



# Licensing and Health and Safety Enforcement Committee

TUESDAY 29 JUNE 2021 AT 7.30 PM

Council Chamber, The Forum

The Councillors listed below are requested to attend the above meeting, on the day and at the time and place stated, to consider the business set out in this agenda.

## Membership

Councillor Allen	Councillor Link
Councillor Mrs Bassadone	Councillor Peter
Councillor Bhinder (Vice-Chairman)	Councillor Pringle
Councillor P Hearn (Chairman)	Councillor Rogers
Councillor Imarni	Councillor R Sutton
Councillor Johnson	Councillor Woolner

For further information, please contact Corporate and Democratic Support on 01442 228209 or email [member.support@dacorum.gov.uk](mailto:member.support@dacorum.gov.uk)

## AGENDA

- 1. MINUTES** (Pages 3 - 6)  
To approve the minutes from the meetings held on 16 March and 12 May.
- 2. APOLOGIES FOR ABSENCE**  
To receive any apologies for absence
- 3. DECLARATIONS OF INTEREST**  
To receive any declarations of interest.
- 4. PUBLIC PARTICIPATION**
- 5. REVIEW OF GAMBLING ACT 2005 STATEMENT OF PRINCIPLES** (Pages 7 - 70)

**6. MOBILE HOMES ACT 2013 - FIT AND PROPER PERSON REQUIREMENT (Pages 71 - 73)**

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## DACORUM BOROUGH COUNCIL

### LICENSING AND HEALTH AND SAFETY ENFORCEMENT COMMITTEE

16 March 2021

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Present-

#### MEMBERS:

Councillor Hearn (Chairman), Bassadone, Johnson, Link, Pringle, Rogers and Woolner

#### OFFICERS:

Nathan March	Licensing Team Leader
Nargis Sultan	Legal Governance Team Leader
Layla Fowell	Corporate & Democratic Support Officer (Minutes)

The meeting began at 6.30 pm

#### 1. MINUTES

The minutes of the meeting held on 19<sup>th</sup> January 2021 were agreed by the members present and will be signed by the Chairman at the next available opportunity.

#### 2. APOLOGIES FOR ABSENCE

Apologies for absence were received on behalf of Rosie Sutton

#### 3. DECLARATIONS OF INTEREST

There were no declarations of interest.

#### 4. PUBLIC PARTICIPATION

There was no public participation.

#### 5. PAVEMENT LICENCES REPORT

NMarch introduced the report to members.

They key points were

Sometime last year they looked to help business they sped up pavement licences process, this usually would sit with Herts County Council however they have brought this over to the district and borough council, this was temporary legislation that would run up until September 2021, however with the restrictions running on longer they

have indicated that they are looking to seek parliamentary approval to extend the process until 30<sup>th</sup> September 2022. Nothing else is changing.

Previously when we discussed this we agreed we would charge £100 and that would run until the end of the legislation. What he asked is that we are still happy to do this and if they apply now this would be £100 up until September 2021 and then if they require a pavement licence next year they could apply and it will cost are further £100.

The other aspect is that pavement licences in the past had to have been agreed whereas the legislation at the moment, if they don't do anything with it its considered as being agreed and issued anyway so there is a fast process in place, they currently have delegations to the assistant director and group manager for who have responsibility for licensing and were seeking for that to continue until the legislation conclude at the end of September 2022.

Currently it's still seeking parliamentary approval but given the nature of what they've been looking at doing and the support for businesses he is confident that approval will be given so they need to make sure they have everything in place for when that happens.

NMarch asked the committee if they had any questions

Cllr Bassadone asked how many businesses do we have signed up at the moment, do you expect any more to apply.

NMarch said we only have 1 live licence however 2 further premises have enquired one of which has applied and due to go to consultation. He is expecting more will apply as they become more aware of the licence and were now only getting to the point where this will be valid, with lockdown and everything being closed also he said with the summer approaching more will be looking to apply. He said this will only to apply where the land in front is highway, he said that they did have one apply which was DBC land and this takes a different process.

Cllr Rogers asked Nathan if there were any plans to raise awareness with business as he feels this show that we are thinking of them and doing our best to help their businesses.

NMarch said there is nothing currently planned this is mainly due to resource however there is a lot of officer presence on the streets in terms of officer, for example Covid advisors, the licensing team's enforcement officers looking at restrictions and they will be advising of options. He said that they don't have a great way of getting out to licence premises as they come in all shapes and sizes and not just licensed premises, it covers unlicensed food and drink retailers also. He also said that government are releasing communication also with a roadmap and road to recovery which talks about alfresco dining. He said when they have previously sent letters out about changes it's been a challenge as they were sending them out and then lockdown was announced again. It will also be a case of when businesses operate with tables and chairs without a licence where possible they will not enforce but advise they require a licence.

There could be an issue with noise nuisance however they will deal with that as and when it arises.

Cllr Rogers said in terms of encouraging this do they have email addresses that they could send notification out that could be helped by the Coms team.

NMarch said that it's not always the premises that deal with the licence, it could be solicitors or agents. He said it's not always the correct email address from when they moved over from the magistrates or we have very limited details, postal is usually the way forward however this could be quite costly in terms of producing letters and sending them out, also to consider the other works that they have on at the time.

#### Recommendation

To agree the fees of £100 for pavement licensing will remain for a further year until 2022 should the issue of pavement licensing remain with the council for that time.

To agree that the duration of licences issued after the 30th September 2021 will be up to 12 months will all of those licences remaining until the 30<sup>th</sup> September 2022. To confirm that the delegation for responsibility for granting refusal and revocation of the licences including amending conditions remain with the Assistant Director Corporate & Contracted services and the Group Manager of Legal and Corporate services for the duration now the powers being with the council.

The committee agreed the recommendation.

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**DACORUM BOROUGH COUNCIL**

**LICENSING AND HEALTH AND SAFETY ENFORCEMENT SUB-COMMITTEE**

**12 MAY 2021**

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Present-

**MEMBERS:**

P Hearn (Chairman), Allen, Bassadone, Johnson, Link, Peter, Rogers, R Sutton and Woolner

**OFFICERS:**

T Angel Corporate and Democratic Support Officer (Minutes)

The meeting began at 8:20 pm

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were received on behalf of Councillors Bhinder, Pringle and Imarni.

**2. APPOINTMENT OF THE LICENSING AND HEALTH AND SAFETY ENFORCEMENT SUB-COMMITTEE**

Appointment of Members to the Licensing and Health and Safety Enforcement Sub-Committee were considered.

Resolved:

That the following be appointed until the Annual Meeting of the Council 2022.

**LICENSING AND HEALTH AND SAFETY ENFORCEMENT SUB-COMMITTEE  
(6 members = 4:2:0)**

<b>Conservative</b>	<b>Liberal Democrat</b>
Hearn (Chairman)	Link
Bhinder (Vice-Chairman)	Pringle
Bassadone	
R Sutton	

The meeting ended at 8:21 pm.



## AGENDA ITEM: 5

### SUMMARY

Report for:	Licensing, Health & Safety and Enforcement Committee
Date of meeting:	29 <sup>th</sup> June 2021
PART:	I
If Part II, reason:	

Title of report:	Review of Gambling Act 2005 Statement of Principles
Contact:	Nathan March – Licensing Team Leader, Corporate and Contracted Services
Purpose of report:	To present draft revisions to the Council's Statement of Principles under the Gambling Act 2005.
Recommendations	That officers commence consultation with responsible authorities, representatives of licence-holders and other persons on the proposed revisions to the Statement of Principles under the Gambling Act 2005, and report the results to a future meeting of the Committee.
Corporate objectives:	<ul style="list-style-type: none"> <li>• A clean, safe and enjoyable environment</li> <li>• Delivering an efficient and modern council</li> <li>• Building strong and vibrant Communities</li> <li>• Ensuring economic growth and prosperity</li> </ul>
Implications:	<p><u>Equalities</u> A Community Impact Assessment will be presented with the consultation results.</p> <p><u>Financial / Value for Money / Risk / Health &amp; Safety</u> None arising.</p>
Consultees:	This is a pre-consultation report. If the recommendation is approved, the results of public consultation will be reported to a future meeting of the Committee.

Background papers:	Draft Statement of Principles 2022-2025 (version showing track changes has been circulated separately to members due to system issues preventing this being possible as part of the published agenda)
Glossary of acronyms and any other abbreviations used in this report:	

## 1. BACKGROUND

- 1.1. Non-remote gambling activities such as betting, prize gaming (including bingo and poker), provision of gaming machines and promotion of lotteries under the Gambling Act 2005 (the Act) is one of the major regulatory regimes under which the Council has statutory responsibilities.
- 1.2. The Act requires licensing authorities (district councils or unitary authorities) to publish a written policy, setting out how they intend to exercise the licensing and enforcement powers conveyed to them, the principles that they will follow, and their expectations of licensees. The policy must be periodically reviewed, so as to ensure that they reflect the current legislation, and are relevant to the issues arising in the authority's area.
- 1.3. Dacorum last reviewed its policy in 2018 and it is due for review and replacement by January 2022, in order to satisfy the statutory requirements in the Act, which requires that this is done every 3 years.
- 1.4. A revised policy has been produced to take into account changes to the statutory guidance produced by the Gambling Commission.
- 1.5. The Committee are asked to approve consultation on the revised policy. The Act specifies a number of requirements for consultation on policy change, including lists of the categories of people who should be consulted, and the consultation on the revised policies will be carried out with regard to these requirements, and to the Government's consultation principles.
- 1.6. A short consultation has been advised as suitable by the Gambling Commission, given the nature of the changes to policies being minor. Therefore a four week consultation period is proposed, and the results of this consultation will be brought back to the Committee later in the year.
- 1.7. The final decision to adopt or revise a Gambling Statement of Principles policy under the Act must be made by Full Council. Following consultation, the Committee will be asked to resolve to recommend the adoption of the revised policy (with any additional revisions after considering the consultation responses) by the Council later this year.
- 1.8. The adopted Statement of Principles must be published at least 4 weeks before it comes into effect.

## **2. CHANGES TO STATEMENT OF PRINCIPLES (GAMBLING ACT 2005)**

- 2.1. There have not been any significant changes made as part of the revision of the Statement of Principles. Changes that have been made have reflected changes made to the statutory guidance that is provided by the Gambling Commission which was published 1 April 2021 and updated 13 May 2021. The full guidance is 140 pages, so has not been included with this report, but is available at [Guidance to licensing authorities \(gamblingcommission.gov.uk\)](https://www.gamblingcommission.gov.uk/guidance-to-licensing-authorities), and this includes a list of changes that have been made. To assist the Committee, a list of the revisions has been provided as Appendix 2
- 2.2. The new draft Statement of Principles is attached as Appendix 1. As it is not possible to show track changes within Committee reports, a versions of the draft policy has been circulated to the Committee separately.
- 2.3. All changes to the document can be categorised as clarifications, rather than any changes to the Council's approach to this licensing regime.

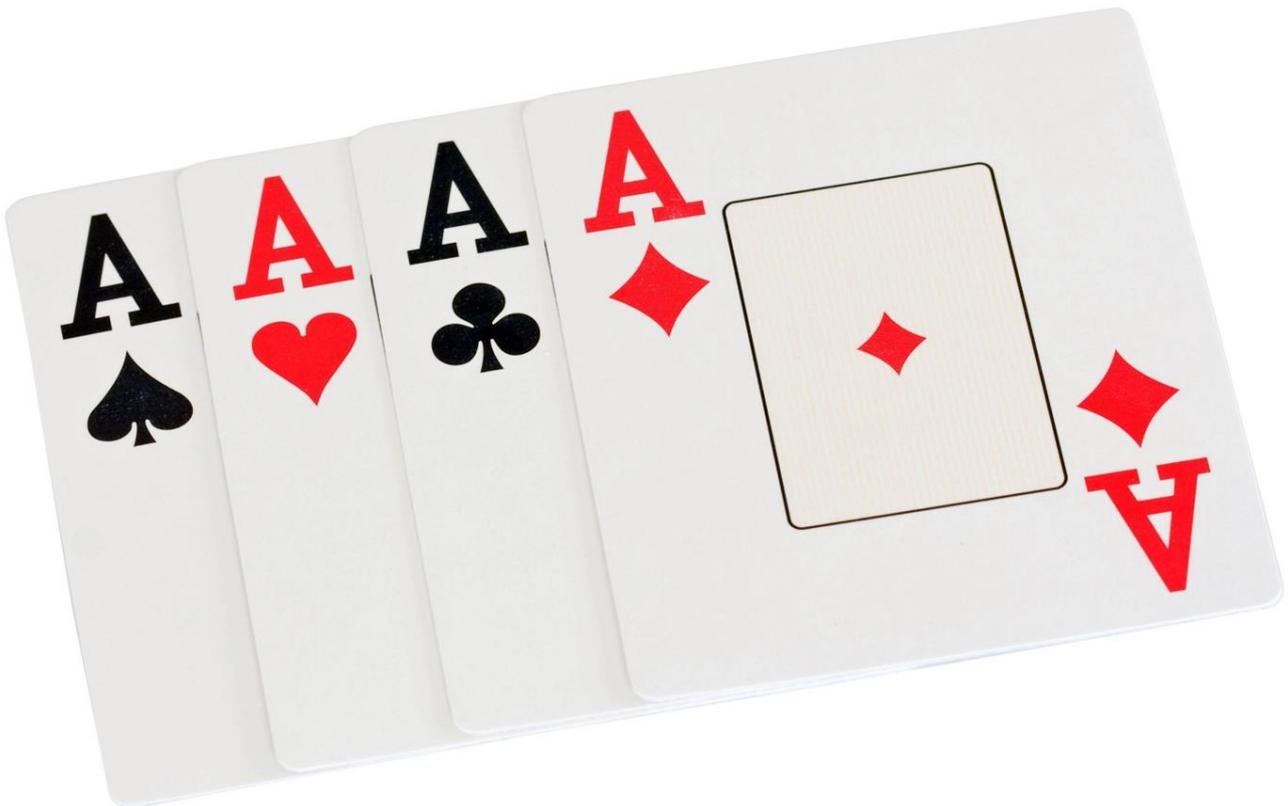
## **3. RECOMMENDATION**

- 3.1. That officers commence consultation with responsible authorities, representatives of licence-holders and other persons on the proposed revisions to the Council's Statement of Principles under the Gambling Act 2005, and report the results to a future meeting of the Committee.**



# Statement of Principles under the Gambling Act 2005

## 2022 – 2025



Date Published	***** (tbc, at least 4 weeks before due to take effect)
Date effective from	31 January 2022
Version no.	6.0
Date of expiry	30 January 2025

Working in partnership, to create a Borough which enables the communities of Dacorum to thrive and prosper

Affordable Housing ♦ Regeneration ♦ Building Community Capacity ♦ Safe and Clean Environment ♦ Dacorum Delivers

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# Introductory information



## 1. About Dacorum

- 1.1. Situated in western Hertfordshire, Dacorum is a borough with a mixture of strong urban and rural identities. It includes the towns of Hemel Hempstead, Berkhamsted and Tring as well as a number of villages, from Long Marston in the west to Flaunden in the south-east. Over a third of the borough's 210 square kilometres have been designated as part of the Chilterns Area of Outstanding Natural Beauty, while most of the rest has high landscape quality and potential.



- 1.2. One of the first 'New Towns' built after the Second World War, Hemel Hempstead's development reflects the original concept of the new town as a series of integrated communities with individual identity and neighbourhood focus. The rapid growth of Hemel Hempstead is reflected in the large number of buildings of similar age and appearance.
- 1.3. Much of the rest of the borough is rural, including two market towns: Berkhamsted and Tring. Although agriculture is no longer a major employment sector in Dacorum, our communities value their rural heritage, and the conservation of historic buildings and landscapes are important considerations. We know that our communities expect good, modern services and thriving town centres. Dacorum Borough Council works closely with the town and parish councils which represent communities in rural areas of the borough, to deliver these aims.
- 1.4. Dacorum has a population of 144,800<sup>1</sup>, the largest of the Hertfordshire districts. Further information about Dacorum and the demographics of its populace can be found in the 'Statistics about Dacorum' area of the council's website<sup>2</sup>.
- 1.5. The borough is continuing to develop, and with significant regeneration planned for much of the borough and Hemel Hempstead in particular over the coming years, it is an exciting time for those who live and work in the area.

<sup>1</sup> Office of National Statistics, Census 2011 (published July 2012)

<sup>2</sup> [www.dacorum.gov.uk/home/community-living/statistics-about-dacorum](http://www.dacorum.gov.uk/home/community-living/statistics-about-dacorum)

## 2. About this document

- 2.1. This document is Dacorum Borough Council’s statement of principles in respect of the regulation of non-remote gambling activities, and publication of it fulfils the authority’s statutory obligation under section 349 of the Gambling Act 2005 (“the Act”). It sets out the policies and principles that we will follow when exercising our powers under that Act, particularly in respect of considering applications for licences and other types of authorisation. It also gives details of our expectations of applicants and licence-holders. This statement must be published on at least one occasion prior to every successive three-year period. The statement must also be kept under review during its validity period, and revised if required, with any revisions published prior to taking effect.
- 2.2. This statement of principles was adopted by the Council on the\*\*, and was published via our website, at [www.dacorum.gov.uk/licensing](http://www.dacorum.gov.uk/licensing). The statement will have effect from **31 January 2022 to 30 January 2025**. Any applications in progress on the first date will be considered under the previous version of the statement of principles.
- 2.3. We are required to exercise our licensing functions under the Act with regard to the licensing objectives, which are discussed in greater detail in later chapters. We must also have regard to this statement of principles, and to the Guidance for Licensing Authorities (GLA) and any relevant codes of practice issued by the Gambling Commission.
- 2.4. The purpose of this statement is to provide guidance to committees and officers determining matters under delegated authority, to provide consistency to our decision-making. However, where the circumstances justify doing so, we may depart from any provision of this statement, or of the Commission’s Guidance, to make an appropriate decision based upon the individual circumstances of a particular case. In any such case we will give a clear explanation and reasons as to why we have done so.
- 2.5. This statement reflects the wide range of competing, and sometimes conflicting, considerations which we must take into account when exercising our powers, and aims to balance these insofar as is possible.

### Interpretation

- 2.6. Within this statement:
  - a) “the Act” means the Gambling Act 2005,
  - b) “licensing authority” means Dacorum Borough Council,
  - c) “the Commission” means the Gambling Commission, and
  - d) “Guidance” means the guidance to licensing authorities published by the Gambling Commission under section 25 of the Act<sup>3</sup>.

### Consultation

- 2.7. In producing this statement of principles, the licensing authority has had regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission, and any responses received during our consultation upon the proposed statement.
- 2.8. Section 349 of the Act requires that, when preparing a statement of principles, the following parties be consulted by licensing authorities:
  - The chief officer of police for the licensing authority’s area

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<sup>3</sup><https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities>

- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act.

2.9. We carried out consultation on a draft version of this statement of principles between and. The people and organisations we sought feedback from included:

- the responsible authorities, including Hertfordshire Constabulary,
- individuals and organisations who hold gambling premises licences, or multiple gaming machine permits, issued by this authority,
- representative bodies within the gambling and leisure industry,
- borough and county councillors,
- town and parish councils,
- the Members of Parliament for Hemel Hempstead and South West Hertfordshire,
- residents, businesses, and voluntary groups (via our website).

2.10. Views expressed in response to our consultation were considered prior to the determination of the final version of this statement.

# Part A: General principles



### 3. General principles

- 3.1. Under the Act, gambling is defined as gaming (participating in a game of chance with the possibility of winning a prize if successful), betting (wagering on a specific outcome of an event) or participating in a lottery. Gambling can be based on the outcome of real world events (such as sporting fixtures, or a card game taking place in premises) or virtual events. Persons providing opportunities or facilities for gambling must hold appropriate licences or permissions, authorising them to do so.
- 3.2. The overall approach of the Act is to state that gambling is unlawful in Great Britain, unless permitted unless permitted by a relevant Act, therefore, the Council strongly recommends that advice is sought prior to commencing any activity which may constitute gambling.
- 3.3. The licences issued under the Act to authorise gambling activities include operating licences, personal licences, and premises licences, as well as a range of permits, notices and registrations for lower-value gambling activities. While operating and personal licences remain the preserve of the Gambling Commission, licensing authorities (which are district councils or unitary authorities) issue premises licences, permits, notices and small society lottery registrations.
- 3.4. In carrying out their functions under the Act, particularly with regard to premises licences and temporary use notices, licensing authorities must aim to permit the use of premises for gambling (as set out in S.153 of the Act) so long as it is:
  - in accordance with any relevant code of practice issued by the Gambling Commission,
  - in accordance with any relevant guidance issued by the Gambling Commission,
  - reasonably consistent with the licensing objectives, and
  - in accordance with the authority's statement of principles.
- 3.5. The likely demand for gambling facilities is not a criterion that a licensing authority may consider when exercising its powers, and will not be taken into account when the authority determines an application. However, issues relating to the use of nearby facilities by children or vulnerable persons may be relevant, depending on the circumstances of a particular case. The Guidance cites as an example certain types of gambling located very close to a school or a centre for gambling addicts, which may lead the authority to consider whether additional conditions would be necessary.<sup>4</sup>
- 3.6. The licensing authority may not reject an application nor revoke a licence in response to representations concerning general moral or ethical objections to gambling, and representations which solely relate to such issues may be disregarded in determining applications. The provision of gambling activities is expressly permitted under UK legislation, and the licensing authority has a duty to act fairly and in accordance with the legislation.
- 3.7. Every matter considered by the Council, in its role as a licensing authority, will be considered on its own merits and in accordance with the statutory requirements of the Act. Nothing in this statement of principles shall:
  - prevent any person from making an application for authorisation or giving a notice under the Act;
  - prevent any person from making representation in respect of an application of a type where the Act provides for them to do so;
  - prevent any person from making an application for the review of a premises licence; or
  - restrict or fetter the Council's discretion to consider and determine applications, or to initiate legal proceedings or other enforcement action, based upon the individual circumstances and merits of a particular case.

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<sup>4</sup> Gambling Commission Guidance to Licensing Authorities, Last updated 13 May 2021, para 6.38

3.8. Dacorum Borough Council is a signatory of the Hertfordshire Local Enterprise Partnership's 'Better Business For All' charter<sup>5</sup>, and we will follow the provisions of the charter when we exercise our regulatory powers in respect of licensable activities.

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<sup>5</sup> <http://www.hertfordshirelep.com/Better-Regulation.aspx>

## 4. Licensing objectives

- 4.1. In exercising most of their functions under the Act, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are to:
- Prevent gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
  - Ensure that gambling is conducted in a fair and open way
  - Protect children and other vulnerable persons from being harmed or exploited by gambling
- 4.2. The objectives do not include considerations in relation to health and safety or public nuisance, and the authority will not attempt to control such issues using gambling legislation.
- 4.3. Licensing authorities must exercise their powers in a way that is reasonably consistent with the licensing objectives. The authority has considered each of the individual objectives as set out below.

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

- 4.4. The licensing authority notes that the Gambling Commission will take 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. Where an area is known to have high levels of crime the authority will consider carefully whether it is suitable for gambling premises to be located there and whether further conditions, such as the provision of door supervisors, may be appropriate.
- 4.5. The licensing authority will distinguish between disorder and nuisance<sup>6</sup>, 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**

- 4.6. The Licensing Authority has noted the Gambling Commission's statement<sup>7</sup> that it does not expect licensing authorities to deal frequently with ensuring that gambling is conducted in a fair and open way, as this will primarily be addressed via operating and personal licences. There is however, more of a role with regard to track premises, as outlined in the 'Betting (Tracks) Premises Licence' section below.

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

- 4.7. The licensing authority has noted the Gambling Commission's guidance that this objective means preventing children from taking part in gambling (as well as restricting 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 guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Any concerns arising from advertising of gambling should be addressed to the Advertising Standards Authority (ASA) as the appropriate regulator for such matters.
- 4.8. The Licensing Authority will expect applicants to take appropriate measures to promote this licensing objective, which may include proof of age schemes, supervision of entrances and gaming machine

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<sup>6</sup> Gambling Commission Guidance to Licensing Authorities, Last updated 13 May 2021, para 5.5

<sup>7</sup> Gambling Commission Guidance to Licensing Authorities, Last updated 13 May 2021, para 5.11

areas, physical separation of areas, , and provision of information leaflets / helpline numbers for organisations such as GamCare. This list is not mandatory, nor exhaustive, but is merely indicative of example measures.

- 4.9. In addition to the measures suggested in 4.8, all premises holding licences (except those at a track), must offer a self-exclusion scheme to customers requesting these.
- 4.10. While the use of CCTV to monitor premises is generally encouraged (so long as such use is in accordance with the requirements and principles of the Data Protection Act 1998 and the Surveillance Camera Code of Practice<sup>8</sup>), it is unlikely to be sufficient on its own as a measure to prevent access to gaming facilities by children or vulnerable persons (including those who have registered in a self-exclusion scheme). At premises such as adult gaming centres, betting shops, bingo halls and family entertainment centres where category B or C gaming machines are operated, the licensing authority will expect that an appropriate number of staff will be present throughout opening hours who will ensure that children are not permitted to enter the premises or use age-restricted gaming facilities, as the case may be, and that self-excluded persons are not permitted to gamble.
- 4.11. The licensing authority also notes the Codes of Practice that the Gambling Commission has issued in respect of this licensing objective, in relation to specific categories of premises.
- 4.12. As regards the term “vulnerable persons” it is noted that the Gambling Commission has not sought 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, for example, mental health, a learning disability or substance misuse relating to alcohol or drugs.”<sup>9</sup> This licensing authority will consider the promotion of this licensing objective on a case by case basis. Should a practical definition emerge in future then this statement of principles will be updated, by way of a revision.

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<sup>8</sup> <https://www.gov.uk/government/publications/surveillance-camera-code-of-practice> (June 2013)

<sup>9</sup> Gambling Commission Guidance to Licensing Authorities, Last updated 13 May 2021, para 5.17

## 5. Licensing authority functions

5.1. Licensing authorities have statutory responsibilities under the Act for:

- the licensing of premises where gambling activities are to take place, through the issue of premises licences;
- the preliminary approval of premises for proposed gambling activities, through the issue of provisional statements;
- the regulation of members' clubs, commercial clubs and miners' welfare institutes who wish to undertake certain gaming activities, through club gaming permits and/or club machine permits;
- the receipt of notifications and the issue of permits for the provision of gaming machines, at premises licensed to supply alcohol for consumption on the premises under the Licensing Act 2003;
- the regulation of unlicensed family entertainment centre premises providing low-value gaming machines through the issue of permits;
- the regulation of non-exempt prize gaming through the issue of permits;
- the receipt and endorsement of temporary use notices, for infrequent gaming activities;
- the receipt of occasional use notices, for infrequent betting activities;
- the registration of non-commercial societies for the provision of small society lotteries;
- the exchange of information with the Gambling Commission regarding details of licences, permits and notices and enforcement issues (see section below on 'exchange of information'); and
- the maintenance of registers of the applications, licences, permits and notices received and issued by the authority.

5.2. The licensing authority has delegated its functions to the Licensing, Health & Safety and Enforcement Committee, the Licensing of Alcohol and Gambling Sub-Committee and to officers in accordance with the requirements of the Act, as summarised in the table at Annex A.

5.3. The licensing authority will generally concern itself only with matters relating to premises licences, and the permits, notices, notifications and registrations outlined above, concerning the use of premises in Dacorum for the provision of gambling activities. Any issues relating to operating and personal licences will be referred to the Gambling Commission, who are the lead regulatory body for such matters.

5.4. Similarly, the licensing authority will not involve itself in any matters relating to the regulation of remote gambling (for example, telephone betting or internet casino gaming), responsibility for which lies with the Gambling Commission.

5.5. Duplication of other regulatory regimes, such as health and safety or fire safety, will be avoided in so far as is possible. In particular, this authority will not consider whether a premises that is the subject of a licensing application is likely to be awarded planning permission or building regulations approval, in its consideration of that application. This authority will though, listen to, and consider carefully, any concerns about proposed conditions that would be contrary to pre-existing planning restrictions or operating licence conditions, should such a situation arise.

## 6. Responsible authorities and interested parties

6.1. Responsible authorities and interested parties can make representations about premises licence applications, or apply for a review of an existing licence. They include statutory bodies with professional expertise relevant to the regulation of gambling activities, and local residents and businesses that may be affected by the provision of non-remote gambling activities.

### Responsible authorities

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

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

6.3. In accordance with the above principles, this authority designates the Hertfordshire Safeguarding Children's Board for this purpose.

6.4. Other responsible authorities include the licensing authority itself (and any other licensing authority in whose area a premises is partly situated, on a per application basis), the Gambling Commission, Hertfordshire Constabulary, HM Revenues & Customs, Hertfordshire Fire & Rescue Service, and Dacorum Borough Council's Planning and Regulatory Services groups (*N.B. Dacorum's Licensing team sits within the Legal Governance group, and is therefore separate from the Regulatory Services group which exercises many of the Council's safety and environmental protection functions*). Contact details for these responsible authorities are given in Annex B.

6.5. Where a premises licence application is made in respect of a vessel, additional responsible authorities will be consulted in respect of that application. These include navigation authorities for the waterway(s) where the vessel will be while it hosts gambling activities, the Environment Agency, the Canal and Rivers Trust, and the Secretary of State. Waterways running through Dacorum include the Grand Union Canal, and the Rivers Gade and Bulbourne, although the latter two are unnavigable.

### Interested parties

6.6. Interested parties are defined in the Act as:

- a person who lives sufficiently close to premises that are the subject of either an application for a licence, or an existing licence, to be likely to be affected by the proposed or authorised gambling activities there,
- a person who has business interests that might be affected by the authorised gambling activities at premises that are the subject of either an application for a licence, or an existing licence, or
- a person who represents other persons in either of these categories.

6.7. The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Act to determine whether a person is an interested party. In Dacorum, each case will be decided upon its merits, and the licensing authority will not apply a rigid rule to its decisions on this matter. It will consider the examples of relevant factors provided in the Gambling Commission's guidance to licensing authorities.

6.8. The Commission suggest that when considering what 'sufficiently close to the premises' means the

following factors may be relevant:<sup>10</sup>

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

6.9. For example, it could be reasonable for an authority to conclude that “sufficiently close to be likely to be affected” could have a different meaning for:

- a) a private resident
- b) a residential school for children, and
- c) a residential hostel for vulnerable adults.

6.10. When determining whether a person has business interests that may be affected the Commission suggest that factors that are likely to be relevant are:<sup>11</sup>

- the size of the premises;
- the ‘catchment’ area of the premises (i.e. how far people will travel to visit); and
- whether the person making the representation has business interests in that catchment area that might be affected.

6.11. The authority will look to give the term "business interests" a wide interpretation, and will generally consider organisations such as community groups, charities, faith groups, educational institutions and medical practices to fall within this meaning. Trade associations, trade unions, and residents and tenants’ associations will be viewed as interested parties if they represent members who can be classed as interested parties in their own right – i.e. who live sufficiently close to the premises to be likely to be affected by the activities being applied for.

6.12. Persons whose business interests are within the same gambling sector as the subject of their representation (or review application) will be expected to satisfy the licensing authority that their representation (or application) is not made with the intent of limiting competition to their own business, particularly given that the Act does not replicate the previous requirement for satisfaction of a ‘demand test’. The licensing authority will disregard representations that are thought to be vexatious, frivolous, or which will not influence the determination of the application.

6.13. Interested parties can be persons who are democratically elected, such as borough or county councillors or MP’s. No specific evidence of being asked to represent an interested person will be required as long as the councillor or MP represents the ward or constituency likely to be affected by the application in question. Town and parish councillors in an area like to be affected by the application in question will also be considered to be interested parties in their own right. Other than these however, this authority will require evidence that a person or body has been nominated to represent someone who is an interested party in their own right. A letter from such a person, requesting representation by the nominee, will generally be regarded as sufficient.

6.14. Dacorum borough councillors who have agreed to represent a party to an application at a hearing, or who have made a representation in their own right, shall not sit on any Sub-Committee considering that application.

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<sup>10</sup> Gambling Commission Guidance to Licensing Authorities, Last updated 13 May 2021, para 8.12

<sup>11</sup> Gambling Commission Guidance to Licensing Authorities, Last updated 13 May 2021, para 8.15

## 7. Representations and reviews

- 7.1. Where a right exists for an interested party or a responsible authority to make representations in respect of an application, any representation must be made in writing (whether by letter, fax or email), and must contain the name and address of the party making the representation, together with any relevant information to assist the licensing authority in determining their status. The grounds upon which the representation is made should also be clearly set out.
- 7.2. Our preferred means of receiving representations is by email, to [licensing@dacorum.gov.uk](mailto:licensing@dacorum.gov.uk). However, we will continue to accept any valid written representation submitted by alternate means.
- 7.3. Applications for the review of a premises licence under the Act may only be made in the prescribed form, and following the procedure set out in the Act. Licensing officers are able to offer further advice on this procedure to any party considering making an application for review of a licence.
- 7.4. The licensing authority must have reasonable grounds in order to take action to refuse, to revoke or to suspend a licence. Any grounds cited in representations or review applications should therefore be supported by evidentiary material, in order for the licensing authority to take an action of a type referred to above. Speculative grounds which cannot be substantiated have previously been found by the courts in other licensing schemes to carry little weight in the decision-making process, and it is therefore likely that the licensing authority would be unable to take action of a type referred to above if such grounds are the only ones cited in respect of an application.

## 8. Exchange of information

- 8.1. Licensing authorities are required to state the principles which will be applied by the authority in exercising functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.
- 8.2. The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information, which includes the provision that the Data Protection Act 1998 will not be contravened. The licensing authority will also have regard to any guidance to licensing authorities issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.
- 8.3. Should any protocols be established as regards information exchange with other bodies then details will be made available via our website, and incorporated into a future revision of this document.
- 8.4. Where required by law applicants will receive copies of any representations made in respect of their application, although sensitive or personal information not required to be disclosed will usually be redacted.

## 9. Enforcement

- 9.1. Licensing authorities are required to state the principles to be applied by the authority in exercising enforcement functions under the Act, both in terms of the inspection of premises and in instituting criminal proceedings in respect of specified offences.
- 9.2. The Licensing Authority will be led by the Guidance<sup>12</sup> in respect of the inspection of premises and the powers to institute criminal proceedings, and will endeavour to ensure that enforcement and compliance actions are:
  - **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;
  - **Targeted:** regulation should be focused on the problem, and minimise side effects.
- 9.3. The Licensing Authority may arrange for the inspection of premises, both licensed and otherwise, in response to specific complaints about those premises and the provision of unauthorised gambling activities therein. The Licensing Authority may also, from time to time, arrange a programme of risk-based inspections of licensed premises, consistent with the principles expressed throughout this document. Should officers witness offences or breaches of an authorisation during an inspection, appropriate action will be taken. Where the Licensing Authority considers a multi-agency approach may be beneficial, it will contact the Commission in the first instance to agree if this is appropriate, this also includes any planned test purchase operations, to ensure that these do not conflict with any other ongoing investigations.
- 9.4. The main enforcement and compliance role for this Licensing Authority in terms of the Act will be to ensure compliance with the premises licences and the other permissions that it issues. The Gambling Commission will be the lead enforcement body for operating and personal licences. All issues relating to forms of remote gambling, as well as issues relating to the manufacture, supply or repair of gaming machines, will not be dealt with by the licensing authority but will be notified to the Gambling Commission.
- 9.5. The Licensing Authority will also keep itself informed of developments as regards the work of the Better Regulation Delivery Office in its consideration of the regulatory functions of local authorities.
- 9.6. In addition to this statement of principles, the Licensing Authority also maintains a licensing enforcement policy, setting out further details of our methodologies. This can be viewed via our website, at [www.dacorum.gov.uk/licensing](http://www.dacorum.gov.uk/licensing), or a copy obtained by contacting us using the details given in Annex B. The Licensing Authority shall also have regard to any corporate enforcement policy published by Dacorum Borough Council.
- 9.7. A number of gambling operators have formed primary authority partnerships<sup>13</sup>, under which they receive ‘assured advice’ from a single local authority in respect of one or more regulated aspects of their business – for example, preventing underage sales of age-restricted products or services. Where we have concerns around a premises whose operator has formed a primary authority partnership relevant to the issue in question, we will consult with the primary authority prior to taking any formal action.

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<sup>12</sup> Gambling Commission Guidance to Licensing Authorities, Last updated 13 May 2021, part 36

<sup>13</sup> See <https://primary-authority.beis.gov.uk/par> for a full list

## 10. Gaming machines

- 10.1. Within both the gambling legislation and this document, references are made to gaming machines as being within categories A, B, C or D, or in some cases, sub-categories such as B1, B2, B3 or B4.
- 10.2. Gaming machines are categorised according to the nature of their operation, the maximum charge to use, and the maximum prize available, and the legislation sets out the categories and sub-categories of machines that holders of each type of premises licence or permit are entitled to make available for use. Machines can vary in size and include devices such as tablets which have been developed in recent years to minimise the space required to site machines, however, these should be sited to allow sufficient room for players to use simultaneously.
- 10.3. As both machine entitlements and the values applicable to each category are prescribed in secondary legislation, and may be changed at relatively short notice, it is not considered appropriate to include this information within this document. However, a separate document containing the current values and machine entitlements is available via our website, at [www.dacorum.gov.uk/licensing](http://www.dacorum.gov.uk/licensing)
- 10.4. Persons under the age of 18 years are not permitted to use any gaming machine other than a category D machine, which are generally low-value machines located in family entertainment centres. Holders of licences and permits which allow the provision of higher-category machines in premises where children are present should take appropriate steps either to locate those machines in a segregated area with age-restricted access, or to locate the machines so that their usage can be monitored at all times – the appropriate action is dependent upon the nature of the premises and the authorisation held.
- 10.5. Some types of licence, permit or entitlement limit the number of gaming machines which may be made available for use in the authorised premises. The licensing authority notes the Commission's guidance on the meaning of 'available for use'<sup>14</sup>, including the provision that a greater number of machines may be located in the premises so long as there is a mechanism in place to disable machines and prevent the number of gaming machines which are actively available for use from exceeding the limit. Simply switching the gaming machine off at an adjacent power socket will not be acceptable to the licensing authority if a customer is able to reactivate the machine by switching it back on. Where an operator or permit-holder wishes to provide a greater number of machines on their premises than may be made available for use under the licence or permit, the onus will be on that operator or permit-holder to demonstrate to the licensing authority that they have a sufficiently robust mechanism in place to prevent a breach of the licence or permit.
- 10.6. All gaming machines which are made available for use in premises must adhere to the appropriate technical standards set by the Gambling Commission, including bearing the correct categorisation markings and any other signage required.
- 10.7. Some machines can operate at more than one category, so long as these are set at a lower category, they will not be considered to contribute to the number of machines made available of the higher categories.
- 10.8. Multi-position machines, will only count as one machine if multiple players cannot play a machine simultaneously without any physical hindrance.
- 10.9. Electronic Bingo Terminals must not allow players to play bingo and other gaming machine activity instantaneously

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<sup>14</sup> Gambling Commission Guidance to Licensing Authorities, Last updated: 13 May 2021, para 16.17

10.10. A number of premises which are not entitled to provide gaming machines (including fast-food outlets, taxi booking offices, shopping centres and transport hubs) provide other types of machines, which operate differently to gaming machines. These may include skill machines (where the likelihood of winning a prize is dependent solely on the player's skill or knowledge, and not on chance), and non-prize machines (where players play for a high-score or for amusement only, and no prize can be won as a result). Such machines fall outside of the scope of the 2005 Act, and are not subject to control by the licensing authority. However the authority will investigate complaints where it is believed that a machine purporting to be a skill game or a non-prize machine is actually a (licensable) gaming machine. In determining whether such complaints are accurate we may seek advice from machine suppliers, manufacturers, and from the Gambling Commission.

# Part B: Premises licences



## 11. Premises licences

### Applications

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

- who are aged 18 or over **and**
- who have the right to occupy the premises **and**
- who have an operating licence which allows them to carry out the proposed activity. Details of operators that [hold an operating licence](#) are available on the Commission's website **or**
- who have applied for an operating licence to allow them to carry out the proposed activity. The premises licence cannot be determined until an operating licence has been issued.

### Categories of premises licence

11.2. The Act makes provision for licensing authorities to issue a number of different categories of premises licence, each of which authorises an operator to provide a different combination of gambling activities at that premises. The licence categories are:

- Adult gaming centre premises licence
- Betting (track) premises licence
- Betting (other) premises licence
- Bingo premises licence
- Family entertainment centre premises licence
- Regional casino premises licence
- Large casino premises licence
- Small casino premises licence
- Converted casino premises licence

11.3. The Gambling Commissions Local Conditions and Codes of Practice states that 'with very few low risk exceptions, non-remote gambling should be confined to dedicated gambling premises', the Council therefore requires in line with this requirement, that any premises to be used for gambling is clearly defined in the associated plan. An example of an unacceptable application would be for the distribution of gaming machines in open areas of a shopping centre. The Council will ensure it meets its responsibilities to prevent ambient gambling.

11.4. All applications (including variations to existing licences) must be submitted with accompanying plans which comply with the requirements of current regulations of the Act. The premises plan is only one means by which the licensing authority will seek reassurance that the requirements will be met. Conditions may be attached to the premises licence regarding lines of sight between the counter and the gaming machines, staffing arrangements or security devices are a more effective method of doing so. Local circumstances and risks, and the layout of a particular premises, will determine what is most appropriate for an individual application.

11.5. As described in a later section, only certain licensing authorities may issue casino premises licences, and Dacorum is not among this group. Therefore, we can only issue the first five categories of premises licence for premises within Dacorum.

11.6. The following sections detail the specific provisions to be applied by the licensing authority to each of the five permitted categories.

### Adult gaming centre premises licences

11.7. The Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling, and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises, and that schemes to protect vulnerable persons are operated.

11.8. Only 20% of machines within Adult Gaming Centres can be Category B. there is no limit on the number, or percentage of category C or D machines.

11.9. Further licence conditions may also be considered in respect of the following matters – however, it must be noted that this list is not exhaustive:

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

### **Betting (other) premises licences**

11.10. The authority notes the difference between betting terminals, which are designed to receive bets on real events, and gaming machines such as fixed odds betting terminals (FOBTs), which are reliant upon the outcome of a virtual event. It is further noted that betting premises are entitled to offer up to four gaming machines in total, which may include category B2 FOBT machines.

11.11. No further limits may be imposed by the licensing authority on gaming machine numbers in betting (other) premises, beyond the standard prescribed limit applying to all betting (other) premises licences.

11.12. There are no statutory limits on the number of betting terminals that may be made available in betting premises, although the licensing authority may attach a condition to a licence limiting the number if concerns exist over the availability of machines to children or vulnerable persons which cannot be satisfied through alternative means.

11.13. The licensing authority will, as per the Commission's guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of betting terminals by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number, nature and circumstances of betting terminals an operator wants to offer.

11.14. Further licence conditions may also be considered in respect of the following matters – however, it must be noted that this list is not exhaustive:

- Proof of age schemes
- CCTV
- Supervision of entrances/ machine areas
- Physical separation of areas
- Location of entry
- Notices/signage

- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets/ helpline numbers for organisations such as GamCare

## Track premises licences

- 11.15. S.353 of the Act defines a track as a horse racecourse, greyhound track or other premises on any part of which a race or other sporting event takes place or is intended to take place. The mention of 'other sporting event' should be interpreted widely, including for example football, cricket, or golf.
- 11.16. The Licensing Authority notes that tracks may be subject to one or more premises licences, provided that each licence relates to a discrete area of the track. As per the Gambling Commission's guidance, this licensing authority will consider the impact upon the third licensing objective (protection of children and vulnerable persons), and the need to ensure that entrances to each licensed area are distinct and that children are excluded from gambling areas which they are not permitted to enter.
- 11.17. The Authority will expect the premises licence applicant to adopt suitable measures to ensure that children do not have access to adult-only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse-racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.
- 11.18. Due to an anomaly in the Act, persons under the age of 18 years must not be employed at track premises for any purpose, whether connected to gambling or not.
- 11.19. The entitlement to make up to four gaming machines available for use at the track premises may only be utilised if the holder of the premises licence also holds a pool betting operating licence. In situations where this is the case and it is proposed to make gaming machines available for use, any gaming machines (other than category D machines) should be located in areas from which children are excluded. If the track premises is licensed for the sale of alcohol, a further two gaming machines may be made available by way of the automatic entitlement for alcohol-licensed premises, upon payment of the appropriate notification fee.<sup>15</sup>
- 11.20. Betting terminals may also be made available for use at track premises, and this licensing authority proposes to apply the same principles to track premises as set out in the betting (other) premises licence section, above.
- 11.21. A condition to track premises licences is that the track operator is to ensure that the terms for placing bets are prominently displayed in or near each betting area, or that other measures are taken to ensure that they are made available to the public.
- 11.22. Applicants are required to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity. Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations.
- 11.23. Some tracks may be situated on open land where the perimeter is not defined by an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, premises licence holders may erect temporary structures with restricted access. In rare cases where the site

<sup>15</sup> Gambling Commission Guidance to Licensing Authorities, Last updated: 13 May 2021, para 20.34

perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases, those responsible for the provision of betting facilities may prefer to authorise those facilities by way of occasional use notices, which do not require the definition of a perimeter, rather than a premises licence.

11.24. It is noted that it is not always possible to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main area(s) where betting might take place.

11.25. Pool betting is covered in greater detail in the Commissions guidance, but can only be used for horse and dog racing.

### Bingo premises licences

11.26. The licensing authority will need be satisfied that it is possible for bingo to be played in any premises for which a bingo premises licence is to be issued. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence and/or apply for new licences, as discussed in the division of premises and appropriate licensing environment section, below.

11.27. Where children are permitted to enter premises licensed for bingo, they may not participate in the bingo, nor may they make use of any category of gaming machine, other than those in category D. Where category B or C machines are made available in premises to which children are admitted it is expected that:

- all such machines will be located in an area of the premises separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults will be admitted to the area where the machines are located;
- access to the area where the machines are located will be supervised;
- the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; 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.

11.24. Only 20% of machines within Bingo premises can be Category B

### Family Entertainment Centre Premises Licences

11.28. The licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to adult only (category C) gaming machine areas.

11.29. Further licence conditions may also be considered in respect of the following matters – however, it must be noted that this list is not exhaustive:

- CCTV
- Supervision of entrances/ machine 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

11.30. This licensing authority will, as per the Gambling Commission's guidance, refer to the Commission's website and make itself aware of any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated.

## 12. Conditions

12.2. Premises licences are subject to the requirements set out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions that have been detailed in regulations issued by the Secretary of State.<sup>16</sup> The Licensing Authority, through the Licensing of Alcohol and Gambling Sub-Committee, may also impose further conditions in response to specific issues, which will be decided on a case-by-case basis. The Council is of the view that the mandatory and default conditions are usually sufficient to ensure operation that is reasonably consistent with the licensing objectives.

12.3. Any conditions attached to licences will be proportionate, and:

- relevant to the need to make the proposed building suitable as a gambling facility;
- directly related to the premises and the category of licence applied for;
- fairly and reasonably related to the scale and type of premises;
- reasonable in all other respects; and
- not duplicative of other regulatory regimes.

12.4. An applicant can request that default conditions are excluded from a licence, and in these circumstances the licensing authority may instead impose an appropriate condition that addresses a similar matter to the excluded condition (for example, if a default condition relating to permitted trading times is excluded, the licensing authority may attach a new condition permitting specified trading hours longer than the default hours). The licensing authority will give a full explanation of the rationale behind any decision to attach such an additional condition, 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 door supervisors, appropriate signage for adult only areas etc. This licensing authority will also expect the licence applicant to offer his/her own suggestions as to ways in which the licensing objectives can be met effectively.

12.5. It is noted that there are certain types of conditions that the licensing authority cannot attach to premises licences, including:

- any condition which would be incompatible with an operating licence condition;
- conditions restricting gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Act specifically removed 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

12.6. The licensing authority may, in response to specific concerns, impose additional conditions on a premises licence requiring that the entrances to that premises are controlled by door supervisors, to prevent incidents of disorder or attempts at unauthorised access (for example by children and young persons). In such cases, consideration must also be given to whether that supervisor needs to be licensed under the Private Security Industry Act 2001, as the statutory requirements vary by premises type. This licensing authority notes the contents of part 33 of the Commission's guidance, which outlines a limited relaxation of the licensing requirement for door supervisors at licensed bingo and casino premises – however, the authority would encourage all operators employing door supervisors to use ones licensed by the Security Industry Authority, so as to ensure that all staff in these positions are fully trained and accredited.

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<sup>16</sup> Statutory Instrument 2007 No. 1409 - The Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007

**Further information**

Part 9 of the The Gambling Commission’s Guidance to licensing authorities provides further information on conditions.

## 13. Location of premises (including Local Area Profile and Local Area Risk Assessment guidance)

13.2. The licensing authority notes that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. Particular attention will be paid to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.

### Local area profile<sup>17</sup>

13.3. A local area profile will be produced by the authority and published on our website. This will highlight areas within the borough which the licensing authority, in consultation with our responsible authorities and other partner agencies (in particular, the Public Health unit of Hertfordshire County Council), considers to present higher than normal risks for the location of a gambling premises. This may be due to large levels of vulnerable persons living in a particular locality, the proximity of a school, youth centre or medical facility, a high level of deprivation, or other factors which the authority believes should be taken into consideration.

13.4. We expect operators, both when applying for new premises licences and when reviewing their existing premises, to take account of our local area profile within their own local risk assessments (described below), and to implement suitable and sufficient measures to mitigate any risks identified which may arise as a result of the opening or continuation of trade at those premises.

### Local risk assessments<sup>18</sup>

13.5. Under the Commission's Licence Conditions and Codes of Practice, from April 2016 operators will be required to compile and maintain a local risk assessment for each premises they operate, and to provide copies of these assessments to the Licensing Authority alongside any application for a new premises licence or to vary an existing premises licence, or otherwise at the request of the Authority. Risk assessments must be kept at the individual premises to which they relate all staff should be fully aware of the risk assessment and where it is kept in order that they work in accordance with any requirements, and it can easily be provided to responsible authorities should they request to see it at any reasonable time, including unannounced inspections and ad hoc visits.

13.6. We do not intend to specify a format or mandatory content for these local risk assessments, as we believe that these will be decisions for the operator to take, and will be dependent upon the location, size, and operational nature of the premises in question.

13.7. However, we would expect that operators have considered the individual circumstances of each of their premises when compiling the risk assessments – a single generic risk assessment covering every premises in an operator's estate will not be considered by the authority to be suitable nor sufficient. We would also expect operators to take full account of our local area profile when compiling their risk assessments, and to reflect this in the control measures which they will implement.

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<sup>17</sup> Gambling Commission Guidance to Licensing Authorities, Last updated 13 May 2021, para 6.47 onwards

<sup>18</sup> Gambling Commission Guidance to Licensing Authorities, Last updated 13 May 2021, para 6.41 onwards

## 14. Division of premises and appropriate licensing environment

- 14.2. In the Act, 'premises' is defined as including "any place". Section 152 prevents more than one premises licence applying to any single place. But a single building could be subject to more than one premises licence, provided each licence is for a different and discrete part of the building, and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow businesses in large, multiple unit premises such as a pleasure park, tracks or shopping centres to obtain discrete premises licences, where appropriate safeguards are in place.
- 14.3. This licensing authority takes note of the Gambling Commission's guidance which states that licensing authorities should take particular care in considering applications for multiple licences within a single building, and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular the authority is aware of the following:
- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.
  - Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not "drift" into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
  - Customers should be able to participate in the activities identified on the premises licence.
- 14.4. The licensing authority will also consider specific measures that may be required for buildings that are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling areas and non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's guidance.
- 14.5. It is also noted that an issue has arisen in some parts of the country, where operators have sought to sub-divide existing single licensed premises, and obtain further premises licences in respect of each part of the divided premises. It has been observed that this practice has been used predominantly in respect of categories of premises licences which allow the operation of a small, fixed number of high-value gaming machines – in effect, using multiple premises licences in respect of different areas of a single business to artificially increase the permitted number of category B machines that can be made available.
- 14.6. The licensing authority notes the Commission's guidance<sup>19</sup> that "in most cases the expectation is that a single building/plot will be the subject of an application for a licence, for example, 32 High Street. But that does not mean 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 premises will depend on the circumstances." When assessing whether premises can be regarded as separate, the licensing authority proposes to assess the following criteria:
- Does each premises have its own external entrance;
  - Does each premises trade as a separate entity;
  - Are the premises subject to separate non-domestic rateable valuations?
  - Is each premises operated by different persons;
  - What is the quality of separation (i.e. if dividing barriers are to be used, are they permanent,

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<sup>19</sup> Gambling Commission Guidance to Licensing Authorities, Last updated 13 May 2021, para 7.6

- opaque, floor-to-ceiling division?);
- Is there a genuine need to establish a division between premises, or is the division aimed solely at artificially increasing the permitted number of high-value gaming machines.

14.7. If it is proposed to utilise sterile, non-gambling areas to create sub-divisions, then the licensing authority will apply the following criteria to those areas:

- Is the non-gambling area proposed as a token separation;
- Is it genuinely an area to which the public would go for purposes other than gambling;
- Is it in effect introducing artificial separation, or genuinely a functionally separate area;
- Is there in effect direct access between the divided units, or is it a place from which access can be gained to two premises.

14.8. Different configurations may be appropriate under different circumstances but the crux of the matter is whether the proposed premises are genuinely separate premises that merit their own licence with the gaming machine entitlements that brings; and are not artificially created as part of what is readily identifiable as a single premises. Poor quality or temporary divisions will not be viewed favourably.

14.9. The licensing authority notes that any premises subject to multiple discrete premises licences must be able to comply with the mandatory conditions restricting access to each licensed premises, as follows:

<b>Premises type</b>	<b>Access restrictions</b>
Adult gaming centre	No direct access from any other licensed gambling premises, or from premises with a family entertainment centre gaming machine permit, a club gaming/machine permit, or an alcohol-licensed premises gaming machine permit
Betting (other)	Access from a street or another betting premises only No direct access from any other premises used for retail sale of goods or services
Betting (track)	No direct access from licensed casino or adult gaming centre premises
Bingo	No direct access from licensed casino, adult gaming centre or betting (other) premises
Family entertainment centre	No direct access from licensed casino, adult gaming centre or betting (other) premises

14.10. In the case of some divided premises, it appears that the intended primary use of a premises licence had not been offered, with operators seeking solely to make use of any additional machine entitlement (for example, holding a bingo premises licence but not making any facilities for playing bingo available in the licensed premises). The Gambling Commission consulted on this issue in 2008, and subsequently issued a revision to the Licence Conditions and Codes of Practice affecting Bingo, Betting and Casino operating licences. Holders of these licences are now mandated to provide suitable and sufficient facilities for their primary licensable activity (e.g. provision of facilities for non-remote betting in a betting (other) licensed premises), now referred to in the Guidance as offering an appropriate licensing environment.

## 15. Access by children

15.2. When considering applications for premises to which children may be admitted, in cases where the issue of a licence would authorise the provision of gaming machines of categories C or higher, the licensing authority will expect the operator to ensure that:

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

15.3. These considerations will apply equally to single premises and to buildings where multiple, discrete premises licences may have effect (for example, a multi-unit shopping centre, or a mixed use development with a number of retail and leisure units).

## 16. Provisional Statements

- 16.2. The Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:
- expects to be constructed;
  - expects to be altered; or
  - expects to acquire a right to occupy.
- 16.3. Developers may wish to apply for a provisional statement before entering into a contract to buy or lease property or land, to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement, nor do they need to have formalised the right to occupy the premises in respect of which the application is made.
- 16.4. The process for considering an application for a provisional statement is similar to 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.
- 16.5. The holder of a provisional statement may subsequently apply for a premises licence. Where a provisional statement is in place, the licensing authority will be constrained in the matters it can consider when determining the premises licence application, and no 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.
- 16.6. In the above circumstance, the authority may only refuse to grant the premises licence (or grant it on terms different to those attached to the provisional statement) with reference to matters:
- which could not have been raised by objectors at the provisional statement stage;
  - which in the authority's opinion reflect a change in the operator's circumstances; or
  - where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.
- 16.7. If an operator has already acquired a premises, has a right of occupation, and holds an appropriate operating licence, there is no requirement for them to obtain a provisional statement prior to making an application for a premises licence – this will simply be a matter of choice. However, where premises are likely to require construction or development work prior to being ready for use for gambling (and as such are not in a state where they can be inspected during the application process), the licensing authority may seek to attach the following additional condition to any premises licence granted:
- The premises are to be constructed in accordance with the deposited plans and shall not trade until such time as they have been inspected and approved by officers of the licensing authority.*

## 17. Reviews

- 17.2. Requests for a review of a premises licence can be made at any time by interested parties or responsible authorities. It is for the licensing authority to decide whether to accept any application for review of a licence, after considering whether the application is:
- frivolous, vexatious, will certainly not cause this authority to wish to alter/revoke/suspend the licence, or substantially the same as previous representations or requests for review;
  - in accordance with any relevant code of practice issued by the Gambling Commission;
  - in accordance with any relevant guidance issued by the Gambling Commission;
  - reasonably consistent with the licensing objectives; and
  - in accordance with the authority's statement of principles.
- 17.3. The licensing authority can also initiate a review of a licence on the basis of any reason that it thinks is appropriate. In particular, the licensing authority may initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises.
- 17.4. Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28-day period, to begin 7 days after receipt of the application. The licensing authority will publish notice of the application within this initial 7-day period.
- 17.5. The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.
- 17.6. The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:
- to add, remove or amend a licence condition imposed by the licensing authority;
  - to exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
  - to suspend the premises licence for a period not exceeding three months; or
  - to revoke the premises licence.
- 17.7. In determining what action, if any, should be taken following a review, the licensing authority will have regard to the principles set out in section 153 of the Act, as well as any relevant representations.
- 17.8. Following the completion of the review, the licensing authority will notify its decision in writing to the licence holder, the applicant for review (if not initiated by the authority), any person who made representations in respect of the review, and the responsible authorities designated in regulations made under the Act.

## 18. Casinos

- 18.2. Licensing authorities have discretion to pass a resolution, under section 166 of the Act, not to issue any casino premises licences. To date, the Licensing Authority has not passed such a resolution, but notes that it has the power to do so.
- 18.3. The Act only allows for a fixed number of 'regional', 'large' and 'small' casinos to be licensed nationally. Licensing authorities must be authorised by the Secretary of State to issue new licences for any of these categories, to ensure that the national limits are not exceeded. Dacorum is not amongst the authorities that have been so authorised, and had no casinos licensed under previous legislation for which 'converted' casino licences were issued during the transitional period. As such, the effect of any resolution under section 166 would be largely academic at the present time, as no new licences can currently be awarded. The authority will however keep itself apprised of any future developments in this area.

# Part C: Permits and notices



## 19. Introduction

- 19.2. The proprietors of dedicated, high-value gambling outlets will generally be required to complete a comprehensive application process to obtain premises and operating licences. However, the Act also makes provision for simpler processes for incidental and low-value gambling activities, such as gaming machines in pubs, bars and clubs, and small-stakes prize gaming. This part of the statement outlines the principles that we will apply to applications for gaming and gaming machine permits, and notifications of temporary or occasional gambling usage.
- 19.3. It is noted that there is some potential overlap in the activities that may be authorised under premises licences and permits, particularly in respect of the provision of multiple gaming machines. Where such activities are provided under a permit, the licensing authority will monitor the provision of those activities to ensure that the permitting system is not being abused and used to authorised gambling as a sole or main business activity, and may seek to initiate proceedings to withdraw or cancel a permit, where such actions are provided for in legislation, if of the opinion that those activities should in fact be authorised by way of a premises licence.

## 20. Alcohol-licensed premises gaming machine permits & notifications

- 20.2. There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically make up to 2 gaming machines, of categories C and/or D, available for use (so long as those premises satisfy the criteria in section 278(1) of the Act). The holder of the premises licence merely needs to notify the licensing authority that they intend to make use of this entitlement, and make payment of the prescribed notification fee.
- 20.3. The licensing authority may remove the automatic entitlement in respect of any particular premises if it is thought that:
- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
  - gaming has taken place on the premises that breaches a condition of section 282 of the Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
  - the premises are mainly used for gaming; or
  - an offence under the Gambling Act 2005 has been committed on the premises.
- 20.4. If the proprietor of an alcohol-licensed premises wishes to make 3 or more gaming machines available for use, then an application must be made for a licensed premises gaming machine permit. When considering that application, the licensing authority must have regard to the licensing objectives and any guidance issued by the Gambling Commission. The licensing authority may also consider “such other matters as they think relevant.”
- 20.5. This licensing authority will decide upon the interpretation of “such other matters” 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. The licensing authority 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 adult-only gaming machines (category C). Examples of measures to satisfy the authority may include the gaming machines being positioned in sight of the bar, or in the sight of staff who will monitor to ensure that the machines are not being used by those under 18. Notices and signage may also assist in this regard. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.
- 20.6. It is recognised that some alcohol-licensed premises may apply for a premises licence for non-alcohol licensed areas. Any such application would most likely need to be made for, and dealt with as, an adult gaming centre premises licence.
- 20.7. It should be noted that the licensing authority can decide to grant the application for a smaller number of machines and/or a different category of machines than that applied for. Although licensing authorities cannot attach any further conditions beyond these matters, permit holders are obliged to operate any gaming machines in compliance with the Commission’s ‘Gaming Machine Permits Code of Practice’, which imposes binding requirements for the supervision of gaming machines and for their positioning away from ATM’s, as well as offering a number of examples of best practice in respect of the prevention of underage gambling and the protection of vulnerable persons.

## 21. Club gaming permits & Club machine permits

- 21.2. Members' clubs and miners' welfare institutes may apply for a club gaming permit or a club machine permit. A club machine permit will enable the club to provide gaming machines (3 machines of categories B, C or D) for use by its members. A club gaming permit bestows the same machine entitlement, and also allows the club to provide equal chance gaming and games of chance as set-out in regulations.
- 21.3. To qualify, members' clubs must have at least 25 members and be established and conducted 'wholly or mainly' for purposes other than gaming (excluding types of gaming specified in regulations – i.e. bridge and whist clubs<sup>20</sup>). A members' club must be permanent in nature and established and conducted for the benefit of its members and not as a commercial enterprise. Examples may include sporting clubs, working men's clubs, branches of Royal British Legion and clubs with political affiliations.
- 21.4. Commercial clubs are also entitled to apply for a club machine permit, but are not eligible for club gaming permits.
- 21.5. The Commission's guidance also notes that licensing authorities may only refuse an application on the grounds that:
- 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;
  - the applicant's premises are used wholly or mainly by children and/or young persons;
  - an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
  - a permit held by the applicant has been cancelled in the previous ten years; or
  - an objection has been lodged by the Commission or the police.<sup>21</sup>
- 21.6. There is also a 'fast-track' procedure available under the Act for qualifying clubs that hold a Club Premises Certificate under the Licensing Act 2003. Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which an authority can refuse a permit are reduced to the following:
- the club is established primarily for gaming, other than gaming prescribed by regulations made under section 266 of the Act;
  - in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
  - a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.
- 21.7. There are statutory conditions on club gaming permits, requiring that no child is permitted to use 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. However, no further conditions may be attached to a permit.

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<sup>20</sup> Statutory Instrument 2007 No. 1942 – The Gambling Act 2005 (Gaming in Clubs) Regulations 2007

<sup>21</sup> Gambling Commission Guidance to Licensing Authorities, Last updated 13 May 2021, para 25.40

## 22. Family entertainment centre gaming machine permits

- 22.2. A proprietor of a family entertainment centre premises (FEC), who wishes to make only category D gaming machines available for use in those premises, can do so in reliance upon a family entertainment centre gaming machine permit. This category of permit provides an alternative to the family entertainment centre premises licences available under the Act, which allow the operation of higher-value gaming machines but are subject to more rigorous application procedures.
- 22.3. It should be noted that the premises must be wholly or mainly used for making gaming machines available for use, to be eligible for this type of permit.
- 22.4. Any application for a permit will be considered with regard to the licensing objectives and to any relevant guidance issued by the Commission. Particular weight will be given to child protection issues.
- 22.5. The applicant will be expected to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises. This Licensing Authority will also expect, as per Gambling Commission guidance<sup>22</sup>, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant (or company directors if the applicant is a limited company) has no relevant convictions; and that staff are trained to have a full understanding of the maximum stakes and prizes.
- 22.6. Applicants will also be asked to supply a plan of the internal layout of the family entertainment centre, drawn to an appropriate scale, that shows the location of the area(s) where category D gaming machines will be made available for use.
- 22.7. An application for a permit may be granted only if the licensing authority 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.
- 22.8. It is noted that a licensing authority cannot attach conditions to this type of permit.
- 22.9. This licensing authority has produced a family entertainment centre gaming machine permit application form, but, so long as the required information is provided, will not require applications to be made exclusively in this format. The form can be downloaded from our website, at [www.dacorum.gov.uk/licensing](http://www.dacorum.gov.uk/licensing)

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<sup>22</sup> Gambling Commission Guidance to Licensing Authorities, Last updated 13 May 2021, para 24.9

## 23. Prize gaming permits

23.2. In any application for a prize gaming permit the applicant should set out the types of gaming that he or she is intending to offer, and should also be able to demonstrate:

- that they understand the limits on stakes and prizes that are set out in Regulations<sup>23</sup>;
- that the gaming offered is within the law; and
- that appropriate measures will be taken to ensure that children are protected from being harmed or exploited by gambling – in particular, the measures that will be taken to ensure that children cannot participate in the gambling offered.

23.3. In making its decision on an application for this type of permit the licensing authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

23.4. There are conditions in the Gambling Act 2005 with which the permit holder must comply, but the licensing authority cannot attach further 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.

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<sup>23</sup> Statutory Instrument 2009 No. 1272 – The Gambling Act 2005 (Limits on Prize Gaming) Regulations 2009

## 24. Temporary use notices

- 24.2. Temporary use notices allow a gambling operator to make infrequent use of unlicensed premises, to use the premises for a limited time to provide facilities for gambling. Premises that might be suitable for a temporary use notice, according to the Guidance, may include hotels, conference centres and sporting venues.
- 24.3. The licensing authority can only accept a Temporary Use Notice from a person or company holding a relevant non-remote operating licence: i.e. a non-remote casino operating licence.
- 24.4. The types of gambling activities that may be authorised by a Temporary Use Notice are set out in Regulations made under the Act<sup>24</sup>. Currently, the only permitted activity is the provision of facilities for equal chance gaming, where the gaming is intended to produce a single overall winner. Possible examples of this could include gaming tournaments with such games as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.
- 24.5. Temporary Use Notices are subject to a statutory limit that a set of premises may be used for no more than 21 days in any 12 month period. 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 considering whether a place falls within the definition of "a set of premises", the licensing authority will look at, amongst other things, the ownership/occupation and control of the premises.
- 24.6. This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could reasonably be described as one set of premises, as recommended in the Guidance, or in other cases where the proposed gaming would undermine the licensing objectives or be contrary to the Guidance or this Statement of Principles.

## 25. Occasional use notices

- 25.2. Occasional use notices may be used to authorise infrequent betting at track premises, on no more than 8 days in any calendar year. They cannot be used to authorise any other form of gambling activity (e.g. gaming machines). Providing that the 8-day limit is not breached, there is no provision for correctly-served notices to be refused by a licensing authority. A day is defined as midnight to midnight, and not simply 24 hours across 2 days. A separate OUN is required for each day.
- 25.3. The Licensing Authority notes that the definition of track premises is not restricted to permanent premises, but can include any premises or land on which a race or sporting event is to take place. Consideration will therefore be given to the nature of the premises specified in a notice, in addition to whether the person giving the notice is an occupier of the track, or is responsible for the administration of events at the track.
- 25.4. It is further noted that occasional use notices do not relieve any person accepting bets at the track premises from the requirement to hold an appropriate betting operating licence, nor from the requirements of any conditions imposed upon that licence.
- 25.5. This licensing authority has produced a template form, suitable for giving an occasional use notice, but will not require notifications to be given exclusively in this format. The template form can be downloaded from [www.dacorum.gov.uk/licensing](http://www.dacorum.gov.uk/licensing)

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<sup>24</sup> Statutory Instrument 2007 No. 3157 - The Gambling Act 2005 (Temporary Use Notices) Regulations 2007



## 26. Travelling fairs

- 26.2. It will fall to the licensing authority to decide whether, at travelling fairs where category D machines are to be made available for use and / or equal chance prize gaming without a permit is offered, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 26.3. The licensing authority will also consider whether the proprietor falls within the statutory definition of a travelling fair.
- 26.4. A statutory limit of 27 days per calendar year applies to gambling at each site used by travelling fairs, and this limit 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. Where concerns arise in respect of sites crossing the borough boundary, this licensing authority will work with its neighbouring authorities to ensure that the usage of such sites is monitored so as to ensure that the statutory limits are not exceeded.

# Part D: Lotteries



## 27. General principles

- 27.2. The Gambling Act 2005 regulates almost all forms of fund-raising lotteries promoted in the UK. With the exception of the National Lottery, which is not regulated under this Act, it is illegal to promote a lottery for private or commercial gain.
- 27.3. While the term 'lottery' is used within the legislation, these provisions are also likely to apply to raffles, prize draws, tombola's, sweepstakes, scratch-card sales, and so on – in short, any arrangement in which a payment is made for a random chance of winning a prize. For the sake of simplicity, 'lottery' is used to define all of these.
- 27.4. Broadly speaking, there are two categories of lottery established under the Act –
- **Licensed lotteries** include those run by societies that aim to raise more than £20,000 in a single draw, or £250,000 in a calendar year, as well as any lotteries promoted by a local authority. An operating licence must be held by the promoter(s) of these lotteries.
  - **Exempt lotteries** fall into one of four sub-categories, each with its own limits on the amounts that can be raised, the purposes for which it can be promoted, and the manner in which it must be run. These sub-categories comprise Incidental Non-Commercial Lotteries, Customer Lotteries, Private Lotteries, and Small Society Lotteries.

## 28. Licensed lotteries

- 28.2. The administration and enforcement of licensed lotteries is the responsibility of the Gambling Commission, although local authorities may provide information and intelligence to assist in the exercise of these functions.
- 28.3. Should a society registered with a licensing authority for the promotion of small society lotteries promote a lottery which causes either on the statutory limits on proceeds to be exceeded, then any subsequent lotteries promoted by that society in the current calendar year or any of the following three calendar years will be deemed to be large society lotteries, and will require the society to obtain a relevant operating licence from the Gambling Commission. The registration with the Licensing Authority will remain in force, but will not serve to authorise any lottery schemes during this period – it is open to the society as to whether to cancel the registration.
- 28.4. The Act provides a mechanism for local authorities to promote lotteries (or have lotteries promoted on their behalf) in order to raise funds for any item or service on which they may lawfully incur expenditure. Prior to doing so, an operating licence must be obtained from the Gambling Commission. A senior council officer must also hold a personal management licence, again issued by the Commission. At the time of writing, no such licences are in place, and accordingly lotteries may not be promoted by or on behalf of the authority.
- 28.5. The Licensing Authority must hold a register for all registered small society lotteries. Whilst this does not need to be a public register, it is recommended by the Commission that this is made available to the Public on request. The Licensing Authority will seek to include a register of all small society lotteries on its website.
- 28.6. The applicant and Commission will be notified as soon as practicable once this has been registered. In normal circumstances, this will happen immediately as part of the registration process.



## 29. Exempt lotteries

- 29.2. Of the four sub-categories of exempt lotteries, only Small Society Lotteries require registration with a local authority – no authorisation is required for the other three categories. Both the Commission and local authorities may carry out compliance checks to ensure that any exempt lotteries are carried on in accordance with the relevant legal restrictions.
- 29.3. Prior to registering a society, the licensing authority may consult informally with certain statutory partners, including the Gambling Commission and Hertfordshire Constabulary, in order to satisfy itself that the information given in the application for registration is correct, the applicant is a bona fide non-commercial society, an operating licence held by the society has not been refused or revoked in the preceding 5 years, and that no persons who will be connected with the promotion of lotteries for the society have been convicted of relevant offences. Where the authority cannot be so satisfied, it is open to it to refuse the application for registration, but only after the applicant has been given the opportunity to lodge representations in respect of the proposed refusal.
- 29.4. Registrations will remain in force indefinitely, incurring an annual fee in each year that they remain in force. Societies may request the cancellation of their registration, in writing, at any time. The licensing authority may also revoke a registration, upon any of the grounds outlined in paragraph 4.8, or cancel a registration for non-payment of annual fees. Revocation may only occur after the applicant has been given the opportunity to lodge representations.

## 30. Free prize draws & skill competitions

- 30.2. The Gambling Act 2005 does not include any measures to regulate prize draws where there is no charge to enter, nor any competition where the outcome relies significantly upon a participant's skill, judgement or knowledge. Generally, the licensing authority will not become involved in any matters relating to such schemes.
- 30.3. However, on some occasions, schemes that are presented as skill competitions will actually fall under the definition of lotteries or prize gaming, and would therefore need to comply with the statutory requirements. Alongside the Gambling Commission, licensing authorities are obliged to monitor the boundaries between lotteries and skill competitions, and will provide basic advice on ensuring that any competitions are run in compliance with the relevant laws. However, the licensing authority will not offer advice or approval of individual schemes, nor will it offer in depth advice as to the legality of a particular activity. It is ultimately the responsibility of the promoter to ensure that a scheme is compliant with statutory requirements, and to seek independent confirmation of this from a legal adviser where appropriate.
- 30.4. This licensing authority notes the criteria set out in section 14 of the Act relating to the characteristics of a skill competition, and will expect the promoter of any such scheme to ensure that the competition includes a suitable challenge of skill, judgement or knowledge that will:
- prevent a significant proportion of people who wish to participate from doing so; or
  - prevent a significant proportion of people who participate from receiving a prize.

# Annexes



## Annex A – Delegation of functions

Full details of the scheme of delegation adopted by Dacorum can be viewed in the Council’s Constitution, which is available on our website. The table below summarises the various delegations, and shows which functions will be exercised at which level.

Matter to be determined	Delegation level	
	Licensing of Alcohol & Gambling Sub-Committee	Officers
Determination of an application for a provisional statement	Where representations have been received and not withdrawn	Where representations were not received or have all been withdrawn
Determination of an application for a premises licence	Where representations have been received and not withdrawn	Where representations were not received or have all been withdrawn
Determination of an application for variation of a premises licence	Where representations have been received and not withdrawn	Where representations were not received or have all been withdrawn
Determination of an application for transfer of a premises licence	Where representations have been received and not withdrawn	Where representations were not received or have all been withdrawn
Determination of an application for reinstatement of a premises licence	Where representations have been received and not withdrawn	Where representations were not received or have all been withdrawn
Initiation of review of a premises licence by licensing authority	-	✓
Determination of an application for review of a premises licence	✓	-
Determination of an application for club gaming / club machine permit	Where representations have been received and not withdrawn	Where representations were not received or have all been withdrawn
Cancellation of club gaming / club machine permits	✓	-
Determination of applications for other permit types	-	✓
Cancellation of licensed premises gaming machine permits	-	✓
Determination of a temporary use notice	Where representations have been received and not withdrawn	Where representations were not received or have all been withdrawn
Acknowledgment of occasional use notice	-	✓
Registration of non-commercial societies for small society lotteries	-	✓
Revocation or cancellation of small society lottery registrations	-	✓
Decisions to prosecute or issue cautions for offences under the Act	-	✓

Adoption of the statement of principles, and resolutions not to issue casino licences, are functions of the Full Council.

## Annex B – Contact details

For information on this statement of principles, or for informal advice on making an application or whether a particular gambling activity is likely to require authorisation, please contact:

**Licensing  
Dacorum Borough Council  
The Forum  
Marlowes  
Hemel Hempstead  
HP1 1DN**

Phone: **01442 228000**  
Email: [licensing@dacorum.gov.uk](mailto:licensing@dacorum.gov.uk)  
Web: [www.dacorum.gov.uk/licensing](http://www.dacorum.gov.uk/licensing)

Please note that, due to the complexity of the legislation that governs these activities, we can only give basic advice about which activities do and do not require authorisation, and about application processes.

If you are unsure as to the legality of a particular activity, or require more detailed information or advice than we are able to offer, we recommend that you consult an independent specialist advisor or legal representative.

### Responsible authority contact details

The Gambling Commission

Phone: 0121 230 6666

Email: [info@gamblingcommission.gov.uk](mailto:info@gamblingcommission.gov.uk)

Website: [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

HM Revenues and Customs (National Registration Unit)

Phone: 0300 322 7072

Email: [nrubetting&gaming@hmrc.gsi.gov.uk](mailto:nrubetting&gaming@hmrc.gsi.gov.uk)

Hertfordshire Constabulary (Dacorum Licensing)

Phone: 01442 271601

Email: [dacorumlicensing@herts.pnn.police.uk](mailto:dacorumlicensing@herts.pnn.police.uk)

Hertfordshire Fire and Rescue Service

Phone: 01707 292310

Email: [administration.cfs@hertfordshire.gov.uk](mailto:administration.cfs@hertfordshire.gov.uk)

Dacorum Planning

Phone: 01442 228000

Email: [planning@dacorum.gov.uk](mailto:planning@dacorum.gov.uk)

Dacorum Regulatory Services

Phone: 01442 228455

Email: [environmentalhealth@dacorum.gov.uk](mailto:environmentalhealth@dacorum.gov.uk)

Hertfordshire Safeguarding Children Board

Phone: 01992 588757

Email: [admin.hscb@hertfordshire.gov.uk](mailto:admin.hscb@hertfordshire.gov.uk)

Full contact details for the above authorities including postal addresses, and additional authorities in respect of gambling activities on vessels, can be viewed on our website.

To make an application or for further guidance, please visit our website:  
[www.dacorum.gov.uk/licensing](http://www.dacorum.gov.uk/licensing)

For informal advice or queries, please email:  
[licensing@dacorum.gov.uk](mailto:licensing@dacorum.gov.uk)

## Amendments to The Gambling Commission's Guidance to local authorities

**Added 1.14** The overall approach of the Act is to state that gambling is unlawful in Great Britain, unless permitted by:

- the measures contained in the Act, in relation to most commercial gambling
- the measures contained in the [National Lottery etc Act 1993 \(opens in new tab\)](#), in the case of the National Lottery
- the measures contained in the [Financial Services and Markets Act 2000 \(opens in new tab\)](#), in the case of spread betting. This approach should be considered in the context of the statutory aim to permit gambling, as set out at paragraph 1.20 below

**1.19** The Gambling Act 2005 permits the advertising of gambling in all forms, provided that it is legal and there are adequate protections in place to prevent such advertisements undermining the licensing objectives. The Advertising Standards Authority (ASA) is the UK's independent regulator of advertising. It enforces the UK Advertising Codes (the Codes), written by the Committees of Advertising Practice. The Codes cover the content and placement of advertising and are designed to ensure that advertisements for gambling products are socially responsible, with particular regard to the need to protect children, young persons under 18 and other vulnerable persons from being harmed or exploited. The Codes also require that advertisements for gambling products or services do not mislead. Any complaint about the content and placement of advertising or marketing communications should be sent directly to the ASA.

**ADDED** Part 16: Gaming machines - The meaning of 'available for use' - 16.17, 16.18, 16.19, 16.20, 16.21, 16.22, 16.23, 16.24, 16.25 and 16.26

16.16 S.242 of the Act makes it an offence for a person to make a gaming machine available for use, where they do not hold an operating licence or other permission covering gaming machines and where no other exemption applies.

16.17 The Act does not define what 'available for use' means, but the Commission considers that a gaming machine is 'available for use' if a person can take steps to play it without the assistance of the operator.

16.18 More than the permitted number of machines may be physically located on a premises but the onus is on licensees to demonstrate that no more than the permitted number are 'available for use' at any one time.

16.19 A machine that can operate at more than one category, which is operating at a lower category, does not contribute to the number of machines 'available for use' at a higher category until it switches to that category. Licensees must ensure no more than the permitted number are 'available for use' at any one time.

16.20 Systems in which a number of machines are networked so that the player can select which game and category they play are permitted but licensees must still adhere to any restrictions on the number of machines at a certain category.

16.21 Gaming machine entitlements in AGC or bingo premises set out that only 20% of machines can be category B machines in order to ensure a balanced offering of gambling products and restrict harder gambling opportunities.

16.22 Machine design has changed in recent years and space-saving gaming machines - in the form of tablets, multi-player units and narrow/in-fill machines - have become available. Some of these machines appear to have been designed primarily to maximise category B machine entitlements.

16.23 We updated our 'available for use' guidance<sup>11</sup> in 2019 to make it clear that for the purpose of calculating the category B machine entitlement in gambling premises, gaming machines should only be counted if they can be played simultaneously by different players without physical hindrance. For example, the Commission would consider that a multi-position machine that technically allows two or more players to play simultaneously but in reality requires those players to stand very closely together or adopt unnatural participation positions, to the effect that a second player would be discouraged from attempting to use the machine, could not be classed as two or more machines.

16.24 In relation to tablets, licensees should ensure that there is sufficient floorspace in the premises to permit counted tablets to be used simultaneously.

16.25 Electronic Bingo Terminals (EBTs) that offer gaming machine content in addition to bingo content are gaming machines and subject to adherence with the above principles. Licensees are reminded however that an EBT must only allow participation in one gambling activity at a time and should not therefore contain functionality which allows participation in bingo and gaming machine activity simultaneously.

16.26 We have published our 'available for use' guidance<sup>12</sup> on the Commission website, and provided additional information specifically in relation to when is a gaming machine 'available for use' in AGC or bingo premises under the 20% regulations.

#### **ADDED** Part 17: Casinos - Controlling where gaming machines may be played – casino - 17.58

**17.58** The current regulatory framework prescribes that Category B gaming machines may only be made available in licensed gambling premises and not in locations which may prompt more ambient gambling such as pubs. Maintaining distinctions between different gambling venues allows individuals to make a deliberate choice whether to enter that particular gambling environment. In carrying out their functions under the Act licensing authorities should satisfy themselves that a premises applying for or licensed as a casino is operating or will operate in a manner which a customer would reasonably be expected to recognise as a premises licensed for the purposes of providing facilities for casino games and/or games of equal chance.

#### **ADDED** Part 18: Bingo - Gaming machines - 18.8

**18.8** S.172(7), as amended, 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 on the premises. For example, a premises with a total of 25 gaming machines available for use can make five or fewer category B3 gaming machines available on that premises. Premises that were licensed 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. There are no restrictions on the number of category C or D machines that can be made available. Regulations state that category B machines at bingo premises are restricted to sub-category B3 (SI 2007/2158: [Categories of Gaming Machine Regulations 2007 \(opens in new tab\)](#)) (but not B3A) and B4 machines. Licensing authorities should ensure that gambling machines are made available for use in a manner consistent with our guidance within Part 16. For the purpose of calculating the category B machine entitlement in gambling premises, gaming machines should only be counted if they can be played simultaneously by different players without physical hindrance. This includes tablets.

**ADDED** Part 19: Betting premises - Gaming machines - 19.5

**19.5** S.172(8) provides that the holder of a betting premises licence may make available for use up to four gaming machines of category B, C or D. Regulations state that category B machines at betting premises are restricted to sub-category B2, B3 and B4 machines (the terminals commonly in use are able to provide both B2 and B3 content).

**ADDED** Part 21: Adult gaming centres - Self-exclusion - 21.4

**21.4** [Social Responsibility Code Provision 3.5.6](#) requires that all non-remote casino and bingo and betting licences (except those at a track) and holders of gaming machine general operating licences for adult gaming centres must offer self-exclusion schemes to customers requesting such a facility. There is also an [Ordinary Code provision at 3.5.7](#). The full details can be found within the LCCP<sup>48</sup>.

**ADDED** Part 34: Small society lotteries - Application and registration process for small society lotteries - 24.29

**34.29** Additional information is available to assist licensing authorities with society lottery applications. This can be found within our [Feature article: Small society lottery applications – things to consider](#). Please note this article does not form part of the Guidance to licensing authorities.

**ADDED** Appendix I: Glossary of terms – OPSS

OPSS Office for Product Safety and Standards ([opens in new tab](#))

**AMENDED** Part 1: General guidance on the role and responsibilities of licensing authorities in gambling regulation: Co-ordination and contact – 1.10

1.10 The Commission works with national bodies such as the Local Government Association (LGA) ([opens in new tab](#)), The Institute of Licensing (IoL) ([opens in new tab](#)), The Convention of Scottish Local Authorities (COSLA) ([opens in new tab](#)), the Society of Local Authority Lawyers and Administrators in Scotland (SOLAR) ([opens in new tab](#)), The Welsh Local Government Association (WLGA) ([opens in new tab](#)) and others to share intelligence and good practice as well as regular updates on gambling related matters. The Commission also provides a regular update via the LA Bulletin, e learning modules, a dedicated section of the website<sup>2</sup>, inspection templates and quick

guides. Resource permitting we offer support for specific cases of compliance and enforcement as well as the delivery of training and awareness raising sessions throughout GB.

**AMENDED** Part 1: General guidance on the role and responsibilities of licensing authorities in gambling regulation: Primary legislation – 1.18

1.18 In addition, the Gambling (Licensing and Advertising) Act 2014 (opens in new tab) came into force on 1 November 2014 and amends the Act. It requires remote gambling operators selling into the British market, whether based here or abroad, to hold a Commission licence to enable them to transact with British consumers. The Act (as amended) has implications for remote operators and does not impact the powers or authority of licensing authorities.

**AMENDED** Part 2: The licensing framework – Introduction - 2.3

2.3 Licensing authorities have responsibility for licensing gambling premises within their area, as well as undertaking functions in relation to lower stake gaming machines in clubs and miners' welfare institutes. In England and Wales, local authorities have these responsibilities; in Scotland they have been given to licensing boards. The Act also provides a system of temporary and occasional use notices. These enable licensing authorities to authorise premises that are not licensed generally for gambling purposes, to be used for certain types of gambling for limited periods. Parts 14 and 15 provide more information on temporary and occasional use notices.

**AMENDED** Part 3: The Gambling Commission - Main functions of the Commission - 3.5

3.5 The Commission also has a duty to advise the Secretary of State on gambling and its regulation. To ensure that the Commission is well placed to provide such advice, it monitors developments in gambling in Great Britain and in other jurisdictions. It works closely with a range of regulatory partners, including licensing authorities, the Advertising Standards Authority (opens in new tab), the Information Commissioner's Office (opens in new tab), Ofcom (opens in new tab), and with stakeholders including the industry itself, faith and community groups, those with lived experience of gambling harm, government departments and bodies working in the field of gambling research.

**AMENDED** Part 3: The Gambling Commission - Relationship between the Commission and licensing authorities - 3.9 and 3.10

3.9 In addition to the Commission's LA bulletin that provides a summary of the key issues affecting licensing authorities, we also provide support and guidance on specific issues at forums and training events. The Commission also produces e learning modules, inspection templates and quick guides. Resource permitting we offer support for specific cases of compliance and enforcement as well as the delivery of training and awareness raising sessions throughout Great Britain.

3.10 At a headline and strategic level, the Commission meets regularly with national bodies such as the the Local Government Association (LGA) (opens in new tab), the Convention of Scottish Local Authorities (COSLA) (opens in new tab), the Welsh Local Government Association (WLGA) (opens in new tab), the Society of Local Authority Lawyers and Administrators (SOLAR) (opens in new tab), and the Institute of Licensing (IoL) (opens in new tab). These meetings provide opportunities to discuss issues of concern, emerging trends and this guidance.

**AMENDED** Part 6: Licensing authority policy statement - Local risk assessments - 6.44

**6.44** The SR ( social responsibility) provision is supplemented by an ordinary code provision indicating that 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 at the request of the licensing authority. Both provisions took effect from April 2016.

**AMENDED** Part 6: Licensing authority policy statement - Consultation process - 6.58

6.58 S.349(3) of the Act requires licensing authorities to consult with the following on their policy statement or any subsequent revision:

in England and Wales, the chief officer of police for the authority's area

in Scotland, the chief constable of the Police Scotland

one or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area

one or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act.

**AMENDED** Part 7: Premises licences - Applications - 7.41

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

who are aged 18 or over and

who have the right to occupy the premises and

who have an operating licence which allows them to carry out the proposed activity. Details of operators that hold an operating licence are available on the Commission's website or

who have applied for an operating licence to allow them to carry out the proposed activity. The premises licence cannot be determined until an operating licence has been issued.

**AMENDED** Part 8: Responsible authorities and interested parties definitions - Responsible authorities - 8.8

**8.8** The Secretary of State and Scottish Ministers may prescribe other responsible authorities by means of regulations.

**AMENDED** Part 9: Premises licence conditions - S.179 – Pool betting - 9.16

S.179 – pool betting

9.16 S.179 provides that a betting premises licence in respect of a track may not authorise pool betting to take place, other than in respect of dog or horse racing and only where the acceptance of bets is by the holder of the betting premises licence, or in accordance with arrangements made by them. In the case of dog racing, this preserves the existing arrangements at dog tracks where the totalisator is operated by or on behalf of the occupier of the track.

#### **AMENDED** Part 15: Occasional use notices - Introduction - 15.1

15.1 S.39 of the Act provides that where there is betting on a track on 8 days or fewer in a calendar year, betting may be permitted by an OUN without the need for a full premises licence. The Secretary of State has the power to increase or decrease the number of occasional use notices that an operating licence holder could apply for each calendar year. 'Day' is defined as midnight to midnight, so an event that starts on one calendar day and ends on the following day would count as two days. OUNs are designed to allow licensed betting operators to provide betting facilities at genuine sporting events (such as point-to-point racecourses and golf courses for major competitions) within the boundaries of the identified venue on a specific date, without the need for a full betting premises licence. An OUN must be served by a person who is responsible for the administration of events on the track or by an occupier of the track. The following should be noted in relation to an OUN:

OUNs can only be relied upon for eight days or fewer in a calendar year and therefore licensing authorities should keep a record of the number of notices served in relation to each track. The period of eight days applies to the venue and not the individual who has submitted the notice.

an OUN must be submitted for each day that betting activity will be conducted on the premises. If betting activity is to be held over a period of eight consecutive days, the operator will be required to submit eight separate notices.

the notice must specify the day on which it has effect. An event running past midnight and ending on the following day accounts for two occasional use days, even though in practice it is one event.

no objection or counter notice (refusal) is possible unless the maximum number will be exceeded.

notice must be given to the licensing authority and the police, in writing, before the event starts.

no premises licence can exist for the place which is the subject of the notice.

land can be used temporarily as a track, for example for a point-to-point race, provided that sporting events or races take place there. There is no need for a track to be permanently established.

#### **AMENDED** Part 15: Occasional use notices - Use (and misuse) of OUNs 15.4

15.4 Local sporting clubs or other venues seeking to become tracks through a contrived sporting event have utilised OUNs to solely or primarily facilitate betting taking place on events occurring away from the identified venue, examples include the Cheltenham Festival and Grand National meeting. Whilst we have not introduced a new licence condition limiting the betting to the outcomes of a race, competition or other sporting event taking place at the track in question whilst the OUN is in force, the situation is being kept under review.

## **AMENDED** Part 18: Bingo - Gaming machines - 18.8

18.8 S.172(7), as amended, 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 on the premises. For example, a premises with a total of 25 gaming machines available for use can make five or fewer category B3 gaming machines available on that premises. Premises that were licensed 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. There are no restrictions on the number of category C or D machines that can be made available. Regulations state that category B machines at bingo premises are restricted to sub-category B3 (SI 2007/2158: Categories of Gaming Machine Regulations 2007 (opens in new tab)) (but not B3A) and B4 machines. Licensing authorities should ensure that gambling machines are made available for use in a manner consistent with our guidance within Part 16. For the purpose of calculating the category B machine entitlement in gambling premises, gaming machines should only be counted if they can be played simultaneously by different players without physical hindrance. This includes tablets.

## **AMENDED** Part 20: Tracks - Definition of a track - 20.5

20.5 The Act does not define what constitutes a sporting event or race and licensing authorities will need to decide this on a case by case basis. The Commission is aware of some instances of the apparent misuse of occasional use notices (OUNs). Local sporting clubs or other venues seeking to become tracks through a contrived sporting event have utilised OUNs to solely or primarily facilitate betting taking place on events occurring away from the identified venue, examples include the Cheltenham Festival and Grand National meeting. Whilst we have not introduced a new licence condition limiting the betting to the outcomes of a race, competition or other sporting event taking place at the track in question whilst the OUN is in force, the situation is being kept under review. Further details can be found in Part 15.

## **AMENDED** Part 20: Tracks - Betting on tracks - 20.16, 20.18, 20.19 and 20.20

### 3 - Betting on tracks

20.16 There are various types of betting which take place in relation to tracks.

20.18 Betting on tracks is organised in different ways and can take place in different parts of the track in many different forms. These include the following:

‘Betting rings’ The ring can be dispersed throughout the track, and can include ‘temporary’ rings at large meetings, but all different locations form part of the betting area. On-course betting operators will be located in the betting ring according to a position (pitch) allocated to them under the commercial arrangement they have with the track owner.

Betting counters or kiosks A betting counter or booth may be a permanent or temporary outlet from which a bookmaker provides betting facilities. Examples include manned stands or porta-cabins located at football grounds on match days, and the temporary kiosks used by bookmakers at cricket grounds during test matches.

Mobile betting Mobile betting machines (often handheld) operated by employees of betting operators allow customers to place a bet or receive payouts away from betting kiosks or the betting ring, most commonly in hospitality areas.

Self-service betting terminals (SBBTs) SSBT, described in paragraph 19.6, lack the direct human intervention of a betting counter staffed by a cashier, and can be located at different parts of tracks. See below more details on SSBTs at tracks.

Pool betting This involves the pooling of stakes on a given event, and the splitting of the total pool, less a commission for the operator amongst the winners. Pool betting at horseracing and greyhound tracks can be offered under a pool betting operating licence – be that the owner of the track or a third party provider. Tracks may also conduct inter-track pool betting when other tracks are holding races.

#### Off-course betting

20.19 Off-course betting operators are typically those who provide betting facilities from betting premises such as those found on the high street. In addition to such premises, betting operators may operate self-contained betting premises or designated areas such as a row of betting kiosks within the track premises. These premises provide facilities for off-course betting (in effect, the opportunity to bet on other events not just those taking place on the track), although they normally operate only on race days.

20.20 The provision of off-course betting facilities as described above is generally conducted in reliance on the track premises licence held by the occupier of the track and consequently the off-course operator is prohibited from making any gaming machines available for use unless they hold a separate betting premises licence in relation to part of the track. The track premises licence holder will need to vary their existing premises licence so that it does not have effect in relation to the area where the additional betting premises licence is located. The additional betting premises licence would need to be secured by the holder of an appropriate betting operating licence. Such a premises would then be subject to the conditions outlined in Part 19.

#### **AMENDED** Part 20: Tracks - Applications - 20.55

20.55 Licensing authorities should be aware that there is an anomaly in the Act, wholly prohibiting the employment of children and young people on tracks.

#### **AMENDED** Part 20: Tracks - Pool betting - 20.64

##### Pool betting

20.64 By virtue of s.179 of the Act, a track premises licence may only authorise the acceptance of bets by way of pool betting on horseracing or dog racing, and if the bets are accepted by the holder of the track premises licence or in accordance with arrangements made by him. Additionally, pool betting on a licensed greyhound track will only be permitted while the public are admitted to the track for the purpose of attending greyhound races, and no other sporting events are taking place. A mandatory condition is attached to the premises licence to this effect (SI 2007/1409: Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007 (opens in new tab), Schedule 6(3)(1)).

**AMENDED** Part 21: Adult gaming centres - Gaming machine - 21.5

21.5 Gaming machine provisions by premises are set out at Appendix A. S.172(1) of the Act, as amended, provides that the holder of an AGC 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 and any number of category C or D machines. For example, a premises with a total of 25 gaming machines available for use can make five or fewer category B3 gaming machines available on those premises.

**AMENDED** Part 24: Unlicensed family entertainment centres - Introduction - 24.2

24.2 uFECs are premises which are 'wholly or mainly' used for making gaming machines available (S238 Gambling Act 2005 (opens in new tab)). As a result, it is generally not permissible for such premises to correspond to an entire shopping centre, airport, motorway service station or similar. Typically, the machines would be in a designated, enclosed area.

**AMENDED** Part 25: Clubs - Permits - 25.54

25.54 Licensing authorities should note that, as a consequence of the Gambling (Licensing and Advertising) Act 2014 (opens in new tab), there is a requirement on remote gambling operators selling into the British market, whether based here or abroad, to hold a Commission licence to enable them to transact with British consumers.

**AMENDED** Part 29: Poker - Advertising - 29.52

29.52 The Gambling (Licensing and Advertising) Act 2014 (opens in new tab) amended the Act so that from 1 November 2014, gambling operators that provide facilities for remote gambling requires remote gambling operators selling into the British market, whether based here or abroad, to hold a Commission licence to enable them to transact with British consumers.

**AMENDED** Part 34: Small society lotteries - Application and registration process for small society lotteries - 34.40 and 34.41

34.40 Licensing authorities are required by paragraph 44 of Schedule 11 of the Act to record details of the society on a register. While it does not have to be a public register, the Commission recommends that licensing authorities make the register available to the public on request.

34.41 Once the application for registration has been accepted and entered on the local register, the licensing authority must then notify both the applicant and the Commission of this registration as soon as practicable.

**AMENDED** Part 36: Compliance and enforcement matters - Powers of entry in Scotland - 36.18, 39.19 and 36.20

36.18 In Scotland, the relevant licensing authority is called a licensing board. The powers of licensing boards are the same as to those of licensing authorities in England and Wales.

36.19 However, the wording of s.304(2) of the Act has created an anomaly in Scotland where the equivalent of a licensing officer is a licensing standards officer (LSO). Although s.304(2) of the Act was intended to provide licensing authorities with the opportunity to empower licensing authority staff already involved in licensing, it does not specifically apply to licensing standards officers in Scotland who are not directly employed as officers of the licensing authority but rather by the local authority. The licensing boards are separate and LSOs are deliberately legally separated from the boards.

36.20 S.304(3) and (4) of the Act provide licensing authorities in Scotland with the opportunity to empower LSOs and council staff involved in other regulatory roles, such as trading standards officers and environmental health officers, to exercise the powers of authorised persons under the legislation. Indeed, council staff like environmental health officers are already authorised persons under the Act by virtue of the legislation they enforce.

**AMENDED** Part 36: Compliance and enforcement matters - Illegal gambling - 36.25

36.25 Dealing with illegal poker or illegal/illegally sited machines in a specific premises often lends itself to a multi-agency coordinated approach with licensing authority officers leading the operation and the police and sometimes HMRC (opens in new tab) providing support, advice and expertise. Licensing officers should contact the Commission in the first instance to agree if such a multi-agency approach would be appropriate.

**AMENDED** Part 36: Compliance and enforcement matters - Test purchasing and age verification - 36.32

36.32 Local authorities should also consult with the Commission before planning such exercises in order to ensure that there is no conflict between any ongoing investigation or enforcement activity related to either the premises or the operator that we have initiated and the test purchase operation. Local authorities in England and Wales are also subject to PA arrangements.

**AMENDED** Appendix I: Glossary of terms - DCMS changed to Department for Digital Culture Media and Sport

**REMOVED** Part 1: General guidance on the role and responsibilities of licensing authorities in gambling regulation - Co-ordination and contact - 1.11 and 1.12

**REMOVED** Part 13: Information exchange - Information the Commission makes available to licensing authorities - 13.18

**REMOVED** Part 16: Gaming machines - The meaning of 'available for use' - 16.17, 16.18, 16.19, 16.20, 16.21 and 16.22

**REMOVED** Part 29: Poker - Advertising - 29.53 and 29.54

**REMOVED** Part 36: Compliance and enforcement matters - Illegal gambling - 36.22

**REMOVED** Appendix I: Glossary of terms - BRDO



## AGENDA ITEM: 6

### SUMMARY

Report for:	Licensing, Health & Safety and Enforcement Committee
Date of meeting:	29 <sup>th</sup> June 2021
PART:	I
If Part II, reason:	

Title of report:	<b>Mobile Homes Act 2013 – Fit and Proper person requirement</b>
Contact:	Nathan March – Licensing Team Leader, Corporate and Contracted Services
Purpose of report:	To advise the Committee of new requirements under the Mobile Homes Act 2013
Recommendations	That the Licensing Team Leader be delegated responsibility for the provision of the relevant application form, and procedures to ensure that the Council can meet its responsibilities in regards to the determination of whether individuals are fit and proper to hold a caravan site licence and to be included on the register.
Corporate objectives:	<ul style="list-style-type: none"> <li>• A clean, safe and enjoyable environment</li> <li>• Delivering an efficient and modern council</li> <li>• Building strong and vibrant Communities</li> <li>• Ensuring economic growth and prosperity</li> </ul>
Implications:	<p><u>Equalities</u> This work is directed by legislation so apply to any person who wishes to hold a Caravan Site Licence</p> <p><u>Financial / Value for Money / Risk / Health &amp; Safety</u> None arising.</p>
Consultees:	Due to the short timescale of the legislative requirements coming into effect, there is no time to consult. However, the existing licensees will be notified of the new requirements as soon as possible, and these requirements are laid out by the

	legislation rather than any local policy.
Background papers:	Mobile Homes Act 2013 The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020
Glossary of acronyms and any other abbreviations used in this report:	

## 1. BACKGROUND

- 1.1. The Mobile Homes Act 2013 made it possible for regulations to be made by Government that require local authorities to establish whether existing and potential caravan site licence holders, or their site managers are 'fit and proper' to do so.
- 1.2. As part of this requirement, from 1 July 2021, licensing authorities are required to allow applications to be received from relevant individuals to be included on a register to be maintained by the Council of fit and proper people for this purpose.
- 1.3. The assessment the Council is required to make for any applicant is as follows:
  - 1.3.1. Whether the relevant person has the ability to secure the proper management of the site
  - 1.3.2. has committed any offence involving fraud or other dishonesty, violence, arson or drugs or listed in Schedule 3 to the Sexual Offences Act 2003 (offences attracting notification requirements);
  - 1.3.3. has contravened any provision of the law relating to housing, caravan sites, mobile homes, public health, planning or environmental health or of landlord and tenant law;
  - 1.3.4. has contravened any provision of the Equality Act 2010 in, or in connection with, the carrying on of any business;
  - 1.3.5. has harassed any person in, or in connection with, the carrying on of any business;
  - 1.3.6. is, or has been within the past 10 years, personally insolvent;
  - 1.3.7. is, or has been within the past 10 years, disqualified from acting as a company director;
  - 1.3.8. has the right to work in the United Kingdom; and
  - 1.3.9. is a member of any redress scheme for dealing with complaints in connection with the management of the site.
- 1.4. The regulations prescribe what information must be provided to applicants in the event that they are rejected for inclusion on the register.

- 1.5. Individuals can also be removed from the register in certain circumstances as stipulated by the regulations.
- 1.6. Once accepted for the register, an individual should normally remain on the register for 5 years, before being required to reapply.
- 1.7. The Council can issue a preliminary decision notice if it initially makes a decision other than to include the applicant on the register. Where a preliminary decision is made, the applicant has the right to make representations to the Council, and should the Council maintain its decision to refuse inclusion on the register, the individual can then appeal this decision to a Third Tier Tribunal.
- 1.8. It is possible to set a fee for inclusion on the register, and this can include an annual fee. However, to charge a fee, a fees policy is required. Given the timescales for the new regulations coming into force, it is proposed that no fee is charged at this time, and that this be reviewed in the future should the work required to maintain the register be significant.
- 1.9. There are only 5 caravan sites within Dacorum currently, the owners of which will be affected by these new requirements.

## **2. WORK TO BE DONE**

- 2.1. The following needs to be done urgently in order that the Council can meet the new requirements:
  - 2.1.1. Application form to be created
  - 2.1.2. Procedures develop for consideration of applications
  - 2.1.3. Register to be set up
  - 2.1.4. Other communications such as confirmation of inclusion and refusal notices

## **3. RECOMMENDATION**

- 3.1. That the Licensing Team Leader be delegated responsibility for the provision of the relevant application form, and procedures to ensure that the Council can meet its responsibilities in regards to the determination of whether individuals are fit and proper to hold a caravan site licence.
- 3.2. The Licensing Team Leader to be delegated authority to determine applications for inclusion on the register.
- 3.3. The Assistant Director (Corporate and Contracted Services) or Group Manager (Legal and Corporate Services) to be delegated responsibility for consideration of any representations made following a preliminary decision notice being issued.