



Welwyn Hatfield Borough Council Statement of Principles under the Gambling Act 2005

Policy for 2019-2022 (Effective from 31st January 2019)
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Track changes

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Welwyn Hatfield Borough Council
Statement of Principles under the Gambling Act 2005
Reviewed 2018

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This draft Statement of Licensing Principles was approved for consultation by Welwyn Hatfield Borough Council on 11th June 2018 and the final policy was approved by Full Council ~~on 'tbc' 23rd November 2015~~.

All references to the Guidance refers to the Gambling Commission's Guidance to Licensing Authorities 5th Edition, Published September 2015. Sections 17 18 and 19 updated September 2016.

This statement will provide a vision for the local area and a statement of intent that guides practice.

The council recognises the potential value of gambling local area profiles and the assistance these profiles could give licensees in preparing their own statutory gambling risk assessments. Although not available at the commencement of this policy, the council commits to work with key stakeholders (including the local gambling industry) to develop these profiles during the lifetime of this policy. The local area profile(s) will therefore be a standalone document, to be read alongside this statement of principles.

Welwyn Hatfield Borough Council is the licensing authority for the Gambling Act within the borough and throughout this document the term "the council" refers to the council in this regard, unless otherwise stipulated.

Part A

1. The Licensing Objectives

1.1. In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:

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

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”.

1.2. The Council will not have regard to demand when deciding whether or not to grant a premises licence and 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:

- (i) in accordance with any relevant code of practice issued by the Gambling Commission
- (ii) in accordance with any relevant guidance issued by the Gambling Commission
- (iii) reasonably consistent with the licensing objectives (subject to (i) and (ii) and
- (iv) in accordance with the authority’s statement of licensing policy (subject to (i), (ii) and (iii)).

2. Introduction

2.1. Welwyn Hatfield Borough Council is situated centrally in the County of Hertfordshire, which contains ten District/Borough Councils in total. The Council area has a population of 12240,0500 in the latest (mid – 2016) estimate an increase of approximately 10.4% since the 2011 Census making it the fifth largest in the County in terms of population. The Council area covers an area of approximately 130 square kilometres and is mainly rural with two central residential and commercial centres of Hatfield and Welwyn Garden City and numerous rural villages. These areas are shown in the map at Appendix A.

Welwyn Garden City is the largest town in the borough with around 42% of the borough’s total population and Hatfield is slightly smaller with around 34 % of the borough’s population. Both towns have a wide range of retail and services serving both the towns themselves and the wider local area, as well as large regionally – significant employment areas

with a particular prevalence of large businesses and national headquarters. Hatfield is also home to the two main campuses of the University of Hertfordshire, giving the town a notable student population.

2.2. The borough health profile shows that the borough's health is generally better than the English average. ~~There are no indicators on which the borough scores significantly worse than average, and in 2013/14 the borough has scored significantly better than average on 20 of the 32 indicators, compared to 13 of 32 in 2012/13~~ About 15% of children live in low income families. Life expectancy for both men and women is higher than the England average. However, the number of hospital stays for self-harm and levels of adult obesity has risen over the year. Based on the rates of alcohol-related harm and self-harm hospital stays are better than average for England. Rates of statutory homelessness, violent crime and long term unemployment are better than average. Local profiles involve reducing obesity and increasing physical activity in adults, reducing smoking, and helping the growing older population maintain their health. ~~the profile the improvement of adult health and lifestyle in the borough should remain priorities, as should meeting the needs of the older population.~~

2.3 As at January 2018 ~~une 2012~~ the number of licences, permits and registrations are as follows.

- Nil casinos
- Nil bingo clubs
- 15 licensed betting offices
- About 140 alcohol premises and regulated clubs (who may request a grant or renewal of gaming machine permits)
- About 560 Small Society Lotteries

2.4 The Gambling Act 2005 requires the Council to prepare and publish a "Statement of Licensing Policy" that sets out the principles that the Council will apply to promote the Licensing Objectives when making decisions on applications made under the Act. This policy statement also incorporates some 'statements of principles' that we propose to apply when in -exercising their ~~our~~ functions under the Act while having regard to the licensing objectives. This policy statement must be published at least every three years. The policy statement must also be reviewed from "time to time" and any amended parts re-consulted upon. The statement must then be re-published.

2.5 Welwyn Hatfield Borough Council is the Licensing Authority under the Gambling Act 2005 and is responsible for granting premises licences in the Borough of Welwyn Hatfield in respect of: -

- Casino premises;
- Bingo premises;

- Betting premises, including tracks;
- Adult Gaming Centres;
- Family Entertainment Centres

2.6 This “Statement of Licensing Policy” 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. It is intended to be a discussion document leading to adoption by The Council of a formal Statement of Licensing Policy, after having due regard to any responses from those consulted on the policy statement.

2.7 The revised policy will come into effect on the date of adoption by the Council and will be reviewed as necessary, and at least every three years from the date of adoption.

3 Consultation

3.1 The consultation took place between 12th June and 10th August 2018...and we followed where practicable the government’s consultation principles (published January 2016) which is available at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/492132/20160111_Consultation_principles_final.pdf

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 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

The Council consulted widely upon this policy statement before finalising and publishing it. A list of the persons with whom we consulted is provided at Appendix B.

3.2 In determining the policy, the Council must have regard to the Guidance and give appropriate weight to the views of those it has consulted. In determining what weight to give particular representations the factors to be taken into account will include;

- Who is making the representation (what is their expertise or interest);
- How many other people have expressed the same or similar views;
- Relevance of the factors to the licensing objectives

- How far the representations relate to matters that the Council have included in its policy statement.
- Licensing authorities can only consider matters within the scope of the Guidance, Act and Codes of Practice.

Should you have any comments as regards this policy statement please send them via e-mail or letter to the following contact:

Licensing ~~Team Leader~~ ~~Officer~~
Welwyn Hatfield Borough Council
Council Offices
The Campus
WGC
Hertfordshire
AL8 6AE

E-mail: k.payne@welhat.gov.uk

It should be noted that this policy statement 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.

- 3.3 The formal Statement of Licensing Policy is available on the Council's website or by request as an email, or a hard copy can be viewed at the Council Offices or Welwyn Garden City and Hatfield public libraries.

The full list of comments made and the consideration by the Council of those comments will be available by request to: Licensing Team Leader, Welwyn Hatfield Borough Council, The Campus, Welwyn Garden City, Hertfordshire, AL8 6AE.

4 General principles

4.1 Nothing in this Statement of Policy will:-

- Undermine the rights of any person to apply under the Act for a variety of permissions and have the application considered on its individual merits; OR
- Override the right of any person to make representations on any application or seek a review of a licence or permit where they are permitted to do so under the Act.

The starting point in determining applications will be to grant the application without conditions. Conditions will only be considered where they are necessary, and any conditions applied will not be overly onerous and will be proportionate to the scale of the application and the

risks involved. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

- 4.2 All applicants for Premises Licences are encouraged to set out how they will promote have regard to the licensing objectives, as specified in section 1 above, and what measures they intend to employ to ensure compliance with them. When determining an application to grant a Premises Licence or review a Premises Licence, regard will be had amongst other things to the proximity of the premises to schools, vulnerable adult centres or residential areas where there may be a high concentration of families with children. The proximity of premises taken into consideration will vary depending on the size and scope of the gambling premises concerned. Each case will, however, be decided on its merits. Therefore, if an applicant can effectively demonstrate how they might overcome licensing objective concerns, this will be taken into account. Local area profiles may be used to aid applicants when writing their risk assessments.
- 4.3 Licensing is about the control of licensed premises, and premises with permits, temporary use notices, occasional use notices or other exemptions within the terms of the Act. Where permitted by the Act, conditions may be attached to authorisations that will cover matters that are within the control of individual licensees. Conditions may be incorporated because they are mandatory or default conditions imposed by the Secretary of State, because they are incorporated by the Act itself, or because they are imposed in the individual case by the Council.
- 4.4 When considering any conditions to be attached to licences or permits, the Council will focus amongst other things on the licensing objectives, and on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned. The Secretary of State may by regulation provide for specified conditions to be attached to a premises licence as either “mandatory” or “default” conditions. In determining an application for a premises licence the Council may not have regard to the expected demand for the facilities that are proposed.
- 4.5 The Council recognises that, apart from the licensing function, there are a number of other mechanisms available for addressing issues of unruly behaviour that can occur away from licensed premises, including:-
- (a) Planning controls;
 - (b) Ongoing measures to create a safe and clean environment in these areas in partnership with local businesses, transport operators and other Council departments;
 - (c) Regular liaison with the Police on law enforcement issues regarding disorder and anti-social behaviour;
 - (d) The power of the Police, other responsible authorities or local residents and businesses to seek a review of the licence.

Objectors should generally relate their objection to the specific application, rather than to gambling as a whole. Usually, objections will be concerned with one of more of the Licensing Objectives, as specified in section 1 above.

- 4.6 The Council, in undertaking its licensing function, will have due regard to the need to eliminate unlawful discrimination.

5 Responsible Authorities

- 5.1 The Council is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:
- the need for the body to be responsible for an area covering the whole of the Council's area
 - the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group
- 5.2 In accordance with the Gambling Commission's Guidance to Licensing Authorities this authority designates the Hertfordshire Local Safeguarding Children Board for this purpose.
- 5.3 The contact details of all the Responsible Bodies under the Gambling Act 2005 are available via the Council's website at: www.welhat.gov.uk
There is no obligation on responsible authorities to respond to applications for premises licences if they do not wish to do so.

6 Interested parties

- 6.1 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 as follows:

"For the purposes of this Part 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)"

- 6.2 The 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. The principles are as follows.

Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance to local authorities at 8.124 to 8.178. These may include amongst other things:

- The size of the premises;
- The nature of the premises;
- The distance of the premises from the location of the person making the representation;
- The potential impact of the premises (e.g. number of customers, routes likely to be taken by those visiting the establishment); and
- The circumstances of the complainant in so much as the effect could have a different meaning for different types of premises. E.g. a private residence, a school with truancy problems, a home for vulnerable persons.

6.3 The Gambling Commission has recommended that the Council state that interested parties could include bodies such as trade associations, trade unions, residents and tenants' associations provided they satisfy the definition of an interested party in section 158 of the Act. In other cases the Council will probably wish to satisfy themselves on a case by case basis, and possibly request written evidence, that a person does represent interested parties; for example a school head or governor might act in representing the interests of pupils or parents and a community group might represent vulnerable people living near to the proposed premises.

6.4 Interested parties can be persons who are democratically elected such as Councillors and MP's. Where appropriate this will include county, parish and town councillors. Other than these persons, the Council will require written evidence that a person 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorities activities and/or business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

6.5 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 at Welwyn Hatfield Borough Council, The Campus, WGC, Hertfordshire, AL8 6AE

7 Licences

7.1 This document sets out the policies that the Council will apply when making decisions upon applications or notifications made for: -

- Premises Licences
- Temporary Use Notices;

- Permits as required under the Act
- Registrations as required under the Act

7.2 This policy relates to all those licensable premises, notices, permits and registrations identified as falling within the provisions of the Act, namely:

- Casinos;
- Bingo premises
- Betting premises
- Tracks
- Adult Gaming Centres;
- Family Entertainment Centres
- Club gaming permits
- Prize Gaming and Prize Gaming Permits
- Temporary Use Notices;
- Registration of small society lotteries

7.3 When determining an application for a premises licence, the Council cannot take into account “irrelevant matters” such as the likelihood of the applicant obtaining planning permission or building control approval, or the expected demand for facilities.

An applicant can apply for a “provisional statement” if the building is not complete or if he does not yet have a right to occupy it. Such an application is, however, a separate and distinct process to the granting of planning permission or building control approval.

8 Legislation

8.1 In undertaking its licensing function under the Gambling Act 2005, the Council is also bound by other legislation, including:-

- (a) Section 17 of the Crime and Disorder Act 1988;
- (b) Human Rights Act 1998;
- (c) The Equality Act 2010

However, the policy is not intended to duplicate existing legislation and regulatory regimes that already place obligations on employers and operators, including, for example, the Health and Safety at Work Act 1974.

9 Exchange of Information

9.1 Licensing authorities are required to include in their policy statements,

the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and other persons listed in Schedule 6 to the Act.

- 9.2 Should any protocols be established with regard to information exchange with other bodies then they will be made available. In exchanging such information, the Council will conform to the requirements of data protection and freedom of information legislation in accordance with the Council's existing policies. ~~SData Subjects access requests can be made access information if a request is made in writing and will be dealt with in accordance with current WHBC policies.~~
- 9.3 The ~~principle that the Council applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information and where appropriate adhere to which includes the provision that the Data Protection Act 1998 will not be contravened~~ requirements. The Council will also have regard to any Guidance issued by the Gambling Commission to Local Authorities on this matter, as well as any relevant Regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.
- 9.4 Details of those persons making representations will be made available to applicants to allow for their preparation for negotiation or a hearing and, in the event of a hearing being held, will form part of a public document. Anyone making representations or applying for the review of a premises licence will be informed that their details will be disclosed.

10 Enforcement and inspection functions

- 10.1 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.
- 10.2 The Council's principles are that: it will be guided by the Gambling Commission's Guidance to Licensing Authorities. In line with the Gambling Commission's Guidance to Licensing Authorities and the Council corporate enforcement policy, it will endeavour to be:
- **Proportionate:** regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs 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:** regulation should be focused on the problem, and minimise side effects

The Gambling commissions 'Licensing Conditions and codes of practise 2015 (LCCP) strengthened the social responsibility code (SR) requirements and included the requirement to produce a risk assessment on individual premises. Such risk assessments are required from new applicants, and from existing premises licensees seeking to vary a licence. The code requires all operators of; Casino's, AGC's, Bingo Premises, FEC's, Betting shops and remote betting intermediaries to assess local risks to the licensing objectives, and to have policies, procedures and control measures in place to mitigate those risks.

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

The code requires the Licensing Authority to set out matters they expect the operator to take account of in the risk assessment in its statement of policy and this Licensing Authority will expect the local risk assessment to consider as a minimum the following.

- Information held by the licensee regarding self-exclusions and incidences of underage gambling,
- Gaming trends that may reflect benefit payments
- Arrangement for localised exchange of information regarding self-exclusions and gaming trends.
- Urban setting such as proximity to schools, playgrounds, leisure/community centres and other areas where children will gather,
- 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, other crime and/ or disorder.

The demographics of the area in relation to vulnerable groups and how they are to be protected.

The Licensing Authority would recommend that the following matters are considered by operators when making their risk assessment.

Matters relating to children and young persons, including;

- Institutions, places or areas where presence of children and young persons should be expected such as schools, youth clubs, parks, playgrounds and entertainment venues such as bowling allies, cinemas etc.
- Any premises where children congregate including bus stops, café's, shops, and any other place where children are attracted,
- Areas that are prone to issues of youths participating in anti social behaviour, including such activities as graffiti/tagging, underage drinking, etc.
- Recorded incidents of attempted underage gambling

Matters relating to vulnerable adults, including:

- Information held by the licensee regarding self-exclusions and incidences of underage gambling,
- Gaming trends that may mirror days for financial payments such as pay days or benefit payments
- Arrangement for localised exchange of information regarding self-exclusions and gaming trends.
- Proximity of premises which may be frequented by vulnerable people such as hospitals, residential care homes, medical facilities, doctor's surgeries, council housing offices, addiction clinics or help centres, places where alcohol or drug dependant people may congregate, etc.

Other issues that may be considered could include: Matters of faith, including all religious or faith denominations including proximity to churches, mosques, temples or any other place of worship.

This list is not exhaustive and other factors not in this list that are identified must be taken into consideration

- 10.3 During the lifetime of this policy, it is our intention to ~~produce~~consider local area profiles which will set out the local risks and concerns in relation to the licensing objectives. These will be available as map overlays in a GIS format.

The council's regulatory approach to Gambling Act applications may be influenced by the type of premises and/or its position in the borough, for example known issues with problem gambling, the interaction between the night time economy and gambling and any crime patterns or anti social behaviour linked to gambling may be taken into consideration. In addition the socio economic makeup of the area, density of gambling premises and specific types of gambling may also be considered.

- 10.4 This Council recognises the Department for Business Innovation and Skills' "Regulators Code" which came into force on 6th April 2014, and its standards have been integrated into our regulatory service standards and our corporate enforcement policy.

- 10.5 With regard to the Gambling Commission's Guidance to Licensing Authorities the Council will endeavour to avoid duplication with other regulatory regimes so far as possible.

- 10.6 The Council will also, as recommended by the Gambling Commission's Guidance for Local Authorities, adopt a risk-based inspection programme. Premises will be assessed and those that are well managed and maintained will not require the same number of inspections as problem or high-risk premises. In determining the level of risk this authority would be interested to hear from persons who have an opinion on what criteria should be used to identify the level of risk. Applicants should be aware of the 'Code of practice for gaming machines in clubs and premises with an alcohol licence' and adherence to the code will be monitored during risk rated inspections.
- 10.7 The inspection of operator's risk assessments will also take place during inspections or at any other time that it is requested by the licensing authority. As the licensing authority, the Council would also expect data on test purchasing, self exclusions and underage attempts to gamble to be shared on request following concerns having been raised with regard to an establishment.
- 10.8 The main enforcement and compliance role for the Council in terms of the Gambling Act 2005 will be to ensure compliance with the Premises Licences and other permissions that it authorises. The Gambling Commission will be the enforcement body for the Operator and Personal Licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines will not be dealt with by Welwyn Hatfield Borough Council but will be notified to the Gambling Commission.
- 10.9 ~~The Council will also keep itself informed of developments as regards the work of the Better Regulation Delivery Executive in its consideration of the regulatory functions of local authorities.~~
- 10.10 The Council intends to use appropriate enforcement ~~to promote the licensing objectives~~ and will ensure adequate resources are available to do this. Once licensed, it is essential that premises are monitored to ensure that they are run in accordance with their operating schedules, in compliance with the specific requirements of the Act and in compliance with any licence conditions. It will also be important to monitor the Borough for unlicensed premises.
- 10.11 The Council's enforcement policy available upon request to the licensing department at Welwyn Hatfield Borough Council, The Council Offices, The Campus, WGC, Hertfordshire AL8 6AE. Or on the council internet site at <http://www.welhat.gov.uk/article/1281/Governance>

11. Welwyn Hatfield Borough Council functions

- 11.1 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) of the use of two or fewer gaming machines
 - Grant *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required
 - Register *small society lotteries* below prescribed thresholds
 - Issue *Prize Gaming Permits*
 - Receive and Endorse *Temporary Use Notices*
 - Receive *Occasional Use Notices*
 - Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
 - Maintain registers of the permits and licences that are issued under these functions
- 11.2 It should be noted that local licensing authorities would not be involved in licensing remote gambling at all. This will fall to the Gambling Commission via Operator Licences. The Gambling Commission will also issue personal licences.
12. Some decisions that are delegated to the Licensing Committee may be further delegated to a sub – committee of the Licensing Committee who may arrange for them to be taken by an officer of the authority. A summary of permitted delegations is at Appendix C.

12 Declaration

- 12.1 In producing the final licensing policy statement, the Council declares that it has had regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission, and any responses from those consulted on the policy statement.

PART B **Premises Licences**

1. General Principles

Premises Licences will be subject to the requirements set out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which will be detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be proportionate and relevant appropriate.

Risk assessment

The Council expects both applicants and licensees to undertake local risk assessments to identify risks to the licensing objectives posed by the general location and by the provision of facilities in the premises concerned, and then to propose and implement measures to mitigate those risks. 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.

In particular:

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 this licensing authority's statement of licensing policy and any local area profiles published by the Council.

2 Licensees must review (and update as necessary) their local risk assessments:

- a to take account of significant changes in local circumstances, including any identified in this 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.

Decision making

The 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:

- (i) in accordance with any relevant code of practice issued by the Gambling Commission
- (ii) in accordance with any relevant guidance issued by the Gambling Commission
- (iii) reasonably consistent with the licensing objectives (subject to (i) and (ii)) and
- (iv) in accordance with the authority's statement of licensing policy (subject to (i) – (iii))

In making such determinations, the Council will have regard to risk assessments prepared by the applicant in accordance with this policy.

It is appreciated that in accordance with 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') and also that unmet demand is not a criterion for the Council to consider.

Definition of Premises

In the Act "premises" is defined as including "any place". Different premises licences cannot apply in respect of single premises at different times. However, it is possible for a single building to 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 reasonably be regarded as being different premises. This approach has been taken to allow large multiple unit premises to obtain discreet premises licences, where appropriate safeguards are in place. In the case of sub divisions of a single building or plot mandatory conditions relating to access between premises will be 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 storey building/ plot will be the subject of an application for a licence for example 32 High Street. But that does not mean that 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 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."

Welwyn Hatfield 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 discreet part of a building used for other non-gambling purposes. In particular they should be aware of the following:

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.
- Entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area. In this context it should normally be possible to access

the premises without going through other licensed premises or premises with a permit.

- Customers should be able to participate in the activity named on the premises licence.

The Guidance also gives a list of factors which the Council 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. In particular, the fact that an adequate architectural separation is proposed will not be conclusive as to whether two premises are thereby created. In all cases, the authority will consider whether the proposal can genuinely and sensibly be regarded as multiple rather than single premises.

The Gambling Commission's relevant access provisions for each premises type are reproduced below.

Casinos

- The principal access/entrance to the premises must be from a street (as defined at paragraph 7.23 of the Guidance)
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons
- No customer must be able to enter a casino directly from any other premises which hold a gambling premises licence.

Adult Gaming Centre

- No customer must be able to access the premises directly from any other licensed gambling premises.

Betting Shops

- Access must be from a street (para 7.23 Guidance to Licensing Authorities) or from another premises with a betting premises licence.
- 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 and it is not permissible to have a betting shop at the back of a café- the whole area would have to be licensed.

Bingo premises

- No customer must be able to access the premises directly from:

- a casino
- an adult gaming centre
- a betting premises, other than a track

Family Entertainment Centre

- No customer must be able to access the premises directly from:
- a casino
- an adult gaming centre
- a betting premises, other than a track

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.

Premises "ready for gambling"

The Guidance states that a licence to use a premises for gambling should only be issued in relation to premises that the Council 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 alteration required before the premises are brought into use.

If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have the right to occupy them, then an application for a provisional licence should be made ~~instead.~~ instead. Part 11 of the Guidance gives more information about provisional statements.

In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process:-

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

Applicants should note that whilst the Council is entitled to decide that it is appropriate to grant a licence (subject to conditions) it is not however obliged to grant such a licence.

More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.5~~89~~-7.6~~56~~ of the guidance.

Location

The Council is aware that demand issues cannot be considered with regard to the location of premises licences but that considerations in terms of the licensing objectives can. In accordance with 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. Should any

specific policy be decided upon as regards areas where gambling premises should not be located, this policy 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 the concerns can be overcome.

Planning

The Gambling Commission Guidance to Licensing Authorities states at paragraph 7.5860 “In determining licence applications [The Council] should not take into consideration matters that are not related to gambling and the licensing objectives. ~~has a duty to take into consideration all relevant matters and not take into consideration any irrelevant matters, i.e. those 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. of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulation approval for their proposal.”~~

The Council will not take into account irrelevant matters in accordance with the above guidance. In addition this authority notes the following excerpt from the guidance.

The guidance at 7.657 states “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, and building and other regulations, and must not form part of the consideration for the premises licence. ~~powers, and not form part of the consideration for the premises licence”.~~ Section 210 of the 2005 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 control.”

Duplication with other regulatory regimes

The Council will seek to avoid any duplication with other statutory / regulatory systems where possible, including planning. In considering applications for premises licences, this authority will not consider whether the premises are likely to be awarded planning or building consent. This authority will listen to, and consider carefully, any concerns about conditions, which cannot be met by licensees due to planning restrictions, should such a situation arise.

When dealing with a premises licence for finished buildings, this authority will not take into account whether those buildings have to comply with the necessary planning or building 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, The Council has considered the Gambling Commission's Guidance to local authorities and some comments are made below.

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

This licensing authority is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction.

Ensuring that gambling is conducted in a fair and open way

The Council has noted that the Gambling Commission in paragraph 5.11~~8~~ of its Guidance to Licensing Authorities has stated that "Generally the Commission would not expect licensing authorities to ~~find themselves dealing with~~become concerned with ensuring issues that gambling is conducted of fairness and openness frequently. in a f Fairness and openness is likely to be a matter and open way as this will be a matter for either the way specific gambling products are provided and therefore subject to the operating licence management of the gambling business, and therefore subject to the ,operating licence, or will be in relation to the suitability and actions of an individual and therefore subject to the personal licence." However, if this authority suspects that gambling is not being carried out in a fair and open way this will be brought to the attention of the Gambling Commission. For local authorities with tracks there is more of a role which does not currently form part of this policy.

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

The Council has noted the Gambling Commission's Guidance that this objective means preventing children 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 gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.” Welwyn Hatfield Borough Council 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 (including the locality and any identified local risks) and the type of licence applied for 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 on 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 the way in which the licensing objectives can be met effectively.

The Council will also consider specific measures which may be required for buildings which are subject to multiple premises ~~licences~~. licences. With the exception of bingo clubs, tracks on race days and licensed FECs children will not be permitted to enter licensed gambling premises. Therefore businesses will need to consider carefully how they wish to configure their buildings if they are seeking to develop multi-purpose sites. The third licensing objective seeks to protect children from being harmed or exploited by gambling. In practise this means not only preventing them from taking part in gambling, but also prevents 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 Suchparticipating. Such measures may include the supervision of entrances which must be distinct for each type of premises; segregation of gambling from non- gambling areas frequented by children; and the supervision of gaming machines in non adult gaming specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission’s Guidance.

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

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;

- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised to ensure children cannot enter;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder either within sight or monitored by CCTV; and
- at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

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

It is noted that there are conditions, which the Council 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 on a premises licence to this effect.

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 (Guidance, Part 33)

2. Adult Gaming Centres

No one under the age of 18 is permitted to enter an Adult Gaming Centre. The Council will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises. The Council will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures / licence conditions may cover issues such as:

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

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

3. (Licensed) Family Entertainment Centres:

These premises may provide category C and D gaming machines and require a premises licence. Children and young persons will be permitted to enter an FEC and may play on category D machines but will not be permitted to play on Category C machines.

The Council will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority 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 will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures / licence conditions may cover issues such as:

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

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

The Council will have regard to the Gambling Commission's guidance, and refer to the Commission's website to see any conditions that apply to operator licences covering the way in which the area containing the category C machines

should be delineated. The Council will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published. This council would expect machines to be in a designated enclosed area (not walkways or corridors of a larger building) and to have staff appointed with responsibility for the protection of children and other vulnerable people.

4. Casinos

No Casinos resolution - This Council has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should the Council decide in the future to pass such a resolution, it will update this policy statement with details of that resolution. Any such decision will be made by the full council.

5. Bingo premises

The Council notes that the Gambling Commission's Guidance (54th Edition) states at paragraph 18.54: "The Licensing Authority will need to satisfy itself 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~~An operator may choose to vary their licence to exclude a previously licensed area of that premises, and then apply for a new premises licence, or multiple new premises licences, with the aim of creating separate premises in that area. Essentially providing multiple licensed premises within a single building or site. Before issuing additional bingo premises licences, licensing authorities need to consider whether bingo can be played at each of those new premises."

Section 172(7) provides that the holder of a bingo premises licence may make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises.

-Premises in existence before 13 July 2011 are entitled to make available eight category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. ~~The holder of bingo premises licence granted on or after 13 July 2011 but before 1 April 2014 is entitled GLA4 September 2012 Part 18 to make available a maximum of eight category B gaming machines or 20% of the total number of gaming machines, whichever is the greater;~~ from 1 April 2014 these premises will be entitled to 20% of the total number of gaming machines only. Regulations state that category B machines at bingo premises should be restricted to sub-category B3 and B4 machines, but not B3A lottery machines.

This authority also notes the Guidance at paragraph 18.98 that the gaming machines must remain within the licensed area covered by the premises licence. In the unusual circumstance that an existing bingo premises covered

by one premises licence applies to vary the licence and acquire additional bingo premises licences

(so that the area that was the subject of a single licence will become divided between a number of separate licensed premises) 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.

Also at paragraph 18.76 the Guidance states that 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.

6. Betting premises

Betting machines -

This licensing authority will, in accordance with the Gambling Commission's Guidance to Licensing Authorities 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.

The Gambling Commission has placed restrictions and requirements on Operating Licences for betting premises as regards credit, which are contained in its Licence Conditions and Codes of Practice.

A failure to comply with a Code of Practice does not make a person liable to criminal or civil proceedings but a code shall be admissible in evidence and will be taken into account. However, the Gambling Commission's Social Responsibility Code of Practice is incorporated as an operating licence condition so that breach may carry criminal consequences.

Tracks

General

The Council is aware that tracks (sites where races or other sporting events take place) are also recognised as multi- purpose venues having a wide range of facilities that enable them to host various other activities.

Premises licences in relation to tracks differ from other types of premises licence in a number of ways. Most importantly, the applicant for the licence need not hold an operating licence from the commission. Tracks may be subject to one or more premises licences, provided each licence relates to specified area of the track.

In accordance with the Commission's Guidance, the Council will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

The Council will 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 are allowed to be present on the track while a sporting event is taking place on those licensed premises, 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 playing gaming machines (other than category D machines), are provided.

The Council may consider measures, where necessary to meet the licensing objectives, including but not limited to:

- proof of age schemes (for example, PASS accredited schemes such as Validate)
- CCTV
- supervision of entrances and/or gaming machine areas
- physical separation of areas
- location of entry
- notices/signage
- specific opening hours
- self-exclusion schemes
- provision of information leaflets and/or helpline telephone numbers for organisations such as GamCare

~~The Council is aware that tracks are different from other licensed premises in so far that the track operator may not be required to hold an operating licence from the Gambling Commission as there may be several premises licence holders at the track each of whom will need to hold their own operating licence. The Council will have regard to any Guidance issued by the Gambling Commission in this respect.~~

The Council is of the view that it would be preferable for all self-contained premises at a track operated by a betting operator to be subject to a separate premises licence. This would ensure clarity between the responsibilities of the track operator and the individual betting operators on the track.

The Council will attach a condition to track betting premises licences requiring the track operator to ensure that the betting rules are predominately displayed in or near each betting area, or that other measures are taken to ensure that they are made available to the public such as being printed in the race card.

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.

Self-service Betting terminals (SSBT's) machines

~~The Council is aware that it licensed operators may install SSBT's on tracks. There is no restriction on the number of SSBT's that may be in use but operators must supervise such terminals to prevent them being used by those under 18 years of age. has a power to restrict the number of betting machines at a track. In accordance with the Commission's Guidance, the Council will take~~

~~into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons, or vulnerable people, when considering the number/nature/circumstances of betting machines an operator proposes to offer.~~

Applications and plans

The Act requires applicants to submit plans of the premises with their application, in order to ensure that the Council 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 Council to plan future premises inspection activity. Plans for tracks do not need to be in a particular scale, but the Council requires them to 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 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 of the premises does not need to be defined.

The Council 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 so that the Council can satisfy itself that the plan indicates the main areas where betting might take place.

7. Travelling Fairs

Travelling fairs may provide category D machines provided that facilities for gambling amount to no more than an ancillary amusement at the fair and they must comply with legal requirements about how the machine operates. Fairground operators must source their machines from a Commission licensed supplier and employees working with gaming machines must be at least 18 years old.

Part 27 of the Guidance discusses the prize gaming that may be provided at travelling fairs and equal chance prize gaming without a permit, provided that this is no more than an ancillary amusement at the fair.

The Council will also consider whether the applicant falls within the statutory definition of a travelling fair. It will also decide whether the gaming provided is an ancillary amusement.

It has been noted that the 27-day statutory maximum for the land being used as a fair, is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. The Council will work with its neighbouring authorities to ensure that land, which crosses our boundaries, is monitored so that the statutory limits are not exceeded.

8. 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.

In contrast to premises licence, there is no need for the applicant to hold an operating licence or have a right to occupy the premises in order to apply for a provisional statement.

S.204 of the Gambling Act provides for a person to make an application to the the Council for a provisional statement in respect of a premises that he or she:

- expects to be constructed
- expects to be altered; or
- expects to require 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.

The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The Council will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications, following 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:

- (a) which could not have been raised by objectors at the provisional licence stage; or
- (b) which is in the authority's opinion reflect a change in the operator's circumstances; or
- (c) Where the premises have not been constructed in accordance with the plan submitted with the application. This must be a substantial

change to the plan and the Council notes that it can discuss any concerns it has with the applicant before making a decision.

Section 210 of the Act makes it clear that a licensing authority must not have regard to whether a proposal is likely to be permitted in accordance with planning or building law in the case of provisional statements and premises licences.

9. Reviews

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

The Council can itself initiate a review of a particular premises licence, or a particular class of premises licence. Consideration to review should be in pursuit of the principles set out in s.153 of the Act or underpinned by reasonable concerns, such as changes to the local environment or residents' complaints, on the basis of any reason that it thinks is appropriate.

In considering the review, the Council will have regard to whether the gambling is:

- Is being carried out in accordance with the conditions attached to the licence
- in accordance with any relevant code of practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- putting the compliance with the licensing objectives at risk reasonably consistent with the licensing objectives and
- in accordance with the authority's statement of licensing policy (principles)
- for any other reason which gives them cause to believe that a review may be appropriate, such as a complaint from a third party

Reviews will follow the regulations, guidance and the Council's committee procedures.

10. Safeguarding against Child Sexual exploitation (CSE)

The Council acknowledges that CSE awareness doesn't just apply to children on licensed premises, particularly as children are not permitted access to most gambling premises. Applicants should be equally aware of children in the proximity of the premises that may be waiting for, or seeking, older persons.

Applicants are encouraged to ensure that suitable management controls are in place to safeguard children against the risk of CSE. Measures may include, but are not limited to:

- awareness training for staff;
- regular patrols of the premises, including external areas and the immediate proximity, to identify any vulnerable children;
- close monitoring of patrons as they leave the premises;
- recording and reporting concerns to the police.

The Council expects applicants to be aware of 'risk indicators' of CSE which include, but are not limited to:

- developing relationships between a child and an older person
- children in the company of a group of older persons
- children regularly attending premises and meeting with a number of different older persons, particularly where older persons may be facilitating gambling for children
- children outside of licensed premises developing relationships with an older person, particularly an older person facilitating gambling for children
- children leaving the locality of the premises with older persons, particularly with a group of older persons
- children looking uncomfortable in the company of, or leaving with, older persons particularly groups of older persons

Whilst the Council does not wish to create the impression that all contact between children and older persons is inappropriate, it is strongly of the view that licence holders should be aware of the risks of CSE and should proactively manage their premises to minimise the risks.

The Hertfordshire Safeguarding Children Board (HSCB) have dual role in respect of preventing CSE within licensed premises. The HSCB is a responsible authority under the Act having been nominated by the Council to undertake this function. The HSCB also monitor compliance with the statutory requirements under section 11 of the Children Act 2004 to safeguard and promote the welfare of children. Applicants are encouraged to visit the HSCB website for advice www.hertssafeguarding.org.uk

The Council expects applicants to demonstrate the measures they will take to safeguard against CSE in the operating schedule.

PART C

Permits / Temporary & Occasional Use Notice

1. Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits – Schedule 10 paragraph 7)

Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the Council for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).

Unlicensed FECs, by definition, will not be subject to scrutiny by the Gambling Commission as no operating (or other) licences will be applied for and issued. The Council will expect applicants to demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and
- that staff are trained to have a full understanding of the maximum stakes and prizes. Guidance (24.7)

The Guidance also states: An application for a permit may be granted only if the Council is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application.

It should be noted that the Council cannot attach conditions to this type of permit.

Statement of Principles

The Council will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. Such policies and procedures will 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. The Council 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); and that staff are trained to have a full understanding of the maximum stakes and prizes.

[The Council requires a plan of the proposals to be submitted with the application.](#)

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 Council.

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

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act ~~(i.e. that written notice has been provided to the Council, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with)~~for example the gaming machines have been made available in a way that does not comply with requirements on the location and operation of gaming machines
- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises

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

The Council 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 being exploited by gambling and will expect the applicant to 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 the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / help line numbers for organisations such as GamCare.

For two to three machines the decision will be taken by the Licensing Officer. For four to five machines the decision will be taken by the Licensing Officer (or other officer with appropriate delegation) in consultation with the chairman of the committee set up under the Licensing Act 2003.

For more than five machines it will be referred to a licensing sub committee of councillors.

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

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

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.

3. Prize Gaming Permits – (Statement of Principles on Permits)

The Gambling Act 2005 states that the Council 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 Council propose to consider in determining the suitability of the applicant for a permit”.

The Council has prepared a statement of principles which is 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 that outline the steps to be taken to protect children from harm.

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

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

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

- participation in the gaming must not entitle the player to take part in any other gambling.

4. Club Gaming and Club Machines Permits

Members Clubs and Miners' Welfare Institutes may apply for a Club Gaming Permit or a Clubs Gaming machines permit while a Commercial Club may apply for a Club Gaming Machines Permit.

The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance. A Club Gaming machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D). However commercial clubs may not site category B3A gaming machines offering lottery games in their club.

~~Gambling Commission Guidance The 'Act' 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 restricted to that of a prescribed kind (currently bridge and whist). Members clubs must be permanent in nature not established to make as a commercial enterprise but there is no need for a club to have an alcohol licence. The Secretary of State has made regulations and these cover bridge and whist clubs, which replicates the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations."~~

The Council is aware 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.

If the Council is satisfied that (a) or (b) is the case we will refuse the licence.

It should be noted that there is a 'fast-track' procedure available for premises that 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 ground 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 ~~by regulations under s266 of the Act, 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."

The club gaming permit has statutory conditions, including that in respect of gaming machines no child or young person 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.

Small Society Lotteries

Under the Act, a lottery is unlawful unless it runs under an operating licence or is an exempt lottery of which there are four types. The Council will register and administer small society lotteries as defined under the Act. Promoting or facilitating a lottery will fall into two categories: (i) licensed lotteries (requiring an operating licence from the Gambling Commission); or (ii) exempt lotteries (including small society lotteries registered with the Council)

Exempt lotteries are lotteries permitted to run without a licence from the Gambling Commission and are defined as:

- small society lotteries
- incidental non-commercial lotteries
- private lotteries
- private society lottery
- work lottery
- residents' lottery
- customers' lottery

Advice regarding the definitions of an exempt lottery is available from the Gambling Commission's website:

<http://www.gamblingcommission.gov.uk/Gambling-sectors/Lotteries/Lotteries-raffles.aspx>

Applicants for registration of small society lotteries must apply to the licensing authority in the area in which their principal office is located. The Council will not register a lottery where the principal office is not located within the borough of Welwyn Hatfield.

Lotteries will be regulated through a licensing and registration scheme with conditions imposed on licences by the Gambling Commission, Codes of

Practice and any Guidance issued by the Gambling Commission. In exercising its functions with regard to small society and exempt lotteries, the Council will have due regard to the Commission's Guidance.

The Council may refuse an application for a small society lottery registration if, in their opinion:

- the applicant is not a non-commercial society
- a person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence as defined in Section 353 of the Act
- information provided in or with the application for registration is false or misleading

In assessing whether or not a society meets the requirement of being non-commercial, the Council will have regard to the non-submission of annual lottery returns as part of the renewal process. Failure to submit a return may be considered as evidence that the society does not meet the necessary criteria.

The Council is likely to revoke the registered status of a society if it thinks that they would have had to, or would be entitled to, refuse an application for registration if it were being made at that time. No revocations will take place unless the society has been given the opportunity to make representations.

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. It could also apply to a vessel whether moored or moving.

Welwyn Hatfield Borough Council 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 (The Gambling Act 2005 (Temporary Use Notice) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities or 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. Gambling Commission Guidance is noted that "The meaning of "premises" in part 8 of the Act is discussed in Part 7 of the guidance. 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", licensing authorities will need to look at, amongst other things, the ownership/occupation and control of the premises.

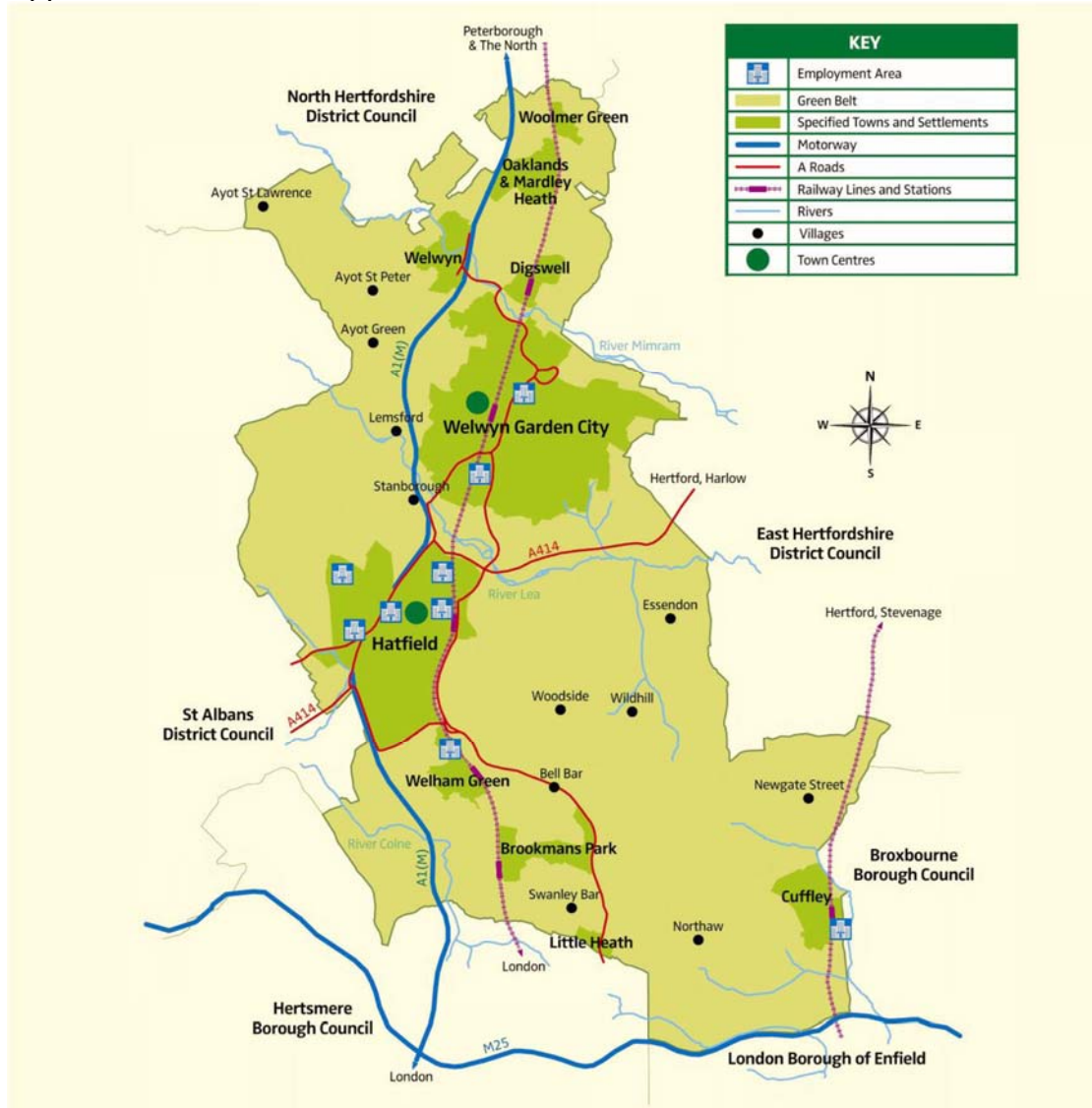
The Council expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

Occasional Use Notices:

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

- Appendix A Plan of Borough
- Appendix B List of consultees
- Appendix C Table of delegation
- Appendix D Glossary of terms

Appendix A



APPENDIX B

Chief of Police

One or more persons who appear to represent the interests of persons carrying on gambling businesses

One or more persons who represent the interests of persons likely to be affected by the exercise of the authorities functions under this Act

Responsible Authorities

The Gambling Commission
Chief of police
Fire and Rescue
Planning
Environmental Health
Safeguarding children board
Revenue and Customs
HSE

Others

Welwyn Hatfield Council Committee
Welwyn Hatfield Alliance
Existing Casino, FEC, Bingo, Betting Shops, Lottery Licence holders.
Local residents via, chairs of the residents associations Members of the Welwyn Hatfield Council Community Panel.
All premises licence and club premises certificate holders.
Society lottery registrations
Neighbouring local authorities.
WHC Community Safety Unit
HCC Social Services
WHC Law and Admin Service
Local solicitors
Parish and Town Councils.
Magistrates Court
The chairs of the Chamber of Commerce.
Gamcare
Remote Gambling Association
Gambling Commission
National Lottery Commission
Centre for study of gambling
BACTA (British amusement catering trade association) representing pay to play leisure industry
British casino association
Bingo Association
Association of British Bookmakers
University of Hertfordshire
Citizens Advice bureau
Trade Union Congress
Ncvcco (National Council of voluntary child care organisations)
Faith groups in Welwyn Hatfield

Voluntary and community organisations working with children and young people

Organisations working with people who are problem gamblers

Medical practises or PCTS

Advocacy organisations and trade unions

British Beer and Pub Association

[Welwyn Garden City BID](#)

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APPENDIX C

TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

MATTER TO BE DEALT WITH	FULL COUNCIL	SUB-COMMITTEE	OFFICERS
Three year licensing policy	X		
Policy not to permit casinos	X		
Fee Setting - when appropriate		X (if delegated by full council)	
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission or responsible authority	Where no representations received from the Commission or responsible authority
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence		X	
Application for club gaming /club machine permits		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Cancellation of club gaming/ club machine permits		X	
Applications for other permits			X
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	

X indicates the lowest level to which decisions can be delegated

Appendix D

Glossary of Terms

Within this draft Statement of Policy, the following words and terms are defined as stated:

Licensing Objectives:	As defined in section 1.1
Council:	Welwyn Hatfield Council
District	The area of Hertfordshire administered by Welwyn Hatfield Council (Map appended at Appendix A)
Licences:	As defined in section 7.1
Applications:	Applications for licences and permits as defined in section 7.2
Notifications:	Means notification of temporary and occasional use notices
Act:	The Gambling Act 2005
Regulations:	Regulations made under the Gambling Act 2005
Premises:	Any place, including a vehicle, vessel or moveable structure
Code of Practice:	Means any relevant code of practice under section 24 of the Gambling Act 2005
Mandatory Condition:	Means a specified condition provided by regulations to be attached to a licence
Default Condition:	Means a specified condition provided by regulations to be attached to a licence, unless excluded by Welwyn Hatfield Council
Responsible Authority:	For the purposes of this Act, the following are responsible authorities in relation to premises: <ol style="list-style-type: none"> 1. The Welwyn Hatfield Council in whose area the premises are wholly or mainly situated (“Welwyn Hatfield Council”); 2. The Gambling Commission; 3. Hertfordshire Constabulary; 4. Hertfordshire Fire and Rescue Service; 5. Planning Authority Welwyn Hatfield Council; 6. Environmental Health, Welwyn Hatfield Council; 7. Hertfordshire Safeguarding children board.,

	8. HM Revenue and Customs.
Interested Party:	<p>For the purposes of this Act, a person is an interested party in relation to a premises licence if, in the opinion of the Welwyn Hatfield Council which issues the licence or to which the application is made, the person:-</p> <ul style="list-style-type: none"> 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; c) Represents persons who satisfy a) or b) above.
Regional casino	One allowed minimum 5000square metres offering casino games, bingo, betting and up to 1250 category A and B1 machines
Large casino	No more than eight allowed. Minimum of 1500 square metres, offering casino games, bingo and betting and up to 150 category B1 machines.
Small casino	No more than eight allowed. Minimum of 750 square metres offering casino games, betting and up to 80 category B1 machines.