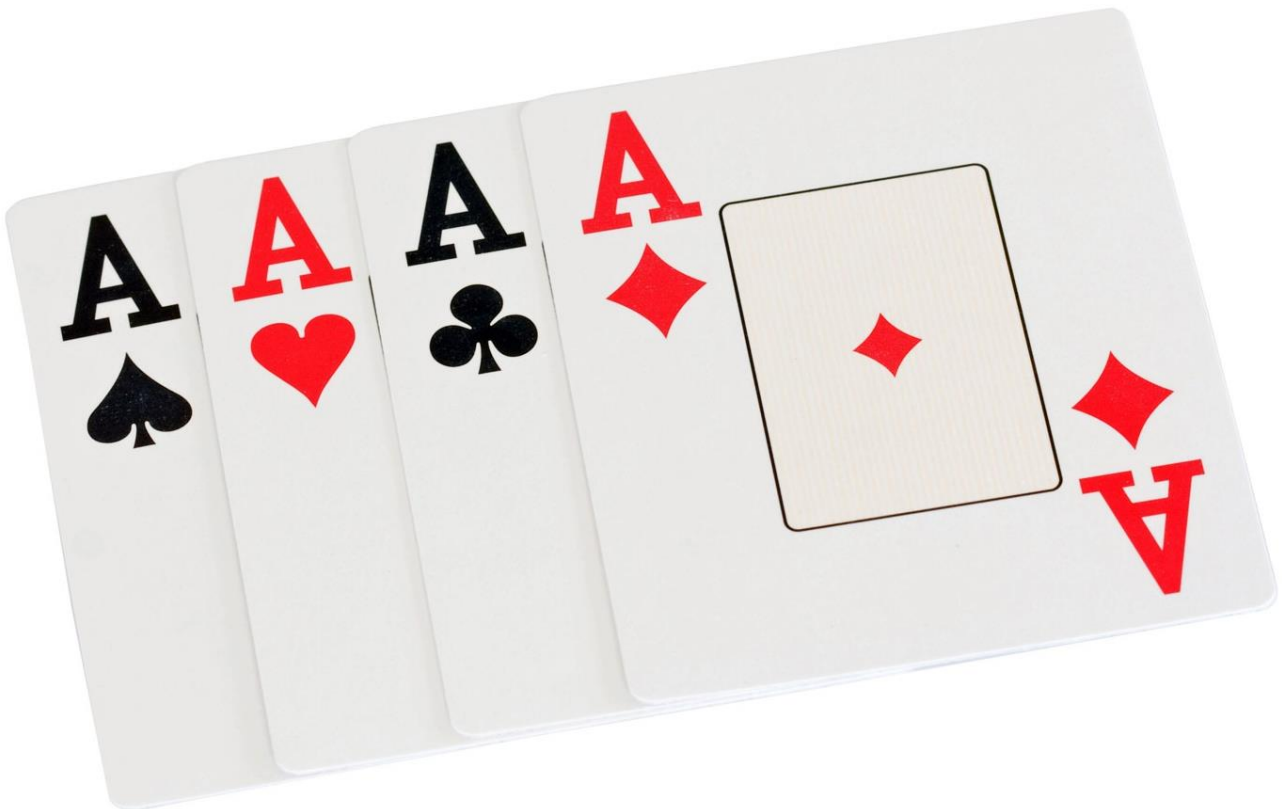




Statement of Principles under the Gambling Act 2005

2016 – 2019



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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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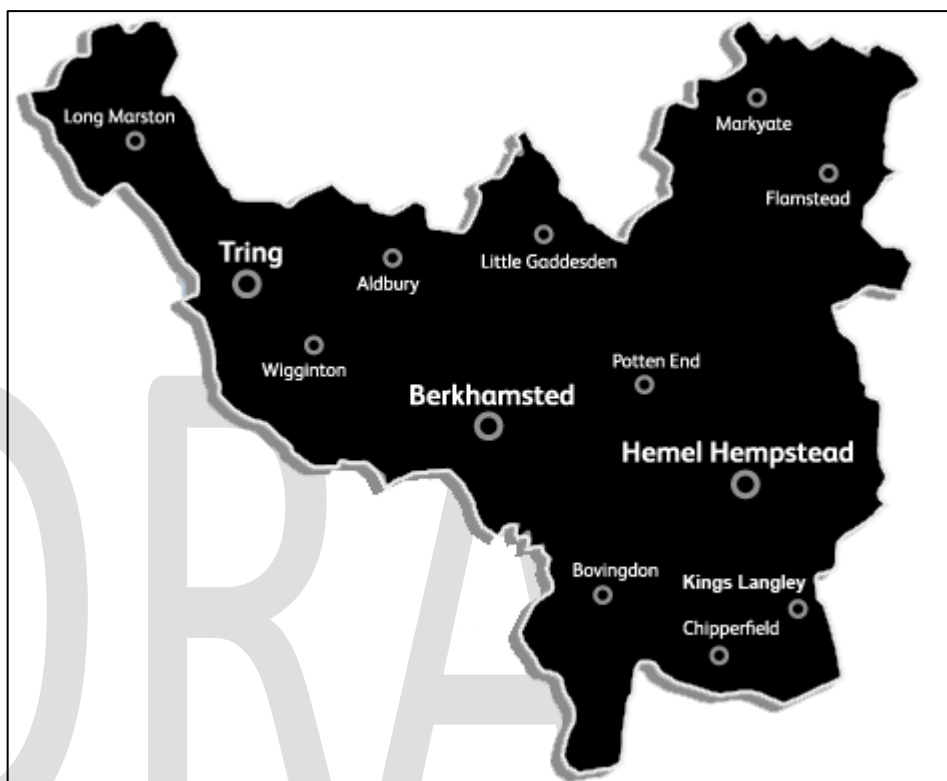
*Paragraphs which are new or have been substantially amended since the last version of the Statement of Principles are highlighted in this draft version in **yellow text**.*

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 144,800¹, 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 website².
- 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.

¹ Office of National Statistics, Census 2011 (published July 2012)

² 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 xx xxxx 2015, and was published via our website, at www.dacorum.gov.uk/licensing. The statement will have effect from **31 January 2016** to **30 January 2019**. 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 a view to promoting 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 Act³.

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

³ www.gamblingcommission.gov.uk/Licensing-authorities/Licensing-authorities.aspx

- 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 xx xxxx 2015 and xx xxxx 2015. 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.

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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 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.
- 3.3. 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 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
- 3.4. The licensing authority will not take into account any moral objections to gambling when exercising its powers. 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.
- 3.5. 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 facilities by children or vulnerable persons may be relevant, depending on the circumstances of a particular case. The Guidance cites as an example gambling which is located very close to a school or a centre for gambling addicts, which may lead the authority to consider additional measures to promote the licensing objective.⁴
- 3.6. 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:
 - a) prevent any person from making an application for authorisation or giving a notice under the Act;
 - b) prevent any person from making representation in respect of an application of a type where the Act provides for them to do so;
 - c) prevent any person from making an application for the review of a premises licence; or
 - d) 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.
- 3.7. Dacorum Borough Council is a signatory of the Hertfordshire Local Enterprise Partnership's 'Better Business For All' charter⁵, and we will follow the provisions of the charter when we exercise our regulatory powers in respect of licensable activities.

⁴ Gambling Commission Guidance to Licensing Authorities, 5th edition, para 6.38

⁵ <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 promotion of 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, 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 statement⁶ 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.

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 areas, physical separation of areas, self-exclusion schemes, and provision of information leaflets / helpline numbers for organisations such as GamCare. This list is not mandatory, nor exhaustive, but is

⁶ Gambling Commission Guidance to Licensing Authorities, 5th edition, para 5.11

merely indicative of example measures.

- 4.9. 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), 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.
- 4.10. 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.
- 4.11. 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 mental health needs, learning disability or substance misuse relating to alcohol or drugs.”⁷ 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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⁷ Gambling Commission Guidance to Licensing Authorities, 5th edition, 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:⁸

- 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 complainant. This is not the personal characteristics of the complainant, but the interests of the complainant that 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:⁹

- 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.

⁸ Gambling Commission Guidance to Licensing Authorities, 5th edition, para 8.12

⁹ Gambling Commission Guidance to Licensing Authorities, 5th edition, 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. 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. This means that it will usually need to see evidence which substantiates the grounds cited in representations or review applications if it is to act upon those grounds. 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 guided by the Gambling Commission's guidance to licensing authorities¹⁰ 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.
- 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, 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, 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.

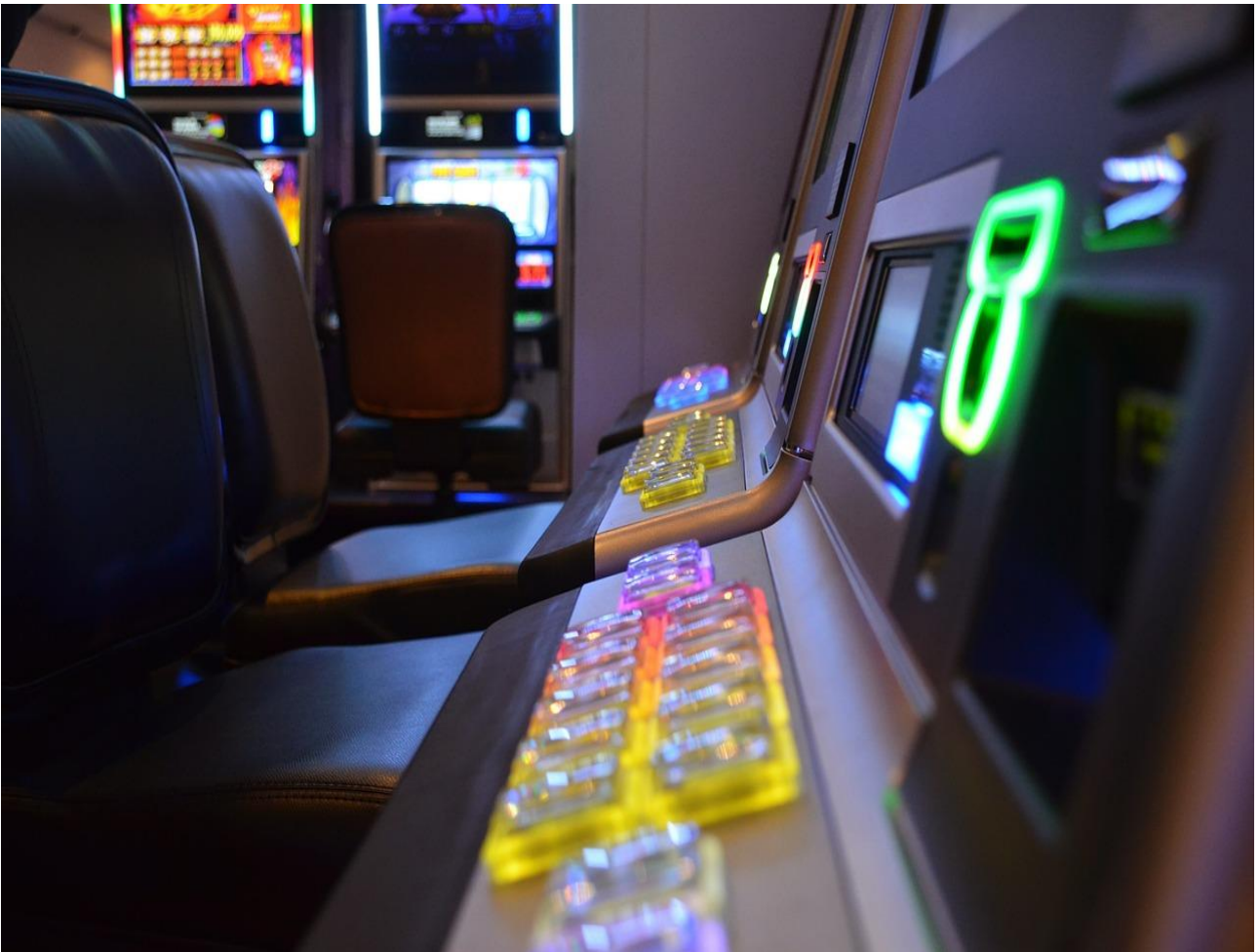
¹⁰ Gambling Commission Guidance to Licensing Authorities, 5th edition, part 36

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 may be made available under each type of licence or permit. The Secretary of State is responsible for establishing the applicable values of each category and sub-category by way of statutory instrument.
- 10.3. As the values applicable to each category are prescribed in legislation, and may be changed at relatively short notice, it is not considered appropriate to include a list of the characteristics and values of each category within this document. However, a separate document containing the current values is available via our website, at 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'¹¹, 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. 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.

¹¹ Gambling Commission Guidance to Licensing Authorities, 5th edition, para 16.17

Part B: Premises licences



11. Categories of premises licence

11.1. 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

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

11.3. 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

11.4. 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.

11.5. 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

11.6. 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.

11.7. There has been significant recent controversy around the issue of category B2 gaming machines, and

the licensing authority will continue to monitor this issue. Under the current legislative framework, no numeric limits on gaming machine numbers may be imposed by the licensing authority, beyond the standard prescribed limit applying to all betting (other) premises licences.

- 11.8. 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.
- 11.9. 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.
- 11.10. 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

Betting (track) premises licences

- 11.11. 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.
- 11.12. 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.
- 11.13. Persons under the age of 18 years may be employed at track premises, in functions not associated with gambling (for example, as ticket checkers, concession kiosk staff, litter collectors, and so on). However, the offence under section 51, prohibiting the employment of children and young persons to provide facilities for gambling, is unaffected by this, and track proprietors must ensure that any persons under the age of 18 employed at their premises are not called upon to assist with the operation of betting facilities.
- 11.14. 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.¹²

11.15. 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.

11.16. 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.

11.17. 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.

11.18. 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 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.

11.19. 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.

Bingo premises licences

11.20. 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.

11.21. 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;

¹² Gambling Commission Guidance to Licensing Authorities, 5th edition, para 20.34

- 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.

Family Entertainment Centre Premises Licences

11.22. 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.

11.23. 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

11.24. 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

- 12.1. 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.¹³ 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.
- 12.2. 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.
- 12.3. 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 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.
- 12.4. 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

- 12.5. If the licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to that premises are controlled by door supervisors, and impose a condition to that effect. 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.

¹³ Statutory Instrument 2007 No. 1409 - The Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007

13. Location of premises

13.1. 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 profile¹⁴

13.2. 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.

13.3. 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.

13.4. Although as a borough Dacorum generally has low levels of deprivation, there are a number of small output areas (LSOA's) within the borough where deprivation is apparent. A list of the 10 areas within Dacorum where deprivation is highest can be found on our website.¹⁵ These areas are likely to include a greater number of residents who may be considered to be vulnerable persons, and for this reason the licensing authority will generally seek to discourage the opening of new gambling premises in these areas. Where an application is made for a premises licence within one of these areas, we will expect the operator to demonstrate a full range of measures that they intend to take to promote all of the licensing objectives, with particular attention to the protection of vulnerable persons.

Local risk assessments¹⁶

13.5. Under the Commission's Licence Conditions and Codes of Practice, operators are required to compile and maintain local risk assessments for each premises they operate, and to provide copies of these assessments to the licensing authority alongside any application for a new premises licence, to vary an existing premises licence, or otherwise at the request of the authority.

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.

¹⁴ Gambling Commission Guidance to Licensing Authorities, 5th edition, para 6.47 onwards

¹⁵ www.dacorum.gov.uk/home/community-living/statistics-about-dacorum/deprivation

¹⁶ Gambling Commission Guidance to Licensing Authorities, 5th edition, para 6.41 onwards

14. Division of premises and appropriate licensing environment

- 14.1. 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.
- 14.2. 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.
- 14.3. 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.
- 14.4. 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.
- 14.5. The licensing authority notes the Commission's guidance¹⁷ 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,

¹⁷ Gambling Commission Guidance to Licensing Authorities, 5th edition, 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.

14.6. 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.

14.7. 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.

14.8. 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:

| Premises type | Access restrictions |
|-----------------------------|--|
| 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 |

14.9. 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

15.1. 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.

15.2. 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).

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16. Provisional Statements

- 16.1. 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.
- 16.2. 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.
- 16.3. 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.
- 16.4. 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.
- 16.5. 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.
- 16.6. 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

- 17.1. 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.
- 17.2. 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. This is to prevent people from applying for licences in a speculative manner without intending to use them.
- 17.3. Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28-day period, to begin 7 days after receipt of the application. The licensing authority will publish notice of the application within this initial 7-day period.
- 17.4. The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.
- 17.5. 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.
- 17.6. 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.
- 17.7. 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

- 18.1. 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.
- 18.2. 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 in 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.

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Part C: Permits and notices



19. Introduction

- 19.1. 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.
- 19.2. 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.

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20. Alcohol-licensed premises gaming machine permits & notifications

- 20.1. 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.
- 20.2. 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.
- 20.3. 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.”
- 20.4. 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.
- 20.5. 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.
- 20.6. 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

21.1. 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.

21.2. 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 clubs¹⁸). 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.

21.3. Commercial clubs are also entitled to apply for a club machine permit, but are not eligible for club gaming permits.

21.4. 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.¹⁹

21.5. 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.

21.6. 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.

¹⁸ Statutory Instrument 2007 No. 1942 – The Gambling Act 2005 (Gaming in Clubs) Regulations 2007

¹⁹ Gambling Commission Guidance to Licensing Authorities, 5th edition, para 25.40

22. Family entertainment centre gaming machine permits

- 22.1. 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.
- 22.2. 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.
- 22.3. 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.
- 22.4. 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 guidance²⁰, 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.
- 22.5. 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.
- 22.6. 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.
- 22.7. It is noted that a licensing authority cannot attach conditions to this type of permit.
- 22.8. 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

²⁰ Gambling Commission Guidance to Licensing Authorities, 5th edition, para 24.9

23. Prize gaming permits

23.1. 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 Regulations²¹;
- 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.

23.2. 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.

23.3. 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.

²¹ Statutory Instrument 2009 No. 1272 – The Gambling Act 2005 (Limits on Prize Gaming) Regulations 2009

24. Temporary use notices

- 24.1. 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.
- 24.2. 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.
- 24.3. The types of gambling activities that may be authorised by a Temporary Use Notice are set out in Regulations made under the Act²². 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.
- 24.4. 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.
- 24.5. 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

- 25.1. 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.
- 25.2. 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.
- 25.3. 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.
- 25.4. 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

²² Statutory Instrument 2007 No. 3157 - The Gambling Act 2005 (Temporary Use Notices) Regulations 2007

26. Travelling fairs

- 26.1. 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.
- 26.2. The licensing authority will also consider whether the proprietor falls within the statutory definition of a travelling fair.
- 26.3. 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.

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Part D: Lotteries



27. General principles

- 27.1. 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.
- 27.2. 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.
- 27.3. 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

- 28.1. 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.
- 28.2. 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.
- 28.3. 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.

29. Exempt lotteries

- 29.1. 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.
- 29.2. 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.
- 29.3. 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

- 30.1. 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.
- 30.2. 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.
- 30.3. 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
Civic Centre
Marlowes
Hemel Hempstead
HP1 1HH**

Phone: **01442 228000**
Email: licensing@dacorum.gov.uk
Web: 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. We cannot give detailed advice about complex or specialised proposals, nor are we able to give legal advice.

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

Website: www.gamblingcommission.gov.uk

HM Revenues and Customs (National Registration Unit)

Phone: 0141 555 3633

Email: nrubetting&gaming@hmrc.gsi.gov.uk

Hertfordshire Constabulary (Dacorum Licensing)

Phone: 01442 271601

Email: dacorumlicensing@herts.pnn.police.uk

Hertfordshire Fire and Rescue Service

Phone: 01707 292310

Email: administration.cfs@hertsc.gov.uk

Dacorum Planning

Phone: 01442 228000

Email: planning@dacorum.gov.uk

Dacorum Regulatory Services

Phone: 01442 228455

Email: environmentalhealth@dacorum.gov.uk

Hertfordshire Safeguarding Children Board

Phone: 01992 588757

Email: admin.lscb@hertsc.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

For informal advice or queries, please email:
licensing@dacorum.gov.uk