

Tendring District Council



GAMBLING LICENSING POLICY STATEMENT

Gambling Policy Document – Adopted 21 June 2012

FOREWORD

This is the ~~third~~ **fourth** Statement of Licensing Policy produced by Tendring District Council under the Act and it will be the basis for all gambling related licensing decisions taken by the Council as the Licensing Authority over the next three years commencing on 31 January **2016**

The new Act created a unified regulator for gambling in Great Britain called the Gambling Commission and also transferred all responsibilities for licensing gambling premises from the Licensing Justices to Licensing Authorities. These Authorities are responsible for issuing a number of different permits, as well as Temporary and Occasional Use Notices.

This Policy sets out how the Council, as the Licensing Authority, will seek to balance increased leisure opportunities with the protection that children, vulnerable people and communities need and expect.

The Council recognises how important this sector of the entertainment industry is within the district and well-run businesses will get the support of the Council. New gambling related developments that are well planned and can demonstrate initiatives that prevent gambling from being a source of crime and disorder, ensure that gambling is conducted in a fair and open way and protect people from being harmed or exploited by gambling are welcomed. However, the Council will not hesitate in dealing firmly where problems of gambling related crime and disorder exist.

This Policy will be kept under review and it will be amended when issues arise that make change necessary. The Council will seek through the licensing process and the decisions it takes, to make Tendring a safe and welcoming place for both residents and visitors to enjoy.

The Council recognises that administrative changes may need to be made to this Policy as a result of revised guidance to Local Authorities that is due to be issued by the Gambling Commission sometime in 2015 as version 5 of that guidance. Tendring District Council intend to make any administrative changes required without going out to further consultation which will have already been subject to full consultation by the Gambling Commission itself when circulating the draft version 5 guidance for comment.

Councillor Mark Platt
Chair, Licensing Committee

Councillor Tony Fawcett
Chairman, Licensing Committee

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| <p>TENDRING DISTRICT COUNCIL</p> <p>GAMBLING LICENSING POLICY</p> <p>STATEMENT</p> |
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PART A

1.0 INTRODUCTION

1.1 This Statement of Licensing Policy sets out the principles the Tendring District Council, as the Licensing Authority under the Act (referred to in this document as 'the Act'), proposes to apply in discharging its functions to license premises for gambling under the Act as well as:-

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

1.2 This latest draft of the policy contains the minimum of amendments to update it and further administrative amendments may be required as a result of the Version 5 Guidance which will be issued to Local Authorities during 2015. As a result of the minimum amendment required to this draft the consultation period for public comment has been reduced from twelve weeks to six weeks and will run from XX July 2015 to XX August 2015 after which it will be brought back for the Licensing and Regulation Committee's final determination and recommendation for adoption being made by the Committee to Full Council.

2.0 THE LICENSING OBJECTIVES

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

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

3.0 DESCRIPTION OF THE DISTRICT

3.1 The Tendring District Council is situated in the County of Essex, which comprises twelve District and Borough Councils and two Unitary Authorities.



The District forms a rural peninsular bounded by the Stour estuary to the North, the Colne estuary to the South and the North Sea to the East. ~~As at mid-2007~~ [In mid 2009 Essex County Council and the Tendring Local Strategic Plan](#) sourced from [Office for National Statistics](#) that the District population stood at an estimated ~~146,200~~ [148,000](#) who live in well-established towns, the largest of which is Clacton on Sea. However, many residents occupy the rural hinterland in the District's many thriving villages and hamlets.

Tendring is well known for having one of the longest coastlines and the sunniest, driest weather of any District in the country. Tourism thrives in the District with many former visitors choosing to settle here.

[The coastline and vibrant tourist industry influence and reflect the number of Adult Gaming Centres, Bingo premises, Family Entertainment Centres and Unlicensed Family Entertainment Centres in the Tendring District which are predominantly located in the seaside towns of Clacton on Sea, Walton on the Naze and Dovercourt. In total throughout the District in mid-2015 there were 29 Adult Gaming Centres, 7 Bingo premises, 7 Family Entertainment Centres and 38 Unlicensed Family Entertainment Centres registered under the Gambling Act 2005.](#)

The District benefits from a good rail and road infrastructure and is within easy reach of London Stansted Airport. The District boasts no fewer than fourteen railway stations, with London Liverpool Street being just one hour away from the mainline station at Manningtree. There are also excellent links to the continent via Harwich International Port and further port expansion in the Bathside area of Harwich has been approved which will lead to increased employment opportunities for the District.

4.0 RESPONSIBILITIES UNDER THE ACT

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

4.2 [Sections 2, 154 and 232 of the Act established](#) each District or Borough Council as the Licensing Authority whose responsibilities must be discharged by the Licensing [and Registration Committee created-established](#) under Section 6 of the Licensing Act 2003. Tendring District Council is the Licensing Authority for the Tendring District.

4.3 The Gambling Commission is responsible for issuing Operating and Personal Licences to persons and organisations who:-

- operate a casino;
- provide facilities for playing bingo or for pool betting;
- act as intermediaries for betting;
- make gaming machines available for use in Adult Gaming Centres and Family Entertainment Centres;
- manufacture, supply, install, adapt, maintain or repair gaming machines;
- manufacture, supply, install or adapt gambling machine software; or
- promote a lottery.

4.4 The Licensing Authority is responsible for licensing premises in which gambling takes place. All types of gambling are covered, other than spread betting and the National Lottery. It is also responsible for issuing permits for premises with gaming machines and for receiving notices from operators wishing to use unlicensed premises for gambling on a temporary basis. It is also responsible for the registration of certain types of exempt Small Society Lotteries.

4.5 The Licensing Authority cannot become involved in the moral issues of gambling and must aim to permit the use of premises for gambling in so far as they think it is:-

- in accordance with any relevant codes of practice;
- in accordance with any relevant Guidance issued by the Gambling Commission;
- reasonably consistent with the Licensing Objectives, and
- in accordance with the Licensing Authority's Statement of Licensing Policy.

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

5.0 STATEMENT OF LICENSING POLICY

5.1 The Licensing Authority is required by the Act to publish a Statement of Licensing Policy which contains the principles it proposes to apply when exercising its functions under the Act.

5.2 In this document this is referred to as 'the Policy'. This Policy must be reviewed and published every three years. The Policy must also be reviewed from 'time to time' and any proposed amendments and/or additions must be subject to fresh consultation. The 'new' Policy must then be published.

5.3 This Policy takes effect on 31 January ~~2013~~ 2016

6.0 CONSULTATION

6.1 In producing this Policy, the Licensing Authority consulted widely before finalising and publishing it. In addition to the statutory consultees (listed below), the Council chose to consult with additional local groups and individuals. A full list of all groups and persons consulted is provided at Annex 'A'.

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

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

6.3 The other groups and people consulted were:-

- Organisations, including faith groups and voluntary organisations working with children and young persons, vulnerable persons, people who are problem gamblers, medical practices or ~~primary care trusts~~ Clinical Commissioning Groups and the Citizens' Advice Bureau;
- Other tiers of local government;
- Businesses who are, or will be, holders of Premises Licences;
- Responsible Authorities under the Act.

6.4 The Licensing Authority's consultation took place between ~~27 April 2012 and 31 May 2012.~~ XX July 2015 and XX August 2015.

6.5 Details of the replies received to the consultation were made available to the Licensing & Regulation Committee for their consideration at its meeting on XX XXXX XXXX and are accessible to public view via the Tendring District Council web site meetings and decisions page <http://www.tendringdc.gov.uk/council/meetings-decisions>

7.0 APPROVAL OF POLICY

7.1 This Policy was approved at a meeting of the full Council on ~~21 June 2012~~ XX XXXX XXX and was published via its website on ~~31 January 2013~~ XX XXXX XXX. Copies are available on request.

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

8.0 DECLARATION

8.1 In this Policy the Licensing Authority declares that it has had regard to the Licensing Objectives, formal Guidance issued to Licensing Authorities and any responses from those consulted during the consultation process.

8.2 The Council recognises its diverse responsibilities under equality legislation and will monitor the impact of these statutory duties through its various corporate schemes such as the Race Equality Scheme and the Disability Equality Scheme.

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

9.0 RESPONSIBLE AUTHORITIES

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

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

- the competency of the body to advise the Licensing Authority;
- the need for the body to be responsible for an area covering the whole of the Licensing Authority's area; and
- the need for the body to be answerable to democratically elected persons rather than any particular interest group etc.

9.3 In accordance with the Gambling Commission's Guidance to Local Authorities, the Licensing Authority designates the Essex County Council Children's Safeguarding Service, for this purpose.

10.0 INTERESTED PARTIES

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

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

a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,

b) has business interests that might be affected by the authorised activities,

or

c) represents persons who satisfy paragraphs (a) or (b).'

10.2 Interested Parties can be persons who are democratically elected, such as District and Parish 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.

10.3 District Councillors who are members of the Licensing Committee will not qualify to act in this way.

10.4 Other than persons mentioned in 10.2 and 10.3, the Licensing Authority will generally require some form of confirmation that a person is authorised to represent an interested party.

10.5 The Licensing Authority considers that the Trade Associations, Trade Unions and Residents' and Tenants' Associations qualify as "Interested Parties" where they can demonstrate that they represent persons in (a) or (b) above.

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

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

11.0 EXCHANGE OF INFORMATION

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

- the provisions of the Act, which include the provision that the Data Protection Act 1998 will not be contravened;
- the guidance issued by the Gambling Commission;
- Data Protection Act 1998;
- Human Rights Act 1998;
- Freedom of Information Act 2000;
- Environmental Information Regulations 2004;
- the Common Law Duty of Confidence;
- Electronic Communications Act 2000;
- Computer Misuse Act 1990;
- Criminal Procedure and Investigations Act 1996; and
- Crime and Disorder Act 1998.

11.2 Exchanges of information will be conducted in a timely and accurate fashion and confirmed in writing in all cases to form an audit trail. ([Written confirmation may include information in an electronic form](#)). An audit trail should include:-

- Record of data disclosed;
- Project chronology; and
- Notes of meetings with other partners and recent correspondence including phone calls.

12.0 PUBLIC REGISTER

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

13.0 COMPLIANCE AND ENFORCEMENT

13.1 Tending District Council delivers a wide range of enforcement services aimed at safeguarding the environment, the community and also in providing a 'level playing field' on which businesses can trade and succeed fairly. The administration and enforcement of the licensing regime is one of those services. ~~In exercising its functions with regard to the inspection of premises and to instituting criminal proceedings in respect of offences specified, the Licensing Authority will follow best practice as promulgated by the Better Regulation Executive and the Hampton review of regulatory inspections and enforcement and endeavour to be:-~~

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

13.2 The Licensing Authority has had regard to the Regulators Code (Department for Business Innovation and Skills, Better Regulation Delivery Office) in the development of this policy and any operational procedures relevant to this particular licensing regime. It has regard when setting standards or providing guidance which will assist the regulatory activities of other regulatory bodies.

13.3 In following these principles, if the Licensing Authority concludes in a particular instance and on the basis of material evidence, that a specific provision of the code is either not applicable, or is outweighed by another relevant or material consideration, it will not follow that provision, but will aim to record the decision and the reasons taken for deviating from it.

13.4 The Regulators Code specifies the following guiding principles that the Council supports and adopts. These are:

- Regulators should carry out their activities in a way that supports those they regulate to comply and grow;
- Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views;
- Regulators should base their regulatory activities on risk;
- Regulators should share information about compliance and risk;
- Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply;
- Regulators should ensure that their approach to their regulatory activities is transparent.

13.5 The Licensing Authority will endeavour to avoid duplication of compliance and enforcement with other regulatory regimes, so far as is possible, and adopt a risk based inspection programme.

13.6 The main enforcement and compliance role of the Licensing Authority in terms of the Act, will be to ensure compliance with the Premises Licence and other permissions which it authorises. The Gambling Commission will be the enforcement body for Operating and Personal Licences. It is also worth noting that concerns about the manufacturer, supply or repair of gaming machines will not be dealt with by the Licensing Authority but will be notified to the Gambling Commission.

~~**13.4** The Licensing Authority will keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of Local Authorities.~~

13.7 Tendring District Council recognises the community interest of residents, visitors and businesses and will work closely, with partners, to assist licence or permit holders to comply with the law and the three licensing objectives it seeks to promote. Proportionate but robust enforcement will be taken against those that commit offences or fail to comply with licence conditions and requirements. The Council has set and clear standards of service and performance that residents, visitors and businesses can expect. In particular, Tendring District Council's Licensing Enforcement Policy explains how the licensing service will undertake its role as the Licensing Authority and how the principles of effective enforcement are achieved. This policy is advertised and is freely available via the Council's web site www.tendringdc.gov.uk as are the details of the Council's corporate complaints procedure which can also be viewed on the Council's web site. Details and the template for the risk based approach to inspection are available upon request.

~~**13.5** Bearing in mind the principle of transparency, the Licensing Authority's enforcement/compliance protocols, or written agreements, will be available on request. Details of the risk based approach to inspection will also be available upon request.~~

~~Details of this information will be available on the Council's website: www.tendringdc.gov.uk~~

PART B PREMISES LICENCES

14.0 DELEGATION OF POWERS

14.1 The Licensing Authority has agreed a scheme of delegation for discharging its functions under the Act and this can be found in Annex 'E'.

15.0 GENERAL PRINCIPLES

15.1 Premises Licences will be subject to the permissions/restrictions set out in the Act as well as the specific mandatory and default conditions which will be detailed in regulations issued by the Secretary of State. Licensing Authorities are able to exclude default conditions and also attach others, where it is thought appropriate.

15.2 Licensing Authorities are required by the Act, in making decisions about Premises Licences, to permit the use of premises for gambling so far as it thinks fit:-

- in accordance with any relevant codes of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- to be reasonably consistent with the Licensing Objectives; and
- in accordance with the Authority's Policy.

15.3 Definition of Premises

Premises is defined in the Act as "any place". It is for the Licensing Authority to decide whether different parts of a building can be properly regarded as being separate premises although this will always be considered in the light of the guidance issued by the Gambling Commission. It will always be a question of fact in each circumstance. [It should be noted however that at this point in time the Gambling Commission does not consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises. This will be especially pertinent in respect to new applications for a premises licence. The Licensing Authority will pay particular attention to applications where access to the licensed premises is through other premises \(which themselves may or may not be licensed\).](#)

15.4 Demand

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

15.5 Location

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

15.6 Duplication with other Regulatory Regimes

Duplication with other statutory/regulatory regimes will be avoided where possible. This Authority will not consider whether a licence application is likely to be ~~awarded~~ [granted](#) Planning Permission or Building Control consent. [Planning Permission and Building Control Consent will be considered in their own right and on their own merit by the appropriate authority.](#)

15.7 Licensing Objectives

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

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

The Licensing Authority is aware that there is a distinction between disorder and nuisance and that the prevention of nuisance is not a Licensing Objective under the Act.

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

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

- **Ensuring that gambling is conducted in a fair and open way –**

The Gambling Commission does not generally expect Licensing Authorities to be concerned with ensuring that gambling is conducted in a fair and open way. The Licensing Authority notes that in relation to the licensing of tracks, its role will be different from other premises in that track operators will not necessarily have an Operating Licence. In those circumstances, the Premises Licence may need to contain conditions to ensure that the environment in which betting takes place is suitable.

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

In practice, the Objective of protecting children from being harmed or exploited by gambling often means preventing them from taking part in, or being in close proximity to, gambling.

The Council will pay particular scrutiny to the proposed location of gambling premises in terms of the proximity to schools and centres or residential areas where there may be a high concentration of vulnerable persons or families with children.

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

15.8 Conditions

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

Any conditions attached to Licences will be [appropriate and](#) proportionate and will be:-

- relevant to the need to make the proposed premises suitable as a gambling facility;
- directly related to the premises and the type of licence applied for;
- fairly, ~~and~~ [appropriately and](#) reasonably related to the scale and type of premises; and
- reasonable [and proportionate](#) in all other respects.

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

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

15.9 Decisions upon individual conditions will be made on a case by case basis. Consideration will be given to using control measures, should there be a perceived need, such as the use of door supervisors, supervision of adult gaming machines, appropriate signage for adult only areas, etc. Applicants will also be expected to offer their own suggestions as to the way in which the Licensing Objectives can be effectively met [and promoted](#).

15.10 It is noted that there are conditions which the Licensing Authority cannot attach to Premises Licences. These are:-

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

15.11 Door Supervisors

The Licensing Authority may consider whether there is a need for door supervisors in terms of the Licensing Objectives of protecting of children and vulnerable persons from being harmed or exploited by gambling and also in terms of preventing premises becoming a source of crime. As the Act has amended the Security Industry Act 2001, door supervisors at casinos or bingo premises need not be licensed by the Security Industry Authority. [The authority may make door supervision a requirement if there is clear evidence from the history of trading at the premises that it cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.](#)

15.12 Credit

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

15.13 Betting Machines [See Annex C for definition]

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

limiting the number of machines that can be made available where there is clear evidence that such machines have been or are likely to be used in breach of the licensing objectives. Where there is such evidence the Authority may consider upon review of a licence the ability of staff to effectively monitor the use of such machines from the counter.

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

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

15.15 In deciding whether to impose conditions to limit the number of betting machines, each application will be considered on its own merit and account will be taken of codes of practice or guidance issued under the Act.

16.0 PROVISIONAL STATEMENTS

16.1 In light of the judgement in respect of an application for a Betting Premises Licence in respect of premises located in Southend-on-Sea, ([Betting Shop Services Limited v Southend Borough Council 2008 EWHC 105 Admin](#)) notwithstanding paragraphs ~~7.55, 7.56 and 7.57~~ 11.1 to 11.10 of the Gambling Commission's [Fourth Version of Guidance to Licensing Authorities](#):- a Premises Licence under the Gambling Act 2005 may lawfully be granted in respect of premises that are not ready to be used for gambling, the premises being about to be or in the course of construction or alteration, and they being premises which the applicant has a right to occupy and in respect of which he/she holds an operating licence which authorises him/her to carry on the activity in respect of which the Premises Licence is sought.

16.2 [The Licensing Authority will therefore consider applications on this basis but will not take into account other permissions that may be required such as Planning Consent or Building Consent.](#)

17.0 REPRESENTATIONS AND REVIEWS

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

17.2 The Licensing Authority can make a representation or apply for a review of the Premises Licence on the basis of any reason that it thinks is appropriate. For the purpose of exercising its discretion in these matters, the Authority has designated the Council's [Director of Public Experience](#) ~~Head of Legal Services~~ as being the proper person to act on its behalf.

17.3 The Licensing Authority will decide if a representation or application for a review is to be carried out on the basis of whether or not the request is:

- Frivolous or vexatious.
- Based on grounds that will certainly not cause the Authority to wish to revoke/suspend a licence or remove, amend or attach conditions on the licence.
- Substantially the same as previous representations or requests for a review.
- In accordance with any relevant codes of practice issued by the Gambling Commission.
- In accordance with any relevant guidance issued by the Gambling Commission.
- Reasonably consistent with the Licensing Objectives.

17.4 There is no appeal against the Authority's determination of the relevance of an application for review.

18.0 ADULT GAMING CENTRES

- 18.1** An Adult Gaming Centre is defined in Annex 'C'. Entry to these premises is age restricted.
- 18.2** The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

19.0 (LICENSED) FAMILY ENTERTAINMENT CENTRES

- 19.1** A Licensed Family Entertainment Centre is defined in Annex 'C'. Entry to these premises is not generally age restricted although entry to certain areas may be restricted, dependent on the category of machines available for use.
- 19.2** The Licensing Authority will take account of any conditions applied to an Operating Licence in respect of such premises.

20.0 CASINOS

- 20.1** The Licensing Authority has not passed a resolution under section 166 of the Act not to issue casino premises licences. Any future decision to pass or not to pass a casino resolution will only be taken after a full consultation process has been undertaken within the area.

20.2 Casinos and Competitive Bidding

The Licensing Authority is aware that where a Licensing Authority's area is enabled to grant a Premises Licence for a new style casino, there are likely to be a number of operators which will want to run a casino. In such situations the Council will run a competition in line with Regulations and Codes of Practice issued under the Act by the Secretary of State. It should be noted that at the time this Statement of Licensing Policy was adopted this area had not been so enabled.

20.3 Betting Machines

The Licensing Authority can restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a Betting Premises Licence or to a Casino Premises Licence (*where betting is permitted in the casino*). When considering whether to impose a condition to restrict the number of betting machines in particular premises, the Licensing Authority, amongst other things should take into account:-

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

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

20.5 Credit

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

21.0 BINGO PREMISES

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

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

21.3 Credit

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

22.0 BETTING PREMISES

22.1 Betting Premises are defined in Annex 'C'.

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

23.0 TRACKS

23.1 A Track is defined in Annex 'C'. Entry to these premises is generally age restricted. On race days, specific areas within the Track may be age restricted dependent on the licensable activities taking place.

24.0 TRAVELLING FAIRS

24.1 The Licensing Authority will determine whether the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at a travelling fair is met, where Category D machines and/or equal chance prize gaming without a permit are to be made available for use. (See Annex 'H').

PART C PERMITS/TEMPORARY OR OCCASIONAL USE NOTICES/REGISTRATIONS

25.0 GENERAL

25.1 Forms and Method of Application and any additional information or documents required for permits covered by this section are shown in Appendix F. [These are available through the licensing pages of the Council's website www.tendringdc.gov.uk](#) or as a hard copy on request from the Licensing Team on 01255 686565 or e-mail licensingsection@tendringdc.gov.uk

26.0 UNLICENSED FAMILY ENTERTAINMENT CENTRE GAMING MACHINE PERMITS

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

26.2 Statement of Licensing Principles

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

- A basic Criminal Records Bureau or equivalent criminal record check for the applicant and the person having the day to day control of the premises.
- How the applicant proposes to ensure that children [and vulnerable persons](#) will be protected from harm whilst on the premises.
- Training covering how staff would deal with:-
 - unsupervised, very young children being on the premises,
 - children causing perceived problems on/around the premises, and
 - suspected truant children

27.0 (ALCOHOL) LICENSED PREMISES GAMING MACHINE PERMITS

27.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have two gaming machines, of Categories C and/or D. The Premises Licence holder needs to notify the Licensing Authority at least two months prior to the date of expiry of the current permit.

27.2 Gaming machines can only be located on licensed premises that have a bar for serving customers.

27.3 Premises restricted to selling alcohol only with food, will not be able to apply for a Permit.

27.4 Where an application for more than two gaming machines is received, the Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the Authority that there will be ~~sufficient~~ [reasonable and proportionate](#) measures to ensure

that under 18 year olds do not have access to the adult only machines. Such measures will **may** cover such issues as:-

- Adult machines being in sight of the bar;
- Adult machines being in sight of staff who will monitor that the machines are not being used by those under 18;
- Appropriate notices and signage; and
- As regards the protection of vulnerable persons, the Licensing Authority will consider measures such as the use of self-barring schemes, provision of information, leaflets/help line numbers for organisations such as Gamcare.

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

28.0 PRIZE GAMING PERMITS

28.1 Statement of Licensing Principles

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

- A basic Criminal Records Bureau or equivalent criminal record check for the applicant and the person having the day to day control of the premises.
- How the applicant proposes to ensure that children **and vulnerable persons** will be protected from harm whilst on the premises.
- Training covering how staff would deal with:-
 - unsupervised, very young children being on the premises,
 - children causing perceived problems on/around the premises, and
 - suspected truant children

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

29.0 CLUB GAMING AND CLUB MACHINE PERMITS

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

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

30.0 TEMPORARY USE NOTICES (TUN)

30.1 The persons designated to receive TUNs and to issue objections are specified in Annex 'D'.

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

- 30.3** For the purposes of a TUN, a set of premises is the subject of a TUN if any part of the premises is the subject of the Notice. This prevents one large premises from having a TUN in effect for more than 21 days per year by giving a Notice in respect of different parts.
- 30.4** The definition of a "set of premises" will be a question of fact in the particular circumstances of each Notice that is given. In considering whether a place falls within the definition of "a set of premises", the Licensing Authority will consider, amongst other things, the ownership/occupation and control of the premises.
- 30.5** The Licensing Authority will object to Notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.
- 31.0** **OCCASIONAL USE NOTICES**
- 31.1** Occasional Use Notices (OUN) apply only to Tracks, which are described as being premises on any part of which a race or other sporting events take place, or is intended to take place. Tracks need not be a permanent fixture.
- 31.2** OUN's are intended to permit licensed betting operators who have the appropriate permission of the Gambling Commission to use tracks for short periods for conducting betting. The OUN dispenses with the need for a Betting Premises Licence for the track.
- 31.3** The Licensing Authority has very little discretion as regards these Notices, aside from ensuring that a statutory limit of 8 days in a calendar year is not exceeded.
- 31.4** The Licensing Authority will, however, consider the definition of a track and whether the applicant is permitted to avail him/herself of the Notice.
- 31.5** The person designated to receive the OUN's and to assess its validity is [Council's the Director of Public Experience](#) ~~Head of Legal Services and Monitoring Officer~~. (A copy to be served on local Chief of Police).
- 32.0** **SMALL SOCIETY LOTTERIES**
- 32.1** The definition of a Small Society Lottery is contained in Annex 'C' and these require registration with the Licensing Authority.
- 33.0** **DEFINITIONS – Annex 'C'**
- 33.1** [In this Policy, the definitions contained in Appendix C are included to provide an explanation of certain terms included in the Act and in this Policy. In certain cases they are an abbreviation of what is stated in the Act or interpretation of those terms. For a full definition of the terms used the reader should refer to the Act.](#)
- 34.0** **TEMPORARY USE and OCCASIONAL USE NOTICES/HOW TO MAKE A REPRESENTATION Annex 'D'**
- 35.0** **TABLE OF DELEGATIONS OF LICENSING FUNCTIONS – Annex 'E'**
- 36.0** **APPLICATION PROCESS - Annex 'F'**
- 37.0** **FEES – Annex 'G'**

38.0 USEFUL CONTACTS

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

ANNEX 'A'

LIST OF CONSULTEES

British Amusement Catering Trade Association (BACTA)

Churches Together

Citizens Advice Bureau

Essex Fire and Rescue Services

Essex Police

Essex County Council Children's Safeguarding Service

Gamblers Anonymous

Gamcare

Gambling Commission

HM Revenues and Customs

Ladbrokes Betting and Gaming Limited

Local Solicitors

Members of the District Council

Solicitors specialising in licensing issues

Tendring and Colchester Minority Ethnic Partnership

Tendring Community Voluntary Services

Tendring District Council Environmental Services

Tendring District Council Planning Services

~~North East Essex Primary Care Trust~~

[Clinical Commissioning Group](#)

Town and Parish Councils

Essex County Council Trading Standards

The Salvation Army

Small Betting Shop Operators

[Premises Licence Holders](#)

[Association of British Bookmakers](#)

[Bingo Association](#)

[Local Schools](#)

ANNEX 'B'

RESPONSIBLE AUTHORITIES AND USEFUL CONTACTS

| ORGANISATION | CONTACT AND ADDRESS | TELEPHONE |
|---|--|--|
| Tendring District Council [Licensing Section] | The Licensing Team Public Experience Department Council Offices Weeley Clacton on Sea Essex CO16 9AJ Legal Services Tendring District Council Westleigh House Garnarvon Road Clacton on Sea Essex CO15 6QF | 01255 686565 licensingsection@tendringdc.gov.uk www.tendringdc.gov.uk |
| Essex Police | Mr D Appleby Divisional Licensing Officer Essex Police 8 Beatrice Road Clacton on Sea Essex CO15 8ET | 01255 254007 Eastern-TendringLicensing@essex.pnn.police.uk |
| Essex County Fire and Rescue Service | Workplace Fire Safety East Command Colchester Fire Station Cowdray Avenue Colchester CO1 1XT | 01206 574255 0300 3035555 ct.command@essex-fire.gov.uk www.essex-fire.gov.uk |
| Essex County Council Children's Safeguarding Service Board | Head of Children's Safeguarding Service [Licensing Applications] Essex County Council DG06, D Block Schools Children's and Families Service PO Box 11 County Hall Chelmsford CM1 1LX Essex Safeguarding Children Board Room C228 County Hall Chelmsford CM1 1QH | 01245 492214 0333 0138936 escb@essex.gov.uk www.escb.co.uk |
| Trading Standards [Essex] | Information and Business Support Team Essex Trading Standards New Dukes Way Office 2 Beaufort Road Dukes Park Industrial Estate Chelmsford Essex CM2 6PS | 01245 341800 0845 603 7626 www.essex.gov.uk |

| ORGANISATION | CONTACT AND ADDRESS | TELEPHONE |
|---|---|--|
| Tendring District Council [Planning] | Planning Support Team Leader Planning Services Tendring District Council Council Offices Weeley Essex CO16 9AJ | 01255 686161 Planning@tendringdc.gov.uk www.tendringdc.gov.uk |

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| Tendring District Council [Public Experience - Noise Pollution and Premises Safety] | Mr I Wilkins Environmental Health Team Officer Public Experience Tendring District Council Council Offices Weeley Essex CO16 9AJ | 01255 686750 env.services@tendringdc.gov.uk www.tendringdc.gov.uk |
| Gambling Commission | Gambling Commission Victoria Square House Victoria Square Birmingham B2 4BP | 0121 230 6500 info@gamblingcommission.gov.uk www.gamblingcommission.gov.uk |
| HM Revenue & Customs | The Proper Officer HM Revenue & Customs National Registration Unit Betting & Gaming Portcullis House 21 India Street Glasgow G2 4PZ | 0141 5553492 nrubetting&gaming@hmrc.gsi.gov.uk www.hmrc.gov.uk |

USEFUL CONTACTS

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| Trade Associations: | |
| Association of British Bookmakers | www.abb.uk.com |
| British Amusement Catering Trade Association | www.bacta.org.uk |
| British Casino Association | www.britishcasinoassociation.org.uk |
| Remote Gambling Association | www.rga.eu.com |
| Bingo Association | www.bingo-association.co.uk |
| British Horseracing Board | www.britishhorseracing.com |
| British Greyhound Racing Board | www.thedogs.co.uk |
| Gambling Support Organisations: | |
| Gamcare | www.gamecare.org.uk |

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| Responsibility in Gambling Trust | www.rigt.org.uk |
| Gamblers Anonymous | www.gamblersanonymous.org.uk |

ANNEX 'C'

DEFINITIONS

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|------------------------------------|---|
| Adult Gaming Centre | Premises in respect of which an Adult Gaming Centre Premises Licence has effect. |
| Authorised Local Authority Officer | A Licensing Authority Officer who is an authorised person for a purpose relating to premises in that Authority's area. |
| Betting Machines | A machine designed or adapted for use to bet on future real events [not a gaming machine]. |
| Bingo | A game of equal chance. |
| Casino | An arrangement whereby people are given an opportunity to participate in one or more casino games. |
| Casino Resolution | Resolution not to issue Casino Premises Licences. |
| Child | Individual who is less than 16 years old. |
| Club Gaming | Equal chance gaming and games of chance in members clubs and miners welfare institutes (but not commercial clubs, i.e. clubs run for private gain or profit). |
| Club Gaming Machine Permit | Permit to enable the premises to provide gaming machines [3 machines of Categories B,C or D. |
| Code of Practice | Any relevant code of practice under Section 24 of the Act |
| Conditions | <p>Conditions to be attached to licences by way of:-</p> <ul style="list-style-type: none"><input type="checkbox"/> Automatic provision<input type="checkbox"/> Regulations provided by Secretary of State<input type="checkbox"/> Conditions provided by Gambling Commission<input type="checkbox"/> Conditions provided by Licensing Authority <p>Conditions may be general in nature [either attached to all licences or all licences of a particular nature] or may be specific to a particular licence.</p> |
| Default Conditions | Conditions that will apply unless the Licensing Authority decides to exclude them. This may apply to all Premises Licences, to a class of Premises Licence or Licences for specified circumstances. |
| Delegated Powers | Decisions delegated either to a Licensing Committee, Sub-Committee or Licensing Officers. |
| Disorder | No set interpretation. However, likely to be connected to the way gambling is being conducted. In the case of Gambling Premises' Licences, disorder is intended to mean activity that is more serious and disruptive than mere nuisance. |
| Equal Chance Gaming | Games that do not involve playing or staking against a bank and where the chances are equally favourable to all participants. |

| Exempt Lotteries | <p>Lotteries specified in the Gambling Act as permitted to be run without a licence from from the Gambling Commission. There are four types:</p> <ul style="list-style-type: none"> ❑ Small Society Lottery [required to register with Licensing Authorities. ❑ Incidental Non Commercial Lotteries. ❑ Private Lotteries. ❑ Customer Lotteries. | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|--|---------------|------------|------------|---|-----------|-----------|----|------|-----------|----|------|------|----|----|------|-----|------|------|----|------|----------|---|--------|---------|---|-----------------|---------------|
| External Lottery Manager | <p>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.</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Gaming | <p>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.</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Gaming Machine | <p>Machine covering all types of gambling activity, including betting on virtual events.</p> <p><u>Categories</u></p> <table border="1" data-bbox="703 1003 1394 1341"> <thead> <tr> <th>Category</th> <th>Max. Stake</th> <th>Max. Prize</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>Unlimited</td> <td>Unlimited</td> </tr> <tr> <td>B1</td> <td>£2 5</td> <td>£4,10,000</td> </tr> <tr> <td>B2</td> <td>£100</td> <td>£500</td> </tr> <tr> <td>B3</td> <td>£2</td> <td>£500</td> </tr> <tr> <td>B3A</td> <td>£4 2</td> <td>£500</td> </tr> <tr> <td>B4</td> <td>£4 2</td> <td>£250 400</td> </tr> <tr> <td>C</td> <td>50p £1</td> <td>£25 100</td> </tr> <tr> <td>D</td> <td>40p 20p or 30p*</td> <td>£5* or £8 10*</td> </tr> </tbody> </table> <p>*when monetary prize only</p> | Category | Max. Stake | Max. Prize | A | Unlimited | Unlimited | B1 | £2 5 | £4,10,000 | B2 | £100 | £500 | B3 | £2 | £500 | B3A | £4 2 | £500 | B4 | £4 2 | £250 400 | C | 50p £1 | £25 100 | D | 40p 20p or 30p* | £5* or £8 10* |
| Category | Max. Stake | Max. Prize | | | | | | | | | | | | | | | | | | | | | | | | | | |
| A | Unlimited | Unlimited | | | | | | | | | | | | | | | | | | | | | | | | | | |
| B1 | £2 5 | £4,10,000 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| B2 | £100 | £500 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| B3 | £2 | £500 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| B3A | £4 2 | £500 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| B4 | £4 2 | £250 400 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| C | 50p £1 | £25 100 | | | | | | | | | | | | | | | | | | | | | | | | | | |
| D | 40p 20p or 30p* | £5* or £8 10* | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Guidance to Licensing Authorities | <p>Guidance issued by the Gambling Commission 3RD edition dated May 2009. 4th Edition September 2012</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Human Rights Act 1998 Articles: 1,6,8 and 10 | <p>Article 1: Protocol 1 The right to peaceful enjoyment of possessions.</p> <p>Article 6: The right to a fair hearing.</p> <p>Article 8: The right of respect for private and family life.</p> <p>Article 10: The right to freedom of expression.</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Incidental Non Commercial Lottery | <p>A lottery promoted wholly for purposes other than private game, and which are incidental to non commercial events [commonly charity fundraising events, lottery held at a school fete or at a social event such as a dinner dance]</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | |

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| Exchange of Information | Exchanging of information with other regulatory bodies under the Gambling Act. |
| Interested Party | A person who:- <input type="checkbox"/> Lives sufficiently close to the premises to be likely affected by the authorised activities. <input type="checkbox"/> Has business interests that might be affected by the authorised activities. <input type="checkbox"/> Represents persons in either of the above groups. |
| Licensing Authority | Tendring District Council acting under Section 2 of the Act. |
| Licensed Family Entertainment Centre | Premises which offer Category C gaming machines that are restricted entry to adults only (person over 18) but offer Category D machines to children and young persons in areas segregated from the Category D machines. |
| Licensing Objectives | <ol style="list-style-type: none"> 1. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime. 2. Ensuring that gambling is conducted in a fair and Open way. 3. Protecting children and other vulnerable persons From being harmed or exploited by gambling. |
| Licensed Lottery | A Large Society Lottery or Local Authority Lottery. These require registration and authorisation by the Gambling Commission. |
| Lottery | An arrangement which satisfies the statutory description of either a simple lottery or a complex lottery in Section 14 of the Act. |
| Lottery Tickets | Tickets that must:- <input type="checkbox"/> Identify the promoting society; <input type="checkbox"/> State the price of the ticket, which must be the same for all tickets; <input type="checkbox"/> State the name and address of the member of the Society who is designated as having responsibility for the Society for the promotion of the lottery or, if there is one, the External Lottery Manager, and <input type="checkbox"/> State the date of the draw, or enable the date of the draw to be determined. |
| Mandatory Conditions | Specified conditions provided by Regulations issued under Section 176 of the Act to be attached to Premises Licences |
| Members' Club | A club that must:- <input type="checkbox"/> Have at least 25 members; <input type="checkbox"/> Be established and conducted 'wholly or mainly' for purposes other than gaming; <input type="checkbox"/> Be permanent in nature; <input type="checkbox"/> Not be established to make commercial profit; <input type="checkbox"/> Be controlled by its members equally. |
| 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 |

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| | licensed betting shop. |
| Off Course Betting - Tracks | Betting that takes place in a self-contained betting premises with the track premises providing facilities for off course betting, i.e. on other events, not just those taking place on the track. Normally operates only on race days. |
| On Course Betting - Tracks | Betting that takes place on a track while races are taking place. |

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| Operating Licence | Licence issued by the Gambling Commission to permit individuals and companies to provide facilities for certain types of gambling. It may authorise remote or non remote gambling. |
| Permits | Authorisation to provide a gambling facility where the stakes and prizes are very low or gambling is not the main function of the premises. (Issued by the Licensing Authority for Unlicensed Family Entertainment Centres, Prize Gaming, Gaming Machines on alcohol related premises, Club Gaming and Club Gaming Machines). |
| Personal Licence | Formal authorisation to individuals who control facilities for gambling or are able to influence the outcome of gambling. Cannot be held by companies. |
| Pool Betting - Tracks | Betting offered at a horse racecourse by the Tote and at a dog track by the holder of the Premises Licence for the track. |
| Premises | Defined as 'any place', including a vehicle, vessel or moveable structure. It is for the Licensing Authority to decide whether different parts of a building can be properly regarded as being separate premises. |
| Premises Licence | Licence to authorise the provision of gaming facilities on casino premises, bingo premises, betting premises, including tracks, Adult Gaming Centres and Family Entertainment Centres. |
| Private Lotteries | There are three types of Private Lotteries: <ul style="list-style-type: none"> <input type="checkbox"/> Private Society Lotteries - tickets may only be sold to members of the Society or persons who are on the premises of the Society; <input type="checkbox"/> Work Lotteries - the promoters and purchasers of tickets must all work on a single set of work premises; <input type="checkbox"/> Residents' Lotteries - promoted by, and tickets may only be sold to, people who live at the same set of premises. |
| Prize Gaming | Where the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before play commences. |
| Prize Gaming Permit | A permit to authorise the provision of facilities for gaming with prizes on specific premises. |
| Provisional Statement | Where an applicant can make an application to the Licensing Authority in respect of premises that he:- <ul style="list-style-type: none"> <input type="checkbox"/> Expects to be constructed. <input type="checkbox"/> Expects to be altered. <input type="checkbox"/> Expects to acquire a right to occupy. |
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| 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 | <p>Public Bodies that must be notified of all applications and who are entitled to make representations in relation to Premises Licences, as follows:-</p> <ul style="list-style-type: none"> ❑ Tendring District Council (TDC) acting as the Licensing Authority in whose area the premises is partly or wholly situated ❑ The Gambling Commission ❑ The Chief Officer of Police (Essex Police) ❑ Essex County Fire and Rescue Service ❑ The Planning Authority for the local authority area (TDC) ❑ Environmental Health Service for the local authority area (TDC) ❑ The Body competent to advise on the protection of children from harm (Essex Local Safeguarding Children's Board) ❑ HM Revenue and Customs ❑ Authority in relation to vulnerable adults ❑ Vessels only - the Navigation Authority whose statutory functions are in relation to waters where the vessel is usually moored or berthed, i.e. the Environment Agency, British Waterways Board, the Maritime and Coastguard Agency <p>Full details of Responsible Authorities for the Tendring District are contained in Appendix 'B' to this Policy.</p> |
| Small Society Lottery | A lottery promoted on behalf of a non commercial society, i.e. lotteries intended to raise funds for good causes. |
| Society | The society, or any separate branch of such a society, on whose behalf a lottery is to be promoted. |
| Temporary Use Notice | To allow the use of a premises for gambling where there is no Premises Licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. |
| The Act | The Gambling Act 2005 |
| The Council | Tendring District Council |
| The Commission | The Gambling Commission |
| The Policy | The Statement of Licensing Principles published by the Licensing Authority under Section 349 of the Act. |
| Tote [or Totalisator] | Pool betting on tracks. |
| Track | Sites where races or other sporting events take place, e.g. horse racing, dog racing or any other premises on any part of which a race or other sporting event takes place or is intended to take place. |
| Travelling Fair | 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. |

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| Unlicensed Family Entertainment Centre | Premises offering Category D machines only with unrestricted entry |
| Vulnerable Persons | <p>No set definition, but likely to mean group to include people who:-</p> <ul style="list-style-type: none"> □ gamble more than they want to □ gamble beyond their means □ who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs |
| Young Person | An individual who is not a child but who is less than 18 years old. |

ANNEX 'D'

TEMPORARY USE NOTICES (TUN's) OCCASIONAL NOTICES (OUNS)

A TUN may only be issued by a person or company holding an Operating Licence relevant to the proposed temporary use of the premises and may be issued in respect of a 'set of premises' for a maximum of 21 days in any 12 month period. (NB. A TUN may not be issued in respect of a vehicle).

A 'set of premises' is the subject of a TUN if any part of the premises is the subject of the notice. This prevents one large premises from having a TUN in effect for more than 21 days per year by giving a notice in respect to different parts.

In considering whether a place falls within the definition of 'a set of premises', the Licensing Authority will consider, amongst other things, the ownership/ occupation and control of the premises.

The Licensing Authority will generally aim to permit gambling activities under a TUN but will object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.

The organisations designated to receive TUNs and to issue objections are:-

- The Licensing Authority
- The Gambling Commission
- Essex Police
- HM Commission for Revenues and Customs

- If applicable, any other Licensing Authority in whose area the premises are situated (if the premises crosses the border between two Licensing Authority's areas).

The notice must include details of: -

- the date the notice is given
- the gambling activity to be carried on
- the premises where it will take place
- the dates and times it will take place
- any periods during the preceding 12 months that a TUN has had effect for the same premises, and
- any other information prescribed by Regulations

If there are no objections, the notice will be endorsed by the Licensing Authority and returned to the issuer for display upon the premises at the time the activity takes place.

Objections

Having regard to the Licensing Objectives, those Authorities upon whom the TUN is served may make objections to the gambling activity taking place within 14 days of the date of the notice. Objections must be made to the Licensing Authority and TUN issuer.

Modifications to the notice may be suggested by those objecting to it. If accepted by the issuer, a new notice must be issued. It should be noted that the 3 month, 1 day time limit and a new fee will not apply to the new notice, nor may the original objector[s] object to the new notice.

A Hearing must be held before the Premises/Personal Licences Sub-Committee to hear representations from all parties, unless agreement is reached that a Hearing is unnecessary [e.g. by modification of the notice] within 6 weeks of the date of the notice.

Following a Hearing the Licensing Authority must issue a counter notice setting out whether or not the TUN will have effect, any limitations to the activities permitted, the time period when activities may take place and any conditions that are imposed.

OCCASIONAL USE NOTICES (OUN'S)

Occasional Use Notices may only be issued in relation to tracks that are used on eight days or less in a calendar year.

A track can be any part of a premises on which a race or other sporting event takes place or is intended to take place. Tracks need not be a permanent fixture.

OUN's are intended to permit licensed betting operators who have the appropriate permission of the Gambling Commission to use tracks for short periods for conducting betting. An OUN dispenses with the need for a Betting Premises Licence for the track.

Issue

The notice may be issued by the person responsible for the administration of events on the track or the occupier of the track. **The notice must be served on the Licensing Authority and a copy on the Chief Officer of Police.**

Objections

Generally objections may not be made to the issue of an OUN, except the Licensing Authority must issue a counter notice where the effect of the OUN would result in betting facilities being made available for more than 8 days in a calendar year.

REPRESENTATIONS/REVIEWS/HEARINGS/APPEALS
HOW TO MAKE A REPRESENTATION

Who can make representations or seek reviews?

Only 'Interested Parties' and 'Responsible Authorities' may make 'relevant representations' in respect of applications made for the grant or variation of a Premises Licence and may seek a review of licences granted.

What are relevant representations?

'Relevant representations' generally fall into 2 categories – those in relation to an application for the grant or variation of a premise's licence and those for an application to review a premise's licence.

Representations will be relevant if they: -

- relate to the promotion of the licensing objectives, the Statement of Licensing Principles, the Gambling Commission's Guidance or any Codes of Practice, and
- are made within the prescribed period and have not been withdrawn.

Representations will not be relevant if they relate solely to issues such as demand, planning, traffic congestion, public nuisance or fire. This list is not exhaustive and each case will be judged on its own merits. **However it should be noted that there is no appeal against the Authority's determination of whether a representation is relevant, or not.**

The table below will list those provisions about which representations may be made, the timescales within which and by whom they may be made. Regulations to prescribe these matters will be issued in due course by the Secretary of State under Section 160 of the Gambling Act 2005.

| Provision under which hearing is held | Period of time within which representations must be made | Persons who may make representations |
|--|---|--|
| Application for premises licence | 28 | Responsible authorities Interested parties |
| Application for a provisional statement | 28 | Responsible authorities Interested parties |
| Application for review of premises licence | 28 | Responsible authorities Interested parties |
| Counter notice to temporary use notice* | 14 days of receipt of temporary use notice | All those that received a copy of the Temporary Use Notice |
| Counter notice to Occasional Use Notice | Counter notice issued where the use exceeds permitted limits. | Licensing authority |

*It should be noted that the Licensing Authority must issue a counter notice where the use of the same premises under a Temporary Use Notice or Occasional Use Notice would exceed the permitted limits, which are 21 days per 12-month period in respect of TUN's and 8 days per calendar year in respect of OUN's.

Reviews

The Licensing Authority must hold a hearing to review a premises licence where an application is made in the prescribed form by a Responsible Authority or Interested Party seeking a review of the licence unless in the opinion of the Licensing Authority the

grounds on which the review is sought: -

- are not relevant to the licensing objectives, the Statement of Licensing Principles, the Gambling Commission's Guidance or any Codes of Practice,
- are frivolous, vexatious or will certainly not cause the authority to revoke, suspend, remove, amend or attach conditions to a licence,
- are identical or substantially similar to: -
 - grounds in an earlier application for review made in respect of the same premises and already determined, or
 - representations considered by the Licensing Authority in granting the premises licence or certificate, or
 - representations which would have been considered except they were excluded representations following a provisional statement, and
 - a reasonable interval has not elapsed since the earlier application for review or grant of the licence or certificate.

It should be noted that there is no appeal against the Authority's determination of whether a representation is relevant, or not.

Hearings

A hearing must be held as soon as it is reasonably practicable after the expiry of any period for representations prescribed under Sections 161(2), 197(6) or 200(5) of the Act. Where relevant representations have been made and accepted by the Licensing Authority to review a premises licence or where objections have been received to the grant of a Temporary Use Notice (TUN), in the case of Temporary Use Notices, objections must be made to the person who lodged the TUN and a copy served on the Licensing Authority within at least 14 days of the date of the TUN.

Appeals

Any person aggrieved by the decision of the Licensing Sub-Committee can appeal to the Magistrates' Court within 21 days of receiving notice of the Licensing Authority's decision.

ANNEX 'E'

TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

| MATTER TO BE DEALT WITH | FULL COUNCIL | SUB-COMMITTEE | HEAD OF SERVICE/OFFICERS |
|---|---------------------|--|--|
| Three year licensing policy | X | | |
| Policy not to permit casinos | X | | |
| Fee Setting - when appropriate | - | - | X |
| Authority to make minor amendments to the Gambling Policy statement in conjunction with Chairman of the Licensing Committee | | | X |
| Application for premises licences | | Where representations have been received and not withdrawn | Where no representations received/ representations have been withdrawn |
| Application for a variation to a licence | | Where representations have been received and not withdrawn | Where no representations received/ representations have been withdrawn |
| Application for a transfer of a licence | | Where representations have been received from the Commission | Where no representations received from the Commission |
| Application for a provisional statement | | 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 representations have been received and not withdrawn | Where no representations received/ representations have been withdrawn |
| Cancellation of club gaming/ club machine permits | | X | |
| Applications for other permits | | | X |
| Authority to make representations to all applications on behalf of the Licensing Authority | | | X |
| Authority to attach conditions, where relevant to Premises Licence | | X | X |
| Cancellation of licensed premises gaming machine permits | | | X |
| Consideration of temporary use notice | | | X |

| | | | |
|--|--|---|---|
| Decision to give a counter notice to a temporary use notice | | X | |
| Determination as to whether a representation is frivolous, vexatious or repetitive | | | X |
| Determination as to whether representations are relevant | | | X |
| Consideration of an Occasional Use Notice | | | X |

ANNEX 'F'

APPLICATION PROCESS

This guidance covers those aspects that are the responsibility of the Licensing Authority only; guidance on aspects dealt with by the Gambling Commission can be obtained via the following link: - www.gamblingcommission.gov.uk

PREMISES LICENCES

A Premises Licence is required for any premises where gambling activity is carried out of a type requiring Personal and Operators' Licences to have been issued by the Gambling Commission.

An application may only be made by persons having the right to occupy the premises and who have, or have applied for, an Operating Licence allowing the proposed activities to be carried out. The Premises Licence cannot be granted until the necessary Operator's Licence has been issued.

Premises Licences are issued by the Licensing Authority and are required for Casinos, Bingo premises, Betting premises (including tracks and premises used by betting intermediaries) Adult Gaming Centres and Family Entertainment Centres providing category C gaming machines.

A licence is restricted to one premises only. However one set of premises may have separate licences issued in respect of different parts of the building.

Licensing Authorities are obliged to grant an application for a Premises Licence, provided the application is made in accordance with the Act, the Gambling Commission's guidance and the Licensing Authority's Gambling Licensing Policy Statement. Licences will be subject to mandatory and default conditions applied by regulations issued under the Act.

Premises Licences are valid indefinitely from the date of grant unless previously surrendered, lapsed, renewed or cancelled. An annual charge is payable to the Licensing Authority.

BINGO, BETTING, ARCADES (Adult Gaming Centres & Licensed Family Entertainment Centres)

New Licences or Permissions

Applicants wishing to commence operating after 1 September 2007 may apply from 1 January 2007 to the Gambling Commission for an Operator's Licence and from 31 January 2007 to the Licensing Authority for a Premises Licence.

TRACKS

An Operator's Licence is not required from the Gambling Commission to operate a track but a Premises Licence from the Licensing Authority is required. A number of Premises Licences may be granted for one track, provided each is for a different part of the track.

Betting is usually divided into on-course, off-course and pool betting, the provision of which requires operators to hold either a general Betting Operator's Licence or a Pool Betting Operating Licence from the Commission.

Pool betting on tracks may only be offered by the Tote (in relation to horse tracks) and by the Premises licenceholder (in relation to dog tracks). Pool betting may not be provided elsewhere.

Gaming machines, consisting of a maximum of 4 machines of categories B2 – D, may be operated at a track by the Premises licenceholder provided they hold a Pool Betting Operator's Licence (for sifting and other special considerations in respect of gaming machines at tracks, see *'the Gambling Commission's guidance'* at www.gamblingcommission.gov.uk).

Betting machines may also be operated at tracks (see *'Betting machines'*).

The licensing process is the same as for other premises described above.

BETTING MACHINES

Betting machines are used for accepting bets on live events such as racing, in place of making bets at a counter, e.g. in a betting shop or on a track. These machines are not classed as gaming machines. The Licensing Authority may impose a limit on the number of betting machines that may be used in conjunction with a premise's licence.

GAMING MACHINE SUPPLY & REPAIR

These activities require Operators' Licences to be issued by the Gambling Commission. For advice on applying for licences from the Commission, see their website at www.gamblingcommission.gov.uk).

GAMING MACHINES IN LICENSED PREMISES

Premises Licences issued under the Act automatically authorise the provision of gaming machines, according to the type of premises and gambling activities permitted (but see also *'Tracks'*).

The Act introduces new classes of gaming machines, as shown in figure 1 below. The category and number of machines that may be operated under a Premises Licence are shown in figure 2 below.

Fig. 1

| Category of machine | Maximum Stake £ | Maximum Prize £ |
|--|----------------------------|---|
| A | Unlimited | Unlimited |
| B1 | 2 5 | 4000 10,000 |
| B2 | 100 | 500 |
| B3 | 2 | 500 |
| B3A | 4 2 | 500 |
| B4 | 4 2 | 250 400 |
| C | 50p 1 | 35 100 |
| D (Travelling Fairs, UFEC & FEC) | 10p | £5 cash |
| D Non money prize (other than a crane machine e.g. coin pusher or penny falls) | 30p | 8 |
| D Non money prize (crane grab machine) | 1 | 50 |
| D combined money & non money prize | 10p | £8 (of which no more than £5 is money prize) |
| D combined money & non money prize (coin pusher or penny falls machine) | 20p | £20 (of which no more than £10 may be a money prize). |

Fig. 2

| Premises Type | Machine category | | | | | | | |
|--|------------------|----|--|---|------------------|---|---|---|
| | A | B1 | B2 | B3 | B3A | B4 | C | D |
| Regional casino | | | A,B,C and D, except B3A. Maximum of 1250 or 25 x No of gaming tables, whichever is less. (Casino must have at least 40 gaming tables. Otherwise permission is as for large casino) | | | | | |
| Large casino | | | B,C and D, except B3A. Maximum of 150 or 5 x No of gaming tables, whichever is less. (Large casino must have at least one gaming table) | | | | | |
| Small casino | | | B,C and D except B3A.Maximum of 80 machines or 2 x No of gaming tables, whichever is less. | | | | | |
| Pre-2005 Act casinos (no machine/ table ratio) | | | Maximum of 20 machines categories B to D or C or D machines instead (except B3A) | | | | | |
| Betting premises and tracks occupied by Pool Betting | | | | Maximum of 4 machines categories B2 to D not to include B3A | | | | |
| Bingo Premises | | | | | | Maximum of 8 category B3 or B4 machines or 20% of the total number of gaming machines, whichever is the greater * | No limit on category C or D machines | |
| Adult gaming centre | | | | | | Maximum of 4 category B3 or B4 machines or 20% of the total number of gaming machines, whichever is the greater * | No limit on category C or D machines | |
| Family entertainment centre (with premises licence) | | | | | | | No limit on category C or D machines | |
| Family Entertainment Centre gaming machine permit | | | | | | | D | |
| Club Gaming permit | | | | | | B3A, B4, C and D | 3 total Cat B3A machines are lottery only machines which are only permitted in members clubs and miners welfare institutes. | |
| Club machine permit | | | | | B3A, B4, C and D | 3 total | | |
| Licensed premises: automatic entitlement | | | | | C and D | 2 total | | |
| Licensed premises gaming machine permit | | | | | C and D | Unlimited | | |

*Licensed AGC and bingo premises in existence before 13th July 2011 are entitled to make available four (AGCs) or eight (bingo) category B gaming machines, or 20% of the total number of gaming machines, whichever is greater. AGC and bingo premises licences granted on or after 13th July 2011 but before 1st April 2014 are entitled to a maximum of four or eight category B gaming machines or 20% of the total number of gaming machines, whichever is the greater; from 1st April 2014 these premises will be entitled to 20% of the total number of gaming machines only.

TEMPORARY USE NOTICES (TUN's)

A TUN may only be issued by a person or company holding an Operating Licence relevant to the proposed temporary use of the premises and may be issued in respect of a 'set of premises' for a maximum of 21 days in any 12 month period. (NB. A TUN may not be issued in respect of a vehicle).

A 'set of premises' is the subject of a TUN if any part of the premises is the subject of the notice. This prevents one large premises from having a TUN in effect for more than 21 days per year by giving a notice in respect to different parts.

In considering whether a place falls within the definition of 'a set of premises', the Licensing Authority will consider, amongst other things, the ownership/ occupation and control of the premises.

The Licensing Authority will generally aim to permit gambling activities under a TUN but will object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.

Issue

Not less than 3 months and 1 day prior to the day on the which the gambling event is to take place, a TUN must be given to: -

- the Licensing Authority
 - the Chief Officer of Police
 - HM Commissioners for Revenue and Customs
- and, if applicable,
- any other Licensing Authority in whose area the premises are situated

The notice must include details of: -

- the date the notice is given
- the gambling activity to be carried on
- the premises where it will take place
- the dates and times it will take place
- any periods during the preceding 12 months that a TUN has had effect for the same premises, and
- any other information prescribed by Regulations

If there are no objections, the notice will be endorsed by the Licensing Authority and returned to the issuer for display upon the premises at the time the activity takes place.

Objections

Having regard to the Licensing Objectives, those Authorities upon whom the TUN is served may make objections to the gambling activity taking place within 14 days of the date of the notice. Objections must be made to the Licensing Authority and TUN issuer.

Modifications to the notice may be suggested by those objecting to it. If accepted by the issuer, a new notice must be issued. It should be noted that the 3 month, 1 day time limit and a new fee will not apply to the new notice, nor may the original objector[s] object to the new notice.

A Hearing must be held before the Premises/Personal Licences Sub-Committee to hear representations from all parties, unless agreement is reached that a Hearing is unnecessary [e.g. by modification of the notice] within 6 weeks of the date of the notice.

Following a Hearing the Licensing Authority must issue a counter notice setting out whether or not the TUN will have effect, any limitations to the activities permitted, the time period when activities may take place and any conditions that are imposed.

OCCASIONAL USE NOTICES (OUN'S)

Occasional Use Notices may only be issued in relation to tracks that are used on eight days or less in a calendar year.

A track can be any part of a premises on which a race or other sporting event takes place or is intended to take place. Tracks need not be a permanent fixture.

OUN's are intended to permit licensed betting operators who have the appropriate permission of the Gambling Commission to use tracks for short periods for conducting betting. An OUN dispenses with the need for a Betting Premises Licence for the track.

Issue

The notice may be issued by the person responsible for the administration of events on the track or the occupier of the track. **The notice must be served on the Licensing Authority and a copy on the Chief Officer of Police.**

Objections

Generally objections may not be made to the issue of an OUN, except the Licensing Authority must issue a counter notice where the effect of the OUN would result in betting facilities being made available for more than 8 days in a calendar year.

PREMISES LICENCES

PREMISES WHERE AN OPERATOR'S LICENCE HAS BEEN GRANTED TO OPERATE A CASINO, BINGO PREMISES, BETTING PREMISES, ADULT GAMING CENTRE OR LICENSED FAMILY ENTERTAINMENT CENTRE

AFTER 1 SEPTEMBER 2007

1. Attach required documentation
2. Pay prescribed fee

1. Licence lasts indefinitely unless surrendered, lapsed etc.
2. Annual charge payable to licensing authority

GAMING PERMITS

Certain types of gambling are authorised by permits issued by the Licensing Authority. The permits generally authorise low stake gambling for small prizes by: -

- Gaming machines in alcohol-licensed premises, Members' Clubs, unlicensed Family Entertainment Centres (FEC's) and certain other premises, e.g. taxi offices (see 'Other premises' below)
- Equal chance gaming, games of chance and gaming machines in Members' Clubs, and
- Prize gaming, e.g. at Travelling Fairs.

GAMING MACHINES

The Act introduces new classes of gaming machines that may be operated under a permit, as shown in figure 3 below.

Fig. 3

| Category of machine | Maximum Stake £ | Maximum Prize £ |
|--|----------------------------|---|
| B3A | 1 2 | 500 |
| B4 | 1 2 | 250 400 |
| C | 1 | 35 100 |
| D (Money prize) | 10p | 5 |
| D Non money prize (other than a crane grab machine) | 30p | 8 |
| D Non money prize (crane grab machine) | 1 | 50 |
| D combined money and Non money prize (other than a coin pusher or penny falls machine) | 10p | £8 (of which no more than £5 may be a money prize) |
| D combined money and non money prize (coin pusher or penny falls machine) | 10p 20p | £ 15 20 (of which no more than £ 8 10 may be a money prize) |

The category and number of machines that may be operated under a premise's licence are shown in Figure 2 above.

Fig. 4

| Premises Type | Machine category | | | | | | | |
|---|------------------|----|----|----|---|----|--|---|
| | A | B1 | B2 | B3 | B3(A) | B4 | C | D |
| Clubs or Miners' Welfare Institutes with permits | | | | | Maximum of 3 category B3(A) to D machines | | | |
| Qualifying alcohol licensed premises upon notification | | | | | | | Automatic entitlement of 1 or 2 category C or D machines | |
| Qualifying alcohol licensed premises with gaming machine permit | | | | | | | Unlimited entitlement of 1 or 2 category C or D machines | |
| Family Entertainment Centre (with permit) | | | | | | | Unlimited category D machines | |
| Travelling Fair | | | | | | | Unlimited category D machines | |

ALCOHOL LICENSED PREMISES

Certain types of gambling may take place on alcohol-licensed premises under the Licensing Act 2003 without any authorisation being required. Generally these consist of the playing of cribbage, dominoes and other games for low stakes.

Premises holding a Premises Licence may be authorised to operate machines of Class C or D provided the Premises Licence authorises the sale and supply of alcohol for consumption on the premises without it being a condition that the sale and supply of alcohol has to be accompanied by food.

The following paragraphs apply only to those premises.

Automatic Entitlement

The Act gives an automatic entitlement for the holder of a Premises Licence under the 2003 Act to provide up to two gaming machines on their premises.

An application for a permit is not required but Premises Licenceholders must notify their Licensing Authority in writing of their intention to provide the machines and pay the prescribed fee.

The entitlement may be withdrawn if:-

- provision of the machines is not reasonably consistent with the pursuit of the Licensing Objectives
- gaming has taken place on the premises that has breached a condition of the Act, e.g. they do not comply with siting and operation requirements
- the premises are mainly used for gaming; or where an offence under the Gambling Act 2005 has been committed on the premises

The Licensing Authority may not exercise their powers to remove the entitlement without first giving the permit-holder the opportunity to make written or oral representations or both. A Hearing will be held before the Premises/Personal Licences Sub-Committee for this purpose, unless all parties agree that it is unnecessary.

New permits

Where the holder of a Premises Licence wishes to provide more than two gaming machines, an application for a permit must be made to the Licensing Authority with the prescribed fee. There is no restriction on the number of machines that may be applied for and applications to vary the number of machines may be made at any time.

In determining an application for an increase in the number of machines, the Licensing Authority will consider: -

- the size of the premises
- the ability of staff to monitor the use of the machines by children and young persons or by vulnerable persons
- any documentary evidence [e.g. supporting statistical evidence providing details of usage, etc.]
- each application on its own merits
- the Codes of Practice or Guidance issued under the Gambling Act 2005

Where the Authority grants the application, a permit will be issued for the number of machines authorised, which will include the automatic entitlement of 2 machines.

Where the Authority intends to refuse an application, or grant it for a different number or category of machines to that requested, the applicant will be given the opportunity to make written or oral representations or both. A Hearing will be held before the Premises/Personal Licences Sub-Committee for this purpose, unless all parties agree that it is unnecessary

Where the Premises Licence is transferred, the gaming machine permit must also be transferred or it will lapse. In all other cases the permit will last indefinitely, unless surrendered or revoked.

Although the permit will not need to be renewed, an annual charge will have to be paid to the Licensing Authority.

MEMBERS' CLUBS

The Act permits a Members' Club holding a Club Premises Certificate issued under the Licensing Act 2003, or Miners' Welfare Institute, to hold a **Club Gaming Permit** allowing participation in equal chance gaming or playing games of chance (see Annex C for definitions of 'equal chance gaming' and 'games of chance'). In addition they may operate a maximum of 3 machines of either Class B3(A), B4, C or D.

The Act also permits a Members' Club holding a Club Premises Certificate or a Commercial Club holding a Premises Licence under the Licensing Act 2003 to operate a maximum of 3 machines of either Class B3(A), B4, C or D under a **Club Machine Permit**.

New Permits

Applications for a permit for premises already holding a Club Premises Certificate are subject to a 'fast track' procedure that prevents the making of objections, and restricts the ability of the Licensing Authority to refuse the application.

An application under this process may be refused if the club is established primarily for gaming (other than that permitted); if, in addition to the permitted gaming, facilities are provided for other gaming; or that a club machine permit issued to the applicant within the preceding 10 years has been cancelled.

An application and payment of the prescribed fee is required. A permit has effect for 10 years unless surrendered or revoked.

Applications for a permit for premises not holding a Club Premises Certificate e.g. a Commercial Members' Club with a Premises Licence, may be refused by the Licensing Authority on the grounds that:-

- the applicant does not fulfil the requirements for a Members' or Commercial Club
- the premises are used wholly or mainly by children and/or young persons; an offence under the Act or breach of a permit has been committed by the applicant while providing gaming facilities
- a permit held by the applicant has been cancelled in the previous 10 years
- an objection has been made by the Police or Gambling Commission

Permits may be varied at any time to meet changing circumstances, other than an increase above 3 to the number of machines. Licensing Authorities may only refuse a variation if, on consideration of the proposed variation as a new application, they would refuse a permit.

A permit will lapse if the holder no longer qualifies as a Members' Club or no longer qualifies under the 'fast track' system, or the permit is surrendered. A permit may be cancelled if the premises are used wholly or mainly by children and/or young persons or where an offence under the Act or breach of a permit condition has been committed by the applicant in the course of gaming activities.

Permits are valid for 10 years from the date of grant unless previously surrendered, lapsed, renewed or cancelled. An annual charge is payable to the Licensing Authority.

A registration that is in force on 1 September 2007 will continue to have effect until its natural expiry date. Upon expiry a club will be entitled to apply for either a Club Gaming Permit or Club Machine Permit irrespective of the type of registration previously held.

An application for a new Club Machine Permit must be made at least 2 months before the existing registration expires, together with the prescribed fee.

OTHER PREMISES (TAXI OFFICES, TAKE-AWAY RESTAURANTS, ETC.)

Premises such as taxi offices, take-away restaurants, cafes etc are prohibited from obtaining a new gaming machine permit under the Act and will be unable to operate gaming machines of any kind.

UNLICENSED FAMILY ENTERTAINMENT CENTRES

The Licensing Authority may grant an application for a permit for category D gaming machines in an unlicensed Family Entertainment Centre (FEC) provided it is satisfied the premises will be used as an unlicensed FEC and that the Chief Officer of Police has been consulted. There are no limits to the number of machines that may be applied for in an unlicensed FEC.

The Authority will apply its Gambling Policy Licensing Statement in consideration of an application, e.g. requiring an applicant to demonstrate they have no relevant convictions, that they have a full understanding of the maximum stakes and prizes permissible and that staff have a similar understanding.

An application for a permit will have to be accompanied by plans of the premises and a current certificate (CRB) issued by the [Disclosure and Barring Service](#) ~~Criminal Records Bureau~~ or its equivalent in respect of the applicant, i.e. a certificate issued within the previous 28-day period. The requirement in respect of the CRB certificate will be satisfied, where the applicant is a person who is a sole proprietor of the premises, by submission of a certificate in respect of that person or, where an applicant is a company or partnership, by submission of a certificate in respect of the person normally having day-to-day control of the premises.

The Authority may refuse an application for renewal of a permit only on the grounds that an authorised Local Authority Officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with the pursuit of the Licensing Objectives.

Where the Authority intends to refuse an application, the applicant will be given the opportunity to make written or oral representations or both. A Hearing will be held before the Premises/Personal Licences Sub-Committee for this purpose, unless all parties agree that it is unnecessary.

In determining an application, the Licensing Authority need not have regard to the Licensing Objectives but must have regard to any Gambling Commission guidance.

A permit will last for 10 years unless it ceases to have effect because it is surrendered, it lapses or it is renewed. There is no annual charge payable to the Licensing Authority.

Unlicensed FEC's may also offer equal chance gaming under the authority of their Gaming Machine Permit.

New permits

Applications for new permits may be made to the Licensing Authority.

PRIZE GAMING

Prize gaming may be carried on in premises under a permit issued by the Licensing Authority. A Prize Gaming Permit will not authorise the use of gaming machines.

The Authority may apply its Gambling Licensing Policy Statement in consideration of an application, e.g. requiring an applicant to demonstrate they have no relevant convictions, that they have a full understanding of the maximum stakes and prizes permissible and that staff have a similar understanding.

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

An application for a permit will have to be accompanied by plans of the premises and a current certificate issued by the Criminal Records Bureau or its equivalent in respect of the applicant, i.e. a certificate issued within the previous 28-day period. The requirement in respect of the CRB certificate will be satisfied, where the applicant is a person who is a sole proprietor of the premises, by submission of a certificate in respect of that person or, where an applicant is a company or partnership, by submission of a certificate in respect of the person normally having day-to-day control of the premises.

Where the Authority intends to refuse an application, the applicant must be given the opportunity to make written or oral representations or both. A Hearing will be held before the Premises/Personal Licences Sub-Committee for this purpose, unless all parties agree that it is unnecessary.

In determining an application, the Licensing Authority need not have regard to the Licensing Objectives but must have regard to any Gambling Commission guidance.

A prize gaming permit will last for 10 years unless it ceases to have effect or is renewed. There is no annual charge payable to the Licensing Authority.

New permits

Applications for new permits may be made to the Licensing Authority.

Prize gaming without a permit

Prize gaming without a Prize Gaming Permit may be carried on in any premises with a Premises Licence issued under the Act, except that casinos may not offer prize bingo.

Unlicensed FEC's may also offer equal chance gaming only, under the authority of their gaming machine permit.

Travelling Fairs may also offer equal chance gaming only without a permit provided the facilities for gaming are ancillary amusements to the fair.

TRAVELLING FAIRS

Travelling Fairs do not require a permit to provide gaming machines but must comply with codes of practice on how they are operated.

Travelling fairs may provide an unlimited number of category D machines and prize gaming in the form of equal chance gaming provided that facilities for gambling amount to no more than ancillary amusement at the fair.

ALCOHOL LICENSED PREMISES

PREMISES WHERE THE LICENCE PERMITS THE SALE OF ALCOHOL FOR CONSUMPTION ON THE PREMISES AND THE SALE IS NOT CONDITIONAL UPON FOOD BEING SOLD MAY HAVE GAMING MACHINES OF CLASS C OR D

AFTER 1 SEPTEMBER 2007

UP TO 2 MACHINES

1. Automatic entitlement to 2 machines
2. Notify Licensing Authority in writing of proposed intention to operate machines.
3. Pay prescribed fee

MORE THAN 2 MACHINES

1. Apply to Licensing Authority
2. Attach statistical justification showing 'need'
3. Attach plan of premises showing location of machines
4. Pay prescribed fee

1. Permit has effect from date of grant unless surrendered or cancelled
2. Annual charge to be paid to Licensing Authority

1. Licensing Authority can withdraw entitlement for 2 machines where their provision is not consistent with Licensing Objectives; gaming has taken place in breach of a condition; premises are used mainly for gaming; an offence under the Act has been committed.
2. Licensing Authority can cancel a permit where the premises are used wholly or mainly by children or young persons or an offence under the Act has been committed.

BUT

1. Permit holder must be given 21 days notice of the intention to withdraw or cancel
2. Hearing must be held if permit holder requests one
3. Withdrawal or cancellation has no effect until 21 days has elapsed from notice being served where no hearing is requested or 21 days following a hearing or appeal.

MEMBERS' CLUBS

**MAXIMUM OF 3 CATEGORY B3A, B4, C OR D
MACHINES**

AFTER 1 SEPTEMBER 2007

Applications for new permits and renewals must be made to Licensing Authority

ATTACH TO APPLICATION

1. Club Premises Certificate (for fast track applications)
2. Rules of club (if not CPC)
3. Plan of premises showing location of machines
4. Prescribed fee

1. Copy of application and accompanying documents to Police and Gambling Commission
2. Objections may be made (except to 'fast track' applications)
3. Permit lasts 10 years

Application for grant may be refused if: -

1. Applicant does not qualify as a Members' or Commercial Club or Miners' Welfare Institute.
2. The premises are used wholly or mainly by children or young persons.
3. An offence under the Act or a breach of a permit has been committed while providing gaming facilities.
4. A permit held by the applicant has been cancelled in previous 10 years.
5. An objection has been made by Police or Commission.

Application for renewal must be sent to Licensing Authority with fee between 3 and 6 weeks before permit expires and may only be refused on the same grounds as for original grant.

Duration of the permit will not be curtailed while a renewal application is pending or where an appeal against a refusal to renew is outstanding.

UNLICENSED FAMILY ENTERTAINMENT CENTRE

PERMIT MAY BE ISSUED FOR PREMISES WHOSE PRIMARY USE IS AS AN UNLICENSED FAMILY ENTERTAINMENT CENTRE TO HAVE AN UNLIMITED NUMBER OF GAMING MACHINES OF CLASS D

**NEW PERMIT TO OPERATE
AFTER 1 SEPTEMBER 2007**

1. Attach information required by Gambling Licensing Policy Statement
1. Attach plan of premises showing location of machines
2. Consult Chief of Police
3. Pay prescribed fee
4. Permit lasts for 10 years

Application for grant may be refused if the grant would not be reasonably consistent with the Licensing Objectives, e.g. convictions making the applicant unsuitable, the location and type of premises being unsuitable, issues concerning disorder.

Application for renewal must be sent to Licensing Authority with fee between 2 and 6 months before permit expires and may only be refused if an Authorised Officer has been refused access to the premises without reasonable excuse, or renewal would not be reasonably consistent with the licensing objectives. Duration of the permit will not be curtailed while a renewal application is pending or where an appeal against a refusal to renew is outstanding

Permits will lapse if: -

1. Licensing Authority notifies holder premises are no longer being used as an unlicensed FEC
2. Holder no longer occupies premises
3. Holder dies, becomes mentally incapacitated, bankrupt or, in case of a company, ceases to exist or goes into liquidation
4. Court orders holder to forfeit permit
5. Holder surrenders or fails to renew

PRIZE GAMING PERMIT

PRIZE GAMING PERMITS MAY ONLY BE ISSUED IN RESPECT OF PREMISES FOR WHICH THERE IS NO PREMISES LICENCE OR CLUB GAMING PERMIT ISSUED UNDER THE GAMING ACT 2005

**NEW PERMIT TO OPERATE
AFTER 1 SEPTEMBER 2007**

1. Attach information required by Gambling Licensing Policy Statement
2. Attach plans of premises
3. Pay prescribed fee
4. Permit lasts for 10 years

Application for grant may be refused if the grant would not be reasonably consistent with the Licensing Objectives, e.g. convictions making the applicant unsuitable, the location and type of premises being unsuitable, issues concerning disorder.

Application for renewal must be sent to Licensing Authority with fee between 2 and 6 months before permit expires and may only be refused if an Authorised Officer has been refused access to the premises without reasonable excuse, or renewal would not be reasonably consistent with the Licensing Objectives. Duration of the permit will not be curtailed while a renewal application is pending or where an appeal against a refusal to renew is outstanding.

Permits will lapse if: -

1. Holder no longer occupies premises
2. Holder dies, becomes mentally incapacitated, bankrupt or, in case of a company, ceases to exist or goes into liquidation
3. Court orders holder to forfeit permit
4. Holder surrenders or fails to renew

LOTTERIES

A lottery is unlawful unless it is run in accordance with an Operating Licence issued by the Gambling Commission, or it is exempt. This advice covers only those categories of lottery that are exempt. For more information on the licensing requirements for lotteries, see the Gambling Commission's website on www.gamblingcommission.gov.uk

The Act defines 4 categories of lottery that are exempt from needing an operating licence: -

- Incidental non-commercial lottery
- Private lottery
- Customer lottery
- Small society lottery

Only a small society lottery is required to be registered with the Licensing Authority.

Applications must be made by the promoting society to the Licensing Authority for the area in which the principal address of the society is located. The Licensing Authority must record details of the society in a register and notify the applicant and the Gambling Commission of the registration.

The Licensing Authority will require applicants to declare: -

- the purposes for which the society is established
- that they represent a bona fide non-commercial society, and
- that they have no relevant convictions

The Licensing Authority may refuse an application if: -

- it considers the applicant is not a non-commercial society
- any person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence, or
- information provided in or with an application is false or misleading

An application shall be refused if an Operating Licence held or applied for by the applicant has been revoked or refused in the previous 5 years.

The Licensing Authority may revoke a registration where it believes the grounds exist that would permit or require it to refuse an application for registration.

Where the Licensing Authority intends to refuse or revoke the registration application it will give the society: -

- details of the reasons,
- evidence upon which it reached the decision, and
- the opportunity to make written and/or oral representations.

NEW REGISTRATIONS

An application for registration with the prescribed fee must be made to the Licensing Authority under the Act. The registration will be valid indefinitely with an annual fee being payable to the Licensing Authority.

Lottery Requirements

To ensure the main purposes of the lottery are met: -

- the society must apply a minimum of 20% of the proceeds of the lottery to the purposes of the society;
- no single prize may exceed £25000;
- rollovers may be permitted provided every lottery affected is also a small society lottery by the same society and the maximum single prize does not exceed £25000; and
- every ticket must cost the same and must be paid for before being entered into the draw.

Returns

No later than 3 months after making the draw (or in the case of a rollover, the last draw), a return must be sent to the Licensing Authority that: -

- has been signed by 2 members of the society over 18 years of age who are appointed for the purpose in writing by the society or its governing body, if it has one,
- is accompanied by a copy of each member's letter of appointment, and include the following details: -
 - the dates when tickets were available for sale;
 - the dates of any draw and value of prizes, including any rollover;
 - the proceeds raised;
 - the amounts deducted for prizes and expenses incurred in organising the lottery;
 - the amount applied or to be applied to the purposes of the promoting society; and
- whether any expenses incurred in connection with the lottery were paid for other than from the proceeds of the lottery and, if so, the amount and the source(s) from which they were paid.

EXTERNAL LOTTERY MANAGERS

External Lottery Managers require Operators' Licences issued by the Gambling Commission. For more information, see the Gambling Commission's website on www.gamblingcommission.gov.uk

SMALL SOCIETY LOTTERIES

PROMOTED BY A NON-COMMERCIAL SOCIETY ESTABLISHED FOR CHARITABLE PURPOSES; FOR PURPOSE OF ENABLING PARTICIPATION IN OR OF SUPPORTING SPORT, ATHLETICS OR CULTURAL ACTIVITY; OR FOR OTHER NON –COMMERCIAL PURPOSES OTHER THAN PRIVATE GAIN

1. Attach information required: -
 - (a) Purpose for which society established
 - (b) Confirm bona fides of society as non-commercial
 - (c) Declare convictions, if any
1. Pay prescribed fee
2. Registration valid for life, annual fee payable to Licensing Authority

Lottery requirements: -

1. Society must apply minimum 20% of proceeds to purposes of society
 2. No single prize to exceed £25000
 3. Rollovers permitted provided all lotteries affected are small society lotteries & maximum single prize does not exceed £25000
 4. Tickets must cost the same, be paid for before being entered in draw and include details of society, price, name and address of the person responsible for promotion of the lottery and date of draw
- Returns, which must be made no later than 3 months after draw, must be signed by 2 members and include details of: -
5. Dates tickets were available for sale, dates of draw and value of prizes
 6. Proceeds raised, amounts deducted for prizes, expenses incurred in organising lottery and where any were paid for other than from proceeds of lottery, the amount and source
 7. Amount to be applied to purposes of the promoting society

Registration may be refused if: -

1. Society is not considered to be non-commercial
 2. Any person connected with promotion of lottery has been convicted of relevant offence , or
 3. Information provided in application is false/misleading
- Registration must be refused if an operating licence held by or applied for by the applicant has been revoked or refused in the previous 5 years
- Registration may be revoked where grounds exist for an application for registration to be refused. BUT a registration will not be refused or revoked unless the society has been informed of the reasons and the evidence supporting them and been given the opportunity to make representations

ANNEX G

FEES

| Classes of Premises Licence | Application for a Permit - New Operator £ | Application for a Permit - Existing Operator £ | Renewal of a Permit £ | Annual Fee £ | Fee for application to vary a Permit £ | Fee for application to transfer a Permit £ | Change of Name £ | Copy of Permit £ |
|--|--|---|--------------------------|--|---|---|---------------------|---------------------|
| Prize Gaming | 300 | 100 | 300 | – | – | – | 25 | 15 |
| Family Entertainment Centre Gaming Machine (Category D machines only) | 300 | 100 | 300 | – | – | – | 25 | 15 |
| Club Gaming and Club Machine Permit | 200 | 100 | 200 | 50 | 100 | – | – | 15 |
| Licensed Premises Gaming Machine Permit | 150 | 100 | – | 50 | 100 | 25 | 25 | 15 |
| Notice of Intention to make gaming machines available on premises with an premises alcohol licence. Two or less Category D Gaming Machines | | | | Application for a Permit – New Operator £50 | | | | |

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

The Licensing Section
Council Offices
Thorpe Road
Weeley
Essex CO16 9AJ

Tel: 01255 686565
Fax: 01255 686343

E-mail: licensingsection@tendringdc.gov.uk

or alternatively by viewing the Council's Website. www.tendringdc.gov.uk

Contact for further information and
ALTERNATIVE LANGUAGES AND FORMATS OF THIS PLAN

If you require an alternative language or format of this Policy or if you would like further information or have any comments on anything contained in the Policy, please contact the Legal Services, Licensing Team on
01255 686565

or write to us at:-

**Tendring District Council, Council Offices,
Thorpe Road, Weeley,
Essex CO15 9AJ**

Or send us an e-mail at: -

licensingsection@tendringdc.gov.uk

This Policy is also available on the Council's Website

www.tendringdc.gov.uk

BENGALI

যদি আপনার এই নথিটি বাংলা ভাষায় প্রয়োজন হয়, তাহলে www.Tendringdc.gov.uk এর মাধ্যমে অনুবাদ করে দেওয়ার জন্য অনুরোধ করা যেতে পারে।

CHINESE

如果你需要这份文件的简体中文翻译，可以通过www.Tendringdc.gov.uk订购。

GUJERATI

જો આ દસ્તાવેજ તમને ગુજરાતીમાં જોઈતું હોય તો www.Tendringdc.gov.uk થકી એનું ભાષાંતર ખરીદી શકાય છે.

HINDI

यदि आप इस दस्तावेज को हिन्दी में चाहते हैं, तो www.Tendringdc.gov.uk के माध्यम से अनुवाद का ऑर्डर दिया जा सकता है।

POLISH

Jeśli potrzebujesz ten document w J. Polskim, tłumaczenie może być zlecone na stronie www.Tendringdc.gov.uk

TURKISH

Eğer bu dökümanı Türkçe olarak istiyorsanız, çeviri www.Tendringdc.gov.uk yolu ile düzenlenebilir.

URDU

اگر آپ کو اس دستاویز کی ضرورت اردو میں ہے تو www.Tendringdc.gov.uk کے ذریعہ اس کے ترجمہ کی فرمائش کی جا سکتی ہے