



GAMBLING ACT 2005

SECTION 349

STATEMENT OF LICENSING PRINCIPLES – JANUARY 2019

This Statement of Principles will remain in force from 31 January 2019 until 31 January 2022

All references to the Gambling Commission's Guidance for local authorities refer to the Guidance published in September 2015.

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PART A

1.0 Licensing Objectives

1.1 In exercising most of the functions under the Gambling Act 2005, the Licensing Authority 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**

1.2 The Licensing Authority is aware that the Gambling Commission has stated that the requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling.

1.3 This Licensing Authority is aware that in accordance with Section 153 of the Act, in making its decisions about premises licences and temporary use notices it should aim to permit the use of the premises for gambling in so far as it thinks it:

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

2.0 Introduction

2.1 The Borough surrounding the valley of the River Test is one of the largest in Hampshire, covering 245 square miles of predominantly rural land.

Half of Test Valley's 123,000 inhabitants (2015 Small Area Population Forecast) live in the urban areas including Andover and Romsey. The other half are scattered in the hamlets and villages which make up the Borough's 56 parishes.

Test Valley offers a mix of entertainment facilities for residents and visitors alike. It has a number of premises conducting gambling activities including betting offices, a bingo hall and approximately 360 premises and 46 members

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clubs licensed under the Licensing Act 2003 many of which will have gaming machines located on their premises. At the time of publication there are no casinos or tracks (racecourses) within the Test Valley Borough Council area.

The Council recognises that legal gambling in a fair and open way, with suitable protection for children and vulnerable persons, contributes to the growth of the local economy for Test Valley and offers an important role for employment within the borough.

2.2 A map of the Test Valley area is attached as Appendix A

2.3 Revisions to the Gambling Commission Licence Conditions and Codes of Practice (LCCP) mean that as from 6 April 2016 gambling operators have to prepare Local Risk Assessments (LRAs). The LRA should be kept on the individual premises and ready for inspection by any authorised officer. The LRA must be submitted with any new or variation application, otherwise the application has not been properly served. The LCCP also states that a LRA must be submitted when changes in the local environment or the premises warrant a risk assessment being conducted again. The Licensing Authority will expect the local risk assessment to consider as a minimum:

- The location of services for children such as schools, playgrounds, leisure/community centres and other areas where children will gather;
- The demographics of the area in relation to vulnerable groups;
- Whether the premises is in an area subject to high levels of crime and/or disorder.

Local risk assessments should show how vulnerable people, including people with gambling dependencies are protected.

To assist operators in the development of such risk assessments the Gambling Commission have encouraged local authorities to develop Local Area Profiles. Test Valley Borough Council has not yet developed a specific gambling related Local Area Profile. However, generic profiles are available and these may contain information which is of use to operators as they include demographics and a socio-economic profile. These profiles are available on the Test Valley Borough Council web site at www.testvalley.gov.uk/communityandleisure/workingwithcommunities/mylocalarea/

3.0 Consultation on the Statement of Principles

3.1 Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they propose to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from “time to time” and any amended parts re-consulted upon. The statement must then be re-published.

3.2 The Licensing Authority consulted widely upon this statement before finalising and publishing. A list of those persons consulted is provided at Appendix B. It should be noted that unsolicited comments may have been received from other persons but all of these have not been listed.

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- 3.3 The Gambling Act requires that the following parties are consulted by licensing authorities:
- The Chief Officer of Police for Hampshire;
 - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the Test Valley area;
 - 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.
- 3.4 The full list of comments made and the consideration by the Council can be obtained from the Licensing Section, Legal and Democratic Service, Test Valley Borough Council, Beech Hurst, Weyhill Road, Andover, Hampshire SP10 3AJ.
- 3.5 The policy was approved at a meeting of the Full Council on 21 November 2018 and was published via our website on 3 January 2019. Additional copies are available from the Licensing Section.
- 3.6 The Licensing Authority will also consult those persons listed in Appendix B and any other relevant persons as may be appropriate for any subsequent revision of the policy.
- 3.7 Any comments as regards this policy should be sent to:
- The Licensing Manager
Legal & Democratic Service
Beech Hurst
Weyhill Road
Andover SP10 3AJ
Tel: 01264 368013 Fax: 01264 368408
Email: licensing@testvalley.gov.uk
- 3.8 It should be noted that this policy statement will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

4.0 Declaration

- 4.1 In publishing this document, the Licensing Authority declares that it has had regard to the licensing objectives of the Act, the guidance issued by the Gambling Commission and any responses from those consulted on the policy statement.

5.0 Responsible authorities and interested parties

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

5.2 “**Responsible authorities**” are public bodies that must be notified of applications by the applicant. They are as follows:

- the Licensing Authority in whose area the premises are wholly or partly situated;
- the Gambling Commission;
- the Chief Officer of Police;
- the Fire and Rescue Authority;
- the Local Planning Authority;
- the Housing and Environmental Health Service of Test Valley Borough Council;
- the Local Safeguarding Children Board;
- HM Revenue and Customs; and
- Any other person prescribed by the Secretary of State

A full list and contact details of all the Responsible Authorities under the Act will be contained on the Council’s web-site (www.testvalley.gov.uk).

5.3 The Licensing Authority is required by the regulations to state the principles it will apply in exercising its powers under Section 157 (h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:

- The need for the body to be responsible for an area covering the whole of the licensing authority’s area; and
- The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

5.4 Whilst being aware of the suggestion in the Gambling Commission’s Guidance for local authorities, this authority has designated the Hampshire County Council Children’s Services as the body which is competent to advise the authority about the protection of children from harm.

5.5 “**Interested parties**” are persons who may make representations about licence applications or apply for a review of an existing licence. These parties are defined in the Act as follows:

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

- lives sufficiently close to the premises to be likely to be affected by the authorised activities; or
- has business interests that might be affected by the authorised activities; or
- represents persons in either of those two groups referred to above.

- 5.6 Each case will be considered on its merits. This authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission’s Guidance for local authorities specifically paragraphs 8.9 to 8.17. It will also consider the Gambling Commission’s Guidance that “has business interests” should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.
- 5.7 The Gambling Commission has recommended that the Licensing Authority states that interested parties include trade associations, and trade unions, and residents’ and tenants’ associations (paragraph 8.16 of the Gambling Commission Guidance for local authorities). This authority will not however generally view these bodies as interested parties unless they have a member who can be classed as an interested person under the terms of the Act, i.e. lives sufficiently close to the premises to be likely affected by the activities being applied for.
- 5.8 Interested parties can be persons who are democratically elected such as councillors and MP’s. Where appropriate this will include county and parish/town councillors. 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.
- 5.9 If interested parties wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the Licensing Section at Test Valley Borough Council, Beech Hurst, Weyhill Road, Andover SP10 3AJ.
- 5.10 Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate / relative) ‘represents’ someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

6.0 Exchange of Information

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- 6.1 Licensing authorities are required to include in their statements the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.
- 6.2 The Licensing Authority will act in accordance with the provisions of the Act in its exchange of information which includes the provision that the Data Protection Act 1998 and any subsequent legislation will not be contravened. The Licensing Authority will also have regard to any Guidance issued by the Gambling Commission to local authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.
- 6.3 Should any protocols be established as regards information exchange with other bodies then they will be made available on the Council's web-site www.testvalley.gov.uk.

7.0 Compliance and Enforcement

- 7.1 Licensing authorities are required by regulation under the Act to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.
- 7.2 This Licensing Authority's principles are that:
- It will be guided by the Gambling Commission's Guidance to Licensing Authorities and will endeavour to be:
- **Proportionate:** intervention only when necessary, remedies should be appropriate to the risk posed, and costs identified and minimised;
 - **Accountable:** decisions must be justified, and subject to public scrutiny;
 - **Consistent:** rules and standards must be joined up and implemented fairly;
 - **Transparent:** regulators should be open, and keep regulations simple and user friendly; and
 - **Targeted:** focused on the problem, and minimise side effects.
- 7.3 The Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 7.4 This Licensing Authority will implement a risk-based inspection programme, based on:
- The licensing objectives
 - Relevant codes of practice
 - Guidance issued by the Gambling Commission, in particular at Part 36

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- The principles set out in this Statement of Licensing Policy

- 7.5 The main enforcement and compliance role for the Licensing Authority will be to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for the operator and personal licences it issues. It should also be noted that concerns about the manufacture, supply or repair of gaming machines will not be dealt with by the Licensing Authority but will be notified to the Gambling Commission.
- 7.6 The Licensing Authority will keep itself informed of developments as regards the work of the Office for Product Safety and Standards in its consideration of the regulatory functions of local authorities.
- 7.7 Having regard to the principle of transparency, the Licensing Authority enforcement/compliance protocols/written agreements will be available on request to the licensing section. Our risk methodology will also be available on request.
- 7.8 The Licensing Authority recognises that certain operators have a number of premises within its area. In order to ensure that any compliance issues are recognised and resolved at the earliest stage, operators are requested to give the authority a single named point of contact who should be a senior individual, and whom the authority will contact first should any compliance issues arise.

8.0 The Licensing Authority Functions

8.1 The Licensing Authority will:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing *Premises Licences*
- Issue *Provisional Statements*
- Regulate *members' clubs* and *miners' welfare institutes* who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue *Club Machine Permits* to *Commercial Clubs*
- Grant permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or fewer gaming machines
- Issue *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required
- Register *small society lotteries* below prescribed thresholds
- Issue *Prize Gaming Permits*
- Receive and Endorse *Temporary Use Notices*
- Receive *Occasional Use Notices*
- Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')

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- Maintain registers of the permits and licences that are issued under these functions

8.2 The Licensing Authority will not be involved in licensing remote gambling. This will fall to the Gambling Commission via Operator Licences.

8.3 Gambling activities may take one of three forms: gaming, betting or participating in a lottery. Gaming is defined as playing a game of chance for a prize. The Act defines two specific categories of gaming, namely casino gaming and equal chance gaming. Betting is defined as making or accepting a bet on one of three things: the outcome of a race, competition or other process; the likelihood of anything occurring or not occurring; whether anything is or is not true. Lotteries are where persons pay to participate in an arrangement under which prizes are allocated partly or wholly by chance. The National Lottery is not governed by the Gambling Act.

PART B – Premises Licences

9.0 General Principles

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

9.2 The Licensing Authority will aim to permit the use of premises for gambling in so far as it thinks it:

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

9.3 The Licensing Authority appreciates that as per the Gambling Commission's Guidance "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any "no casino" resolution – see section on Casinos below – page 17) and also that unmet demand is not a criterion for the Licensing Authority.

Definition of "premises"

9.4 Premises is defined in the Act as including "any place". Section 152 therefore prevents more than one Premises Licence applying to any place. However, it is possible for a single building to be subject to more than one premises licence,

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provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

9.5 This Licensing Authority takes particular note of the Gambling Commission's Guidance to Licensing Authorities which states that licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discreet part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

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

The Guidance also gives a list of factors which the licensing authority should be aware of, which may include:

- Do the premises have a separate registration for business rates?
- Is the premises' neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?

This authority will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

Premises "ready for gambling"

9.6 The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use. If the construction of a premises is not yet complete, or if they need alteration, or if the applicants does not yet have a right to occupy them, than an application for a provisional statement should be made instead. In deciding whether a premises licence can be granted where there are

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outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process:

- First, whether the premises ought to be permitted to be used for gambling
- Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence. More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.58 to 7.65 of the Guidance.

Location

- 9.7 The Licensing Authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. As per the Gambling Commission's guidance, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

Planning

- 9.8 The Gambling Commission Guidance to Licensing Authorities states:
7.58 – In determining applications, the licensing authority should not take into consideration matters that are not related to gambling and the licensing objectives. One example would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal...

This authority will not take into account irrelevant matters as per the above guidance. In addition this authority notes the following excerpt from the Guidance:

7.65 – When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have to comply with the necessary planning or building consents ... Those matters should be dealt with under relevant planning control, building and other regulations, and must not form part of the consideration for the premises licence. Section 210 of the Gambling Act 2005 prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.

Duplication with other regulatory regimes

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- 9.9 The Licensing Authority will seek to avoid any duplication with other statutory/regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.
- 9.10 When dealing with a premises licence application for finished buildings, this authority will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

10.0 The Licensing Objectives

- 10.1 Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this Licensing Authority has considered the Gambling Commission's Guidance to local authorities and some comments are made below:

Preventing Gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;

- 10.2 This Licensing Authority is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, 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 whether conditions may be suitable such as the provision of door supervisors. This Licensing Authority is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction. Issues of nuisance cannot be addressed via the Gambling Act provisions.

Ensuring that gambling is conducted in a fair and open way;

- 10.3 This Licensing Authority has noted that the Gambling Commission has stated that it would generally not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way, as this will be addressed via operating and personal licences. There is however, more of a role with regard to tracks which is explained in more detail in the "tracks" section below – page 18.

Protecting children and other vulnerable persons from being harmed or exploited by gambling;

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- 10.4 This Licensing Authority has noted that the Gambling Commission’s Guidance for local authorities states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The Licensing Authority will therefore consider, as suggested in the Gambling Commission’s Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances/machines, segregation of areas etc.
- 10.5 The Licensing Authority will also make itself aware of the Codes of Practice which the Gambling Commission issues as regards this licensing objective, in relation to specific premises such as casinos.
- 10.6 As regards the term “vulnerable persons” it is noted that the Gambling Commission is not seeking to offer a definition but states that “it will, for regulatory purposes, assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.” This Licensing Authority will consider this licensing objective on a case-by-case basis. Should a practical definition prove possible in future then this policy statement will be updated with it, by way of a revision.

11.0 Conditions on premises licences

- 11.1 The Licensing Authority will ensure that any conditions imposed are proportionate to the circumstances which they are seeking to address, and will ensure that any premises licence conditions are:
- relevant to the need to make the proposed building suitable as a gambling facility;
 - directly related to the premises and the type of licence applied for;
 - fairly and reasonably related to the scale and type of premises; and
 - reasonable in all other respects
- 11.2 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this Licensing Authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This Licensing Authority will also expect the licence applicant to offer his/her own suggestions as to ways in which the licensing objectives can be met effectively.
- 11.3 The Licensing Authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include:
- supervision of entrances;
 - segregation of gambling from non-gambling areas frequented by children;

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

These matters are in accordance with the Gambling Commission's Guidance.

11.4 The Licensing Authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:

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

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

11.5 The Licensing Authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this Licensing Authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

11.6 It is noted that there are conditions which the Licensing Authority cannot attach to premises licence which are:

- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or methods of operation;
- conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated); and
- conditions in relation to stakes, fees, winnings or prizes

Door Supervisors

11.7 The Gambling Commission advises in its Guidance for local authorities that licensing authorities may consider whether there is a need for door supervisors in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime. It is noted though that 'in-house' door supervisors at casinos or bingo premises cannot be licensed by the

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Security Industry Authority (SIA). This licensing authority therefore will take into consideration relevant criminal convictions, cautions or formal reprimands, if any, and training requirements that meet SIA standards. This is in recognition of the nature of the work in terms of searching individuals, dealing with potentially aggressive persons, etc.

- 11.8 For premises other than casinos and bingo premises, operators and licensing authorities may decide that supervision of entrances/machines is appropriate for particular cases. In respect of betting offices, the authority will require door supervisors only if there is clear evidence from the trading history of the premises that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.

12.0 Adult Gaming Centres (AGC)

- 12.1 The Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure, for example, that persons under the age of 18 do not have access to the premises.
- 12.2 The Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives however, appropriate measures/licence conditions may cover issues such as:
- Proof of age schemes
 - CCTV
 - Supervision of entrances/machine areas
 - Physical separation of areas
 - Location of entry
 - Notices/signage
 - Specific opening hours
 - Self-exclusion schemes
 - Provision of information leaflets/helpline numbers for organisations such as GamCare.

This list is neither mandatory nor exhaustive and is merely indicative of example measures.

13.0 Licensed Family Entertainment Centres

- 13.1 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

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measures to ensure that persons under the age of 18 do not have access to the adult only gaming machine areas.

13.2 The Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures/licence conditions may cover issues such as:

- CCTV
- Clear policies that outline the steps to be taken to protect children from harm
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets/helpline numbers for organisations such as GamCare
- Measures/training for staff on how to deal with suspected truant school children on the premises and how to recognise the signs of potential child sexual exploitation

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

13.3 The Licensing Authority will refer to any conditions applied by the Gambling Commission to operating licences covering the way in which the area containing the category C machines should be delineated. This Licensing Authority will also make itself aware of any mandatory or default conditions on these premises licences when published.

14.0 Casinos

No Casinos resolution

14.1 The Licensing Authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should the Licensing Authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution.

14.2 This matter will be reviewed at three yearly intervals or sooner should the circumstances warrant a revision.

14.3 Any such decision will be made by the Full Council.

15.0 Bingo premises

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15.1 This Licensing Authority notes that the Gambling Commission's Guidance states:

18.5 Licensing Authorities need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. An operator may choose to vary their licence to exclude a previously licensed area of that premises, and then apply for a new premises licence, or multiple new premises licences, with the aim of creating separate premises in that area essentially providing multiple licensed premises within a single building or site. Before issuing additional bingo premises licences, licensing authorities need to consider whether bingo can be played at each of those new premises.

18.7 Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed. Social Responsibility (SR) code 3.2.5(3) states that 'licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises' in order to prevent underage gambling.

16.0 Betting premises

16.1 **Betting machines** – The Licensing Authority will, in accordance with the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer. This authority will consider limiting the number of machines only where there is clear evidence that such machines have been or are likely to be used in breach of the licensing objectives.

17.0 Tracks

- 17.1 Tracks are sites (including horse racecourses and dog tracks) where races or other sporting events take place. Betting is a major gambling activity on tracks, both in the form of pool betting (often known as the "totalisator" or "tote"), and also general betting, often known as "fixed-odds" betting.
- 17.2 The Licensing Authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. The Licensing Authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that

Gambling Act 2005 – Statement of Principles

entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

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

17.4 This Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures / licence conditions may cover issues such as:

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

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

Gaming machines

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

Betting machines

17.6 The Licensing Authority will take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

Condition on rules being displayed

17.7 It is a mandatory condition of premises licences that clear and accessible information about the terms on which a bet may be placed must be displayed at betting premises, including tracks. This licensing authority will not concern itself with the terms or rules of betting (apart from the requirement to display them),

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as this is a consideration of the Gambling Commission in respect of the licensing of betting operators.

Applications and plans

- 17.8 The Gambling Act (s151) requires applicants to submit plans of the premises with their application, in order to ensure that the Licensing Authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity. (See Guidance to Licensing Authorities, paragraph 20.43).

Plans for tracks do not need to be in a particular scale, but should be drawn to a scale and should be sufficiently detailed to include the information required by regulations. (See Guidance to Licensing Authorities, paragraph 20.44).

This authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place. (Guidance to Licensing Authorities, paragraph 20.46).

18.0 Travelling Fairs

- 18.1 It will fall to The Licensing Authority to decide whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 18.2 The Licensing Authority will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 18.3 It has been noted that the 27-day statutory maximum for the land being used as a fair, is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

19.0 Provisional Statements

- 19.1 Developers may wish to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a

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development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

- 19.2 S204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she: expects to be constructed; expects to be altered; or expects to acquire a right to occupy. The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal. In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.
- 19.3 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless: they concern matters which could not have been addressed at the provisional statement stage or; they reflect a change in the applicant's circumstances.
- 19.4 In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:
- Which could not have been raised by objectors at the provisional statement stage;
 - Which in the authority's opinion reflect a change in the operator's circumstances; or
 - Where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

20.0 Reviews of premises licences

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

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- In accordance with any relevant code of practice issued by the Gambling Commission;
- In accordance with any relevant guidance issued by the Gambling Commission;
- Reasonably consistent with the licensing objectives; and
- In accordance with the Licensing Authority's statement of principles.

20.2 The Licensing Authority can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.

20.3 Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins seven days after the application was received by the licensing authority, who will publish notice of the application within seven days of receipt. The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.

20.4 The purpose of a review will be to determine whether the Licensing Authority should take any action in relation to a licence. If action is justified, the Licensing Authority will have the following options:

- Revoke the licence;
- Suspend the licence for a period not exceeding three months;
- Exclude a default condition imposed by the Secretary of State, or remove or amend such an exclusion; and
- Add, remove or amend a licence condition imposed by the Licensing Authority.

In determining what action, if any, should be taken following a review, the Licensing Authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

In particular, the licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

Part C – Permits/Temporary & Occasional Use Notices

21.0 Unlicensed Family Entertainment Centre Gaming Machine Permits

Gambling Act 2005 – Statement of Principles

- 21.1 Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).
- 21.2 The Gambling Act 2005 states that a Licensing Authority may prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Gambling Commission under Part 24. The Gambling Commission's Guidance for local authorities also states that in its three year licensing policy statement, "a licensing authority may include a statement of principles ... for permits..., licensing authorities may wish to give weight to matters relating to protection of children from being harmed or by gambling and to ensure that staff supervision adequately reflects the level of risk to this group." (24.8)
- 21.3 As suggested by the Guidance the Licensing Authority requires a plan of the premises to be submitted with any application for this type of permit.
- 21.4 The Licensing Authority cannot attach conditions to this type of permit.
- 21.5 The Licensing Authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations, including the risk of child sexual exploitation. The efficiency of such policies and procedures will each be considered on their merits, however, they may include the following:
- appropriate measures / training for staff as regards suspected truant school children on the premises,
 - measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises.
- 21.6 The Licensing Authority will also expect that
- applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
 - that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and
 - that staff are trained to have a full understanding of the maximum stakes and prizes.

22.0 (Alcohol) Licensed premises gaming machine permits

Gambling Act 2005 – Statement of Principles

- 22.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the Licensing Authority. The Licensing Authority can remove the automatic authorisation in respect of any particular premises if:
- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
 - gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with)
 - the premises are mainly used for gaming; or
 - an offence under the Gambling Act has been committed on the premises
- 22.2 If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the Licensing Authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission, and “*such matters as they think relevant.*”
- 22.3 The Licensing Authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from being harmed or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that persons under the age of 18 do not have access to the adult only gaming machines. Measures which will satisfy the authority may include:
- The adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by persons under the age of 18;
 - Notices and signage; and
 - Provision of information leaflets/helpline numbers for organisations such as GamCare.
- 22.4 The Licensing Authority recognises that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.
- 22.5 The Licensing Authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.
- 22.6 It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.
- 22.7 Whilst not directly related to the provision of gaming machines, alcohol licensed premises should also be aware of the Gambling Commission Code of Practice for equal chance gaming in such premises.

23.0 Prize Gaming Permits

- 23.1 In making its decision on an application for this permit the Licensing Authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance.
- 23.2 The applicant should set out the types of gaming that he or she is intending to offer and should be able to demonstrate:
- that they understand the limits to stakes and prizes that are set out in Regulations; and
 - that the gaming offered is within the law
- 23.3 It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but that the Licensing Authority cannot attach conditions. The conditions in the Act are:
- the limits on participation fees, as set out in regulations, must be complied with;
 - all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
 - the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
 - participation in the gaming must not entitle the player to take part in any other gambling.

24.0 Club Gaming and Club Machines Permits

- 24.1 Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Club Gaming Machines Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in regulations. A Club Machine Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).
- 24.2 Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. These regulations cover bridge and whist clubs which will replicate the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include

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working men's clubs, branches of the Royal British Legion and clubs with political affiliations.

- 24.3 The Licensing Authority may only refuse an application on the grounds that:
- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
 - (b) the applicant's premises are used wholly or mainly by children and/or young persons;
 - (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
 - (d) a permit held by the applicant has been cancelled in the previous ten years; or
 - (e) an objection has been lodged by the Commission or the police
- 24.4 There is a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003. Under the fast-track procedure there is no opportunity for objections to be made by the Gambling Commission or the police, and the grounds upon which an authority can refuse a permit are reduced and the grounds on which an application under the process may be refused are:
- (a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
 - (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
 - (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."
- 24.5 There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.
- 24.6 Whilst not directly related to the provision of gaming machines, members clubs should also be aware of the gambling Commission Code of Practice for equal chance gaming in alcohol licensed premises.

25.0 Temporary Use Notices

- 25.1 Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Use Notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.
- 25.2 The licensing authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.

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- 25.3 The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this Statement the relevant regulations (SI number 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single overall winner. There can, however, be more than one competition with a single winner held at the individual event covered by a specific temporary use notice. The facilities may not be provided in circumstances where any person participating in the gaming does so by means of a gaming machine. Equal chance gaming is gaming which does not involve playing or staking against a bank and gives equally favourable chances to all participants; it includes dominoes, cribbage, poker and bingo.
- 25.4 There are a number of statutory limits as regards Temporary Use Notices. The meaning of “premises” in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities. As with “premises” the definition of “a set of premises” will be a question of fact in the particular circumstances of each notice that is given. In the Act “premises” is defined as including “any place”. In considering whether a place falls within the definition of a “set of premises” the Licensing Authority will look at, amongst other things, the ownership/occupation and control of the premises.
- 25.5 This Licensing Authority will consider objecting 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.

26.0 Occasional Use Notices

- 26.1 The Licensing Authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. The Licensing Authority will need though to consider the definition of a ‘track’ and whether the applicant is permitted to avail him/herself of the notice.

Part D – Other Information

27.0 Rights of appeal and judicial review

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

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

27.2 An appeal has to be commenced by the giving of a notice of appeal by the appellant to the local magistrates' court within a period of 21 days beginning with the day on which the appellant was notified by the Licensing Authority of the decision to be appealed against.

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

28.0 Other matters

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

- Register of premises licences issued by The Licensing Authority
- Fees
- Guidance on how to make an application
- List of responsible authorities and contact details
- Application forms, where appropriate
- Making representations
- Applying for a review of a licence

29.0 The Licensing Authority Delegations

Matter to be dealt with	Full Council	Sub-Committee of Licensing Committee	Officers
Formal approval of the Licensing Authority statement of policy	X		
Policy not to permit casinos	X		
Application for premises licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a premises licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a premises licence		Where representations have been received from the Commission or responsible authority	Where no representations received from the Commission or responsible authority
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 objections have been made and not withdrawn	Where no objections made/ objections have been withdrawn
Cancellation of club gaming/ club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

APPENDIX A – Map of Test Valley Area



APPENDIX B – List of those consulted

NB The list below reflects the consultation undertaken in 2015. A final list will be included following closure of the 2018 consultation period.

- Andover Town Council
- Romsey Town Council
- Test Valley Borough Council – all Services
- Hampshire Fire and Rescue Service
- British Holiday & Home Parks Association
- BALPPA
- BACTA
- Hampshire Constabulary
- Betting Shop Services Limited
- Business in Sport & Leisure
- Association of British Bookmakers
- British Beer and Pubs Association
- The Bingo Association
- Talbot Walker LLP
- Horsey Lightly Fynn
- Rank Group Gaming Division
- Coral Racing Limited
- Ladbrokes Betting and Gaming Limited
- Gemaso Limited