

Gambling Act 2005

New Introduction by Lead Member to be drafted

Summary of Local Authority Gambling Policy

1. Licensing local authorities in England and Wales have all been required by the Gambling Act 2005 to adopt a gambling policy following consultation.
2. The following policy was adopted after consultation, including but not confined to the consultation required by the legislation.
3. The policy has to be reviewed every three years and consequently it is now being sent out for a new round of consultation. Again the consultation will include but not be confined to the statutory consultation.
4. The policy sets out in detail how the licensing authority will discharge its licensing functions under the Licensing Act 2005.
5. There are three licensing objectives set out in the Act, as follows:
 - Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
 - Ensuring that gambling is conducted in a fair and open way
 - Protecting children and other vulnerable people from being harmed or exploited by gambling
6. The main area of involvement for the licensing authority is protecting the vulnerable, and the licensing policy is largely devoted to seeking to achieve this, across the range of premises licences and permits which the authority will administer.
7. The licensing authority approach to enforcement is defined.
8. The scheme of delegation that defines the responsibility for decision making, administration and enforcement is also included.

Contents

Item	Page
Forward	1
Summary of Local Authority Gambling Policy	2
Contents	3
Part A	
1. The licensing objectives	4
2. Introduction	4
3. Declaration	5
4. Responsible Authorities	5
5. Interested parties	6
6. Exchange of information	7
7. Enforcement	7
8. Licensing authority functions	9
Part B - Premises licences and Other issues	
1. General Principles	10
2. Adult Gaming Centres	15
3. (Licensed) Family Entertainment Centres	16
4. Casinos	16
5. Bingo	17
6. Betting premises	17
7. Tracks and other matters	17
8. Travelling fairs	19
9. Provisional Statements	20
10. Reviews	20
Part C – Permits / Temporary and Occasional Use Notices	
	21
1. Unlicensed Family Entertainment Centre gaming machine permits	22
2. (Alcohol) Licensed premises gaming machine permits	23
3. Prize Gaming Permits	24
4. Club Gaming and Club Machines Permits	25
5. Temporary Use Notices	25
6. Occasional Use Notices	
Part D – Scheme of Delegation	
1. Administration, Exercise and Delegation of Functions	26
2. Table of Delegations of Licensing Functions	26
Appendices	
Appendix 1 - Map of the Borough (not currently included)	
Appendix 2 - A list of consultees	
Appendix 3 –Consultation responses	

PART A

1. The Licensing Objectives

- 1.1 In exercising most of their functions under the Gambling Act 2005, (the Act) licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
 - Ensuring that gambling is conducted in a fair and open way
 - Protecting children and other vulnerable people from being harmed or exploited by gambling
- 1.2 The Gambling Commission's guidance emphasises that moral objections to gambling, or a view that it is generally undesirable are not licensing objectives and cannot inform any decisions by the licensing authority. Also neither public safety nor public nuisance are licensing objectives. These issues will largely be dealt with by the Council's Environmental Health Service
- 1.2 This authority recognises that in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it is:-
- in accordance with any relevant code of practice issued by the Gambling Commission
 - in accordance with any relevant guidance issued by the Gambling Commission
 - reasonably consistent with the licensing objectives in accordance with the authorities statement of licensing policy

2 Introduction

- 2.1 The London Borough of Tower Hamlets is a single tier authority on the East side of inner London. The Borough is shown in the map in **Annex 1**.

- 2.2 Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles that they propose to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from “time to time” and any amended parts re consulted upon. The statement must be then re-published.
- 2.3 Tower Hamlets Council has consulted widely upon its policy statement before finalising and publishing it. A list of the persons and organisations consulted is provided in **Annex 2** of the Policy adopted by the Council. We have consulted businesses, elected representatives, community and third sector organisations and responsible authorities.
- 2.4 The Gambling Act requires that the following parties are consulted by Licensing Authorities:
- The Chief Officer of Police
 - One or more persons who appear to the authority represent the interests of persons carrying on gambling businesses in the authority’s area
 - One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority’s functions under the Gambling Act 2005.
- 2.5 The consultation took place between 6th May 2009 and 31st July 2009. The results of the consultation are summarised in **Annex 3**
- 2.6 The policy has to be approved at a meeting of the Full Council published via our website as well as being available in the Town Hall and Idea Stores.
- 2.7 It should be noted that this policy statement will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence. Each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

3 Declaration

- 3.1 In producing this licensing policy the Authority has had regard to the licensing objectives of the Gambling Act 2005 and the guidance issued by the Gambling Commission. The policy has also had regard to any responses from those consulted on the policy statement.

4 Responsible Authorities

- 4.1 The licensing authority is required to state the principles it will apply to designate a body which is competent to advise the authority about the protection of children from harm. The principles are:
- the need for the body to be responsible for an area covering the whole of the licensing authority's area
 - the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group
- 4.2 In accordance with the Gambling Commission's Guidance for local authorities this authority designates the Local Safeguarding Children Board for this purpose. This is the statutory body charged with coordinating the activities of organisations in Tower Hamlets who are instrumental in safeguarding and promoting the welfare of children.
- 4.3 The contact details of all the responsible authorities are found on the Council's website at www.towerhamlets.gov.uk

5 Interested parties

- 5.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. Interested parties are defined as a person who in the opinion of the licensing authority
- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
 - b) has business interests that might be affected by the authorised activities,
 - c) represents persons who satisfy paragraph (a) or (b)
- 5.2 The licensing authority is required to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party.
- 5.3 These principles are that :-
- Each case will be decided upon its merits.
 - This authority will not apply a rigid rule to its decision making.
 - It will consider the examples of considerations provided in the Gambling Commission's Guidance to local authorities.
 - It will also consider the Gambling Commission's advice that "business interests" should be given its widest possible meaning and includes partnerships, charities, faith groups, and medical practices.

- 5.4 The Gambling Commission has recommended that the licensing authority states that interested parties include trade associations and trade unions, and residents' and tenants' associations. This authority will not however generally view these bodies as interested parties unless they have a member who can be classed as one under the terms of the Gambling Act 2005 e.g. lives sufficiently close to the premises to be likely to be affected by the activities being applied for.
- 5.5 Interested parties can be persons who are democratically elected, such as Councillors and MP's. Other than these persons, this authority will require written evidence that a person 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorities activities and/or business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.
- 5.6 Individuals may wish to approach Councillors to ask them to represent their views. If Councillors take on a representative role they will not be able to be part of the decision making process. If they are a member of the Committee they will withdraw for the hearing.

6. Exchange of Information

- 6.1 Licensing Authorities have a number of responsibilities relating to the control and exchange of information that has been gained in carrying out its duties and responsibilities under the Act.
- 6.2 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.
- 6.3 The licensing authority will also have regard to any guidance issued by the Gambling Commission to Local Authorities on this matter when it is published, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005. Any protocols that are adopted will be made available if requested.

7. Enforcement

- 7.1 Licensing authorities are required to state the principles to be applied by the authority in exercising the functions with respect to the inspection of premises; and the powers to institute criminal proceedings in respect of the offences committed under the Gambling Act 2005.

- 7.2 This Licensing Authority's principles are that we will be guided by the Gambling Commission's Guidance for local authorities and we will endeavour to be:
- **Proportionate:** regulators should only intervene when necessary: Remedies should be appropriate to the risk posed, and costs identified and minimised;
 - **Accountable:** regulators must be able to justify decisions, and be subject to public scrutiny;
 - **Consistent:** rules and standards must be joined up and implemented fairly;
 - **Transparent:** regulators should be open, and keep regulations simple and user friendly; and
 - **Targeted:** regulation should be focused on the problem, and minimise side effects
 - **Avoid duplication** with other regulatory regimes so far as possible.
- 7.3 This licensing authority has, as recommended by the Gambling Commission's Guidance for local authorities, adopted a risk based inspection programme.
- 7.4 The local authority does expect that premises that are licensed are aware of and keep to the terms of their licence. The Authority will take appropriate enforcement action to ensure that this is the case, and is especially concerned to ensure that the licensing objective relating to children is met in full.
- 7.5 The main enforcement and compliance role for this licensing authority will be to ensure compliance with the Premises Licences and other permissions which is authorises. The Gambling Commission will be the enforcement body for the Operator and Personal Licences. Concerns about manufacture, supply or repair of gaming machines will not be dealt with by the licensing authority but will be notified to the Gambling Commission.
- 7.6 This licensing authority also intends to monitor non-licensed gambling, and is especially concerned to stop non-destination gambling by children and young adults. Non destination gambling is where the destination is not primarily a gambling premises and is mainly visited for a different purpose. This typically (but not exclusively) involves gaming machines in premises open to the public such as public houses
- 7.7 This Licensing Authority will continue to keep informed of developments with the work from Central Government and sister organisations on the principles of Better Regulation Executive in its consideration of the regulatory functions

- 7.8 Bearing in mind the principle of transparency, this licensing authority's enforcement/compliance protocols/written agreements will be available upon request to the licensing department and on the Council's web site. Our risk methodology will also be available upon request. (A charge may be made for hard copies).
- 7.9 The authority recognises that bookmakers and other operators may have a number of premises within its area. In order to ensure that compliance issues are recognised and dealt with at the earliest possible stage, operators are requested to give the authority a single named contact., who should be a senior individual, and whom the authority will contact first should any compliance queries or issues arise. The authority however, reserves the right to institute proceedings, or take other action as necessary and consistent with its general policies.

8 Licensing Authority Functions

8.1 Licensing Authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences
- Issue Provisional Statements ("in principle" licences where premises are not yet developed)
- Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue Club Machine Permits to Commercial Clubs (Commercial Clubs are member clubs that operate on a "for profit" basis)
- Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres (Premises where low level gambling is permitted for children)
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- Grant Licensed Premises Gaming Machine Permits for premises licensed to
- sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required
- Register small society lotteries below prescribed thresholds
- Issue Prize Gaming Permits
- Receive and Endorse Temporary Use Notices
- Receive Occasional Use Notices
- Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange)
- Maintain registers of the permits and licences that are issued under these functions

- 8.2 This list may be added to on the advice of the Gambling Commission
- 8.3 Local licensing authorities will not be involved in licensing remote gambling. (Remote gambling is via the internet or interactive television). This will fall to the Gambling Commission via Operator Licences.

PART B - Premises Licences and other matters

1 General Principles

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

1.1 Premises

1.11 Premises are defined in the Act as “any place”. Different premises licences cannot apply in respect of a single premises at different times. However it is possible for a single building to be subject to more than one premises licence provided they are for different parts of the building. Different parts of the building can reasonably be regarded as being separate premises will always be a question of fact in the circumstances. However areas of a building that is artificially or temporarily separate can be properly regarded as different premises.

1.12 This licensing authority will take particular note of the Gambling Commission’s Guidance to local authorities that: -

- "Licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware that entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not “drift” into a gambling area"
- "Licensing authorities should pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed), especially if this raises issues in relation to children. There will be specific issues that authorities should consider where children can gain access; compatibility of the two establishments; and ability to comply with the requirements of the Act. But, in addition an overriding consideration should be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act."

- 1.13 An applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed. The Gambling Commission has advised that reference to “the premises” are to the premises in which gambling may now take place. Thus a licence to use premises for gambling will only be issued in relation to premises that are ready to be used for gambling. This authority agrees with the Gambling Commission that it is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence. The Gambling Commission emphasises that requiring the building to be complete ensure that the authority can, if necessary, inspect it fully, as can other responsible authorities with inspection rights.

1.2 Location

- 1.21 This licensing authority is aware that demand issues (for example whether or not there is sufficient customer demand to make a site commercially viable) cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. In line with the Gambling Commission’s Guidance for local authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.
- 1.22 It is the licensing authorities' view that premises should not normally be licensed which are close to schools, playgrounds, or other educational establishments such as museums. However any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how the concerns can be overcome.

1.3 Duplication with other regulatory regimes and licensing objectives

- 1.31 This authority will seek to avoid any duplication with other statutory / regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning or building consent, in its consideration of it. This authority will though listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

1.4 Licensing Objectives

- 1.41 Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission's Guidance to local authorities and some comments are made below.
- 1.42 Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime. This licensing authority is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction. Issues of nuisance cannot be addressed via the Gambling Act provisions. These will be addressed by the relevant regulatory authority e.g. Environmental Health.
- 1.43 Ensuring that gambling is conducted in a fair and open way. This licensing authority has noted that ensuring that gambling is conducted in a fair and open way is a matter for the Gambling Commission. This will not be the case if the licensing authority becomes involved in licensing betting track operators.
- 1.44 Protecting children and other vulnerable persons from being harmed or exploited by gambling. This licensing authority has noted the Gambling Commission Guidance to local authorities that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances/machines, segregation of areas.
- 1.45 This licensing authority will also make itself aware of the Codes of Practice which the Gambling Commission issues as regards this licensing objective, in relation to specific premises such as casinos.

1.46 As regards the term “vulnerable persons” it is noted that the Gambling Commission is not seeking to offer a definition but states that “it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gambling beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.” This licensing authority will consider this licensing objective on a case by case basis. Should a practical definition prove possible in future then this policy statement will be updated with it, by way of a revision.

1.5 Conditions

1.51 Any conditions attached to licences will be proportionate and will be:

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

1.52 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of control measures, this licensing authority will consider utilising should there be a perceived need, such as the use of door supervisors, supervision of adult gaming machines, appropriate signage for adult only areas.

1.53 There are specific comments made in this regard under each of the licence types below. This licensing authority will also expect the licence applicant to offer his/her own suggestions as to way in which the licensing objectives can be met effectively. The licensing authority will consider the following specific measures in relation to all licensed premises, to the extent that they are relevant to a specific application:

- Leaflets aimed at giving assistance to problem gamblers clearly displayed in prominent areas and also more discreet areas such as toilets
- Self exclusion forms available
- The odds clearly displayed on all fixed odds machines

- All ATM or other cash terminals to be separate from gaming machines, so that clients have to leave the machines for more funds as required. They should also display stickers with GamCare (or replacement organisation) Helpline information prominently displayed.
- There must be clear visible signs of any age restrictions in any gaming or betting establishments. Entrances to gambling and betting areas must be well supervised and age verification vetting operated.
- Posters with details of GamCare's (or replacement organisation) telephone number and website

The above list is not exhaustive.

1.54 This licensing authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of Gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.

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

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

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

- 1.57 This licensing authority is aware that betting tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 1.58 It is recognised that there are conditions which the licensing authority cannot attach to premises licences which are:
- any condition on the premises licence which makes it impossible to comply with an operating licence condition
 - conditions relating to gaming machine categories, numbers, or method of operation;
 - conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated) and
 - conditions in relation to stakes, fees, winning or prizes
 - Applicants will however need to demonstrate social responsibility and adhere to best practice in the protection of the vulnerable

1.6 Door Supervisors

- 1.61 The Gambling Commission advises in its Guidance for local authorities that licensing authorities may consider whether there is a need for door supervisors in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime.
- 1.62 The Private Security Industry Act 2001 exempts door supervisors for casinos and bingo halls from requiring a Door Supervisors Licence. Irrespective of the provision this authority will require door supervisors used at these premises to be licensed.
- 1.63 For other premises, where supervision of entrances/machines is appropriate any requirements for door supervisors or others will be on a case by case basis. In general betting offices will not require door supervisors for the protection of the public. A door supervisor will only be required if there is clear evidence that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.

2 Adult Gaming Centres

2.01 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises.

Appropriate licence conditions may cover issues such as:

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

2.03 This list is neither mandatory nor exhaustive, and is merely indicative.

3 (Licensed) Family Entertainment Centres:

3.01 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas. Appropriate licence conditions may cover issues such as:

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

- 3.02 This list is not mandatory, nor exhaustive, it is merely indicative.
- 3.03 This licensing authority will, in accordance with the Gambling Commission's guidance, refer to the Commission's website to see any conditions that apply to operator licences covering the way in which the area containing the category C. Category C machines give a higher payout than children are permitted to use should be delineated. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

4 Casinos

- 4.01 This licensing authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should this licensing authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution. The resolution will be a resolution of the Full Council, following considered debate, and the reasons for making the resolution will be given at the time.

5 Bingo premises

- 5.01 This licensing authority recognises that the Gambling Commission's Guidance states:

"It is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted licensing authorities should ensure that::

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

- 5.02 This licensing authority is aware that the Gambling Commission is going to issue further guidance about the particular issues that licensing authorities should take into account in relation to the suitability and layout of bingo premises. This guidance will be considered by this licensing authority once it is made available.

6 Betting Premises

- 6.1 Betting Machines - This licensing authority will have regard to the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

7 Tracks – (This section refers to where racing takes place, such as horse or greyhound racing) and other matters

- 7.01 This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. In accordance with the Gambling Commission's Guidance, this licensing authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 7.02 This authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided

7.03 This licensing authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures / licence conditions may cover issues such as:

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

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

7.05 Gaming machines - Further guidance from the Gambling Commission is awaited as regards where such machines may be located on tracks and any special considerations that should apply in relation, for example, to supervision of the machines and preventing children from playing them. This licensing authority notes the Commission's Guidance that licensing authorities therefore need to consider the location of gaming machines at tracks, and applications for track premises licences will need to demonstrate that, where the applicant holds a pool betting operating licence and is going to use their entitlement to four gaming machines, these machines are located in areas from which children are excluded. Children and young people are not prohibited from playing category D gaming machines on a track.

7.06 Betting machines - This licensing authority will, having regard to the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number / nature / circumstances of betting machines an operator wants to offer. It will also take note of the Gambling Commission's suggestion that licensing authorities will want to consider restricting the number and location of such machines in respect of applications for track betting premises licences.

- 7.07 Condition on rules being displayed - The Gambling Commission has advised in its Guidance for local authorities that “licensing authorities should attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office.”
- 7.08 Applications and plans - This licensing authority awaits regulations setting-out any specific requirements for applications for premises licences but is in accordance with the Gambling Commission’s suggestion “To ensure that licensing authorities gain a proper understanding of what they are being asked to license they should, in their licensing policies, set out the information that they will require, which should include detailed plans for the racetrack itself and the area that will be used for temporary “on-course” betting facilities (often known as the “betting ring”) and in the case of dog tracks and horse racecourses fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities.” And that “Plans should make clear what is being sought for authorisation under the track betting premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence.”
- 7.09 This licensing authority also notes that in the Commission’s view that it would be preferable for all self-contained premises operated by off-course betting operators on track to be the subject of separate premises licences, to ensure that there is clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

8 Travelling Fairs

- 8.01 It will fall to this licensing authority to decide whether, and where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, provided that the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 8.02 The licensing authority will expect applicants to show how they will meet the licensing objectives, in particular in relation to children and young persons.
- 8.03 The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

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

9 Provisional Statements ("in principle" licences where premises are not yet developed)

9.01 This licensing authority notes the Guidance for the Gambling Commission which states that "It is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence" and that "Requiring the building to be complete ensures that the authority could if necessary inspect it fully".

9.02 In terms of representations about premises licence applications, following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances.

9.03 In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters: -

- (a) which could not have been raised by objectors at the provisional licence stage; or
- (b) which is in the authority's opinion reflect a change in the operator's circumstances.

10 Reviews:

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

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;

- reasonably consistent with the licensing objectives; and
- in accordance with the authority's statement of licensing policy.
- The licensing authority can also initiate a review of a licence on the basis of any reason which it thinks is appropriate.

PART C - Permits / Temporary & Occasional Use Notice

1 Unlicensed Family Entertainment Centre Gaming Machine Permits

- 1.1 Where premises do not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use
- 1.2 A licensing authority may prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission
- 1.3 The Gambling Commission's Guidance for local authorities also states: "In their three year licensing policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permit. Licensing authorities will want to give weight to child protection issues."
- 1.4 Guidance also states: "An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed Family Entertainment Centres, and if the chief officer of police has been consulted on the application. Licensing authorities might wish to consider asking applicants to demonstrate:
 - a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed Family Entertainment Centres;
 - that the applicant has no relevant convictions and
 - that staff are trained to have a full understanding of the maximum stakes and prizes.
- 1.5 It should be noted that a licensing authority cannot attach conditions to this type of permit.

- 1.6 Statement of Principles - This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises. Location will also be expected to be dealt with, and it is the licensing authorities view that premises should not normally be licensed which are close to schools, playgrounds, or other educational establishments such as museums and places of worship.
- 1.7 This licensing authority will also expect that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed Family Entertainment Centres; that the applicant has no relevant convictions and that staff are trained to have a full understanding of the maximum stakes and prizes.

2 (Alcohol) Licensed premises gaming machine permits

- 2.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D (See appendix 3 for the definition of Gaming Machine Categories) . The premises merely need to notify the licensing authority. In relation to all applications the licensing authority will use nationally recommended forms from LACORS as far as possible. The licensing authority can remove the automatic authorisation in respect of any particular premises if:
- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
 - gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
 - the premises are mainly used for gaming; or
 - an offence under the Gambling Act has been committed on the premises.

- 2.2 If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “such matters as they think relevant..” The licensing authority will require that an application for more than two machines is considered against the above and the matters in 2.3 below before it is granted or refused.
- 2.3 This licensing authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harmed or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff that will monitor that the machines are not being used by those under 18. Notices and signage may also be help.
- 2.4 As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.
- 2.5 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.
- 2.6 The licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for conditions (other than these) cannot be attached.
- 2.7 The holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

3 Prize Gaming Permits

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

- 3.2 This licensing authority has prepared a Statement of Principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:
- that they understand the limits to stakes and prizes that are set out in Regulations;
 - and that the gaming offered is within the law.
- 3.3 In making its decision on an application for this permit the licensing authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance.
- 3.4 It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but that the licensing authority cannot attach conditions. The conditions in the Act are:
- the limits on participation fees, as set out in regulations, must be complied with;
 - all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
 - the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
 - participation in the gaming must not entitle the player to take part in any other gambling.

4 Club Gaming and Club Machines Permits

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

- 4.3 Gambling Commission Guidance states: “Members clubs must have at least 25 members and be established and conducted “wholly or mainly” for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968. A members’ club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men’s clubs, branches of Royal British Legion and clubs with political affiliations.”
- 4.4 The Commission Guidance also notes that “licensing authorities may only refuse an application on the grounds that:
- a) the applicant does not fulfil the requirements for a members’ or commercial club or miners’ welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
 - b) the applicant’s premises are used wholly or mainly by children and/or young persons;
 - c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
 - d) a permit held by the applicant has been cancelled in the previous ten years; or
 - e) an objection has been lodged by the Commission or the police.
- 4.5 There is also a ‘fast-track’ procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). As the Gambling Commission’s Guidance for local authorities states: “Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced.” And “The grounds on which an application under the process may be refused are:
- (a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
 - (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
 - (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.”

- 4.6 There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

5 Temporary Use Notices

- 5.1 The granting of a temporary use notice allows premises without a premises licence to be used by a gambling operator temporarily to provide facilities for gambling
- 5.2 Licensing authorities are being asked to mindful of the restrictions that allow premises to be licensed for at the most 21 days per year under Temporary Use Notices
- 5.3 It is possible licence part of a building or set of premises if the location can be rightfully regarded as being separate in terms of ownership, occupation and control.
- 5.4 This authority will object to a Temporary Use Notice application if it appears that regular gambling is taking place in locations the could be described as one set of premises.

6 Occasional Use Notices

- 6.1 Occasional Use Notices relate to occasional "track" uses. Betting Track is usually thought of as horse or dog racing. These notices will be for events like point to points on agricultural land.
- 6.2 The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

PART D

1 Administration, Exercise and Delegation of Functions

- 1.1 The Council will be involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them.
- 1.2 Appreciating the need to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process, the Committee has delegated certain decisions and functions and has established a number of Sub-Committees to deal with them.
- 1.3 Further, with many of the decisions and functions being purely administrative in nature, the grant of non-contentious applications where no representations have been made has been delegated to Council Officers. All such matters dealt with by Officers will be reported for information and comment only to the next Committee meeting. The decisions cannot be reversed.
- 1.4 The following Table sets out the agreed delegation of decisions and functions to Licensing Committee, Sub-Committees and Officers.
- 1.5 This form of delegations is without prejudice to Officers referring an application to a Sub-Committee, or a Sub-Committee to Full Committee, if considered appropriate in the circumstances of any particular case.

2 TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

MATTER TO BE DEALT WITH	BY WHOM
Three year licensing policy (responsibility shared with Cabinet)	THE FULL COUNCIL
Policy to permit or not to permit casinos	
Fee Setting- (but when appropriate Corporate Director) Application - for a premises licence, variation of a premises licence, transfer of a premises licence, application for a provisional statement in connection with a premises, in all cases where representations have been received and not withdrawn. Review- of a premises licence.	LICENSING COMMITTEE/ SUB-COMMITTEE
Application for, or cancellation of club gaming /club machine permits where representations have been received and not withdrawn Decision to give a counter notice to a temporary use notice	
For a premises licence, variation of a premises licence, transfer of a premises, application for a provisional statement in	OFFICERS

<p>connection with a premises, in all cases where no representations have been received/ or representations have been withdrawn.</p> <p>Application for a club gaming machine/ club machine permit where no representations received/ representations have been withdrawn.</p> <p>Applications for other permits</p> <p>Cancellation of licensed premises gaming machine permits</p> <p>Consideration of temporary use notice</p>	
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Annexes

Annex 1 Map of London Borough of Tower Hamlets

Annex 2 Details of those consulted.

Annex 3 Results of Consultation

Appendix 2

List of consultees: