

WAVERLEY BOROUGH COUNCIL

MINUTES OF THE LICENSING AND REGULATORY COMMITTEE -
12 NOVEMBER 2018

SUBMITTED TO THE COUNCIL MEETING – 11 DECEMBER 2018

(To be read in conjunction with the Agenda for the Meeting)

Present

Cllr Simon Inchbald (Chairman)	Cllr Tony Gordon-Smith
Cllr Bob Upton (Vice Chairman)	Cllr Peter Isherwood
Cllr Maurice Byham	Cllr Anna James
Cllr Patricia Ellis	Cllr Carole King
Cllr Michael Goodridge	Cllr Robert Knowles

Apologies

Cllr John Fraser and Cllr Libby Piper

LIC11/18 MINUTES (Agenda item 1.)

The minutes of the meeting that took place on 18 June 2018 were confirmed and signed.

LIC12/18 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS (Agenda item 2.)

There were apologies from Councillors Libby Piper and John Fraser.

LIC13/18 DECLARATIONS OF INTEREST (Agenda item 3.)

There were no declarations of interest.

LIC14/18 QUESTIONS FROM MEMBERS OF THE PUBLIC (Agenda item 4.)

There were no questions.

LIC15/18 QUESTIONS FROM MEMBERS (Agenda item 5.)

There were no questions.

LIC16/18 ACTION AUTHORISED (Agenda item 6.)

None.

LICENSING ACT 2003 ITEMS

PART I - RECOMMENDATIONS TO THE COUNCIL

LIC17/18 GAMBLING ACT 2005 - REPORT FOLLOWING PUBLIC CONSULTATION ON REVIEW OF THE COUNCIL'S STATEMENT OF GAMBLING POLICY (Agenda item 7.)

The Committee was asked to consider the draft Statement of Licensing Principles: Gambling Policy for the period January 2019 – December 2021 and the responses received to the consultation.

The Committee was advised that the Council's first Statement of Licensing Principles was adopted by the Council in December 2006. The Council is required to review the Principles every three years, with the review being carried out in 2015. If adopted this Policy would come into effect on 31 January 2019.

The Policy had been reviewed by officers before being published for a 12 week public consultation period. The Act required the licensing authority to consult on its principles with the Police; those representing the interests of gambling businesses in their area; and those representing interested persons likely to be affected. In addition to the statutory consultees, including the Local Safeguarding Children's Board and the Public Health Team, consultation had also been conducted through a written process to Citizens Advice Centres, Chambers of Commerce, Town and Parish Councils, and via the Council's website. In total 3 responses had been received with no proposed amendments apart from the HRMC postal address.

The Committee considered the Policy and proposed three minor amendments to the wording in the Policy to make it clearer and one sentence was deleted as it was not required. The Committee also discussed the use of acronyms in the document and asked that they be deleted so that people reading the document could understand it more clearly. The final version of the Policy with the amendments is attached at Annexe 1.

Accordingly the Committee

RECOMMENDS that

- 1. The Statement of Licensing Principles: Gambling Policy, attached at Annexe 1, be approved.**

PART II - MATTERS OF REPORT

The background papers relating to the following items are as set out in the reports included in the original agenda papers.

LIC18/18 MINUTES OF THE MEETINGS OF THE LICENSING (GENERAL-PURPOSES) SUB-COMMITTEE (Agenda item 8.)

The minutes of the meetings of the Licensing (General Purposes) Sub-Committee held on 6 September 2018, 24 September 2018 and 10 October 2018 were confirmed.

LIC19/18 MINUTES OF THE MEETINGS OF THE LICENSING ACT 2003 SUB-COMMITTEES (Agenda item 9.)

The Minutes of the Meetings of Licensing Sub-Committee A held on 9 July 2018 and 6 September 2018 and Licencing Sub-Committee B held on 9 August 2018 were confirmed.

The meeting commenced at 10.00 am and concluded at 10.15 am

Chairman

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WAVERLEY BOROUGH COUNCIL

DRAFT
REVIEW – AUGUST 2018

GAMBLING ACT 2005 STATEMENT OF POLICY

AUGUST 2018

Approved by the Waverley Borough Council on (draft consultation to be approved)

To be published on Website
To come into effect

03 January 2019
31 January 2019

All references to the guidance of the Gambling Commission to licensing authorities refer to the guidance published in October 2015 (last updated in September 2016).

WAVERLEY BOROUGH COUNCIL
GAMBLING ACT 2005
STATEMENT OF GAMBLING POLICY
IN FORCE FROM 31 JANUARY 2019

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1. Introduction

1.1 The Licensing Objectives

The Gambling Act 2005 (“the Act”) gives licensing authorities various regulatory functions in relation to gambling.

The Gambling Commission will have responsibility for dealing with personal licences and operating licences.

Waverley Borough Council (“the Council”) is the Licensing Authority for the purposes of the Act.

The main functions of licensing authorities are:-

- Licensing premises for gambling activities;
- Considering notices given for the temporary use of premises for gambling;
- Granting permits for gaming and gaming machines in clubs;
- Regulating gaming and gaming machines in alcohol licensed premises;
- Granting permits to family entertainment centres for the use of certain lower stake gaming machines;
- Granting permits for prize gaming;
- Considering occasional use notices for betting at tracks;
- Registering small societies’ lotteries below prescribed thresholds.

In exercising most of their 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;
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

Certain activities such as bingo, raffles, some types of lotteries may be exempt from licensing, depending on the scale and frequency of the activity. In referring to “disorder” the Council will take account of activity and behaviour which is excessively aggressive and/or abusive to an extent beyond what might be regarded as nuisance.

1.2 The Waverley Borough Area

Waverley is a large rural borough, characterised by beautiful countryside, distinctive towns and villages, and includes high streets with character, protected green areas and a diverse business community. Waverley Borough covers an area of 345 square kilometres in south-west Surrey and is the largest district by geographic area in Surrey. The Borough is predominantly rural; three-quarters of the area is agricultural land and woodland, 61 per cent is Green Belt and 80 per cent is covered by environmental protection policies including the Surrey Hills Area of Outstanding Natural Beauty. Waverley is 35 miles from central London and is served by good strategic road and rail links but has a predominantly rural road network and limited public transport.

Waverley has a population of 121,572 (2011 census), of whom three-quarters live in the Borough's four main settlements; Farnham, Godalming, Haslemere and Cranleigh. The proportion of young people (0-14 years) is 20 per cent and is close to the regional and national averages. The district has 19. per cent of the population above pension age. The proportion of people from ethnic groups other than "white British" is 9.4 per cent; this compares with 14.8 per cent for the South East and 20 per cent for England.

The Council's Vision is " that Waverley borough will continue to be an attractive and prosperous place to live, work and visit. A place where our residents can take pride in their communities and where there are opportunities for all to thrive and lead healthy lives. A place that is valued by its community and supported by quality public services".

The Council recognises that the entertainment and leisure industry, and shopping, contribute to Waverley's urban and rural economies. These have a part to play in attracting tourists and visitors and are major employers ensuring that Waverley is an attractive and prosperous place to live, visit and work.

This policy statement will both guide the Council in exercising its licensing functions under the Gambling Act 2005 and provide clarity for applicants for licensing and for residents and others, including interested parties.

Applicants are required when submitting their licensing applications to show how their proposals will meet the Council's Policy, as shown in this Statement, and the Government's stated Licensing Objectives for gambling.

The Council is the Licensing Authority for the purposes of the Gambling Act 2005 ("the Act") and is responsible for granting licences, permits and registration in the Borough of Waverley for the activities described by the Act.

A map of Waverley Borough is attached as Annexe 1.

1.3 Consultation

This statement of policy has been prepared in consultation with the following persons/bodies:-

- The Chief Officer of Police;
- One or more persons who appear to the Council to represent the interests of persons carrying on gambling businesses in the Council's area;
- One or more persons who appear to the Council to represent the interests of persons who are likely to be affected by the exercise of the Council's functions under the Gambling Act 2005.

A full list of consultees is attached as Annexe 3.

This Statement of Gambling Policy was published on, [03 January 2019
] and comes into effect on [31 January 2019
]. It will remain in force for no more than 3 years, but may be reviewed at any time.

1.4 Declaration

This statement of policy has been prepared with due regard to the licensing objectives, the guidance to licensing authorities issued in September 2015 (last updated September 2016) by the Gambling Commission, and with due weight attached to any responses received from those consulted.

This statement of policy 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 Act.

1.5 Responsible Authorities

The contact details of all the Responsible Authorities (public bodies that must be notified of applications and that are entitled to make representations) under the Act are available via the Council's website at www.waverley.gov.uk , and also listed at Annexe 2 to this document.

In exercising the Council's powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the Council about the protection of children from harm, the following principles have been applied:

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

Having regard to the above principles, the Council designates the Surrey Children's Service for this purpose.

1.6 Interested Parties

Interested parties can make representations about licence applications, or apply for a review of an existing licence. Section 158 of the Act defines interested parties as persons who, in the opinion of the Licensing Authority;

- a) live sufficiently close to the premises to be likely to be affected by the authorised activities;
- b) have business interests that might be affected by the authorised activities; or
- c) represent persons who satisfy paragraph (a) or (b) above.

Whether or not a person is an interested party is a decision that will be taken by the Council on a case-by-case basis. However, the following factors will be taken into account:-

- the size of the premises;
- the nature of the premises;
- the distance of the premises from the location of the person making the representation;
- the potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment);
- the nature of the complainant. This is not the personal characteristics of the complainant but the interests of the complainant which may be relevant to the

distance from their premises. For example, it could be reasonable for the Council to conclude that “sufficiently close to be likely to be affected” could have a different meaning for (a) a private resident (b) a residential school for children with truanting problems and (c) a residential hostel for vulnerable adults;

- 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.

This list is not exhaustive and other factors may be taken into consideration in an individual case.

The Council considers the following bodies/associations to fall within the category of those who represent persons living close to premises, or having business interests that might be affected by the authorised activities:-

- town and parish councils;
- trade associations;
- trade unions;
- residents’ and tenants’ associations;
- ward/county/parish councillors;
- Members of Parliament;
- School Head or Governor;
- Community Group.

This list is not exhaustive and the Council may consider other bodies/associations and persons to fall within the category in the circumstances of an individual case

The Council may require written evidence that the person/association/body represents an interested party.

1.7 Exchange of Information

The Council regards the lawful and correct treatment of information as very important to the successful and efficient performance of the Council’s functions, and to maintaining confidence between the people/bodies we deal with and ourselves. We ensure that our organisation treats information lawfully and correctly.

The Council may share information in accordance with the following provisions of the Act and other Government legislation which may require the sharing of information: -

- Sections 29 and 30 (with respect to information shared between the Council and the Gambling Commission);
- Section 350 (with respect to information shared between the Council and the other persons listed in Schedule 6 to the Act).

In the exercise of the above functions, consideration shall also be given to the common law duty of confidence, the law relating to defamation, the guidance issued by the Gambling Commission and to the Council’s policies in relation to data protection and access to information (freedom of information).

The Council adopts the principles of better regulation and the Regulators’ Code in the exercise of regulatory function, that is:-

Proportionality: The Council will seek policy solutions appropriate for the perceived problem or risk.

Accountability: The Council will ensure that its decisions may be justified and are open to public scrutiny.

Consistency: The Council will refer to policies, rules and standards that are consistent with its other functional responsibilities and are fairly implemented.

Transparency: The Council's policy objectives will be clearly defined and effectively communicated to all stakeholders.

Targeting: The Council will focus its policies on relevant problems, seeking to minimise side effects and avoid unintended consequences.

Any information shared between the Council and Surrey Police must also be carried out in accordance with the Surrey Information Sharing Protocol produced by the Surrey Community Safety Unit.

Any person wishing to obtain further information about their rights under data protection (General Data Protection Regulation 2016/679 and the Data Protection Act 2018) or access to information legislation may view the Council's policies at http://www.waverley.gov.uk/info/200031/data_protection_and_freedom_of_information or alternatively contact the Data Protection Officer or Information Rights Officer on (01483) 523333 or Email; dpo@waverley.gov.uk or foi@waverley.gov.uk

1.8 Enforcement

The Council adopts a risk-based approach to the inspection of gambling premises. This will allow for the targeting of high-risk premises, or those where a breach would have serious consequences so that resources are effectively concentrated. Premises that are low risk and/or well run will be subject to a less frequent inspection regime.

Where necessary, appropriate enforcement (including prosecution under section 346 of the Act) will be carried out in a fair and consistent manner in accordance with:-

- The Enforcement Concordat;
- The Better Regulation and Hampton Principles;
- Waverley Borough Council enforcement policies.

The Council has set up multi-disciplinary working groups to ensure the proper integration of local crime prevention, (e.g. Joint Action Group).

The Council has also set up a Joint Enforcement Initiative to protect the borough's environment by combating environmental crime, and to work more cohesively and effectively to enforce against anti-social behaviour. Waverley is committed to support Safeguarding Children and Vulnerable People. Waverley's Safeguarding Policy can be found at;

http://www.waverley.gov.uk/info/870/community_safety/920/safeguarding/1

And Safer Waverley Partnership Draft Partnership Strategy and Plan 2017-20 at;

Providing the Licensing Authority with details of where a child or young person repeatedly attempts to gamble on their premises may provide the Licensing Authority with an opportunity to consider safeguarding concerns. The Licensing Authority continues to raise awareness in cooperation with Surrey Police Police of child sexual exploitation, via Operation Makesafe, amongst the business community. To date, efforts have been focused on providing awareness to hotels, taxi companies and licensed premises.

Larger operators are responsible for conducting/taking part in underage testing, results of which are shared with the Gambling Commission. Operators are encouraged to also make the results available to licensing authorities, as far as is practicable.

The Council will endeavour to avoid duplication with other regulatory regimes so far as possible.

Concerns about manufacture, supply or repair of gaming machines will not be dealt with by the Council but will be notified to the Gambling Commission.

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

2. Premises Licences

2.1 Decision Making - General

In accordance with Section 153 of the Act, the Council shall 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 Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the Council's Statement of Gambling Policy.

The Council will not have regard to the expected demand for the facilities which it is proposed to provide, nor the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal.

Moral objections to gambling will not be considered by the Council, as they are not a valid reason for rejecting an application for a premises licence.

Each case will be considered on its individual merits. However, in order to assist applicants and objectors alike, this section sets out the general factors that will be taken into account by the Council when considering applications for premises licences.

The Council's Scheme of Delegation sets out which of the Council's decision-making functions under the Act are delegated to officers.

2.2 Appropriate Licence Environment

The Guidance to Local Authorities and the Licence Conditions and Codes of Practice (in effect from April 2018), set out additional matters that the Council should take into account when considering licence applications for premises licences.

Guidance section 19, Licence Conditions and Codes of Practice condition 16 and code 9 prescribe restrictions on gambling activities on premises, previously known as primary gambling activity. The council will consider any application based on the provisions in these codes and guidance.

2.3 Licence Conditions and Codes of Practice

Section 7 of the Gambling Commission Guidance to Local Authorities sets out considerations that an operator must make in order to protect children and young people from accessing gambling premises.

The Licence Conditions and Codes of Practice issued in 2015 prescribe how operators must prevent children from using age restricted gaming or gambling activities, particularly where gaming machines are licensed. In particular operators must ensure that;

- All staff are trained
- That all customers are supervised when on gambling premises
- Must have procedures for identifying customers who are at risk of gambling related harm

The Council will expect all operators to have policies and procedures in place as required by the Licence Conditions and Codes of Practice on social responsibility to cover all aspects of the code, in particular staff training records and self-exclusion records.

Further provisions with regard to self-exclusion and marketing are included in the social responsibility code. The Council will take all conditions and codes into account when considering applications or performing enforcement activities.

2.4 Risk Assessments: Betting Premises

Such risk assessments are required from new applicants, and from existing premises licensees seeking to vary a licence. The code requires all operators of Casinos, Adult Gaming Centres, Bingo Premises, Family Entertainment Centres, Betting shops and remote betting intermediaries to assess local risks to the licensing objectives, and to have policies, procedures and control measures in place to mitigate those risks.

Operators are required by the Social Responsibility code to make the risk assessment available to licensing authorities when an application is submitted either for new premises licence or variation of a premises licence, or otherwise on request, and this will form part of the Council's inspection regime and may be requested when officers are investigating complaints.

This Council expects the following matters to be considered by operators when making their risk assessment:-

- Information held by the licensee regarding self-exclusions and incidences of underage gambling
- Arrangement for localised exchange of information regarding self-exclusions and gaming trends
- Urban setting such as proximity to schools, commercial environment, factors affecting footfall
- Range of facilities in proximity to the licensed premises such as other gambling outlets, banks, post offices, refreshment and entertainment type facilities
- Known problems in the area such as problems arising from street drinkers, youths participating in anti-social behaviour, drug dealing activities etc.
- Matters relating to children and young persons, including:
 - Institutions, places or areas where presence of children and young persons should be expected such as schools, youth clubs, parks, playgrounds and entertainment venues such as bowling alleys, cinemas etc.
 - Any premises where children congregate including bus stops, cafes, shops, and any other place where children are attracted
 - Areas that are prone to issues of youths participating in an anti social behaviour, including such activities as graffiti/tagging, underage drinking etc.
- Recorded incidents of attempted underage gambling
- Matters relating to vulnerable adult including:-
 - Information held by the licensee regarding self-exclusions and incidences of underage gambling
 - Gaming trends that may mirror days for financial payments such as pay days or benefit payments
 - Arrangement for localised exchange of information regarding self exclusions and gaming trends
 - Proximity of premises which may be frequented by vulnerable people such as hospitals, residential care homes, medical facilities, doctors' surgeries, council housing offices, addiction clinics or help centres, places where alcohol or drug dependant people may congregate

2.5 Location

The location of premises may be relevant to the promotion of the licensing objectives. In particular, premises located in close proximity to the following may give rise to concern:-

- schools and colleges;
- vulnerable adult centres;
- residential areas with a high concentration of children.

Much will depend upon the type of gambling that it is proposed will be offered on the premises. The Council will, where appropriate, consider the location on a case-by-case basis. If the proposed location does pose a risk to the promotion of the licensing objectives, applicants will be invited to show how they propose to overcome such concerns.

2.6 Multiple Licences/Layout of Buildings

Premises are defined in the Act as including “any place”, but no more than one premises licence can apply in relation to any one place. A single building can be subject to more than one premises licence, provided they are for different parts of the building and those parts can reasonably be regarded as being “different premises” for the purposes of the Act.

Operators must ensure that their policies and procedures take account of their structure and layout of the premises.

Where multiple licences are sought for a building (or a discrete part of a building used for other non-gambling purposes), specific issues will need to be considered by the Council before such application(s) can be granted. These include:-

- the ability of children to gain access to or observe gambling facilities (even accidentally) – entrances and exits from parts of a building covered by more than one premises licence should be separate and identifiable so that the separation of different premises is not compromised and so that people (and, in particular, children) do not drift into a gambling area;
- whether entrances are supervised;
- the compatibility of the two or more establishments; and
- the ability of the establishments to comply with the requirements of the Act.

In accordance with the Gambling Commission guidance, an overriding consideration will be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act.

2.7 Conditions

Conditions may be imposed by the Licensing Authority upon a premises licence in a number of ways. These are:-

- (a) **Mandatory** – set by the Secretary of State (some set out on the face of the Act) and some to be prescribed in regulations, for all, or classes, of licences;
- (b) **Default** – to be prescribed in regulations made by the Secretary of State, to be attached to all or classes of licences unless excluded by the Licensing Authority;
- (c) **Specific** – conditions that can be attached to an individual premises licence by the Licensing Authority.

Conditions imposed by the Council will be proportionate to the circumstances that they are seeking to address. In particular, this Council will ensure that premises licence conditions:

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

Certain matters may not be the subject of conditions. These 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 method of operation;
- conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated); and
- conditions in relation to stakes, fees, winnings or prizes.

2.8 Door Supervisors

It is not a mandatory requirement of the Act to impose a condition relating to door supervision. However, if in any particular case the Council does consider it necessary to impose a condition on a premises licence requiring the presence of door supervisors, such persons would normally need to hold a licence from the Security Industry Authority under the Private Security Industry Act 2001.

This requirement is relaxed when applied to door supervisors at licensed casino or bingo premises. Where 'contract' staff (those employed under a contract for services) are employed as door supervisors at casino or bingo premises, such staff will need to be licensed by the SIA. 'In-house' staff (those staff employed under a contract of service) operating as door supervisors at casino and bingo premises are exempt from the licensing requirements of the Private Security Industry Act 2001. The Council may, however, impose specific requirements on door supervisors at such premises, if considered appropriate in an individual case.

2.9 Adult Gaming Centres

Persons operating an adult gaming centre must hold a 'gaming machines general operating licence (adult gaming centre) from the Commission and a premises licence from the Council. This will allow the operator to make available any number of category C and D machines and; to make available a number of category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises.

Premises in existence before 13 July 2011 are entitled to make available four category B3/B4 gaming machines, or 20% of the total number of gaming machines, whichever is the greater.

Adult gaming centre premises licences granted on or after 13 July 2011 but before 1 April 2014 are entitled to a maximum of four category B3/B4 gaming machines or 20% of the total.

No one under the age of 18 is permitted to enter an adult gaming centre.

In considering licence applications for adult gaming centres, weight will be given to the need to protect children and vulnerable persons from harm or being exploited by gambling. The Council will therefore expect applicants to demonstrate that there will be sufficient measures in place to promote this objective.

Applicants are encouraged to consider the following steps:-

- Proof of age schemes;

- Closed Circuit Television ;
- Supervision of entrances/machine areas;
- Reviewing the location of, and entry to, premises (so as to minimise the opportunities for children to gain access);
- Notices/signage;
- Training for staff on challenging persons suspected of being under-age;
- Specific opening hours;
- Self-barring 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 and good practice.

Please see paragraph 2.4 for details of conditions that may be attached to premises licences authorising adult gaming centres.

2.10 Licensed Family Entertainment Centres

Operators of licensed family entertainment centres must hold a gaming machine general (Family Entertainment Centre) operating licence (Family Entertainment Centre) from the Gambling Commission, and a premises licence from the Council. This will allow the operator to make category C and D machines available to their customers.

Children and young persons will be able to enter licensed family entertainment centres and play on the category D machines. They will not be permitted to play on category C machines.

As family entertainment centres will particularly appeal to children and young persons, weight shall be given to child protection issues. Where category C machines are available in licensed family entertainment centres the Council will normally require that:-

- all such machines are located in an area of the premises 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 the machines are located;
- access to the area where the machines are located is supervised;
- the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder;
- at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18; and
- provision of information leaflets/helpline numbers for organisations such as GamCare.

Applicants are therefore encouraged to consider the steps set out at paragraph 2.6 of this statement in order to prevent children and young persons from gaining access to category C machines. In addition, applicants are encouraged to consider the following:-

- Physical separation of areas;

- Measures/training for staff on how to deal with suspected truant school children on the premises.

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

Please see paragraph 2.4 for details of conditions that may be attached to premises licences authorising licensed family entertainment centres.

2.11 Tracks

Tracks are sites (including racecourses and dog tracks) where a race or other sporting event is intended to take place or takes place. Operators of tracks will require a premises licence from the Council, but they do not need to obtain an operating licence from the Gambling Commission (although they may have one).

Tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track.

It will be a mandatory condition of all track licences that children and young persons are excluded from any areas where facilities for betting are provided, and any area where a gaming machine, other than a category D machine, is situated. Special dispensation from this rule is provided for dog tracks and horse racecourses, on days when racing takes place, in relation to the areas used for betting. On these days families will be entitled to attend the track or racecourse, and children enter the areas where facilities for betting are provided. This “race day dispensation” does not apply to the areas where gaming machines of category B and C are provided, and the Council will therefore wish to ensure that suitable measures are in place to prevent children from entering such areas.

Applicants are encouraged to consider the steps set out at paragraph 2.6 in order to prevent the access of children and young people to machines of category B and C. In addition, applicants are encouraged to consider the following:-

- Physical separation of areas;
- Measures/training for staff on how to deal with suspected truant school children on the premises.

Gaming machines – holders of betting premises licences in respect of tracks who also hold a pool betting operating licence may make available up to four gaming machines (categories B2 to D) on the track. The Council will therefore expect the applicant to demonstrate that suitable measures are in place to ensure that children are prevented from entering areas where machines (other than category D machines) are made available.

Betting machines at tracks - the Council will apply similar considerations to those set out in paragraph 2.10 (in relation to betting machines made available at off-course betting premises) to betting machines made available at tracks.

Condition on rules being displayed - the Council will attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office.

Applications and plans - the Council will require the following information from applicants for premises licences in respect of tracks: -

- detailed plans for the racetrack itself and the area that will be used for temporary “on-course” betting facilities (often known as the “betting ring”);
- in the case of dog tracks and horse racecourses, details of the fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities.

Plans should make clear what is being sought for authorisation under the track betting premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence.

2.12 Casinos

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

2.13 Betting Premises

This paragraph deals with off-course betting, that is betting that takes place other than at a track (commonly known as a licensed betting office). Operators of betting premises will require an operating licence from the Gambling Commission and a premises licence from the Council.

The holder of a betting premises licence may make available for use up to four gaming machines of category B, C or D. machines at betting premises are restricted to sub-category B2, B3 and B4 machines.

The Council may, in accordance with section 181 of the Act, restrict the number of betting machines, their nature, and the circumstances in which those machines are made available for use. When considering whether to impose such a condition, the Council will take into account the following: -

- 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.

Please see paragraph 2.4 for details of conditions that may be attached to betting premises licences.

With respect to the protection of vulnerable persons, the Council will expect applicants to provide information on how to gamble responsibly and access help including leaflets/helpline numbers for organisations such as GamCare.

2.14 Bingo

Operators of premises offering bingo (cash or prize) will require a bingo operating licence from the Gambling Commission, and a premises licence from the Council.

The holder of a bingo premises licence may, in addition to bingo in all its forms, make available a number of category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises and any number of category C and D machines. Premises in existence before 13 July 2011 are entitled to make available eight category B3/B4 gaming machines, or 20% of the total number of gaming machines, whichever is the greater.

Bingo premises licences granted on or after 13 July 2011 but before 1 April 2014 are entitled to a maximum of eight category B3/B4 gaming machines or 20% of the total number of gaming machines, whichever is the greater; from 1 April 2014 these premises will be entitled to 20% of the total number of gaming machines only.

It is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted the Council will normally require that:-

- all such machines are located in an area of the premises 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 the machines are located;
- access to the area where the machines are located is supervised;
- the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder;
- at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18; and
- provision of information leaflets/helpline numbers for organisations such as GamCare.

Please see paragraph 2.4 for details of conditions that may be attached to bingo premises licences.

2.15 Temporary Use Notices

Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a person or company holding a relevant operators licence wishes to use the premises temporarily for providing facilities for gambling.

There are a number of statutory limits in regards to temporary use notices.

If objections are received to a temporary use notice (from the Police, Gambling Commission, HM Revenues and Customs or if applicable, any other licensing authority in whose area the premises are situated), the Council must hold a hearing to consider the representation (unless all the participants agree that a hearing is unnecessary).

If the Council, after a hearing has taken place or been dispensed with, considers that the temporary use notice should not have effect, it must issue a counter-notice which may:-

- prevent the temporary use notice from taking effect;
- limit the activities that are permitted;
- limit the time period of the gambling; or
- allow the activities to take place subject to a specified condition.

The Council will apply the principles set out in paragraph 2.1 of this statement to any consideration as to whether to issue a counter-notice.

3. Permits

3.1 Unlicensed Family Entertainment Centre gaming machine permits

Unlicensed family entertainment centres will be able to offer category D machines if granted a permit by the Council. If an operator of a family entertainment centre wishes to make category C machines available in addition to category D machines, they will need to apply for an operating licence from the Gambling Commission and a premises licence from the Council.

The Council can grant or refuse an application for a permit, but cannot attach conditions.

The Council will require the applicant to provide appropriate insurance certificates and adequate plans of the premises.

As unlicensed family entertainment centres will particularly appeal to children and young persons, weight shall be given to child protection issues.

The Council will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures/training for staff as regards suspected truant school children on the premises, measures/training covering how staff should deal with unsupervised very young children being on the premises, or children causing perceived problems on/around the premises.

The Council will also expect applicants to demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed family entertainment centres; that the applicant has no relevant convictions (those that are set out in Schedule 7 to the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

3.2 (Alcohol) Licensed premises gaming machine permits

Two machines or less

Premises licensed to sell alcohol for consumption on the premises can automatically have two gaming machines, of categories C and/or D. The holder of the premises licence authorising the sale of alcohol will simply need to notify the Council, and pay the prescribed fee.

The Council can remove the automatic authorisation in respect of any particular premises if:-

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Act (for example the gaming machines have been made available in a way that does not comply with the requirements on the location/operation of gaming machines);
- the premises are mainly used for gaming; or
- an offence under the Act has been committed on the premises.

More than two machines

If a premises wishes to have more than two machines, then the holder of the premises licence will need to apply for a permit. The Council shall consider that application having regard to the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Act, and any other matters that are considered relevant.

The Council shall determine what constitutes a relevant consideration on a case-by-case basis, but weight shall be given to the third licensing objective, i.e. protecting children and vulnerable persons from being harmed or being exploited by gambling. To this end, the Council will expect applicants to demonstrate that there will be sufficient measures in place to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the Council that there will be no access 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 those under 18. Notices and signage may also be of help.

With respect to the protection of vulnerable persons, the Council will expect applicants to provide information leaflets/helpline numbers for organisations such as GamCare.

It is recognised that some alcohol-licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be submitted, and dealt with, as an Adult Gaming Centre premises licence.

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

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.

3.3 Prize gaming permits

Applicants for prize gaming permits should set out the types of gaming that they are intending to offer. The applicant should be able to demonstrate that:-

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

In making its decision on an application for this type of permit the Council does not need to have regard to the licensing objectives but may wish to do so and must have regard to any Gambling Commission guidance. Weight will be given to child protection issues, and relevant considerations are likely to include the suitability of the applicant (i.e. if the applicant has any convictions which would make them unsuitable to operate prize gaming) and the suitability of the premises. Applicants for prize gaming permits must disclose any previous relevant convictions to the Council.

The Council can grant or refuse an application for a permit, but cannot attach any conditions. However, there are four conditions in the Act that permit holders must comply with. These 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.

3.4 Club gaming and club machine permits

Members' clubs (but not commercial clubs) may apply for a club gaming permit, unless they already hold a Club Premises Certificate under the Licensing Act 2003. The club gaming permits allow the provision of no more than three gaming machines in total. Each of the three machines must be from categories B3A, B4, C or D but only one B3A machine can be sited, as part of this entitlement. Club gaming permits also allow equal-chance gaming (for example, poker) and games of chance (for example, pontoon, chemin-de-fer) under certain restrictions

If a club does not wish to have the full range of facilities permitted by a club gaming permit or if they are a commercial club not permitted to provide non-machine gaming (other than exempt gaming under section 269 of the Act), they may apply for a club machine permit. A club machine permit allows the holder to have no more than three gaming machines in total. Members' clubs and miners' welfare institutes may site up to three machines from categories B3A, B4, C or D but only one B3A machine can be sited, by agreement, as part of this entitlement. Commercial clubs may site up to three machines from categories B4, C or D (not B3A machines).

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. It is anticipated that this will 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 working men's clubs, branches of Royal British Legion and clubs with political affiliations.

An application may only be refused on one or more of the following grounds:-

- the applicant does not fulfil the requirements for a members' or commercial club and therefore is not entitled to receive the type of permit for which it has applied;
- the applicant's premises are used wholly or mainly by children and/or young persons;
- an offence under the Act or a breach of a condition 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 ten years; or;
- an objection has been lodged by the Gambling Commission or the Police

The Council shall have regard to the guidance issued by the Gambling Commission and (subject to that guidance), the licensing objectives.

There is a "fast-track" procedure available for clubs or institutes which hold a club premises certificate under section 72 of 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 the Council can refuse a permit are reduced.

The grounds on which an application under the fast track procedure may be refused are:-

- that the club is established primarily for gaming, other than gaming prescribed by regulations under section 266 of the Act;
- that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

The Council can grant or refuse an application for a club gaming or club machine permit, but cannot attach any conditions. However, there are a number of conditions in the Act that the holder must comply with.

ANNEXE 1 – MAP OF WAVERLEY BOROUGH

ANNEXE 2 - LIST OF RESPONSIBLE AUTHORITIES

- (a) **The Licensing Authority**
The Chief Executive, Council Offices, Waverley Borough Council, The Burys,
Godalming, GU7 1HR; Tel: 01483 523333
- (b) **The Gambling Commission**
Victoria Square House, Victoria Square, Birmingham B2 4BP; Tel: 0121 230 6666
info@gamblingcommission.gov.uk
- (c) **The Police Authority**
Chief Officer of Police c/o Police Licensing Officer, Surrey Police, P.O. Box 101, GU1
9PE; Tel: 01483 639512
- (d) **The Fire Authority**
Surrey Fire & Rescue Service,. Headquarters, Croydon Road, Reigate, Surrey, RH2
0EJ
Tel: Tel: 01737 733733
- (e) **The Local Planning Authority**
Head of Planning Services (Chief Planning Officer), Waverley Borough Council, The
Burys, Godalming, Surrey, GU7 1HR.
Tel: 014873 523333
- (f) **Local Authority – functions in relation to the prevention of pollution to
environment or harm to human health**
Head of Environmental Services, Waverley Borough Council, The Burys, Godalming,
Surrey, GU7 1HR.
Tel: 01483 523333
- (g) **Representative body (in relation to protection of children from harm)**
County Child Employment and Strategy Manager, Quadrant Court, 35 Guildford
Road, Woking, Surrey. GU22 7QQ
Tel: 01483 517839
- (h) **Her Majesty’s Commissioners for Customs and Excise (Revenue and Customs)**
HM Revenue and Customs,. Excise Processing Teams, BX9 1GL, United Kingdom
Tel. 0300 322 7072 Option 7
- (i) **Any other person prescribed by regulations (to be advised)**

ANNEXE 3 – LIST OF CONSULTEES

The Gambling Commission
Surrey Police
The Fire Authority
The Planning Service, Waverley Borough Council
The Environmental Health Service Waverley Borough Council
Surrey Children's Service (or others if appropriate)
Her Majesty's Commissioners for Customs and Excise
Citizens' Advice Bureau
Gamble Aware - an independent charity which supports GamCare
Town and Parish Councils
The Security Industry Authority
Waverley Business Forum
The Public via Waverley Website

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