certain circumstances however, a hearing need not take place. For example, where the Licensing Authority consider that the representation:

- is vexatious;
- is frivolous; or
- will certainly not influence the authority's determination of the application.

6. **Disclosure / Exchange of Information**

6.1 Exchange of Information – General

6.1.1 The Act, and other legislation such as the Data Protection Act 1998 and the Freedom of Information Act 2000, places various statutory duties and responsibilities upon the Licensing Authority in relation to the exchange and disclosure of information that is available to it.

6.2 Exchange/Disclosure of Information – principles

6.2.1 The Licensing Authority will comply with all statutory duties imposed upon it, which require it to disclose information, subject always to any legislative restrictions that impact upon any such requirement.

6.2.2 Where the Licensing Authority has discretion as to whether or not information may be disclosed/exchanged it will in particular normally have regard to the following principles:

- any request that is received for the disclosure of information will be considered on its merits having regard to any general statutory principles that might apply;
- upon receipt of a request for any exchange or disclosure, information will not normally be withheld where it is considered by the Licensing Authority that this may aid in the promotion of the licensing objectives, and does not unacceptably conflict with other factors which the Licensing Authority considers as being of relevance to it; and
- the Licensing Authority may also provide information available to it, whether a request has been received or not, if it considers it may aid in the promotion of the licensing objectives, and does not unacceptably conflict with other factors as identified above.

6.2.3 Where representations are received in relation to any function being exercised by the Licensing Authority under the Act, those representations will normally be disclosed to an extent that the Licensing Authority considers reasonable in the circumstances. In particular, in making this assessment, the

Licensing Authority will have regard to the interests of natural justice and Article 6 of the Convention on Human Rights. Information will not be disclosed where statute expressly prevents its disclosure.

- 6.2.4 In so far as the law allows, the Licensing Authority generally favours full disclosure of all relevant representations made in relation to an application that it is considering under the Act.
- 6.2.5 The Licensing Authority in carrying out its duties will have full regard to the provisions of the Data Protection Act 1998 and the Freedom Of Information Act 2000.
- 6.2.6 Where the law allows, a data subject for the purposes of the above legislation may require and be entitled to information that is held by the Licensing Authority. Some of this information may be accessible via the Licensing Authority's website and registers that the Licensing Authority is obliged to keep under the Act. Where this is not the case, then a request for such data should be made in writing addressed to the Licensing Services Section of the Licensing Authority.

7. Enforcement

7.1 Enforcement – General

- 7.1.1 The Act provides various bodies including the Licensing Authority with power to authorise persons to undertake inspections for a variety of purposes. Furthermore the Licensing Authority has the capacity to instigate criminal proceedings for various offences that are specified within the Act.
- 7.1.2 The Gambling Commission will be the enforcement body for the operator and personal licences it issues and also the manufacture, supply or repair of gaming machines.

7.2 Inspections and instituting criminal proceedings – principles

- 7.2.1 In considering whether to undertake an inspection of a premises, the Licensing Authority will in particular have regard to the following principles:
- when considering whether to undertake any inspection each situation will be considered on its merits;
 - that the Licensing Authority will not usually undertake an inspection unless it is considered relevant for the purposes of an application or actual or potential enforcement issue;
 - in the case of enforcement action generally, we will act having given due consideration to any enforcement policy adopted by Havant Borough Council (as may be amended from time to time) and the Regulatory Compliance Code that is current at that time (if any); and
 - that it will exercise its responsibilities in relation to inspections having regard to the further principles set out below.

7.2.2 In considering whether to exercise its powers in relation to the institution of criminal proceedings in the Act, the Licensing Authority will in particular normally have regard to the following principles:

- each case will be considered on merits;
- in so far as it may be relevant to the assessment, whether the Licensing Authority has acted in accordance with any enforcement policy of Havant Borough Council and the Regulatory Compliance Code referred to above;
- whether the instigation of criminal proceedings accords with the Code for Crown Prosecutors current at that time (if any); and
- in so far as it may be relevant to the assessment, that it will undertake proceedings in accordance with the principles set out below.

7.2.3 The principles referred to in the paragraphs are that the Licensing Authority will, in so far as it is appropriate, be:

- proportionate:- intervention only when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised.
- accountable:- decisions must be justified, and subject to public scrutiny.
- consistent:- rules and standards must be joined up and implemented fairly
- transparent:- regulators should be open and keep regulations simple and user friendly; and
- targeted:- focused on the problem, and minimise side effects.

7.3 Carrying out enforcement responsibilities – risk

7.3.1 In carrying out its enforcement responsibilities, the Licensing Authority will normally adopt a risk-based inspection programme based on:

- the licensing objectives
- relevant codes of practice
- guidance issued by the Gambling Commission
- the principles set out in this statement of licensing policy.

7.3.2 Criteria that may normally contribute to an assessment to determine the level of risk that applies to a premises are:

- the size of the premises;
- the proximity of the premises to identified vulnerable persons;
- whether any complaints are received in relation to the premises and, if so, the nature and number of complaints that are considered relevant;
- information submitted from relevant persons or bodies; and
- such other factors as the particular circumstances of the individual situation warrant.

8. Havant Borough Council Functions

Havant Borough Council will:

- be responsible for the licensing of premises where gambling activities are to take place by issuing *Premises Licences*
- issue *Provisional Statements*
- regulate members clubs who wish to undertake certain gaming activities via issuing *Club Gaming Permits* and/or *Club Machine Permits*
- issue *Club Machine Permits* to Commercial Clubs
- grant permits for the use of certain lower stake gaming machines at *Unlicensed Family Entertainment Centres*
- receive notifications from *Alcohol Licensed Premises* (under the Licensing Act 2003) of the use of two or fewer gaming machines
- grant *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises (under the Licensing Act 2003) when more than two machines are required
- register *small society lotteries* below prescribed thresholds
- issue *Prize Gaming Permits*
- receive and endorse *Temporary Use Notices*
- receive *Occasional Use Notices*
- provide information to the Gambling Commission regarding details of licences issued (see section above on information exchange)
- maintain registers of the permits and licences that are issued under these functions.

PART B – SPECIFIC FUNCTIONS

9. Premises Licences

9.1 Fundamental principles applying to Premises Licences

9.1.1 Premises licences will be subject to the requirements set out in the Gambling Act 2005 and Regulations, as well as specific mandatory and default conditions which will be detailed in Regulations issued by the Secretary of State. Licensing Authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

9.1.2 In considering an application for a premises licence no regard will be had as to whether there is unfulfilled demand for the facilities for the premises licence that is sought.

9.1.3 As it does not relate to a licensing objective, moral objections to gambling will not be regarded as a valid reason to reject an application for a premises licence.

9.1.4 In exercising its functions in relation to Premises Licenses, the Licensing Authority will aim to permit the use of premises for gambling in so far as the Licensing Authority thinks it:

- in accordance with any relevant Code of Practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the Licensing Objectives (subject to the two sub-paragraphs above); and
- in accordance with this Statement (subject to the three sub-paragraphs above).

9.2 Premises Licence – Definition of Premises.

9.2.1 For the purposes of the Act, the term “premises” is defined as including “any place”.
(nb: A premises licence may not be issued in relation to a vehicle, or part of a vehicle)

9.2.2 The Act provides that different premises licences cannot apply in respect of single premises at different times. eg. premises could not be licensed as a bingo hall on weekdays and a betting shop at weekends.

9.2.3 Whilst premises is defined in the Act as “any place” it is for the Licensing Authority to decide whether different parts of a building can be reasonably regarded as being separate premises. In considering applications for multiple licences for a building or those for a specific part of the building to be licensed the Licensing Authority will take particular note of the following:

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

9.3 Premises Licence - Decision Making

9.3.1 In making a determination in respect of a Premises Licence, the Licensing Authority cannot have regard to irrelevant matters i.e. those that do not relate to gambling and the Licensing Objectives. Therefore issues relating to whether a planning permission or building regulations may or may not be granted are not relevant to the determination. Section 210 of the 2005 Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.

9.3.2 The Licensing Authority will seek to avoid duplication with other statutory/regulatory systems where possible. It will though, listen to, and consider carefully, any concerns about conditions, which are not able to be met by licensees due to planning restrictions, should such a situation arise.

9.3.3 Whilst each application will be considered on its merits, factors to which the Licensing Authority may in particular have regard when determining an application include:

- proximity of gambling premises to properties regularly frequented by vulnerable persons;
- the suitability of the premises for gambling in the context of the licensing objectives;
- the type of gambling that is proposed at the premises;
- any information provided by the applicant showing how it is proposed to overcome any licensing objective concerns; and
- whether any relevant objections to an application could be addressed by the use of one or more conditions.

9.3.4 In circumstances where the Licensing Authority proposes to attach or reject conditions as part of a decision it will give reasons as required by the Act. Reasons will also be given if the Licensing Authority determines to reject an application.

9.4 Premises Licence – Conditions

9.4.1 Mandatory Conditions:- The Act may by regulations provide for a specified condition to be attached to premises licences. Such conditions may:

- a) apply generally, only to premises licences in a specified class or only in specified circumstances.
- b) make different provision for different classes of licence or for different circumstances.

9.4.2 Default Conditions:- The Act may also by regulations prescribe for a specified condition to be attached to any premises licence unless excluded by the authority who issue the licence. Such conditions may:

- a) apply generally, only to premises licences in a specified class or only in specified circumstances.
- b) make different provision for different classes of licence or for different circumstances.

9.4.3 Subject to certain legislative exceptions, power is also available to a Licensing Authority to attach further conditions in addition to those identified above. Such conditions may apply in relation to a premises generally or only in relation to a specified part of the premises.

9.4.4 Where a discretion exists, the Licensing Authority will not impose its own Condition on a Premises Licence unless it relates to an issue arising in respect of the gambling proposal.

9.4.5 In exercising a discretion as to whether to impose any further condition, the Licensing Authority will be proportionate to the circumstances being considered.

9.4.6 It is noted that there are conditions the Licensing Authority cannot attach to premises licences, which are:

- any condition 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 Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated);
- conditions in relation to stakes, fees, winning or prizes.

9.5 Premises Licence – reviews

9.5.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities. However, it is for the licensing authority to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below, as well as consideration as to whether the request is frivolous or vexatious will certainly not cause this authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review:

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

- 9.5.2 Whilst the Licensing Authority recognises the importance of the right of ‘responsible authorities’ and ‘interested parties’ to request reviews of premises licences, the Licensing Authority would expect a reasonable interval between hearings for the same premises, and unless exceptional and compelling circumstances existed, would not hold a repeat hearing within 12 months.
- 9.5.3 The licensing authority can also initiate a review of a licence on the basis of any reason which it thinks is appropriate.

Adult Gaming Centre Premises Licences

9.6 Adult Gaming Centres - General

- 9.6.1 An Adult Gaming Centre is a premises for which a Premises Licence is granted to make certain prescribed gaming machines available only to persons aged eighteen years and over.

9.7 Adult Gaming Centre Premises Licence – Miscellaneous

- 9.7.1 An Adult Gaming Centre Premises Licence can authorise the holder to make available:
- up to four category B3 or B4 gaming machines;
 - any number category C gaming machines; and
 - any number of category D gaming machines.

9.8 Adult Gaming Centre Premise Licence – decision making

- 9.8.1 The Licensing Authority will particularly have regard to the need to protect persons under 18 and other vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 years old do not have access to the premises.
- 9.8.2 This Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives and appropriate measures may cover issues such as:
- provision of CCTV
 - supervision of entrances / gaming machine areas
 - physical separation of different areas within the premises
 - numbers, locations and wording of signage / notices / rules
 - self barring schemes
 - specific opening hours
 - the location of adult gaming machine
 - provision of information leaflets / help line numbers for organisations such as GamCare
 - proof of age schemes.

9.8.3 It should be noted that this list is not mandatory, nor exhaustive, and is merely indicative of example measures.

Licensed Family Entertainment Centres

9.9 Licensed Family Entertainment Centres – General

9.9.1 The Act creates two classes of Family Entertainment Centre.

1. A Licensed Family Entertainment Centre will require a premises licence allowing an unlimited number of Category C or D gaming machines. Persons under eighteen years old will be permitted to enter an FEC and may play on Category D machines. They will not be permitted to play on Category C machines, and it will be a requirement that there must be clear segregation between the two types of machine, so that they do not have access to Category C machines.

2. An Unlicensed Family Entertainment Centre which allows gaming machines to be made available for use by means of gaming machine permits, as opposed to a premises licence. These permits could be for an unlimited number of Category D gaming machines only.

9.10 Licensed Family Entertainment Centres – Decision Making

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

9.10.2 The Licensing Authority will expect the applicant to offer their own measures, which may cover issues such as:

- provision of CCTV
- supervision of entrances/gaming machine areas
- physical separation of different areas within the premises
- numbers, locations and wording of signage/notices/rules
- self barring schemes
- specific opening hours;
- the location of adult gaming machines
- provision of information leaflets/help line numbers for organisations such as GamCare
- proof of age schemes.

9.10.3 It should be noted that this list is not mandatory, nor exhaustive, and is merely indicative of example measures.

Casino Premises Licence

9.11 Casino Resolution

9.11.1 At the date of adoption of this Statement, the Licensing Authority has not passed a resolution preventing the grant of Casino Premises Licences in line with Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should the Licensing Authority decide in the future to pass such a resolution, it will update this statement with details of that resolution.

Bingo Premises Licence

9.12 Bingo Premises Licence - General

9.12.1 Bingo does not have a statutory definition.

9.12.2 The holder of a Bingo Premises Licence will be able to offer any type of bingo game, whether cash or prize. Furthermore the holder of the licence may make available for use:

- up to eight category B gaming machines (B3 or B4);
- any number of category C machines; and
- any number of category D machines.

9.12.3 The Licensing Authority will expect the premises to abide by the rules concerning primary gambling activity.

9.13 Bingo Premises Licence – Decision Making

9.13.1 It is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines.

9.13.2 The Licensing Authority will particularly have regard to the need to protect children, young persons and other vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 years olds do not have access to adult only gaming machines.

9.13.3 The Licensing Authority will expect the applicant to offer their own measures to meet the licensing objectives however appropriate measures may cover issues such as:

- provision of CCTV
- supervision of entrances/gaming machine areas
- physical separation of different areas within the premises
- location of entry to premises
- numbers, locations and wording of signage/notices/rules
- self barring schemes
- specific opening hours
- the location of adult gaming machines

- provision of information leaflets/help line numbers for organisations such as GamCare
- proof of age schemes.

9.13.4 It should be noted that this list is not mandatory, nor exhaustive, and is merely indicative of example measures

9.13.5 The Licensing Authority normally expect the applicant to identify the types of gaming machine that will be placed on the premises.

9.13.6 Whilst each application will be considered on its merits, factors to which the Licensing Authority may in particular have regard when determining an application of this nature include the suitability and layout of bingo premises.

Betting Premises

9.14 Betting Premises - General

9.14.1 A Betting Premises Licence is usually required to enable betting to take place on premises (see Tracks below). The regional, large and small categories of new casinos permitted under the Act will be entitled to provide facilities for betting without a separate Betting Premises Licence.

9.14.2 The Licensing Authority will expect the premises to abide by the rules concerning primary gambling activity

9.15 Betting Premises - Miscellaneous

9.15.1 By virtue of a Betting Premises Licence the holder may, subject to certain restrictions, make available for use up to four gaming machines.

9.15.2 Other than in the case of tracks, for which special rules apply, children and young persons will not be able to enter premises with a Betting Premises Licence.

9.16 Betting Premises – Decision Making

9.16.1 The Licensing Authority will expect the applicant to offer their own measures to meet the licensing objectives and appropriate measures may cover issues such as:

- provision of CCTV
- supervision of entrances/gaming machine areas
- location of entry to premises
- numbers, locations and wording of signage/notices/rules
- self barring schemes
- specific opening hours
- provision of information leaflets/help line numbers for organisations such as GamCare

- the number and location of gaming and betting machines
- proof of age schemes.

9.16.2 It should be noted that this list is not mandatory, nor exhaustive, and is merely indicative of example measures

9.16.3 In addition to the above and other relevant factors, the Licensing Authority in having regard to the need to protect children, young persons and other vulnerable persons from harm, and will normally, when making a decision, have regard to the size of the premises, the counter positions available for person to person transactions and the ability of staff to monitor the use of machines.

9.16.4 As part of the powers available to the Licensing Authority in relation to the imposition of conditions, the Licensing Authority may attach conditions restricting the number of betting machines, their nature and circumstances in which they are made available.

Tracks

9.17 Tracks - General

9.17.1 Tracks are sites (including horse racecourses and dog tracks) where races or other sporting events take place.

9.18 Tracks - Miscellaneous

9.18.1 For betting to take place on a track a Betting Premises Licence will be required unless an Occasional Use Notice or Temporary Use Notice is in place.

9.18.2 Tracks may be subject to more than one Premises Licence, provided each area relates to a specified area of the track without overlap.

9.18.3 Children and young persons are permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place. But having regard to the need to protect persons under 18 from harm they should still be prevented from entering areas where gaming machines (other than category D machines) are provided.

9.19 Tracks – Decision Making

9.19.1 In recognition of the extant guidance on this matter, the Licensing Authority will normally require detailed plans of the premises showing the following information:

- location of gaming machines
- location of betting machines
- location of any race track
- the location of any on-course betting facilities

- the location of any off-course betting facilities
- the location of any areas to be the subject of additional Premises Licence applications.

9.19.2 The Licensing Authority will expect the applicant to offer their own measures to meet the licensing objectives and appropriate measures may cover issues such as:

- provision of CCTV
- supervision of entrances/gaming machine areas
- physical separation of different areas
- location of entry to premises
- numbers, locations and wording of signage/notices/rules
- self barring schemes
- specific opening hours
- provision of information leaflets/help line numbers for organisations such as GamCare
- the number and location of gaming and betting machines
- proof of age schemes.

9.19.3 In addition to the above and other relevant factors, the Licensing Authority in having regard to the need to protect children, young persons and other vulnerable persons from harm will normally, when making a decision, have regard to the size of the premises, the counter positions available for person-to-person transactions and the ability of staff to monitor the use of machines.

Travelling Fairs

9.20 Travelling Fairs - General

9.20.1 A Travelling Fair “wholly or principally” provides amusements.

9.21 Travelling Fairs - Miscellaneous

9.21.1 A Travelling Fair can only take place on a site that has not been used for fairs for more than 27 days per calendar year.

9.21.2 Travelling Fairs do not require a permit or licence to provide gaming machines provided that these are only category D gaming machines. There is no limit to the number of such category D gaming machines provided that facilities for gambling amount to no more than an ancillary amusement at the fair.

9.22 **Provisional statements**

9.22.1 Section 204 provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she

- expects to be constructed
- expects to be altered

- expects to acquire a right to occupy

9.22.2 Once the premises are constructed, altered or acquired, the holder of a provisional statement can return to the Licensing Authority and apply for the necessary premises licence. It is a question of fact and degree whether premises are finished to the extent that they can be considered for a premises licence.

9.22.3 Following the grant of a provisional statement and on application for a premises licence, no further representations from relevant authorities or interested parties can be taken into account:

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

9.22.4 The Licensing Authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- which could not have been raised by objectors at the provisional statement stage; or
- which in the authority's opinion reflect a change in the operator's circumstances.

9.22.5 The Licensing Authority will not have regard to whether or not a proposal by the applicant is likely to receive planning permission or obtain building regulations approval.

10. Permits/Temporary and Occasional Use Notices

Unlicensed Family Entertainment Centre Gaming Machine Permits

10.1 Unlicensed Family Entertainment Centre Gaming Machine Permits – General

10.1.1 This permit authorises the provision of specified low category (Category D) gaming machines only. The applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.

10.1.2 No operators licence or premises licence is required for the grant of this permit.

10.1.3 An application will only be granted if the Chief Officer of Police has been consulted on the application.

10.2 Unlicensed Family Entertainment Centre Gaming Machine Permits – Miscellaneous

10.2.1 In addition to the statutory requirements, as part of any application for an Unlicensed Family Entertainment Centre Gaming Machine Permit, the Licensing Authority will require the following in order to ensure that adequate information is provided to enable a proper assessment to be made:

- details of any permit granted to the applicant that has previously been refused, lapsed, surrendered or forfeited
- details of any other permit held by the applicant in respect of other premises
- the nature of the prizes
- the proposed frequency of prize gaming at the premises
- details of any training and training programme on the limits of stakes, prizes and permissible gambling relating to such permits
- details of any proposed precaution to secure the prevention of harm to persons under the age of eighteen and measures for implementing the same.
- Appropriate measures/training for staff regarding suspected truant school children on the premises.

10.2.2 Applications for this permit cannot be made if a Premises licence has been granted under this Act.

10.3 Unlicensed Family Entertainment Centre Gaming Machine Permits – Statement of Principles

10.3.1 In considering any application the Licensing Authority will normally have regard to the following:

- each case will be considered on its merits
- any information received as part of the application process
- the licensing objectives, any guidance and this statement, and will give particular weight to the protection of children and young persons
- such other factors as the Licensing Authority considers relevant.

10.4 Unlicensed Family Entertainment Centre Gaming Machine Permits – Decision Making

10.4.1 The Act imposes mandatory conditions on an Unlicensed Family Entertainment Centre Gaming Machine Permit. The Licensing Authority cannot impose any other conditions.

10.4.2 The Licensing Authority may refuse an application for renewal of a permit only on the grounds that an authorised officer has been refused access to the premises without reasonable cause; or that the renewal would not be reasonably consistent with pursuit of the licensing objectives.

Alcohol Licensed Premises Gaming Machine Permits

10.5 Alcohol Licensed Premises Gaming Machine Permits - General

10.5.1 Premises, licensed to sell alcohol for consumption on the premises (such as Public Houses), can automatically have two gaming machines of Category C and/or D. The premises licence holder only needs to notify the licensing authority of their intention to make gaming machines available and has paid the required fee.

10.5.2 In certain circumstances the Licensing Authority has the power to remove this right.

10.5.3 If a premises wishes to have more than 2 machines, it needs to apply for a permit and the Licensing Authority will consider the application based upon the Licensing Objectives, guidance issued by the Gambling Commission and 'such matters as they think relevant'.

10.5.4 This Licensing Authority considers that such 'relevant matters' will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from being harmed or exploited by gambling. We will expect the applicant to satisfy us that there will be sufficient measures in place to ensure that persons under the age of 18 do not have access to the adult only gaming machines. Measures which will satisfy this authority may include:-

- the adult gaming machines being in sight of the bar, or in sight of staff who will monitor that the machines are not being used by persons under the age of 18
- notices and signs
- provision of information leaflets/helpline numbers for organisations such as GamCare.

10.6 Alcohol Licensed Premises Gaming Machine Permits - Miscellaneous

10.6.1 We recognise that some alcohol licensed premises may apply for a premises licence for their non-alcoholic licensed areas. This may require an application for an Adult Gaming Centre premises licence.

10.7 Alcohol Licensed Premises Gaming Machine Permits – Decision Making

10.7.1 The Licensing Authority will consider applications taking into account the Licensing Objectives, Guidance issued by the Gambling Commission and such other matters as it considers relevant on a case by case basis.

10.7.2 The Licensing Authority may decide to grant an application with a smaller number of machines and/or a different category of machine but cannot attach any other conditions. However the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machines.

Prize Gaming Permits

10.8 Prize Gaming Permits – General

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

10.9 Prize Gaming Permits - Miscellaneous

10.9.1 In addition to the statutory requirements, as part of any application for a Prize Gaming Permit, the Licensing Authority will require the following, in writing, in order to ensure that adequate information is provided to enable a proper assessment to be made:

- details of any permit granted to the applicant that has previously been refused, lapsed, surrendered or forfeited
- details of any other permit held by the applicant in respect of other premises
- the nature of the prizes
- the proposed frequency of prize gaming at the premises;
- details of any training and/or training programme on the limits of stakes, prizes and permissible gambling relating to such permits
- details of any proposed precaution to secure the prevention of harm to persons under the age of eighteen and measures for implementing the same.

10.10 Prize Gaming Permits – Statement of Principles

10.10.1 In considering any application the Licensing Authority will normally have regard to the following:

- each case will be considered on its merits
- any information received as part of the application process
- the licensing objectives, any guidance and this statement, and will give particular weight to the protection of children and young persons
- such other factors as the Licensing Authority considers relevant.

10.11 Prize Gaming Permits – Decision Making

10.11.1 The Act imposes mandatory conditions on a Prize Gaming Permit. The Licensing Authority cannot impose any other conditions.

Club Gaming

10.12 Club Gaming Permits – General

10.12.1 A Club Gaming Permit provides that Members Clubs and Miners' Welfare Institutes (but not commercial clubs), subject to certain restrictions, no more than three gaming machines of Category B3A, B4, C or D, equal chance gaming and other games of chance as prescribed in regulations.

10.13 Club Gaming Permits – Miscellaneous

10.13.1 Before granting the permit the Licensing Authority must be satisfied that the premises meet the requirements of a members club and that the majority of members are over 18.

10.14 Club Gaming Machines - General

10.14.1 In circumstances where a club is only able or interested in the provision of gaming machines (as opposed to other forms of gaming), a Club Gaming Machine Permit authorises establishments to provide gaming machines where the establishment is a members club as referred to above.

10.15 Club Gaming Permits/Club Gaming Machines - Decision Making

10.15.1 The Licensing Authority cannot attach conditions to either of these permits.

10.15.2 Subject as provided below, the Licensing Authority may only refuse an application on the grounds that:

- the applicant does not fulfil the requirements of a member's or commercial club;
- the applicant's premises are used wholly or mainly by persons under the age of eighteen;
- an offence under the Act, or a breach of permit has been committed by the applicant in the course of gaming activities being carried on
- a permit held by the applicant has been cancelled in the last ten years; or
- an objection to the application has been made by the Gambling Commission or the Police.

10.15.3 In the case of a club which holds a club premises certificate under the Licensing Act 2003, the Licensing Authority may only refuse an application on the grounds that:

- the club is established primarily for gaming, other than gaming prescribed under schedule 12;
- that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

10.15.4 There are Mandatory conditions on club gaming permits and club machine permits, but a Licensing Authority has no discretion to attach any other conditions to either type of permit. The permit holder must comply with any

relevant Gambling Commission Code of Practice about the location and operation of gaming machines.

Temporary Use Notices

10.16 Temporary Use Notices - General

10.16.1 A Temporary Use Notice may be used where a gambling operator wishes to use premises (as identified in the Act) where there is no Premises Licence for temporarily providing facilities for gambling.

10.17 Temporary Use Notices - Miscellaneous

10.17.1 A Temporary Use Notice may only be granted to a person or a company holding a relevant operating licence.

10.17.2 The same set of premises may not be the subject of a temporary use notice for more than twenty-one days in any twelve month period, but may be the subject of several notices provided the total does not exceed twenty-one days.

10.17.3 It is for the Licensing Authority to determine in each case what constitutes a set of premises.

10.18 Temporary Use Notices – Decision Making

10.18.1 Where an objection has been received in relation to a Temporary Use Notice, if the Licensing Authority considers that it should not have effect or should have effect only with modification, the Licensing Authority may give a counter-notice.

10.18.2 A counter notice providing that a Temporary Use Notice will not take effect will be given by the Licensing Authority where the notice would contravene the maximum number of days available for a set of premises.

10.18.3 The counter-notice can prevent the Temporary Use Notice from having effect or may limit the Notice in other various prescribed ways.

10.18.4 The principles that the Licensing Authority applies in deciding whether to issue a counter-notice are the same as those in determining Premises Licence applications.

Occasional Use Notices

10.19 Occasional Use Notices - General

10.19.1 Where there is betting on a track on eight days or less in a calendar year, betting may be permitted by an Occasional Use Notice without the need for a Premises Licence.

10.20 Occasional Use Notices - Miscellaneous

10.20.1 Occasional Use Notices may not be relied upon for more than eight days in a calendar year.

10.20.2 The Act prescribes the requirements and process for issuing such Notices; this includes giving notice to the Licensing Authority and copying it to prescribed parties.

11. **MISCELLANEOUS**

11.1 Rights of appeal and judicial review

Havant Borough Council is aware that its decisions may be subject to an appeal in accordance with the provisions of the Act and judicial review. It also recognises that failure to give reasons for a decision may compel a person to appeal. Havant Borough Council will:

- give clear and comprehensive reasons for a rejection of an application where there is a requirement in the Act to do so
- wherever practicable, as best practice, give clear and comprehensive reasons for all decisions connected to its functions under the Act, regardless of whether there is a requirement under the Act to do so.

An appeal has to be commenced by the giving of a notice of appeal by the appellant to the local magistrate' court within a period of 21 days beginning with the day on which the appellant was notified by Havant Borough Council of the decision to be appealed against.

Any person who wishes to pursue an appeal is strongly advised to seek independent professional legal advice from a legal advisor who specialises in the law on gambling.

11.2 Other matters

In order to ensure that applicants and persons who make representations have the necessary information to be able to do so, the information below will be available on the Havant Borough Council web site (www.havant.gov.uk) or by contacting the Licensing Department at Havant Borough Council:

- Register of premises licenses issued by Havant Borough Council
- Fees
- Guidance on how to make an application
- List of responsible authorities and contact details
- Application forms, where appropriate

- Making representations
- Applying for a review of a licence

11.3 Havant Borough Council Delegations of Licensing Functions

Matter to be dealt with	Full Council	Sub-Committee of Licensing Committee	Officers
Three year licensing policy	x		
Policy not to permit casinos	x		
Fee setting (when appropriate)			x
Application for premises licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a premises licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a premises licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional transfer		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence		x	
Application for club gaming/ club machine permits		Where objections have been made (and not withdrawn)	Where no objections made/ objections have been withdrawn
Cancellation of club gaming/ club machine permits		x	
Applications for other permits			x
Cancellation of licensed premises gaming machine permits			x

Consideration of temporary use notice		X
Decision to give a counter notice to a temporary use notice	X	
Determination as to whether a person is an Interested Party		X
Determination as to whether representations are relevant		X
Determination as to whether a representation is frivolous, vexatious or repetitive		X

APPENDIX A

