

LICENSING AND REGULATION COMMITTEE

14 JUNE 2012

GAMBLING ACT STATEMENT OF PRINCIPLES – CONSULTATION DRAFT

REPORT OF THE HEAD OF LEGAL SERVICES

Contact Officer: Howard Bone Tel No: 01962 848552

RECENT REFERENCES:

None

EXECUTIVE SUMMARY:

Under the Gambling Act 2005, the City Council as licensing authority is required to review and publish its Statement of Principles every three years. This Statement sets out the Council's approach to licensing issues under the Act. Prior to publishing the revised statement, a consultation exercise must be carried out.

The current Statement runs until 31 January 2013, and the Council therefore needs to review it and publish a new Statement for the three years from 1 February 2013. A revised draft Statement has been prepared, attached as Appendix 1 to this report, to cover the three years from 1 February 2013. Members are requested to consider the draft and agree its publication as part of the consultation process, which will lead to the adoption of the new Statement.

RECOMMENDATIONS:

- 1 That the draft Statement of Principles attached at Appendix 2 be approved for publication as a consultation draft.
- 2 That the consultation process for the draft Statement of Principles set out in Section 5 of this report be agreed.

## LICENSING AND REGULATION COMMITTEE

14 JUNE 2012

### GAMBLING ACT STATEMENT OF PRINCIPLES – CONSULTATION DRAFT

#### REPORT OF THE HEAD OF LEGAL SERVICES

#### DETAIL:

##### 1 Introduction

- 1.1 Under Section 349 of the Gambling Act 2005, the City Council is under a duty to prepare and publish a “Statement of Principles” every three years, setting out the principles which it proposes to apply in carrying out its functions under the Act. The Council adopted the first Statement of Principles for the period from 1 February 2007 to 31 January 2010. It was reviewed for the period 1 February 2010 to 31 January 2013 and this report therefore deals with the preparation of the first review of that Statement. The reviewed Statement must be in place by no later than 31 January 2013.
- 1.2 The Gambling Act 2005 repealed previous gambling legislation and consolidated it into one Act covering most categories of gaming activities. A new body, the Gambling Commission, was established to licence gambling operators. Previously, local authorities had certain powers in respect of gambling (notably small lotteries and low value gaming machines in non-licensed premises), and these powers were extended to give the City Council (as licensing authority) a wider role, and new enforcement powers.
- 1.3 The Act contains three licensing objectives that underpin the functions that the Commission and Licensing Authorities perform and which are central to the regulatory regime. They 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
  - protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 1.4 Prior to determining the reviewed Statement, the Council must carry out a consultation exercise, and consider the views of various individuals and groups before the policy is published. This report therefore seeks approval to a draft Statement for consultation purposes.

##### 2 Role of the Council as Licensing Authority

- 2.1 Under the Act, Licensing Authorities (which are the same authorities as under the Licensing Act 2003) issue premises licences to premises where gambling

is to take place, and also issue permits for certain other types of gambling activity.

## 2.2 The functions of the City Council include:-

- Preparing a Gambling Licensing Policy and reviewing it every 3 years;
- Dealing with and regulating the following licences notices permits and activities:-
  - premises licences for gambling activities;
  - notices given for the temporary use of premises for gambling;
  - permits for gaming and gaming machines in clubs ;
  - gaming and gaming machines in alcohol licensed premises;
  - permits to family entertainment centres for the use of certain lower stake gaming machines;
  - permits for prize gaming;
  - occasional use notices for betting at tracks; and
  - registering small societies' lotteries
- Deciding whether or not to permit new casino premises in their area;
- Monitoring and inspection of premises to ensure licence conditions are complied with;
- Ensuring applications are adequately consulted with Interested Parties (residents/those affected by the gambling premises) and Responsible Authorities (Statutory consultees such as police, fire, planning etc);
- Appointing a Licensing Committee made up of local Councillors to determine applications that receive representations (the same committee established under the Licensing Act).

2.3 As in the case of the Licensing Act 2003, certain matters (e.g. the approval of the Statement of Principles, and a decision on a “no casinos” resolution) are reserved to Full Council by the Gambling Act. Other matters may be decided by the Licensing Committee (i.e. Licensing and Regulation Committee) or a Sub-Committee (i.e. the Licensing Sub-Committee of three Members). All other matters are delegated to officers.

2.4 Appendix 1 gives more details on the types of Licences and activities which are regulated by the Council under the Act.

## 3 Impact of the Act in Winchester

3.1 The Act has had a limited impact on the City Council, due to the type and level of gambling which occurs in the district. There are no casinos built or planned in Winchester, nor are there any bingo halls or amusement arcades.

3.2 There are 6 betting shops and approximately 150 pubs and clubs with gaming machines. The Council also licenses small society lotteries, of which there are around 120.

- 3.3 Prior to 31 July 2009, takeaway food premises and taxi offices were permitted to provide category D machines for use. This entitlement ceased on that date.

#### 4 Statement of Principles.

- 4.1 The current full Statement has been reviewed by officers, and a draft Statement to cover the next three year period is set out in Appendix 2 to this report. The draft Statement has been drafted in accordance with the provisions in the Act, Regulations, and the Commission's Guidance. As much of the contents and structure of the Statement are dictated by these provisions, the Council has limited discretion on what can and cannot be included in it. There are a number of matters that the Council, as Licensing Authority, cannot consider, including moral objections to gambling, considerations around planning or the likelihood of applications being granted planning permission and finally the demand for gambling premises.
- 4.2 The current Statement has operated successfully for the past six years. No issues have arisen which require addressing in the reviewed Statement and therefore no substantial changes have been made.

#### 5 Consultation Arrangements

- 5.1 The consultation arrangements are set out at the start of the draft Statement. The Council is required to consult the Police, one or more persons who appear to the Council to represent the interests of persons carrying on gambling businesses in the district; and one or more persons who appear to the Council to represent the interests of persons who are likely to be affected by the exercise of the Council's functions under the Act.
- 5.2 Following approval of the draft Statement by this Committee, the Statement will be published as a consultation draft, and sent to the Police. It will be made available on the website. Letters of consultation will be sent to other consultees, explaining the process, and referring to the website if consultees wish to look at the draft Statement. A paper copy will be sent to anyone who requests one.
- 5.3 The consultation period will run from 2 July to 12 August 2012, after which the responses will be collated and a report presented to a meeting of the Committee on 11 October 2012. A final version will then be presented for adoption to Council at its meeting of 7 November 2012, and the statutory publicity arrangements made by 21 January 2013. The Statement will come into effect on 31 January 2013.

#### 6 Fees

- 6.1 Fees are set by licensing authorities on the basis of cost recovery, subject to prescribed maximum levels.

- 6.2 Fees for lotteries, gaming machine and club gaming permits are set nationally.

OTHER CONSIDERATIONS:

7 SUSTAINABLE COMMUNITY STRATEGY (RELEVANCE TO):

- 7.1 This report is relevant to the objectives of a varied economy, and encouraging people to take positive changes to their lifestyles for better physical and emotional health.

8 RESOURCE IMPLICATIONS:

- 8.1 Income and expenditure is forecast to remain at existing levels and within the current approved budgets.

9 RISK MANAGEMENT ISSUES

- 9.1 There are no risk management issues which are relevant to this report.

BACKGROUND DOCUMENTS:

Guidance to Licensing Authorities 3<sup>rd</sup> Ed – Gambling Commission May 2009

APPENDICES:

Appendix 1 – Additional Background information on Gambling Act

Appendix 2 - draft Statement of Principles

## 1 Types of Premises and Gambling Activities

- 1.1 The Act defines various premises where gambling takes place, and the activities which are regulated under the Act. This Appendix gives brief details of these premises and activities.

### **Casinos**

- 1.2 These are large gambling establishments, operating “casino games”, which essentially are games of chance which involve playing or staking against a bank. There are no casinos operating or planned in Winchester.

### **Gaming Machine Categories**

- 1.3 Under the Act, gaming machines such as one armed bandits are categorised as A, B, C or D. The category into which a particular machine falls depends on the maximum amount of each stake which can be paid into the machine, and the maximum value of the prize which can be paid out, with Category A machines having unlimited stakes/prizes, and Category D machines having the lowest, 10p stake and £5 cash prize, or 30p for non-cash prize to the maximum value of £8 Category B machines are broken down further into sub-categories.
- 1.4 Only players over 18 may play machines in Categories A, B, or C. There are also limits on the numbers of machines in a particular premises, depending on how the premises are licensed.

### **Adult Gaming Centres**

- 1.5 This was a new category of premises introduced by the Act. Such premises may operate gaming machines in Categories B, C, or D, and therefore can only be accessed by adults over 18. Up to four Category B machines may be provided, with no limit on Category C and D machines. The arcades licensed by the Council at the two M3 Services Areas at Winchester North fall into this classification.

### **Family Entertainment Centres – Licensed and Unlicensed**

- 1.6 Family Entertainment Centres (FECs) fall into two sub-types, licensed and unlicensed. Arcades found at the seaside and in airports and motorway service areas would normally be classed as FECs. By definition, children may enter these Centres, whether or not they are accompanied by an adult, although they may be restricted to certain areas of the premises.
- 1.7 Licensed FECs may provide Category C or D machines, but must restrict C machines to a designated area and limit access to this area to over 18s only. Licensed FECs require an operators licence (from the Gambling Commission) and a premises licence (from the City Council), to which conditions may be attached.

- 1.8 Unlicensed FECs can only offer Category D machines, although there is no limit on the number of machines which can be provided. A Gaming Machine Permit (issued by the City Council) must be in force for the premises. Permits may be granted or refused, but cannot have conditions attached to them. The Police must be consulted before an application for a permit is granted, and the permit has effect for 10 years.

### **Bingo**

- 1.9 Bingo is not defined, but can comprise cash bingo (where the cash prizes are made up of the stakes paid) and prize bingo (where the prize offered is not related to the stakes paid).
- 1.10 There are no commercial bingo halls in the District. Under the Act. Adult Gaming centres, FECs, and Travelling fairs will be able to offer prize bingo within the general authorisations (premises licence/permit) under which they operate. It is therefore unlikely that specific applications for premises licences for bingo will need to be dealt with.

### **Betting Premises**

- 1.11 Betting premises are the traditional betting shops on the high street, away from a racing track venue. Premises Licences are issued by the City Council for such premises. Children are not be permitted to enter betting premises. Conditions may be imposed on the premises licence, and the operator may offer gaming machines as well as betting facilities (up to four in Categories B C or D).
- 1.12 There are six such premises in the District. Two new premises have obtained licences since the Act came into force.

### **Tracks**

- 1.13 Tracks are racecourses used for racing by horses and dogs. Although provisions are included in the draft Statement to cover tracks (based on the LACORS template and Hampshire model), this report does not cover tracks in detail, as there are none in the District, and it is unlikely that such premises would be proposed in the future.

### **Travelling Fairs**

- 1.14 Travelling fairs may provide gambling by Category D machines (without limit as to numbers), or by prize gaming, without a permit, provided they comply with certain restrictions. Gambling must be an ancillary amusement at the fair for this exception to apply.
- 1.15 A single piece of land can only be used as a Travelling Fair for no more than 27 days per calendar year. Otherwise, a premises licence or permit would be required.

**Prize Gaming**

- 1.16 Prize gaming is defined in the Act as gambling 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.
- 1.17 A Prize Gaming Permit will authorise the use of premises for this purpose. The permit is issued by the City Council, and applications may be granted or refused, although conditions cannot be attached. The Police must be consulted, and if granted, the permit lasts for ten years. A permit can only be refused after the applicant has had an opportunity to make representations against the proposal to refuse the application. Any permit will lapse if the holder ceases to occupy the premises.
- 1.18 The draft Statement includes the suggested principles which the City Council would apply in determining applications for permits.

**Alcohol-licensed premises**

- 1.19 The Act provides an automatic entitlement (subject to the premises serving notice on the City Council) to the provision of two Category C machines on premises licences to sell alcohol on (as opposed to off) the premises. The Council cannot reject such a notification, although it can by order remove the right, subject to a prescribed procedure being followed.
- 1.20 In place of the automatic right, alcohol-licensed premises can apply to the City Council for a permit to provide more than two Category C or D machines. The Council can grant or refuse the application, and can impose conditions to limit the number and category of machines. Such permits are in force for as long as the (Licensing Act) premises licence is held by the applicant. Where the premises licence is transferred, the permit lapses and would to be applied for again, unless an application is made beforehand to transfer the permit.

**Gaming machines in Takeaways, Taxi Offices, etc**

- 1.21 Under the previous legislation, the City Council granted permits for fruit machines in premises such as takeaways, taxi offices, etc. Permits for similar machines in pubs were granted by the Licensing Justices and effectively were continued under the new provisions governing alcohol-licensed premises (see previous paragraph).
- 1.22 Under the Act, renewals of existing permits for takeaways and taxi offices were not permitted after 1 August 2006. From 31 July 2009, any permits still remaining in force expired and it is unlawful to provide fruit machines in these premises.



**Club Gaming**

- 1.23 Clubs are able to apply for club gaming permits to allow them to provide gaming machines on the premises. This would allow (subject to conditions) machines in categories B3A or B4, C and D to be provided.
- 1.24 Alternatively, clubs can apply for a club machine permit, which would allow up to three machines in total, in Categories B3A or B4, C, and D.
- 1.25 Clubs must have at least 25 members, and must be established wholly or mainly for purposes other than gaming, unless covered by separate regulations. Bridge and whist clubs are expected to be provided for in regulations to be issued.



**Winchester**  
City Council

# **STATEMENT OF PRINCIPLES**

## **GAMBLING ACT 2005**

Howard Bone,  
Head of Legal Services,  
Winchester City Council

June 2012.

This Statement of Principles will remain  
in force from 31<sup>st</sup> January 2013 until 31<sup>st</sup> January 2016

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**Part D            Reviews and Appeals**

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**Appendix 2    Glossary**

# **WINCHESTER CITY COUNCIL**

## GAMBLING ACT 2005

### SECTION 349

#### Statement of Principles

**The contents of this document are provided as information on the policy and principles of Winchester City Council in carrying out its functions in relation to the regulation of gambling. The document is not a full and authoritative statement of the law or statutory guidance and does not constitute professional or legal advice.**

**The Statement of Principles as determined by Winchester City Council in respect of its licensing functions in relation to the Gambling Act 2005 for the three year period commencing 31<sup>st</sup> January 2013 is set out in this document. During the three year period, the document will be kept under regular review and, following a full consultation process, the Council will make such revisions to it, at such times, as it considers appropriate. Further statements of principles will be published every three years thereafter.**

#### **Publication**

This statement or any subsequent revision of the statement will be published on the Winchester City Council website ([www.winchester.gov.uk](http://www.winchester.gov.uk)). The statement or any subsequent revision of the statement is also available for inspection at the following location:

Winchester City Council Offices at Colebrook Street, Winchester, Hants.

## **Declaration**

**In publishing this document, Winchester City Council has had regard to the licensing objectives of the Gambling Act 2005 (the Act), the guidance issued by the Gambling Commission and any responses from those consulted on the policy statement.**

The Act introduced a new regulator for commercial gambling, the Gambling Commission (“the Gambling Commission”), which replaced the Gaming Board of Great Britain. Operators licences and personal licences are issued and regulated by the Gambling Commission whilst local authorities (such as Winchester City Council) are responsible for the issue and regulation of premises licences, and other permits.

**The Act places responsibilities on licensing authorities in ways similar to the Licensing Act 2003. There are some interdependencies between the Licensing Act 2003 and the Gambling Act 2005 in terms of the framework for decision making and the procedures that must be followed. However Winchester City Council will take care to ensure that in dealing with applications under the Gambling Act it follows the procedures that the Gambling Act 2005 requires and only takes into account issues that are relevant to that Act. Care will be taken not to confuse Gambling Act considerations with those relevant to alcohol licensing or planning.**

**When using this document, reference should also be made to the Gambling Act 2005, any associated regulations and any guidance and advice issued by the Gambling Commission or the Department of Culture, Media and Sport and information contained on the Winchester City Council web site ([www.winchester.gov.uk](http://www.winchester.gov.uk))**

## **Introduction**

The Winchester area is situated in the central part of the County of Hampshire. It covers an area of approximately 250 square miles, and is largely countryside, with urban areas being Winchester itself (the largest area in the District), with smaller towns such as New Alresford, Bishop's Waltham, and Wickham and many villages.

Tourism is a major part of the local economy and every year approximately 4.25 million visits are made to the area, particularly to Winchester City Centre.

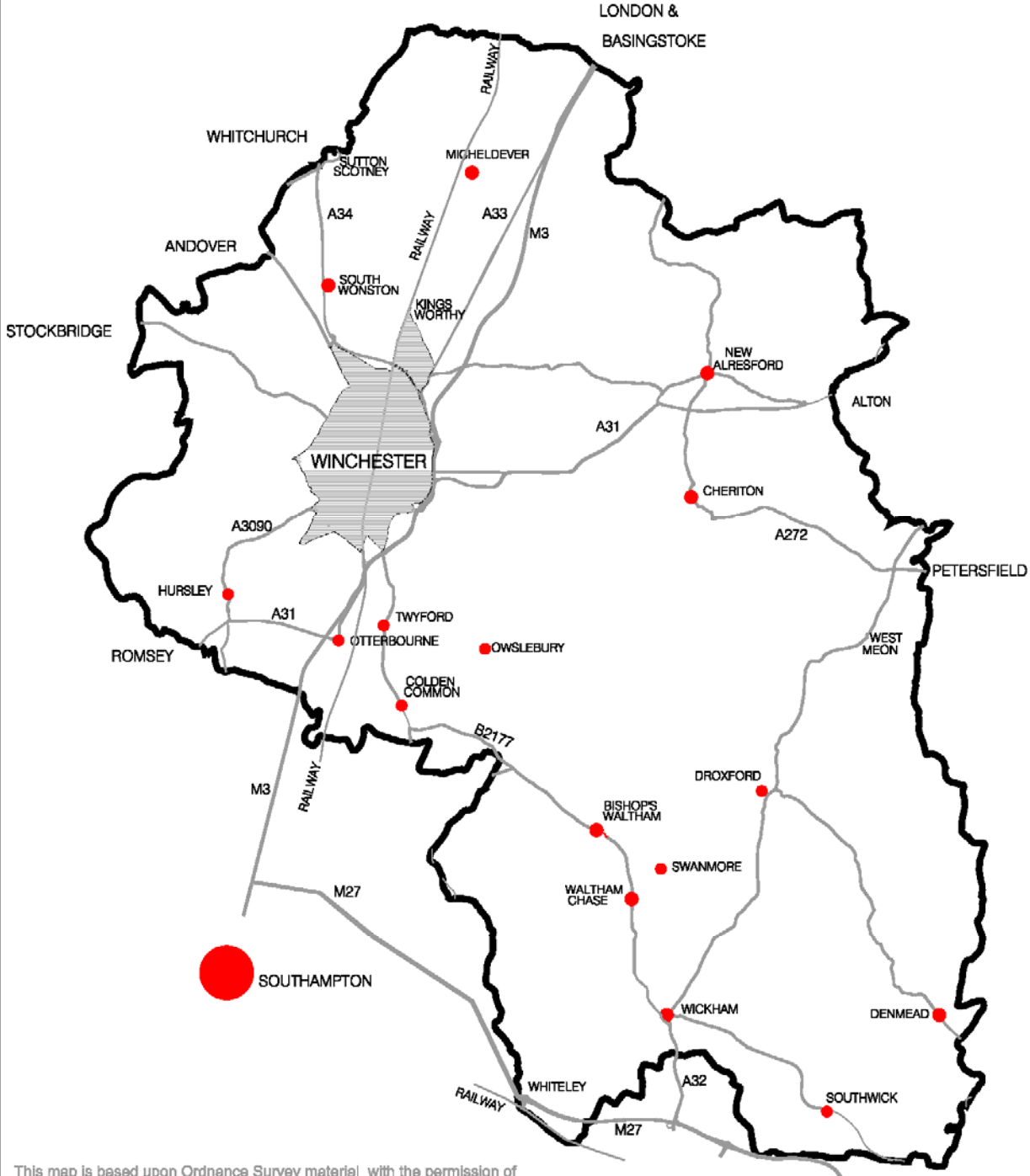
The Winchester area faces many challenges if its special character is not to be eroded by the modern day pressures of people, housing, industry and traffic. It has a number of premises conducting gambling activities as follows:

- 6 betting offices
- Approximately 600 premises licensed under the Licensing Act 2003, a large proportion of which include the supply of alcohol
- 48 members clubs.

At the time of publication there are no bingo halls, tracks or casinos within the Winchester City Council area.

The Council recognises that legal gambling in a fair and open way, with suitable protection for vulnerable persons, is an important part of the District and contributes to the local economy and attention is drawn to the section 'Fundamental Principles' regarding demand, objections and locations for any application for gambling premises.

# General Location Map of Winchester City Council District



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# **PART A**

## **1. Winchester City Council Functions**

1.1 As Licensing Authority for the purposes of the Gambling Act 2005, Winchester City 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 Gaming Machine Permits* ;
- Issue *Club Gaming 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, where 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.

1.2 "Remote gambling" (gambling by means such as the internet, or telephone) will be regulated by the Gambling Commission via Operator Licences, and not the City Council.

*Note – terms in italics are defined terms in the Gambling Act 2005. The Glossary in Appendix 1 sets out these and other terms in the Act.*

## **2. Licensing Objectives**

2.1 In exercising most of the functions under the Gambling Act 2005, Winchester City Council must have regard to the licensing objectives contained in that Act. In particular it must have regard to the licensing objectives when exercising its functions in relation to premises licences, temporary use notices and some permits. 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.

- 2.2 In accordance with Section 153 of the Act, the City Council will aim to permit the use of premises for gambling in so far as the Council thinks is-
- (a) in accordance with any relevant code of practice issued by the Gambling Commission;
  - (b) in accordance with any relevant guidance issued by the Gambling Commission;
  - (c) reasonably consistent with the licensing objectives;
  - (d) in accordance with this Statement of Principles.

**It should be noted that in considering gambling applications, these objectives are not the same as those in the Licensing Act 2003. In particular, they do not include considerations in relation to public safety or prevention of public nuisance.**

- 2.3 The Gambling Commission will play a leading role in preventing gambling from being a source of crime. Winchester City Council will also need to consider the location of premises in the context of preventing gambling from being a source of crime or disorder. In this context, disorder means activity that is more serious and disruptive than mere nuisance and Winchester City Council will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction. Issues of nuisance cannot be addressed via the Gambling Act provisions.
- 2.4 In ensuring that gambling is conducted in a fair and open way, Winchester City Council has noted that the Gambling Commission has stated that it would generally not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section of this document. Also, where appropriate, Winchester City Council will pay attention to the information that is made available to customers using gambling facilities that are regulated by permits.
- 2.5 The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling. Winchester City Council will therefore consider whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances/machines, segregation of areas etc. Winchester City Council will also need to consider the location of premises in the context of protecting children and vulnerable persons.

### **3. Consultation on the statement of principles**

3.1 Winchester City Council will consult the following on this statement:

- The Chief Constable of Hampshire Constabulary;
- One or more persons who appeared to the City Council to represent the interests of persons carrying on gambling businesses in the Winchester area, namely the Association of British Bookmakers Ltd, Claremont Automatics Ltd, Australian 8 Ball Co. Ltd, Leisure Link, Winchester Automatics Limited and various breweries who hold Premises Licences within the District.
- One or more persons who appeared to the City Council to represent the interests of persons who are likely to be affected by the exercise of the Council's functions under the Act, namely all Ward Members, Parish Councils, Gamblers' Anonymous, Winchester and Bishop's Waltham Citizens' Advice Bureaux offices, the Mid-Hants Primary Care Trust, and known residents' associations.

3.2 Winchester City Council will also consult the above for any subsequent revision of the statement.

3.3 The Council's draft Statement will be published for consultation on 8 October 2009 and will allow until 12 November 2009 for comments.

3.4 The Statement will be presented at a meeting of the Full Council on 6 January 2010 for approval.

3.5 In determining its Statement of Principles (or any revision thereof), Winchester City Council will always:

- Have regard to the Gambling Commission Guidance to Licensing Authorities;
- Give appropriate weight to the views of those it has consulted.

3.6 In determining what weight to give to particular representations on its statement, the factors taken into account will always include:

- Who is making the representation in terms of their expertise or interest;
- What their motivation may be for their views;
- How many other people have expressed the same or similar views;
- How far the representations relate to matters that the licensing authority should be including in its policy statement.

3.7 It will be for Winchester City Council to ensure that it looks at the views of consultees and considers carefully whether they should be taken into account, and to what extent (having regard to the above factors). Winchester City Council will always give reasons for the decisions it has made following consultation, details of which can be viewed on the Winchester City Council

web-site or by contacting the Licensing Section at the City Council Offices, Colebrook Street, Winchester.

3.8 Any comments as regards this policy should be sent to:

Licensing & Registration Manager  
Winchester City Council  
Colebrook Street  
Winchester  
SO23 9LJ

Email: [licensing@winchester.gov.uk](mailto:licensing@winchester.gov.uk)

#### **4. Fundamental Principles**

4.1 In carrying out its functions, Winchester City Council will regulate gambling in the public interest and will have regard to the guidance issued under Section 25 of the Act. With the exception of premises licensing and temporary use notices, Winchester City Council may use its discretion where there are strong and defensible reasons for departing from the guidance, and Winchester City Council consider it right to do so. In any such case the City Council will clearly express and explain its reasons for doing so.

4.2 This Statement of Principles does not override the right of any person to make an application under the Act and to have that application considered on its merits. Additionally, this Statement of Principles does not undermine the right of any person to make representations on an application or to seek a review of a licence where provision has been made for them to do so.

4.3 The Statement of Principles will not comment on the need for gambling premises. Unmet demand is not a criterion in considering an application for a premises licence, and each application will be considered on its merits without regard to demand.

4.4 The location of premises will only be commented on in so far as the location relates to the licensing objectives. Winchester City Council will consider very carefully applications for premises licences, permits and other authorities in respect of certain gambling premises that are located close to:

- Schools and young persons establishments;
- Young offenders premises;
- Centres established for assisting persons with a gambling addiction;
- Vulnerable adult centres;
- Residential areas where there are a high concentration of families with children.

4.5 Each application will be considered on its merits, and will depend to a large extent on the type of gambling that it is proposed will be offered on the premises. If an applicant for a premises licence can show how licensing objective concerns can be overcome, that will be taken into account when reaching a decision on whether or not to grant a licence.

4.6 Moral objections to gambling will not be a reason to reject an application for premises licences. In rejecting an application, Winchester City Council will rely on reasons that demonstrate that the licensing objectives are not being met.

## **5. Responsible authorities and interested parties**

5.1 When dealing with applications for and reviews of premises licences, Winchester City Council are obliged to consider representations from two categories of persons, referred to as “responsible authorities” and “interested parties.” (It should be noted that these are defined differently to those defined in the Licensing Act 2003). Representations made by persons other than responsible authorities or interested parties will be inadmissible.

5.2 Winchester City Council will only consider representations that are relevant, which are likely to be those that relate to the licensing objectives, or that raise issues under this policy statement, or the Commission’s guidance or codes of practice (i.e. those matters mentioned in Section 153 of the Act).

5.3 Winchester City Council will examine closely all representations to ensure that they are not frivolous or vexatious, which will include:

- Who is making the representation, and whether there is a history of making representations that are not relevant;
- Whether it raises a ‘relevant’ issue; or
- Whether it raises issues specifically to do with the premises that are the subject of the application.

5.4 “Responsible authorities” are public bodies that must be notified of applications by the applicant. They are identified in Section 157 of the Gambling Act 2005, and include:-

- Winchester City Council as Licensing Authority;
- The Gambling Commission;
- The Chief Constable of Hampshire Constabulary;
- Hampshire Fire and Rescue Service;
- The Directorate of Development, Winchester City Council (the local planning authority);
- The Directorate of Communities, Winchester City Council (responsible pollution to the environment/harm to human health);
- The Local Safeguarding Children Board for Hampshire;
- HM Revenue and Customs.

The full list and contact details are contained on the Winchester City Council website ([www.winchester.gov.uk/licensing](http://www.winchester.gov.uk/licensing)).

- 5.5 Winchester City Council is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:
- 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 vested interest group.
- 5.6 Winchester City Council has designated the Local Safeguarding Children Board as the body which is competent to advise the authority about the protection of children, as the Board leads and co-ordinates arrangements for responsive work to protect children via a multi agency approach.
- 5.7 Winchester City Council will take care to ensure that the concerns that responsible authorities may have in relation to their own functions are not taken into account if they are not relevant to the application for a premises licence under the Act. The following are examples of representations not likely to be considered relevant:
- that there are already too many gambling premises in the locality (although may be relevant if it points to rising problems in crime, underage gambling or problem gambling);
  - that the proposed premises is a fire risk;
  - that the location of the premises is likely to lead to traffic congestion;
  - that the premises will cause crowds of people to congregate in one area, which will be noisy and a nuisance

This list is not exhaustive and each case will be decided in the facts.

- 5.8 Winchester City Council will be unlikely to turn down an application for a premises licence where relevant objections can be dealt with through the use of conditions attached to the licence.
- 5.9 "Interested parties" are persons who may make representations or apply for a review of a licence or permit. Winchester City Council must be able to take the view that the "interested party":
- lives sufficiently close to the premises to be likely to be affected by the authorised activities; or
  - has business interests that might be affected by the authorised activities; or
  - represents persons in either of those two groups.

- 5.10 Interested parties can be persons who are democratically elected such as councillors and MPs. No specific evidence of being asked to represent an interested person will be required as long as the councillor/MP represents the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these however, the City Council will generally require written evidence that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.
- 5.11 If interested parties wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Sub-Committee dealing with the licence application. If there are any doubts then please contact the Democratic Services Division, Winchester City Council at City Council Offices, Colebrook Street, Winchester, SO23 9LJ, [democracy@winchester.gov.uk](mailto:democracy@winchester.gov.uk), tel. 01962 848155.
- 5.12 Winchester City Council will take the following factors into account when determining what is "sufficiently close to the premises":-
- 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 (number of customers, routes likely to be taken by those visiting the establishment); and
  - the nature of the complainant. This will not include the personal character of the complainant, but the interests of the complainant which may be relevant to the distance from the premises.
- 5.13 Winchester City Council will take the following factors into account when determining who are "persons with business interests that could be affected":-
- the size of the premises;
  - the catchment area of the premises i.e. how far persons travel to visit; and
  - whether the person making the representation has business interests in that catchment area that might be affected.
- 5.14 Winchester City Council considers the following to be "persons representing those" in the above categories:-
- Residents and tenants associations;
  - Elected Members;
  - Trade unions and trade associations.

- 5.15 The City Council will only accept representations from such persons where they represent someone who can be classed as an interested party, i.e. someone who lives sufficiently close the premises to be likely to be affected by the activities being applied for, or someone with business interests that could be affected.
- 5.16 The above considerations are not exhaustive, and Winchester City Council will have regard to anything an interested party, or persons representing them, say about his or her status to make representations.
- 5.17 Admissible and relevant representations can be made in writing to the Licensing Team of the Head of Legal Services, Winchester City Council at City Council Offices, Colebrook Street, Winchester, SO23 9LJ, email [licensing@winchester.gov.uk](mailto:licensing@winchester.gov.uk)

## **6. Exchange of Information**

- 6.1 Winchester City Council will act in accordance with the relevant legislation and guidance from the Commission and will adopt the principles of better regulation in exercising the functions under Sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under Section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.
- 6.2 Winchester City Council will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. Winchester City Council will also have regard to any Guidance issued by the Gambling Commission to local authorities on this matter when it is published, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.
- 6.3 Should any protocols be established by the City Council as regards information exchange with other bodies then they will be made available on the Winchester City Council website [www.winchester.gov.uk/licensing](http://www.winchester.gov.uk/licensing).
- 6.4 Discussions with the Gambling Commission and LACORS (the Local Authorities Coordinators of Regulatory Services) as regards information exchange between the Commission and local authorities are, at the time of writing, at an early stage.

## **7. Compliance and Enforcement**

- 7.1 The main enforcement and compliance role for Winchester City Council will be to ensure compliance with the premises licences and other permissions which it authorises. 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 Winchester City Council will act in accordance with relevant legislation and guidance from the Commission and adopt the principles of better regulation.

7.3 Should any protocols be established as regards information exchange with other bodies then they will be made available on the Winchester City Council web-site [www.winchester.gov.uk](http://www.winchester.gov.uk)

7.4 Winchester City Council will adopt a risk-based inspection programme, which includes the targeting of high risk premises which require greater attention, whilst operating a lighter touch in respect of low risk premises.

7.5 In determining the level of risk in respect of premises, Winchester City Council will use the following criteria:

All regulatory inspections and enforcement will 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.

7.6 Winchester City Council will endeavour to avoid duplication with other regulatory regimes so far as possible.

7.7 Winchester City Council recognises that certain bookmakers may have a number of premises within the same area. In order to ensure that any compliance issues are recognised and resolved at the earliest stage, operators are requested to give to the Council a single named point of contact, who should be a senior individual, and whom the Council will contact first should any compliance queries or issues arise.



# **PART B**

## **Premises licences**

### **1. Consideration of applications**

- 1.1 Winchester City Council will aim to permit the use of premises for gambling in so far as it thinks it:-
- in accordance with any relevant code of practice under Section 34 of the Gambling Act 2005;
  - in accordance with any relevant guidance issued by the Commission under Section 25 of the Gambling Act 2005;
  - reasonably consistent with the licensing objectives; and
  - in accordance with this Statement of Principles.
- 1.2 The 'Fundamental Principles' section of this Statement are also relevant to the Council's approach to determining applications.

### **2. Conditions on premises licences**

- 2.1 Winchester City Council will not attach conditions that limit the use of premises for gambling except where that is necessary as a result of the requirement to act:-
- in accordance with the Gambling Commission guidance, the Gambling Commission codes of practice or this Statement of Principles; or
  - in a way that is reasonably consistent with the licensing objectives.
- 2.2 Winchester City Council cannot issue conditions on premises licences which:-
- make it impossible to comply with an operating licence condition;
  - relate to gaming machine categories, numbers, or methods of operation;
  - requires membership of a club or body; and
  - imposes conditions in relation to stakes, fees, winnings or prizes.
- 2.3 Winchester City Council will ensure that any conditions imposed are proportionate to the circumstances which they are seeking to address, and that any premises licence conditions:-
- are relevant to the need to make the proposed building suitable as a gambling facility;
  - are directly related to the premises and the type of licence applied for;

- are fairly and reasonably related to the scale and type of premises; and
- are reasonable in all other respect.

2.4 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures which the City Council will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. The City Council will also expect the licence applicant to offer his/her own suggestions as to way in which the licensing objectives can be met effectively.

2.5 Winchester City Council will also ensure that where category C or above machines are on offer in premises to which children are admitted:

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

2.6 These considerations will apply to premises including buildings where multiple premises licences are applicable.

2.7 Winchester City Council will carefully consider the configuration of buildings in relation to the protection of children, particularly in multi-purpose developments. In particular Winchester City Council will look for measures that:

- prevent children from participating in gambling, or being invited to gamble where this is not permitted by law;
- prevent children from having accidental access to, or to closely observe, gambling; and
- 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.

2.8 Winchester City Council may require persons operating gambling premises to:

- supervise entrances;
- segregate gambling areas from non-gambling areas frequented by children;

- supervise gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives.

### **3. Planning permission and building regulations**

- 3.1 Winchester City Council recognises that there should be a clear separation of the planning and licensing systems and licensing applications will be viewed independently of planning applications. To achieve this, close liaison will be maintained between the Planning Development Control and Licensing and Regulation Committees ("PDC" and "L & R"). Licensing applications are not a re-run of the planning application and should not cut across decisions taken by the PDC or following appeals against decisions by that Committee. L & R, where appropriate, will provide reports to PDC and any appropriate review panels on the situation regarding licensed premises in the area including the general impact of gambling on the licensing objectives.
- 3.2 Winchester City Council will not take into account matters not related to gambling and the licensing objectives, such as the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal. However, an applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed, but may apply for a provisional statement if the building is not yet complete.
- 3.3 It will be a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence.

### **4. Other legislation**

- 4.1 Winchester City Council will not take into account matters not related to gambling and the licensing objectives when considering an application for a premises licence. However, it is for the operator to ensure that premises comply with all other relevant legislation, such as fire safety, food safety and health & safety. It should be noted that the list is not exhaustive, and applicants must ensure that they comply with all other regulatory regimes in respect of their employees and the public.
- 4.2 So far as is possible, this Statement of Principles will avoid duplicating those other regulatory regimes.

### **5. Provisional Statements**

- 5.1 Winchester City Council will consider provisional statement applications from persons in respect of premises that:-
- are expected to be constructed;
  - expected to be altered; or
  - expected to be acquired as a right to occupy.

- 5.2 Responsible authorities and interested parties may make representations on applications for provisional statements.
- 5.3 Once the premises have been constructed, altered or acquired, the holder of a provisional statement can return to Winchester City Council and put in an application for the necessary premises licence.
- 5.4 No further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances.
- 5.5 Winchester City Council may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:
- a) which could not have been raised by objectors at the provisional licence stage; or
  - b) which in the City Council's opinion reflect a change in the operator's circumstances.

## **6. Adult Gaming Centres**

- 6.1 Winchester City Council will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.
- 6.2 The City Council will expect applicants to offer their own measures to meet the licensing objectives: however, appropriate measures/licence conditions may cover issues such as:-
- Proof of age schemes;
  - CCTV;
  - Supervision of entrances / machine areas;
  - Physical separation of areas;
  - Location of entry;
  - Notices / signage;
  - Specific opening hours;
  - Self-barring schemes;
  - Provision of information leaflets/helpline numbers for organisations such as GamCare.
- 6.3 This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

## **7. Licensed Family Entertainment Centres**

- 7.1 Winchester City Council 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 Council, 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.

7.2 The City Council will expect applicants to offer their own measures to meet the licensing objectives: however, appropriate measures/licence conditions may cover issues such as:-

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

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

7.4 The City Council will refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. It will also make itself aware of any mandatory or default conditions on these premises licences when published.

## **8. Tracks**

8.1 Although it is possible for athletics tracks, sports grounds or motor racing circuits to be granted a premises licence to allow on-course betting, most track premises licences are expected to be issued in respect of horse racecourse or dog tracks. There are no such tracks within the Winchester City Council area. However, the following are issues that would need to be considered should an application be received.

8.2 Winchester City Council is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. Winchester City Council will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

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

8.4 The City Council will expect applicants to offer their own measures to meet the licensing objectives: however, appropriate measures/licence conditions may cover issues such as:-

- Proof of age schemes;

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

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

8.6 Gaming machines - Winchester City Council will consider the location of gaming machines at tracks, and applications for track premises licences will need to demonstrate that, where the applicant holds a pool betting operating licence and is going to use his entitlement to four gaming machines, these machines are located in areas from which children are excluded. Children and young persons are not prohibited from playing category D gaming machines on a track.

8.7 Betting machines – Winchester City Council will take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer. It will also take note of the Gambling Commission's suggestion that licensing authorities will want to consider restricting the number and location of such machines in respect of applications for track betting premises licences.

8.8 Condition on rules being displayed - The Gambling Commission has advised in its Guidance for local authorities that "...licensing authorities should attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office."

8.9 Applications and plans - The City Council is in accordance with the Gambling Commission's suggestion "To ensure that licensing authorities gain a proper understanding of what they are being asked to license they should, in their licensing policies, set out the information that they will require, which should include detailed plans for the racetrack itself and the area that will be used for temporary "on-course" betting facilities (often known as the "betting ring") and in the case of dog tracks and horse racecourses fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities." and that "Plans should make clear what is being sought for authorisation under the track betting premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence."

- 8.10 The City Council also notes that in the Commission's view, it would be preferable for all self-contained premises operated by off-course betting operators on track to be the subject of separate premises licences, to ensure that there is clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

## **9. Casinos**

- 9.1 No Casinos resolution – Winchester City Council has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should the Council decide in the future to pass such a resolution, it will update this Statement of Principles with details of that resolution.
- 9.2 Casinos and competitive bidding – Winchester City Council is aware that where a licensing authority area is enabled to grant a Premises Licence for a new style casino (i.e. the Secretary of State has made such regulations under Section 175 of the Gambling Act 2005) there are likely to be a number of operators which will want to run the casino. In such situations the local authority will run a 'competition' under Schedule 9 of the Gambling Act 2005. The Council will run such a competition in line with any regulations issued under the Gambling Act 2005.
- 9.3 Licence considerations/conditions - The Gambling Commission has stated that "further guidance will be issued in due course about the particular issues that licensing authorities should take into account in relation to the suitability and layout of casino premises" (Gambling Commission Guidance for local authorities - 17.30) This guidance will be considered by Winchester City Council when it is made available.
- 9.4 Betting machines - Winchester City Council will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

## **10. Bingo Premises**

- 10.1 Winchester City Council notes the Gambling Commission's Guidance that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted Winchester City Council will seek to ensure that:-
- all such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
  - only adults are admitted to the area where the machines are located;

- access to the area where the machines are located is supervised;
- the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
- at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

10.2 The Gambling Commission is expected to issue further guidance about the particular issues that licensing authorities should take into account in relation to the suitability and layout of bingo premises. This guidance will be considered by the City Council once it is made available.

## **11. Betting premises**

11.1 Betting machines – Winchester City Council will take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

## **12. Travelling Fairs**

12.1 “Travelling Fairs” within the definition of the Gambling Act 2005 are able to provide gambling by certain types of machine, or by prize gaming, without a permit, provided they comply with certain restrictions.

12.2 Where category D machines and/or equal chance prize gaming without a permit are to be made available for use at travelling fairs, the City Council’s role as licensing authority is to decide whether the facilities for gambling amount to no more than an ancillary amusement at the fair (which must be the case for the exemption to apply).

12.3 Winchester City Council will also consider whether the applicant falls within the statutory definition of a travelling fair.

12.4 Under the Gambling Act 2005, the exemption will only apply on land used as a fair for no more than 27 days per calendar year. This limit applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land.



## Part C

### 1. Permits

#### **Unlicensed Family Entertainment Centre gaming machine permits**

- 1.1 Where a premise does not hold a premises licence but wishes to provide gaming machines, it may apply to Winchester City Council for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).
- 1.2 Winchester City Council need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25.
- 1.3 Winchester City Council cannot attach conditions to this type of permit.

### 2. Statement of Principles

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

### 3. (Alcohol) Licensed premises gaming machines

- 3.1 There is provision in the Gambling Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D, provided they have notified the City Council. The City Council can remove the automatic authorisation in respect of any particular premises if:-

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

3.2 If a premises wishes to have more than 2 machines, then it needs to apply for a permit. Winchester City Council will consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and such matters as they think relevant. The City Council considers that “such matters” will be decided on a case by case basis but generally it will take into account the need to protect children and vulnerable persons from being harmed or being exploited by gambling and will expect the applicant to satisfy the Council that there will be sufficient measures in place to ensure that under 18 year olds do not have access to the adult only gaming machines. Such measures might include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

3.3 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with, as an Adult Gaming Centre premises licence (see Part B Section 6 of this Statement).

3.4 Under the legislation, Winchester City Council can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

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

#### **4. Prize Gaming Permits**

4.1 In making its decision on an application for this permit Winchester City Council does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

## **5. Statement of Principles**

5.1 The applicant should set out the types of gaming that he or she is intending to offer and should be able to demonstrate:-

- that they understand the limits to stakes and prizes that are set out in Regulations; and
- that the gaming offered is within the law.

5.2 It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but that the City Council cannot attach conditions. The conditions in the Act are:-

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

## **6. Club Gaming and Club Machines Permits**

6.1 Members' Clubs (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in forthcoming regulations. A Club Gaming machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).

6.2 Before granting the permit, Winchester City Council will need to satisfy itself that the premises meet the requirements of a members' club and may only grant the permit if the majority of members are over 18.

6.3 Members' clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. A members' club must be permanent in nature, not established to make commercial profit, and must be controlled by its members equally.

6.4 Winchester City Council may only refuse an application on the grounds that:-

- (a) the applicant does not fulfil the requirements for a members' or commercial club and therefore is not entitled to receive the type of permit for which it has applied;
- (b) the applicant's premises are used wholly or mainly by children and/or young persons;
- (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- (d) a permit held by the applicant has been cancelled in the previous ten years; or
- (e) an objection has been lodged by the Commission or the Police.

6.5 There is a 'fast-track' procedure available for premises which hold a Club Premises Certificate under the Licensing Act 2003. Under the fast-track procedure there is no opportunity for objections to be made by the Gambling Commission or the Police, and the grounds the City Council can refuse a permit are reduced. The grounds on which an application under the process may be refused are:-

- (a) that the club is established primarily for gaming, other than gaming prescribed under Schedule 12 of the Gambling Act;
- (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

6.6 There are statutory conditions on club gaming permits that no child 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.

## **7. Temporary Use Notices**

7.1 There are a number of statutory limits as regards Temporary Use Notices. The Winchester City Council will have to decide what constitutes a 'set of premises' where Temporary Use Notices are received relating to the same building/site. In deciding this issue, the Council will look at the ownership/occupation and control of the premises, and other relevant matters.

## **8. Occasional Use Notices**

8.1 These notices only relate to "tracks". Winchester City Council has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. However, the City Council will need to consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

## **Part D MISCELLANEOUS**

### **1. Reviews of premises licences**

- 1.1 The purpose of a review will be to determine whether Winchester City Council should take any action in relation to a licence. If action is justified, Winchester City Council will have the following options:
- revoke the licence;
  - suspend the premises licence for a period not exceeding three months;
  - exclude a default condition imposed by the Secretary of State, or remove or amend such an exclusion; and
  - add, remove or amend a licence condition imposed by the licensing authority.
- 1.2 In determining what action, if any, should be taken following a review, Winchester City Council must have regard to the principles set out in Section 153 of the Act, as well as any relevant representations.
- 1.3 An application for a review may be made by a responsible authority, an interested party or the authority itself. Generally, Winchester City Council must grant the application for a review, but may refuse it if it thinks that the grounds on which the review is sought:-
- a) are not relevant to the principles that must be applied by Winchester City Council in accordance with the Commission guidance/codes of practice, this Statement or the licensing objectives;
  - b) raises general objections to gambling as an activity, that is likely to be irrelevant to the principles contained in a) above;
  - c) are frivolous or vexatious;
  - d) will certainly not cause the City Council to revoke or suspend a licence or to remove, amend or attach conditions on the premises licence;
  - e) are substantially the same grounds cited in a previous application relating to the same premises. Winchester City Council will take into account how much time has passed since the earlier application in reaching a judgement about whether it is reasonable to rely on this as a reason not to review the licence; or
  - f) are substantially the same as representations made at the time the application for a premises licence was considered. As with e) above, Winchester City Council will take into account how much time has passed since the earlier application in reaching a judgement about whether it is reasonable to rely on this as a reason not to review the licence, but the underlying requirement will be that the licence should not be reviewed on the basis of the same arguments considered on the grant of the premises licence.
- 1.4 Winchester City Council will process applications for review without delay, so that both the applicant for a review and the premises operator know where they stand.

- 1.5 Winchester City Council will hold a hearing unless the applicant and any person who has made relevant representations consent to the review being conducted without one.
- 1.6 Winchester City Council will, as soon as possible, notify its decision to:-
- the licence holder;
  - the applicant for review (if any);
  - the Commission;
  - any person who made representations;
  - the Chief Constable of Hampshire Constabulary; and
  - Her Majesty's Commissioners for Revenue and Customs.

## **2. Rights of appeal and judicial review**

- 2.1 The Act provides an appeal process for any decision of Winchester City Council as licensing authority. The Council's decisions may also be challenged by an application for judicial review. Winchester City Council will:
- give clear and comprehensive reasons for a rejection of an application where there is a requirement in the Act to do so; and
  - 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.
- 2.2 A person ("the appellant") wishing to appeal against the Council's decision must give notice of appeal to the local magistrates' court within a period of 21 days beginning with the day on which the appellant was notified by Winchester City Council of the decision.
- 2.3 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.

## **3. Other matters**

- 3.1 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 Winchester City Council web site ([www.winchester.gov.uk/licensing](http://www.winchester.gov.uk/licensing)) or by contacting the Licensing Team at Winchester City Council:-
- Register of premises licences issued by Winchester City 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.

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	
Making representations or seeking reviews as Licensing Authority.			x

# Glossary

## Appendix 2

<b>Admissible Representations</b>	Representations submitted by a Responsible Authority or interested party
<b>Authorised Local Authority Officer</b>	A Licensing Authority Officer who is an authorised person for a purpose relating to premises in that authority's area.
<b>Authorised Person</b>	<p>A Licensing Officer and an officer of an authority other than a Licensing Authority, both of whom have been authorised for a purpose relating to premises in that authority's area. The following are considered authorised persons:</p> <ul style="list-style-type: none"><li>• Inspectors appointed under the Fire Precautions Act 1971;</li><li>• Inspectors appointed under the Health and Safety at Work, etc. Act 1974</li><li>• Inspectors or Surveyors of ships appointed under the Merchant Shipping Act 1995;</li><li>• A person in a class prescribed in regulations by the Secretary of State.</li></ul>
<b>Automated Roulette Equipment</b>	<p>2 types:</p> <ol style="list-style-type: none"><li>a) Linked to a live game of chance, e.g. Roulette</li><li>b) Plays live automated game, i.e. operates without human intervention</li></ol>
<b>Automatic Conditions</b>	Conditions attached automatically to premises licences or authorisations. The Licensing Authority has no discretion not to include or modify them.
<b>AWP machines</b>	Amusement with Prizes Machines
<b>BACTA</b>	British Amusement Catering Trade Association



<b>Betting Intermediary</b>	Offers services via remote communication, such as the internet.
<b>Betting Ring</b>	An area that is used for temporary 'on course' betting facilities.
<b>Betting Machines</b>	A machine designed or adapted for use to bet on future real events (not a Gaming Machine).
<b>Bingo</b>	A game of equal chance.
<b>Casino</b>	An arrangement whereby people are given an opportunity to participate in one or more casino games.
<b>Casino Games</b>	Games of chance that are not equal chance gaming.
<b>Casino Premises Licence Categories</b>	<ul style="list-style-type: none"> <li>a) Regional Casino Premises Licence</li> <li>b) Large Casino Premises Licence</li> <li>c) Small Casino Premises Licence</li> <li>d) Casinos permitted under transitional arrangements</li> </ul>
<b>Casino Resolution</b>	Resolution not to issue Casino Premises Licences
<b>Child</b>	Individual who is less than 16 years old.
<b>Christmas Day Period</b>	Covers the period of 24 hours from midnight on 24 December.
<b>Club Gaming Machine Permit</b>	Permit to enable the premises to provide gaming machines (3 machines of Categories B, C or D)
<b>Club Gaming Permit</b>	Permit to enable the premises to provide gaming machines (3 machines of Categories B C or D), equal chance gaming and games of chance.

## **Commercial Club**

A club which

- is established and conducted wholly or mainly for purposes other than the provision of facilities for gaming
- which is not established with the purpose of functioning only for a limited period of time, and
- which has at least 25 individual members.

Or

- is established or conducted wholly or mainly for the purpose of the provision of facilities for gaming of a prescribed kind, and
- facilities are not provided for any other kind of gaming in the course of the club's activities.

## **Complex Lottery**

An arrangement where:

- Persons are required to pay to participate in the arrangement;
- In the course of the arrangement, one or more prizes are allocated to one or more members of a class;
- The prizes are allocated by a series of processes; and
- The first of those processes relies wholly on chance.

## **Conditions**

Conditions to be attached to licences by way of:

- Automatic provision
- Regulations provided by Sec. Of State
- Conditions provided by Gambling Commission
- Conditions provided by Licensing Authority

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.

<b>Customer Lotteries</b>	Lotteries run by the occupiers of business premises who sell tickets only to customers present on their premises. These lotteries may not be conducted on vessels.
<b>Default Conditions</b>	Conditions that will apply unless the Licensing Authority decide to exclude them. This may apply to all Premises Licences, to a class of Premises Licence or Licences for specified circumstances.
<b>Delegated Powers</b>	Decisions delegated either to a Licensing Committee, Sub-Committee or Licensing Officers.
<b>Domestic Computer</b>	Definition in forthcoming Regulations. Exempt from a Gaming Machine Permit.
<b>Disorder</b>	No set interpretation but 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.
<b>Domestic Computer</b>	Definition in forthcoming Regulations. Exempt from a Gaming Machine Permit.
<b>Dual Use Computer</b>	Definition in forthcoming Regulations. Exempt from a Gaming Machine Permit.
<b>Equal Chance Gaming</b>	Games that do not involve playing or staking against a bank and where the chances are equally favourable to all participants
<b>EBT</b>	Electronic Bingo Ticket Minders. Electronic equipment operated by a Bingo Operators Licence for the purposes of playing bingo.
<b>Exempt Lotteries</b>	<p>Lotteries specified in the Gambling Act as permitted to be run without a licence from the Gambling Commission. There are 4 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> </ul>

- Customer Lotteries

**External Lottery Manager**

An individual, firm or company appointed by the Small Lottery Society to manage a lottery on their behalf. They are consultants who generally take their fees from the expenses of the lottery.

**Family Entertainment Centre**

Family Entertainment Centre is

- premises (other than an adult gaming centre) wholly or mainly used for making gaming machines available for use, and
- Licensed Family Entertainment Centre means premises in respect of which a Family Entertainment Centre Premises Licence has effect.

**Fixed Odds Betting**

General betting on tracks.

**Gaming**

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

**Gaming Machine**

Machine covering all types of gambling activity, including betting on virtual events.

Machine category	Maximum stake	Maximum prize
A	Unlimited	Unlimited
B1	£2	£4,000
B2	£100 (in multiples of £10)	£500
B3	£1	£500
B3A	£1	£500
B4	£1	£250

C	£1	£70
D non-money prize (other than crane grab machine)	30p	£8
D non-money prize (crane grab machine)	£1	£50
D money prize	10p	£5
D combined money and non-money prize (other than coin pusher or penny falls machines)	10p	£8 (of which no more than £5 may be a money prize)
D combined money and non-money prize (coin pusher or penny falls machine)	10p	£15 (of which no more than £8 may be a money prize)

**Guidance to Licensing Authorities**

Guidance issued by the Gambling Commission dated April 2006.

**Human Rights Act 1998**

Article 1: Protocol 1 – the right to peaceful enjoyment of possessions

**Articles: 1, 6, 8 and 10**

Article 6: - the right to a fair hearing

Article 8: - the right of respect for private and family life

Article 10: - the right to freedom of expression

**Inadmissible Representation**

A representation not made by a Responsible Authority or Interested Party.

**Incidental Non Commercial Lottery**

A lottery promoted wholly for purposes other than private gain, and which are incidental to non commercial events (commonly charity fund raising events, lottery held at a school fete or at a social event such as a dinner dance).

**Information Exchange**

Exchanging of information with other regulatory bodies under the Gambling Act.

**Interested Party**

A person who:

- Lives sufficiently close to the premises to be likely affected by the authorised activities
- Has business interests that might be affected by the authorised activities
- Represents persons in either of the above groups

**Irrelevant Representations**

- Where other legislation can cover the representation
- Demand
- Competition

**Judicial Review**

Legal challenge where a party believes that the decision taken by the Licensing Authority is:

- Illegal, i.e. beyond the powers available to the Licensing Authority
- Procedural impropriety or unfairness
- Irrational

**Judicial Review - Orders**

1. Mandatory Order – compels the reviewed body to do something
2. Prohibitory Order – compels it to refrain from doing something
3. A 'declaration' – sets out the court's view on the legality of a particular course of action
4. Quashing Order – nullifies a decision and remits it for reconsideration
5. Injunction – similar to Mandatory or Prohibitory Order

**Large Lottery**

Where the total value of tickets in any one lottery exceeds £20,000 OR tickets in separate lotteries in one calendar year exceeds £250,000. This requires an Operating Licence.

<b>Licensed Lottery</b>	Large society lotteries and lotteries run for the benefit of local authorities which will be regulated by the Gambling Commission. Operating Licences will be required.
<b>Licensing Objectives</b>	<ol style="list-style-type: none"> <li>1. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime;</li> <li>2. Ensuring that gambling is conducted in a fair and open way; and</li> <li>3. Protecting children and other vulnerable persons from being harmed or exploited by gambling.</li> </ol>
<b>Live Gaming</b>	Gambling on a live game as it happens.
<b>Lottery</b>	An arrangement which satisfies the statutory description of either a simple lottery or a complex lottery in Section 14 of the Act.
<b>Lottery Tickets</b>	<p>Tickets that must:</p> <ul style="list-style-type: none"> <li>• Identify the promoting society</li> <li>• State the price of the ticket, which must be the same for all tickets</li> <li>• State the name and address of the member of the Society who is designated as having responsibility at the Society for the promotion of the lottery, or, if there is one, the external lottery manager; and</li> <li>• State the date of the draw, or enable the date of the draw to be determined.</li> </ul>
<b>Mandatory Conditions</b>	Conditions that must be attached to a licence. This may apply to all Premises Licences, to a class of Premises Licence or licences for specified circumstances.

**Members Club**

A club that must

- have at least 25 members
- be established and conducted 'wholly or mainly' for purposes other than gaming
- be permanent in nature
- not established to make commercial profit
- controlled by its members equally.

**Non commercial event**

An event where all the money raised at the event, including entrance fees, goes entirely to purposes that are not for private gain.

**Non Commercial Society**

A society established and conducted:

- for charitable purposes
- for the purpose of enabling participation in, or of supporting, sport athletics or a cultural activity; or
- for any other non commercial purpose other than that of private gain.

**Occasional Use Notice**

Betting may be permitted on a 'track' 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 self contained betting premises within the track premises providing facilities for off course betting, i.e. on other events, not just those taking place on the track. Normally operate only on race days.

**On Course Betting - Tracks**

Betting that takes place on a track while races are taking place

**Operating Licences**

Licence to permit individuals and companies to provide facilities for certain types of gambling. They may authorise remote or non remote gambling.



<b>Permits</b>	Authorisation to provide a gambling facility where the stakes and prizes are very low or gambling is not the main function of the premises.
<b>Personal Licence</b>	Formal authorisation to individuals who control facilities for gambling or are able to influence the outcome of gambling. These cannot be held by companies.
<b>Pool Betting – Tracks</b>	Betting offered at a horse racecourse by the Tote and at a dog track by the holder of the premises licence for the track.
<b>Premises</b>	Defined as ‘any place’. It is for the Licensing Authority to decide whether different parts of a building can be properly regarded as being separate premises.
<b>Premises Licence</b>	Licence to authorise the provision of gaming facilities on casino premises, bingo premises, betting premises, including tracks, adult gaming centres and family entertainment centres
<b>Private Lotteries</b>	<p>3 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>
<b>Prize Gaming</b>	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.
<b>Prize Gaming Permit</b>	A permit to authorise the provision of facilities for gaming with prizes on specific premises.
<b>Provisional Statement</b>	Where an applicant can make an application to the Licensing

Authority in respect of premises that he:

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

**Racino**

Casino located at a racecourse.

**Relevant Representations**

Representations that relate to the Gambling Licensing Objectives, or that raise issues under the Licensing Policy or the Gambling Commission's Guidance or Codes of Practice.

**Responsible Authorities**

Public bodies that must be notified of all applications and who are entitled to make representations in relation to Premises Licences, as follows:

- The Licensing Authority in whose area the premises is partly or wholly situated;
- The Gambling Commission;
- The Chief Officer of Hampshire Constabulary;
- Hampshire Fire & Rescue Service;
- The Head of Planning, Winchester City Council (the Local Planning Authority);
- The Head of Environment, Winchester City Council (responsible for pollution to the environment/harm to human health);
- The Local Safeguarding Children Board for Hampshire;
- HM Revenue & Customs
- Authority in relation to vulnerable adults (yet to be decided by Sec. of State)
- Vessels only – Navigation Authority whose statutory functions are in relation to waters where the vessel is

usually moored or berthed, i.e.

- Environment Agency
- British Waterways Board
- Maritime & Coastguard Agency

**SIA**

Security Industry Authority

**Simple Lottery**

An arrangement where:

- Persons are required to pay to participate in the arrangement
- In the course of the arrangement, one or more prizes are allocated to one or more members of a class; and
- The prizes are allocated by a process which relies wholly on chance.

**Skills with Prizes**

A machine on which the winning of a prize is determined only by the player's skill and there is no element of chance, e.g. trivia game machine, Formula 1 simulators, shooting game. Skills Machines are unregulated.

**Small Lottery**

Where the total value of tickets in a single lottery is £20,000 or less and the aggregate value of the tickets in a calendar year is £250,000 or less.

**Small Society Lottery**

A lottery promoted on behalf of a non-commercial society, i.e. lotteries intended to raise funds for good causes.

**Small Operations**

Independent on course betting operators with only one or two employees or a bookmaker running just one shop.

**Society**

The society or any separate branch of such a society, on whose behalf a lottery is to be promoted.

**Statement of Principles**

Matters taken into account when considering an applicant's suitability for applications for FEC Permits.

<b>Temporary Use Notice</b>	To allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling.
<b>Totalisator or Tote</b>	Pool betting on tracks.
<b>Touch Bet Roulette</b>	Where a player gambles on a live game of chance without actually being seated.
<b>Track</b>	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.
<b>Travelling Fair</b>	A fair that 'wholly or principally' provides amusements and must be on a site used for fairs for no more than 27 days per calendar year.
<b>Vehicles</b>	Defined trains, aircraft, sea planes and amphibious vehicles other than hovercraft. No form of commercial betting and gaming is permitted
<b>Vessel</b>	Anything (other than a seaplane or amphibious vehicle) designed or adapted for use on water; a hovercraft; or anything, or part of any place, situated on or in water.
<b>Vessel and Relevant Licensing Authority</b>	The Licensing Authority for the area in which the vessel is usually moored or berthed.
<b>Virtual Betting</b>	Machine that takes bets on virtual races, i.e. mages generated by computer to resemble races or other events.
<b>Vulnerable Persons</b>	No set definition but likely to mean group to include people who gamble more than they want to, people who gamble beyond their means; people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.
<b>Young Person</b>	An individual who is not a child but who is less than 18 years old.