



## **APPENDIX A**

# **Gambling Act 2005 STATEMENT OF PRINCIPLES**

**January 2019**

# INDEX

	<b>Page</b>
<b>Index</b>	
<b>Map of Swindon Borough Council Area</b>	
<b>Part A Swindon Borough Council &amp; Introduction</b>	<b>5</b>
A-1 The Licensing Objectives	6
A-2 Declaration	6
A-3 Licensing Authority Functions	6
A-4 Responsible Authorities	7
A-5 Interested Parties	8
A-6 Vulnerable Adults	9
A-7 Safeguarding	9
A-8 Competition	10
A-9 Exchange of Information	10
A-10 Enforcement	11
A-11 Gambling Related Harm as a Public Health Issue	12
<b>Part B General Principles</b>	<b>14</b>
B-1 Definition of Premises	14
B-2 Location	16
B-3 Duplication with other Regulatory Regimes	17
B-4 Local Risk Assessments	20
B-5 Adult Gaming Centres	22
B-6 Licensed Family Entertainment Centre	22
B-7 Casinos	23
B-8 Bingo Premises	23
B-9 Betting Premises	24
B-10 Tracks	24
B-11 Travelling Fairs	25
B-12 Accessibility	26
B-13 Applications	27
<b>Part C Provisional Statements</b>	<b>29</b>
<b>Part D Reviews</b>	<b>30</b>
<b>Part E Permits</b>	<b>32</b>
E-1 Unlicensed Family Entertainment Centres	32
E-2 Alcohol Licensed Premises Gaming Machine Permits	33
E-3 Prize Gaming Permits	34
E-4 Club Machine & Club Machine Permits	35

<b>Part F</b>	<b>Temporary &amp; Occasional Use Notices</b>	<b>37</b>
<b>Part G</b>	<b>Registration of Small Society Lotteries</b>	<b>38</b>
<b>Part H</b>	<b>Complaints against Premises Licences under the 2005 Act</b>	<b>40</b>
<b>Part I</b>	<b>Public Register</b>	<b>41</b>

*All references to the Guidance refer to the Gambling Commission's Guidance to Licensing Authorities, 5th Edition, published September 2015, updated in September 2016.*

## ***Consultation***

Consultation on this Statement of Principles commenced on 27/07/2018 for 12 weeks in accordance with the Government's 'Consultation Principles' document (published July 2012), which is available at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/60937/Consultation-Principles.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/60937/Consultation-Principles.pdf)

## **PART A – Swindon Borough Council & Introduction**

### **Introduction**

Swindon is a large town and unitary authority located within Wiltshire in South West England. It is midway between Bristol, approximately 40 miles to the west and Reading, approximately 40 miles to the east. Swindon Railway Station is on the main line from London, Paddington to Bristol and South Wales. Swindon Borough Council has been a unitary authority independent of the rest of Wiltshire since 1997. Swindon was named an Expanded Town under the Town Development Act 1952 and this led to a major increase in its population. Current population estimates show the population of the Swindon urban area as 174 000 with around 206,000 as the Borough wide estimate, which includes the satellite towns of Highworth and Wroughton and annexed villages (Bishopstone, Blunsdon St Andrew, Castle Eaton, Chiseldon, Hannington, Inglesham, South Marston, Stanton Fitzwarren and Wanborough).

The town is located between two junctions (15 and 16) of the M4 motorway and is on the main rail line to London. Thamesdown and Stagecoach are the main Swindon bus operators. Swindon Borough Council recognises its responsibility to the environment, realizing the impact it creates upon the planet, but are fully committed to minimise this whilst becoming as sustainable as possible. The Council achieves this via the principles of One Planet Living; using a fair share of Earth's resources. Swindon is one of the locations for innovative schemes such as car share and cycle for life.

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 be then re-published.

The Gambling Act requires that the following parties are consulted by licensing authorities:

- The Chief Officer of Police;
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's 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 Gambling Act 2005.

In addition to the statutory consultees, Swindon Borough Council consulted widely upon this statement before its finalisation and publication.

It should be noted that this statement of licensing principles does 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.

## A-1 The Licensing Objectives

In exercising most of our functions under the Gambling Act 2005, Swindon Borough Council must have regard to the licensing objectives as set out in section 1 of the Act. These 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

A full description of the Gambling objectives is available on request.

It should be noted that the Gambling Commission has stated: “The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”.

Swindon Borough Council’s Licensing Authority is aware that, as per Section 153, in making decisions about premises licences and temporary use notices we should aim to permit the use of premises for gambling in so far as we think 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 authority’s statement of licensing policy

## A-2 Declaration

The Licensing Authority declares that this Statement of Principles has been prepared having regard to the provisions of the Guidance issued by the Gambling Commission and the licensing objectives of the Gambling Act 2005. The Licensing Authority has consulted on this Statement of Licensing Principles, and given due regard to any responses from those consulted before adopting and publishing the final document.

This Statement of Principles is available on Swindon Borough Council’s website [www.swindon.gov.uk](http://www.swindon.gov.uk).

## A-3 Licensing Authority functions

Licensing authorities are required under the Act to:

- 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) for 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 there are more than two machines
- Register *small society lotteries* below prescribed thresholds
- Issue *Prize Gaming Permits*
- Receive and Endorse *Temporary Use Notices*
- Receive *Occasional Use Notices*
- Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
- Maintain registers of the permits and licences that are issued under these functions

Information on these authorisations is provided in Parts B and C of this policy.

It should be noted that licensing authorities are not be involved in licensing remote gambling at all, which is regulated by the Gambling Commission via operating licences.

Any objections to new premises or requests for Reviews of Premises Licences should be based on the objectives of the Act. It must be noted that the Act does not include the prevention of public nuisance and anti-social behaviour as specific licensing objectives, therefore objections based on these issues may not be accepted. Each objection will be looked at on a case-by-case basis.

#### **A-4 Responsible Authorities**

Swindon Borough Council is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The agency chosen must have a good knowledge of the direct and indirect impact of gambling on the welfare of children and be answerable to democratically elected persons, rather than any particular vested interest group.

In determining the choice of responsible authority to advise the Licensing Authority on the protection of children from harm or exploitation by gambling, regard has been had to expertise and experience, local knowledge, efficiency and uniformity of approach. It is considered that a locally based agency is best placed to advise on what happens in Swindon.

Whilst bodies comprising several different agencies are able to take an overview on child protection matters and are able to determine outcomes in particular circumstances, they consist of different strands and are only able to reach consensus at formal meetings. Reliance on such a body for an opinion could be slow and requesting a view would take up time that probably should be spent discussing other matters.

In relation to advice on protecting children from harm caused by the provision of licensable activities under the Licensing Act 2003, Swindon Borough Council has already chosen the Head of Children and Families as the responsible authority.

For the sake of uniformity and because the choice also satisfies the other criteria, this is also the Council's responsible authority under the Gambling Act 2005 for the protection of children from harm or exploitation by gambling.

The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the Council's website ([www.swindon.gov.uk](http://www.swindon.gov.uk)).

## **A-5 Interested parties**

Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 (s.158) as follows:

*"... 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 applications is made, the person-*

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,*
- b) has business interests that might be affected by the authorised activities, or*
- c) represents persons who satisfy paragraph (a) or (b)"*

Swindon Borough Council is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party.

In considering who are interested parties the Licensing Authority notes that this definition must include anyone who is affected by gambling activity at the premises concerned, where that effect falls under the heading of one of the licensing objectives. The Licensing Authority will examine this as a question of fact in each case. Where a person has put forward an admissible and relevant representation as an 'interested party' but the case is not clear that the person is an 'interested party', the Licensing Committee (or Sub-Committee thereof) will rule on the matter as a preliminary issue. This ruling will be made immediately prior to a hearing - convened to hear the matter. The Licensing Authority will have regard to the Gambling Commission Guidance in reaching any decisions.

Interested parties can be persons who are democratically elected such as councillors and MP's. No specific evidence of being asked to represent an interested person will be required as long as the councillor/MP represents the ward likely to be affected. Likewise, parish councils likely to be affected, will be considered to be interested parties. Other than these however, 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 or 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 that the representation is made is considered sufficient for these purposes.

If individuals 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 department ([licensing@swindon.gov.uk](mailto:licensing@swindon.gov.uk)).

The Gambling Commission's Guidance provides that the words, "has business interests" will be given the widest possible interpretation and will include partnerships, charities, faith groups and medical practices.

It would be open to an educational establishment to raise concerns about the protection of children or young persons in its care and a counsellor or hypnotist who has a substantial involvement in assisting customers with a gambling addiction might have cause to object if a gambling facility was proposed in the vicinity of their treatment centre.

#### **A-6 Vulnerable Persons**

The term 'Vulnerable Persons' has not been defined within the Act. In seeking to protect vulnerable persons the Licensing Authority will normally class as 'vulnerable' those persons who gamble more than they want to, persons who gamble beyond their means and persons who may not be able to make informed or balanced decisions about gambling, perhaps due to a mental impairment, or an addiction to alcohol, drugs or gambling.

The term 'Vulnerable Persons' also includes a child or children and an individual aged 18 years or more who is or may be unable to take care of themselves, or is unable to protect themselves against harm or exploitation by reason of age, illness, trauma or disability, or any other reason.

#### **A-7 Safeguarding**

This Licensing Authority expects operators of gambling premises to have in place policies and measures to ensure children and other vulnerable persons are protected from being harmed or exploited by gambling. 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 be considered on their merits, however, they may include appropriate measures/training of staff as regards suspected truanting 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.

This Licensing Authority will pay particular attention to measures proposed by operators to protect children from harm in Adult Gaming Centres and Family Entertainment Centres. Such measures may include, but would not be limited to, the following: -

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

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

Swindon Borough Council is also aware and supports the work of Gamblers Anonymous in Swindon. They are a valuable source of information, help and assistance in relation to gambling addictions. Further information can be sought at [www.gamblersanonymous.org.uk](http://www.gamblersanonymous.org.uk)

## **A-8 Competition**

Other gambling businesses that wish to put a case against a licensing application must do so within the framework of the licensing objectives. In practice, objections will be limited to areas such as informing the Licensing Authority of evidence of malpractice on the part of the applicant, evidence of criminal background or associations with crime or evidence of unfairness in relation to gambling transactions or evidence that gambling transactions compromised the welfare of children or vulnerable adults. Where a business is engaged in gambling activities, it may legitimately argue that it will be affected by any transgression or lowering of standards, which as a consequence threatens to undermine the reputation of the gambling industry.

## **A-9 Exchange of Information**

Swindon Borough Council is required to include in their statements the principles that will 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 the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

We have an established protocol for the exchange of information with the Police, for the furtherance of the responsibilities of both parties under the Crime and Disorder Act 1998 and which includes provisions ensuring that the provisions of the Data Protection Act 2018 will not be contravened. This framework provides for and will regulate the exchange of information between the responsible authorities, including the Gambling Commission, and the Licensing Authority. The Licensing Authority will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

Any revision to the protocol is not considered to be an amendment of the Licensing Policy Statement and such a revision may take place at any time.

## **A-10 Enforcement**

Licensing authorities are required by regulation under the Gambling Act 2005 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.

The Licensing Authority adheres to a policy on enforcement and regulation that is generic to Swindon Borough Council. This policy is modelled on the Regulatory Compliance Code developed by the Department for Business Innovation & Skills (BIS). The local policy is taken to be a supplement to this Licensing Policy Statement. Any revision to the enforcement policy is not considered to be an amendment of the Licensing Policy Statement and such a revision may take place at any time. The enforcement policy provides for transparency, proportionality, accountability and consistency.

As per the Gambling Commission's Guidance to Licensing Authorities this Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

The main enforcement and compliance role for this Licensing Authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission is the enforcement body for operating and personal licences and also matters relating to the manufacture, supply or repair of gaming machines.

Inspections will be carried out on a risk-assessed basis. Priority will be given to visits prompted by complaints or reports from members of the public, interested parties or responsible authorities, indicating non-compliance with the licensing objectives. Risk will be considered on the basis of the extent of harm likely to result from non-compliance, either in terms of the number of people at risk or the severity of the impact upon them. The protection of children and vulnerable adults from harm is the foremost objective of the Licensing Authority.

A mix of announced and unannounced visits will be carried out on a programmed basis. Announced visits will provide an opportunity for unhurried discussion with key players present.

Any enforcement action will endeavour to be: -

- **Proportionate** – regulators should only intervene when necessary and remedies should be appropriate to the risk posed; costs should be identified and minimised;
- **Accountable** – regulators must be able to justify decisions, and be 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** – regulators should be focussed on the problem and minimise side effects.

## **A-11 Gambling Related Harm as a Public Health Issue**

Gambling is a legitimate leisure activity enjoyed by many and the majority of those who gamble appear to do so with enjoyment, and without exhibiting any signs of problematic behaviour. There are, however, some individuals who do experience significant harm as a result of their gambling. For these problem gamblers, harm can include higher levels of physical and mental illness, debt problems, relationship breakdown and in some cases, criminality. It can also be associated with substance misuse. In many cases it is difficult to attribute these negative effects solely or directly to gambling.

Public Health Teams, whilst not a Responsible Authority under the Gambling Act 2005, are likely to have a better understanding of the range of health issues within our area, how they interrelate and where they are concentrated. Better working relationships between the Public Health Team and the Licensing Authority can help: -

- Identify and interpret health data and evidence to inform the review of the Statement of Licensing Principles and develop locally tailored local area profiles;
- Make decisions that benefit and protect the health and wellbeing of local communities;
- Be clear on issues which the Licensing Authorities can have regard to when deciding a licence for a wide range of gambling activities;
- Identify and interpret health data and evidence to inform the review of the Statement of Licensing Principles;
- Conduct a health impact assessment of gambling in the local area or assess any existing information

Whilst this particular working relationship is in its infancy in relation to the Gambling Act 2005 , it is envisaged that it will prosper over the lifespan of this Statement of Licensing Principles with facts and figures compiled during this period being used in the future development of all Swindon Borough Council's Statement of Licensing Principles.

## **PART B - General Principles**

### **General Principles**

Premises licences are subject to the requirements set out in the Gambling Act 2005 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.

### **Decision-making**

As Licensing Authority Swindon Borough Council is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it is:

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

It is appreciated that as per the Gambling Commission's Guidance to licensing authorities "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) and also that unmet demand is not a criterion for a licensing authority.

A summary of Licensing Authority Delegations is attached at Appendix C to this Statement.

### **B-1 Definition of "premises"**

In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, 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.

The Gambling Commission states in the fifth edition of its Guidance to Licensing Authorities that: "In most cases the expectation is that a single building/plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the

circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises. If a premises is located within a wider venue, a licensing authority should request a plan of the venue on which the premises should be identified as a separate unit.”

As Licensing Authority, Swindon Borough Council 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 discrete 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 to 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 names 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.

The Licensing Authority notes the Gambling Commission guidance regarding the primary gambling activity authorised by a premises licence (paragraph 7.4 of the Guidance).

“By distinguishing between premises types the Act makes it clear that the primary gambling activity of the premises should be that described. Thus, in a bingo premises, the primary activity should be bingo, with gaming machines as an ancillary offer on the premises.”

The Licensing Authority will take account of any advice notes published by the Commission regarding primary gambling activity, but it expects that the primary gambling activity shall be that described by the licence.

## **B-2 Location**

As Licensing Authority Swindon Borough Council is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. It is not considered that the location of premises has any bearing on the fairness of the gambling process.

As per the Gambling Commission's Guidance to Licensing Authorities, 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.

It is the policy of this Licensing Authority that:

- Where it is proposed to use for gambling purposes premises which are thought to be in use as a base for organised crime or where the proposed premises are adjacent to premises which appear to be in use as a base for organised crime, the Licensing Authority will normally refuse to issue a licence and will be receptive to the idea of revoking a licence under such circumstances.
- Where it is proposed to use for gambling purposes, premises which are within a short distance of a facility already used as a centre for providing counselling and support to individuals who have a gambling addiction and the proposal is that the gambling premises will be open at the same time as the support facility, the application will normally be refused, if that opportunity presents itself.
- Where it is proposed to use for gambling purposes premises which are within a short distance of a place of assembly designed primarily for young people or children or vulnerable adults, this will be taken into account when the application is considered. For these purposes, use of a building as a youth centre or a school will be considered to be significant but a community centre which is used sometimes by young people but is provided for the wider community will not be viewed as relevant.
- Where it is intended that premises should be used for any gambling transaction that involves a face to face encounter between a customer and a member of staff, it is deemed that 'young persons' [as defined by the Act] are potentially at risk but that children [as defined by the Act] are not. The presence of a junior school or crèche will not be considered relevant when making a determination in relation to a betting office or bingo hall for example but the presence of a sixth form college may be considered relevant.



- Where it is intended that premises should be used for any gambling transaction that does not in itself involve a face to face encounter between a customer and a member of staff, it is deemed that 'young persons' and 'children' [each as defined by the Act] are potentially at risk. In relation to such a proposal, the presence within a short distance of a sixth form college, further education college, secondary school, junior or infants school will be considered relevant although the proximity of a facility for the under 5's will not be taken as relevant.

In considering if a gambling transaction involves a face to face encounter with staff in the above circumstances, no account will be taken of such matters as the giving of change or the hire of a computer terminal. A face to face transaction will include the placing of a bet at a counter or the placing of chips on a roulette table in the presence of the croupier.

Should any further policies be decided upon regarding 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.

### **B-3 Duplication with other Regulatory Regimes**

The Licensing Authority will not seek to take any action under the Gambling Act 2005, where an appropriate remedy is provided by other legislation that is more precisely targeted for that purpose. By way of illustration, this would preclude the use of the Gambling Act 2005 to pursue such matters as health and safety at work, equal opportunities or the visual amenity of buildings.

Furthermore, this authority will not consider whether a premises is likely to be awarded planning permission or building regulations approval, in its consideration of a licensing application for that premises. 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.

When dealing with a premises licence application for a finished building, 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.

**Licensing objectives** - 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 Licensing 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** - As Licensing Authority Swindon Borough Council is aware that the Gambling Commission takes 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 (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction.

**Ensuring that gambling is conducted in a fair and open way** - This Licensing Authority has noted that the Gambling Commission states that it generally does not expect licensing authorities to be 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).

**Protecting children and other vulnerable persons from being harmed or exploited by gambling** - This Licensing Authority has noted the Gambling Commission's Guidance 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.

This licensing authority is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.

As regards the term “vulnerable persons” it is noted that the Gambling Commission does not seek 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 gambling beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to mental health needs, learning disability or substance misuse relating to alcohol or drugs.” This Licensing Authority will consider this licensing objective on a case by case basis.

**Conditions** - Any conditions attached to licences will be proportionate and will be:

- 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.

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.

This Licensing Authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the 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.

This 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.

This 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 protection of children and other vulnerable persons from harm or exploitation by gambling 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.

It is noted that there are conditions which the Licensing Authority cannot attach to premises licences 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 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, winning or prizes.

**Door Supervisors** - The Gambling Commission advises in its Guidance to Licensing Authorities that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a condition to this effect on a premises licence.

Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether these need to be SIA licensed or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary (as per the Guidance, Part 33).

### **Planning:**

The Gambling Commission Guidance to Licensing Authorities (paragraph 7.58) states: *“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. Licensing authorities should bear in mind that a premises licence once it comes into effect, authorises premises to be used for gambling. Accordingly, 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.”*

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 (paragraph 7.65): *“When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Nor should fire or health and safety risks be taken into account. 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 Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.”*

### **B-4 Local Risk Assessments**

The Gambling Commission's Licence Conditions and Codes of Practice formalised the need for operators to ensure that from April 2016 all premises have a current Local Risk Assessment (LRA). This LRA must be kept on the relevant licensed premises and be readily available for inspection for any authorised officer. It would be a useless document if a LRA is kept at the Head Office of a company in a different part of the country. Social Responsibility Code 10.1.1 requires all premises licences to assess the local risks to the

licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures in place to minimise those risks. In undertaking these assessments operators must take into account matters identified in this Statement of Licensing Principles detailed below.

Licensees are required to undertake a LRA when applying for a new premises licence and when applying for a variation to their existing premises licence. The LRA must also be updated: -

- to take account of significant changes in local circumstances, including those identified in this Statement of Licensing Principles;
- when there are significant changes at a licensed premises that may affect their mitigation of local risks.

There is no statutory requirement for licensees to share their risk assessments with Responsible Authorities or Interested Parties. However, this Licensing Authority may request the licensee share a copy of their LRA which will set out the measures the licensee has in place to address specific concerns. It is anticipated that this practice should reduce the occasions on which a premises licence review and/or imposition of licence conditions is required.

This Licensing Authority would recommend that the following matters are considered by operators when making their LRA, and they have taken action in the form of conditions where the operators have not demonstrated that they are sufficiently mitigating the risks. This list is not exhaustive and other factors not in this list that are identified must be taken into consideration: -

- 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;
- 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.;
- Recorded incidents of attempted underage gambling.

If the LRA provided by an operator is deemed insufficient to meet the requirements detailed in this Statement of Licensing Principles it is expected that this Licensing Authority shall impose conditions on the premises licence to ensure any such requirements not addressed in the LRA are met.

The LRA's to be submitted for each licensed premises by the operator must be in the format set out at Appendix A to this Statement of Licensing Principles.

## **B-5 Adult Gaming Centres**

This 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, for example, to restrict access to the premises, in appropriate cases.

This licensing authority may consider measures to meet the licensing objectives 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 and Gamblers Anonymous.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures. When an operator is carrying out its LRA for an Adult Gaming Centre they must, where applicable, include the risks associated with an adjoining Unlicensed Family Entertainment Centre particularly when access to the one is via the other.

## **B-6 (Licensed) Family Entertainment Centres:**

This 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, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

This licensing authority may consider measures to meet the licensing objectives such as:

- 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 and Gamblers Anonymous.
- 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.

This licensing authority will, as per the Gambling Commission's guidance, refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. This Licensing Authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

## **B-7 Casinos**

As Licensing Authority, Swindon Borough Council has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005 Swindon Borough Council is aware, however, that it has the power to pass a 'no casino' resolution. Should this Licensing Authority decide to pass such a resolution in the future, it will update this policy statement with details of that resolution. Any such decision will be made by the Full Council.

## **B-8 Bingo premises**

This Licensing Authority notes that the Gambling Commission's Guidance states (paragraph. 18.4):

"Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas."

This authority also notes the Guidance regarding the unusual circumstances in which the splitting of pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible for all of the gaming machines to which each of the licences brings an entitlement to be grouped together within one of the licensed premises, as the gaming machine entitlement for the single premises would be exceeded.

The Gambling Commission's Guidance further states (para.18.6):

"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."

## **B-9 Betting premises**

*Betting machines* - This 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.

## **B-10 Tracks**

This 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 especially consider the impact upon the protection of children and other vulnerable persons from harm or exploitation by gambling 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.

This 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.

This Licensing Authority may consider measures to meet the licensing objectives 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 and Gamblers Anonymous

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

*Gaming machines* - Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.



*Betting machines* - This licensing authority will, as per Part 16 of the Gambling Commission's Guidance, 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 proposes to offer.

#### Applications and plans

The Act (s.51) 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.

Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations.

Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises.

In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined.

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.

### **B-11 Travelling Fairs**

This Licensing Authority is responsible for deciding 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.

The Licensing Authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

It is noted that the 27-day statutory maximum for the land being used as a fair applies on a per calendar year basis, 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.

## **B-12 Accessibility**

The Gambling Commission's relevant access provisions for each premises type (paragraph 7.23 of the Guidance) are reproduced below:

<b>Type of Premises</b>	<b>Access Provisions</b>
Casinos	<ul style="list-style-type: none"> <li>the principal entrance to the premises must be from a 'street'</li> <li>no entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons</li> <li>no customer must be able to enter a casino directly from any other premises which holds a gambling premises licence</li> </ul>
Adult Gaming Centres	<ul style="list-style-type: none"> <li>no customer must be able to access the premises directly from any other licensed gambling premises</li> </ul>
Betting Shops	<ul style="list-style-type: none"> <li>access must be from a 'street' or from other premises with a betting premises licence</li> <li>no direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind unless that shop is itself a licensed betting premises.</li> </ul>
Tracks	<ul style="list-style-type: none"> <li>no customer must be able to access the premises directly from a Casino or Adult Gaming Centre</li> </ul>
Bingo Premises	<ul style="list-style-type: none"> <li>no customer must be able to access the premises directly from a Casino, an Adult Gaming Centre or a Betting Premises, other than a Track</li> </ul>
Family Entertainment Centres	<ul style="list-style-type: none"> <li>no customer must be able to access the premises directly from a casino, an Adult gaming Centre or a Betting Premises other than a Track</li> </ul>

Part 7 of the Gambling Commission's Guidance to Licensing Authorities contains further guidance on this issue, which this authority will also take into account in its decision-making.

## B-13 Applications & Plans

A summary of the application forms and statutory notices are provided at Appendix B to this Statement of Licensing Principles, and the forms can also be downloaded from the Gambling Commission's website [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

An application for a premises licence may only be made by persons (which includes companies or partnerships): -

- who are aged 18 or over **and**
- who have the right to occupy the premises **and**
- who have an operating licence which allows them to carry out the proposed activity; or
- who have applied for an operating licence to allow them to carry out the proposed activity. The premises licence cannot be determined until an operating licence has been issued.

The application must be made in the form as prescribed in regulations laid down by the Secretary of State, and must be accompanied by: -

- the prescribed fee;
- the prescribed documents, namely a plan of the premises and the plan needs to be to a scale (not prescribed)

In accordance with regulations a plan must show: -

- the extent of the boundary or perimeter of the premises;
- where the premises include, or consist of one or more buildings, the location of any external or internal walls of each such building;
- where the premises forms part of a building, the location of any external or internal walls of the building which are included in the premises;
- where the premises are a vessel or a part of a vessel, the location of any part of the sides of the vessel, and of any internal walls of the vessel, which are included in the premises;
- the location of each point of entry to and exit from the premises, including in each case a description of the place from which entry is made or to which the exit leads;
- the plan must show the location and extent of any part of the premises which will be used to provide facilities for gambling in reliance on the licence.

Full details of what else is required to be detailed on the accompanying plan, dependent on the type of premises, are available from the Licensing Authority.

The Applicant must publish a notice of their application and to notify Responsible Authorities and other persons about the application. This Notice must be given in three ways: -

- a notice placed on the premises for 28 consecutive days in a place where it can be read conveniently;
- in a newspaper or newsletter of local relevance, on at least one occasion within 10 days of the application being made;
- to all responsible authorities, which includes the Gambling Commission, within 7 days of the application being made.

A licence application, and any licence subsequently issued, is not valid if the relevant notifications have not been made.

## PART C - Provisional Statements

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 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.

S.204 of the 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.

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.

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.

## **PART D - Reviews**

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;

- in accordance with any relevant Code of Practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the authority's statement of principles.

The request for the review will also be subject to the consideration by the authority as to whether the request is frivolous, vexatious, or whether it will certainly not cause this authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

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.

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 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 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.

The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:-

- (a) add, remove or amend a licence condition imposed by the licensing authority;
- (b) exclude a default condition imposed by the Secretary of State or Scottish Ministers (e.g. opening hours) or remove or amend such an exclusion;
- (c) suspend the premises licence for a period not exceeding three months; and
- (d) revoke the premises licence.

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.

Once the review has been completed, the licensing authority must, as soon as possible, notify its decision to:

- the licence holder;
- the applicant for review (if any)
- the Commission
- any person who made representations
- the chief officer of police or chief constable; and
- Her Majesty's Commissioners for Revenue and Customs

## PART E - Permits

### E-1 Unlicensed Family Entertainment Centres (Schedule 10 Paragraph 7)

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).

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 Commission under section 25. The Gambling Commission's Guidance to Licensing Authorities also states: "In its statement of policy, a licensing authority may include a statement of principles that it proposes to apply when exercising its functions in considering applications for permits. In particular it may want to set out the matters that it will take into account in determining the suitability of the applicant.... Licensing authorities may wish to give weight to matters relating to protection of children from being harmed or exploited by gambling and to ensure that staff supervision adequately reflects the level of risk to this group." (paragraph 24.8)

Guidance also states: "...An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed Family Entertainment Centre, ("FEC") and if the chief officer of police has been consulted on the application....licensing authorities might wish to consider asking applications to demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
  - that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act; and
  - that staff are trained to have a full understanding of the maximum stakes and prizes."
- (paragraph 24.9 of Guidance)

It should be noted that a licensing authority cannot attach conditions to this type of permit.

Statement of Principles - This 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. 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 would deal with unsupervised very young children being on the premises, or children causing perceived problems on or around the premises. This Licensing Authority will also expect, in accordance with the Gambling Commission Guidance, 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); that staff are trained to have a full understanding of the maximum stakes and prizes; and that a detailed plan is submitted with the application (in accordance with Section B-13 of this Statement of Licensing Principles)

## **E-2 Alcohol Licensed premises gaming machine permits - (Schedule 13 paragraph 4(1))**

### Automatic entitlement: 2 machines

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.

### Permit: 3 or more machines

If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider the application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*”

This 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 harm or exploitation by gambling. However, no account can be taken of the presence of any premises in the locality that are principally used by children or young people, when an application to provide amusements with prizes machines is considered.

The applicant must satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include siting the adult machines within 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. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets or 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 applied for, and dealt with as an Adult Gaming Centre premises licence.

It should be noted that 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, but no other conditions can be attached.

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.

### **E-3 Prize Gaming Permits**

The Gambling Act 2005 states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority proposes to consider in determining the suitability of the applicant for a permit”.

This Licensing Authority has prepared a Statement of Principles which provides that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:

- that they understand the limits to stakes and prizes that are set out in Regulations;
- that the gaming offered is within the law
- Clear policies outlining the steps to be taken to protect children from harm.

In making its decision on an application for this permit the licensing authority does not need to (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance. (Gambling Act 2005, Schedule 14 paragraph 8(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.

## **E-4 Club Gaming and Club Machines Permits**

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

Members Clubs and Miner's welfare institutes – and also Commercial Clubs – may apply for a Club Machine Permit. A Club Machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D). NB Commercial Clubs may not site category B3A gaming machines offering lottery games in their club.

Gambling Commission Guidance states: "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. The Secretary of State has made regulation and these cover bridge and whist clubs, which replicates the position under the Gambling 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."

The Commission Guidance also notes that "licensing authorities 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.

There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). As the Gambling Commission's Guidance to Licensing Authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the 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."

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.

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.

## **PART F - Temporary & Occasional Use Notices**

### **F-1 Temporary Use Notices**

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.

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.

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 no 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 winner, which in practice means poker tournaments.

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 needs to look at, amongst other things, the ownership/occupation and control of the premises.

This Licensing Authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

### **F-2 Occasional Use Notices:**

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. This licensing authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

## **PART G – Registration of Small Society Lotteries**

### **G-1 Definition of a Lottery**

A lottery is any arrangement that satisfies all of the criteria contained within the statutory description of either a simple lottery or complex lottery, in accordance with Section 14 of the Act.

#### **SIMPLE LOTTERY**

- Persons are required to pay to participate;
- One or more prizes are allocated to one or more members of a class;
- The prizes are allocated by a process which relies wholly on chance.

#### **COMPLEX LOTTERY**

- Persons are required to pay to participate;
- One or more prizes are allocated to one or more members of a class;
- Prizes are allocated by a series of processes;
- The first of these processes relies wholly on chance.

### **G-2 Social Responsibility**

Participation in a lottery is a form of gambling, and as such this Licensing Authority is aware that the societies that we register are required to conduct their lotteries in a socially responsible manner and in accordance with the Act.

The Act requires that lottery tickets may only be sold by persons that are aged 16 or over to persons that are aged 16 or over. The Licensing Authority may take legal action against offenders as part of its enforcement procedures.

Small Society Lottery tickets must not be sold to a person in any street. For these purposes 'street' includes any bridge, road, lane, footway, subway, square, court, alley or passage (including passages through enclosed premises such as shopping malls) whether a thoroughfare or not. Tickets may, however, be sold in a street from a static structure such as a kiosk or display stand. Tickets may also be sold door to door. Licensees must ensure that they any necessary local authority permissions, such as a Street Trading Licence.

The Licensing Authority requires all registered Small Society Lotteries to maintain written records of any unsold and returned tickets for a period of one year from the date of the lottery draw. These records must be available for inspection by an authorised officer of the Licensing Authority.

If a society running small lotteries fails to comply with any of the conditions of running such lotteries specified in the Act, it will be operating in an illegal manner, irrespective of whether it is registered with the Licensing Authority or not.

### **G-3 Applications**

Applications for Small Society Lottery registrations must be in the form prescribed by the Secretary of State and be accompanied by both the required registration fee and all necessary documents i.e. a copy of their terms and conditions, and their constitution to establish that they are a non-commercial society. Furthermore, on a case by case basis, applicants may be required to provide a declaration stating that they represent a bona fide non-commercial society.

Details of the Small Society Lottery will be maintained on a public register, in accordance with the Act.

A lottery return must be given to the Licensing Authority by the holder of the Small Society Lottery licence following **EACH** lottery held. Each return must be sent to the Licensing Authority no later than 3 months after the date of the lottery draw and must be signed by 2 members of the society who must be aged 18 years or older, are appointed for the purpose in writing by the society and must be accompanied by a copy of their letter or letters of appointment.

## **PART H – Complaints against Premises Licensed under the Gambling Act 2005**

This Licensing Authority will investigate complaints against licensed premises in respect of matters relating to the licensing objectives. In the first instance, complainants are encouraged to raise the complaint directly with the licence holder or business concerned to seek a local resolution.

Should a local resolution not be achieved the Licensing Authority will determine its next course of action on a case-by-case basis. The outcome of the action may be: -

- Review of Premises Licence
- Prosecution for Offences
- Warning Letters

This is not an exhaustive list, and is merely indicative of example measures.



## **PART I – Public Register**

The Licensing Authority is required to maintain a public register. The register will be available for the public to view at any reasonable time. If requested, the Licensing Authority must supply a copy of the information contained in any entry in its register in legible form. A fee may be charged for any such copy. Swindon Borough Council will charge a standard fee of £25 per copy requested.

## APPENDIX A – LOCAL RISK ASSESSMENT FORM

### Premises

Premises Name:	
Premises Address:	
Premises Post Code:	
Premises Licence Number:	
Category of Premises:	

### Company

Operating Company:	
Operating Licence Number:	

### Assessment Writer

Name of Person Writing this Assessment:	
Position within Company or Name of Authorised Agent:	
Date that Original Assessment was Written	

### Requirement to Comply

All non-remote casino, adult gaming centre, bingo, family entertainment centre, betting and remote betting intermediary (trading room only) licences, except non-remote general betting (limited) and betting intermediary licences

Effective as at 6 April 2016

Social responsibility code provision 10.1.1

1. Licensees must assess the local risks to the licensing objectives posed by the provision of gambling facilities at **each of their premises**, and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy.
2. Licensees must review (and update as necessary) their local risk assessments.
  - a. to take account of significant changes in local circumstances, including those identified in a licensing authority's statement of licensing policy;
  - b. when there are significant changes at a licensee's premises that may affect their mitigation of local risks;
  - c. when applying for a variation of a premises licence; and
  - d. in any case, undertake a local risk assessment when applying for a new premises licence.

### **Ordinary code provision 10.1.2**

1. Licensees should share their risk assessment with licensing authorities when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise on request.

**Local Area Profile**  
**To be completed by the Operator**

**Gambling Act 2005 – The Licensing Objectives**

The Gambling Act 2005 sets out the three licensing objectives (LO), which are:

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

<b>Risk Assessment</b>	<b>LO</b>	<b>Level of Risk</b>	<b>Impact</b>	<b>Control System</b>	<b>Risk Management</b>	<b>Reviewed</b>
	(A)					
	(A)					
	(B)					
	(B)					
	(C)					
	(C)					
	(C)					

## **APPENDIX B**

### **SUMMARY OF ALL APPLICATION FORMS & STATUTORY NOTICES**

#### **Application**

Application for a premises licence under the Gambling Act 2005 (standard form)  
Application for a premises licence under the Gambling Act 2005 (vessel)  
Notice of application for a premises licence under the Gambling Act 2005 (to be published)  
Notice of application for a premises licence (Form A) (for responsible authorities)  
Notice of application for a premises licence (Form B) (for responsible authorities)  
Summary of the Terms and Conditions of a premises licence  
Premises licence  
Notice of a grant of an application for a premises licence  
Annex A – form to accompany notice of grant (conditions to be attached)  
Annex B – form to accompany notice of grant (conditions to be excluded)  
Annex C – form to accompany notice of grant (representations)  
Notice of rejection of an application for a premises licence

#### **Variation**

Application to vary a premises licence under the Gambling Act 2005  
Notice of Application to vary a premises licence under the Gambling Act 2005 (to be published)  
Notice of Application to vary a premises licence (Form A) (for responsible authorities)  
Notice of Application to vary a premises licence (Form B) (for responsible authorities)  
Notice of grant of an application to vary a premises licence  
Annex A – form to accompany notice of grant (conditions to be attached)  
Annex B – form to accompany notice of grant (conditions to be excluded)  
Annex C – form to accompany notice of grant (representations)  
Notice of rejection of an application to vary a premises licence

#### **Review**

Application for a review of a premises licence under the Gambling Act 2005  
Notice of application for a review of a premises licence under the Gambling Act 2005  
Notice of application for a review of a premises licence (to the premises licence holder and responsible authorities)  
Notice of intention to hold a review of a premises licence under the Gambling Act 2005  
Notice of intention to hold a review of a premises licence (to the premises licence holder)  
Notice of the decision on a review of a premises licence

## **Provisional**

Application for a provisional statement under the Gambling Act 2005 (standard form)  
Notice of application for a provisional statement under the Gambling Act 2005  
Application for a provisional statement under the Gambling Act 2005 (vessel)  
Notice of application for a provisional statement (Form A) (for responsible authorities)  
Notice of application for a provisional statement (Form B) (for responsible authorities)  
Provisional statement  
Notice of grant of an application for a provisional statement  
Annex A – form to accompany notice of grant (conditions to be attached)  
Annex B – form to accompany notice of grant (conditions to be excluded)  
Annex C – form to accompany notice of grant (representations)  
Notice of rejection of an application for a provisional statement

## **Transfer**

Application to transfer a premises licence under the Gambling Act 2005  
Notice of application to transfer a premises licence (Form A ) (for responsible authorities)  
Notice of application to transfer a premises licence (Form B ) (for responsible authorities)  
Summary of terms and conditions of a premise licence  
Premises Licence  
Notice of grant of an application to transfer a premises licence  
Annex A – form to accompany notice of grant (conditions to be attached)  
Annex B – form to accompany notice of grant (conditions to be excluded)  
Annex C – form to accompany notice of grant (representations)  
Notice of rejection of an application to transfer a premises licence

## **Reinstatement**

Application for the reinstatement of a premises licence under the Gambling Act 2005  
Notice of application of the reinstatement of a premises licence (Form A)  
Notice of application of the reinstatement of a premises licence (Form B)  
Summary of terms and conditions of a premise licence  
Premises Licence  
Notice of grant of an application for the reinstatement of a premises licence  
Annex A – form to accompany notice of grant (conditions to be attached)  
Annex B – form to accompany notice of grant (conditions to be excluded)  
Annex C – form to accompany notice of grant (representations)  
Notice of the rejection of an application for the reinstatement of a premises licence

## **Temporary Use Notices**

Gambling Act 2005 – Temporary Use Notice (for premises other than vessels)  
Gambling Act 2005 – Temporary Use Notice (vessel)  
Counter Notice (given in response to a temporary use notice)

**Permits /lottery**

Application Form for Club Gaming Permit or Club Machine Permit

Registration of Small Society Lotteries (Application form for registration of non-commercial society)

Club Gaming Permit

Club Machine Permit

Prize Gaming Permit

Family Entertainment Centre Gaming Machine Permit

Licensed Premises Gaming Machine Permit

## APPENDIX C – LICENSING AUTHORITY DELEGATIONS

<b>Matter to be dealt with</b>	<b>Full Council</b>	<b>Sub-Committee of Licensing Committee</b>	<b>Officers</b>
Final approval of the Licensing Authority statement of policy	X		
Policy not to permit Casinos	X		
Fee setting (when appropriate)		X (if delegated by Full Council)	
Application for Premises Licence		X Where representations have been received and not withdrawn	X Where no representations received/representations have been withdrawn
Application for a Variation to a licence		X Where representations have been received and not withdrawn	X Where no representations received/representations have been withdrawn
Application for a Transfer of licence		X Where representations have been received from the Commission or Responsible Authority	X Where no representations have been received from the Commission or Responsible Authority
Application for a Provisional Statement		X Where representations have been received and not withdrawn	X Where no representations received/representations have been withdrawn
Review of a Premises Licence		X	
Application for Club Gaming/Club Machine Permits		X Where objections have been made and not withdrawn	X 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	