



ASHFORD BOROUGH COUNCIL

Gambling Policy Statement 2010-2013

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1. The Licensing Objectives

In exercising most of its functions under the Gambling Act 2005 this licensing authority shall aim to permit the use of premises for gambling in so far as the authority think it;

- a) in accordance with any relevant code of practice,
- b) in accordance with any relevant guidance issued by the Gambling Commission,
- c) reasonably consistent with the licensing objectives, and
- d) in accordance with this gambling policy statement.

The licensing objectives are:

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

2. Introduction

Ashford Borough Council is situated in the County of Kent, which contains 12 District Councils and 1 Unitary Authority in total. Each is represented on the Kent & Medway Regulatory Licensing Steering Group whose role includes the identification of issues on which a consistent countywide approach is considered essential and the formulation of recommended policy that establishes a minimum standard on these identified issues.

Ashford is the largest Borough in Kent, covering 224 square miles and containing 39 parishes. It is part of the Weald Police area. Ashford has a fast growing population which has more than trebled in the last 40 years to around 112,000 residents and this is predicted to rise considerably in the next ten years. The comparatively low population for the size of the Borough gives an indication of Ashford Borough's rural nature.

Ashford is well served with transport links, with the Eurostar rail link providing a gateway to Europe, the introduction of the HighSpeed 1 fast train to London (Ashford to the capital in less than 37 minutes) and the M20 motorway on our doorstep. The current and projected residential and industrial growth offers huge opportunities for the people of the Borough and also present challenges, including those of balancing licensing control and cultural development, to the Council, residents and businesses.

- Public through the libraries and the website
- Private Member Clubs
- Current licence holders
- Bodies representing current licence holders
- Persons/bodies representative of business and residents
- Gambling addiction bodies

In determining its policy the licensing authority must have regard to the Guidance and will give appropriate weight to the views of those it has consulted.

The full list of comments made and the consideration by the Council is available by request to: Ashford Borough Council's Licensing Authority's email licensing1@ashford.gov.uk

The final policy will be presented to a meeting of the Full Council on 13th May 2008 and will be published via our website at the end of May 2010. Copies will be placed in the public libraries of the area as well as being available in the principal Council Offices.

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

Name: James Hann

Address: Licensing Authority, Ashford Borough Council, Tannery Lane,
Ashford, Kent TN23 1PL

E-mail: licensing1@ashford.gov.uk

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, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

3. Declaration

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

4. Casinos

This licensing authority has not passed a 'resolution not to issue casino premises licences' 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.

5. Background

Gambling is defined in the Act as either gaming, betting or taking part in a lottery:

- • ‘Gaming’ means playing a game for the chance to win a prize.
- • ‘Betting’ means:
 - making or accepting a bet on the outcome of a race, competition or other event
 - the likelihood of anything occurring or not occurring
 - whether something is true or not.
- • A ‘Lottery’ is where participants are involved in an arrangement where prizes are allocated wholly by a process of chance.

6. Functions

The responsibility for regulating gambling is shared between the Gambling Commission and local authorities. The Gambling Commission is responsible for issuing operating licences to organisations and individuals who provide facilities for gambling and personal licences to persons working in the gambling industry. The Commission will take the lead role on ensuring that gambling is conducted in a fair and open way through the administration and enforcement of operating and personal licence requirements. The Commission will also be responsible for remote gambling activities such as facilities provided via the Internet, television or radio.

Function	Who deals with it
Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences	Licensing Authority
Issue Provisional Statements	Licensing Authority
Regulate members’ clubs and miners’ welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits	Licensing Authority
Issue Club Machine Permits to Commercial Clubs	Licensing Authority
Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres	Licensing Authority
Receive notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or fewer gaming machines	Licensing Authority
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	Licensing Authority

Register small society lotteries below prescribed thresholds	Licensing Authority
Issue Prize Gaming Permits	Licensing Authority
Receive and Endorse Temporary Use Notices	Licensing Authority
Receive Occasional Use Notices	Licensing Authority
Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')	Licensing Authority
Maintain registers of the permits and licences that are issued under these functions	Licensing Authority
Issue and renewal of Operating Licences	Gambling Commission
Review Operating Licences	Gambling Commission
Issue Personal Licences	Gambling Commission
Issue Codes of Practice	Gambling Commission
Issue Guidance to Local Authorities	Gambling Commission
Licence remote gambling through Operating Licences	Gambling Commission
Issue licences in relation to the manufacture, supply, installation, adaptation, maintenance or repair of gaming machines	Gambling Commission
Deal with appeals against the Commission's decisions	Gambling Appeals Tribunal

7. Responsible Authorities

In exercising this licensing authority's powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm, the following principles have been applied:

- 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 etc

In accordance with the Gambling Commission's Guidance this authority designates the following for this purpose:

Kent County Council Social Services, Social Services Children And Families, Civic Centre, Tannery Lane, Ashford, Kent, TN23 1PL

The contact details of all the Responsible Bodies under the Gambling Act 2005 are available in Appendix 3

8. Interested parties

The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. The principles are:

“For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the applications is made, the person –

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

The category of representative bodies may for example include trade associations, trade unions, residents’ associations and tenants’ associations, provided that the body represents either persons living close to the premises or persons who have business interests that might be affected.

The Gambling Commission’s Guidance recommends that the phrase “business interests” should be given the widest possible interpretation, so that this category could include partnerships, charities, faith groups and medical practices.”

Interested parties can be persons who are democratically elected such as Councillors and Members of Parliament or a Parish Council as an elected body. Councillors wishing to make representations may not also serve on the Licensing Sub-Committee dealing with an application as there would be a conflict of interest. Care should be taken when approaching councillors that they are not part of the sub-committee dealing with the application. If there are any doubts then please contact the licensing department (licensing1@ashford.gov.uk).

9. Consideration of Applications

The licensing authority is bound by s153 of the Act which states the principle in favour of permitting applications and that each application made will be decided on a case by case basis, on its own merits, and will set out a clear statement detailing the reasons for granting, refusing or reviewing all licenses under the Act. It will not apply a rigid rule to its decision making but will ensure that all decisions made are done so with full reference to the Licensing Authority’s licensing objectives (see section 1).

Section 153 applies not only to a licensing authority's relevant functions under Part 8 of the Act (i.e. applications for the grant, transfer, reinstatement or review of premises licences and provisional statements) but also when it is deciding whether to give a counter notice on receipt of a temporary use notice. Its effect is that, whilst in such circumstances there is a presumption in favour of permitting the relevant premises to be used for gambling, the licensing authority may not do so unless satisfied that such use would be in accordance with the Guidance issued by the Gambling Commission, any relevant Commission code of practice and this statement of licensing policy as well as reasonably consistent with the licensing objectives.

In reaching a view that the grant of a licence, or the giving of the temporary use notice, is in accordance with such guidance, code of practice or policy statement, a licensing authority is, in common with all such public authority decision makers, under a duty to act fairly and rationally. In cases where an authority is concerned whether a grant would be in accordance with, for example, the guidance in this document, this can be resolved by the imposition of appropriate licence conditions. In the unlikely event that a licensing authority perceives a conflict between a provision of a Commission code of practice or this Guidance and its own policy statement or view as to the application of the licensing objectives the structure of section 153 makes it plain that the Commission's codes and Guidance take precedence.

Where category C or above machines are on offer in premises to which children are admitted, the licensing authority will consider the following issues:

- whether 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
- whether and how children are prohibited from admission to the area where these machines are located
- how access to the area where the machines are located is supervised
- whether the area where the machines are located is arranged in such a way that it can be observed by the staff or the licence holder
- whether there are notices prominently displayed at the entrance to and inside any such area stating that access to the area is prohibited to persons under 18.

The Gambling Act and the Gambling Commission's Guidance make clear that when considering applications for premises licences the licensing authority shall not have regard to the expected demand for the facilities which it is proposed to provide.

Guidance also states that moral or ethnic objections to gambling are not a valid reason to reject applications for premises licences. This is because such objections do not relate to the licensing objectives (Guidance to Licensing Authorities Para 5.28). However, the stated licensing objectives encompass our duties to protect the public and vulnerable members of our community, such as children, quite explicitly.

10. Exchange of Information

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

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 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.

11. Enforcement

The Kent & Medway Licensing Steering Group has formulated an Enforcement Protocol which each Licensing Authority and Responsible Authority has agreed. The purpose of this protocol is to facilitate co-operation and co-ordination between enforcement agencies in pursuance of both the Gambling Act 2005 and the Licensing Act 2003. It will underpin the mutual operational support required to tackle licensing issues. A copy is available on request.

As per the Gambling Commission's Guidance for local authorities this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

This licensing authority will also, as recommended by the Gambling Commission's Guidance for local authorities, adopt a risk-based inspection programme, targeting high-risk premises with a lighter touch towards low-risk premises

Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

This licensing authority's principles are that:

It will be guided by the Gambling Commission's Guidance for local authorities and it will endeavour to be:

- Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
- Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;

- Consistent: rules and standards must be joined up and implemented fairly;
- Transparent: regulators should be open, and keep regulations simple and user friendly; and
- Targeted: regulation should be focused on the problem, and minimise side effects.

The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 will be to ensure compliance with the Premises Licences and other permissions which it authorises.

The Gambling Commission will be the enforcement body for the Operator and Personal Licences.

Appendix 1

The Gambling Commission's Guidance for licensing authorities states the following. The paragraphs below endeavour to meet this request:

"The authority should set out in its statement what factors it may take into account when considering applications for premises licences, permits and other permissions and matters that it will consider relevant when determining whether to review a licence. This is where considerations such as the proximity of gambling premises to schools and vulnerable adult centres, or to residential areas where there may be a high concentration of families with children, should be detailed. Any such policy must, however, come with the qualification that each case will be decided on its merits, so if an applicant can show how they might overcome licensing objective concerns, that will have to be taken into account. "(6.37)

1. Permits

(i) Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits - Schedule 10 paragraph 7)

Where a premises does not hold a Premises Licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. The applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).

Ashford Borough Council has considered and intends to require applicants to demonstrate:

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

It should be noted that a licensing authority cannot attach conditions to this type of permit and that the "statement of principles" only applies to initial applications and not to renewals (paragraph 18(4)).

Statement of Principles

This licensing authority will expect the applicant to show 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 be considered on their merits, but they may include appropriate measures/training for all staff on dealing with suspected truant school children on the premises, how staff would deal with unsupervised very young children and children perceived causing problems on or around the premises.

With regard to renewals of these permits, a licensing authority may refuse an application for renewal of a permit only on the grounds that an authorised local authority officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with pursuit of the licensing objectives.

(ii) (Alcohol) Licensed premises gaming machine permits – (Schedule 13 Para 4(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. The premises merely need to notify the licensing authority. The licensing authority can remove the automatic authorisation in respect of any particular premises if:

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

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.*” This licensing authority considers that “such matters” will be decided on a case by case basis but generally these will concern the need to protect children from harm and vulnerable persons from being harmed or being exploited by gambling. We will expect the applicant to satisfy the authority that there will be sufficient measures in place to ensure that persons under 18 years old will not have access to adult only gaming machines.

Measures which will satisfy this authority with regards to these concerns may include adult only machines being placed in site of bar areas and/or in the site of staff that can monitor their use. Guidance, notices from organisations such as Gamcare should also be considered.

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

It should also be noted that the holder of a permit shall comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

(iii) Prize Gaming Permits – (Statement of Principles on Permits - Schedule 14 Para 8 (3))

Given that these premises will particularly appeal to children and young persons, in considering what to take into account in the application process and what information to request from the applicant this licensing authority will give weight to child protection issues. Applicants will be asked to set out the types of gaming that they are intending to offer and will be expected to demonstrate:

- That they understand the limits to stakes and prizes that are set out in regulations; and
- That the gaming is offered within the law.

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.

It should be noted that there are conditions in the Gambling Act 2005 that the permit holder must comply with, 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.

(iv) Club Gaming and Club Machines Permits

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 B3A, B4 C or D), equal chance gaming and games of chance as set-out in forthcoming regulations. A Club machine permit will enable the premises to provide gaming machines (3 machines of categories B3A, B4 C or D).

The Gambling Commission Guidance for local authorities 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." (25.5)

Before granting a permit the licensing authority will need to satisfy itself that the premises meet the requirements of a members' club and may grant the permit if the majority of members are over 18.

This Licensing Authority is aware that: "Licensing authorities may only refuse an application on the grounds that:

- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- (b) the applicant's premises are used wholly or mainly by children and/or young persons;
- (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- (d) a permit held by the applicant has been cancelled in the previous ten years; or
- (e) an objection has been lodged by the Commission or the police (Gambling Commission's Guidance for Local Authorities 25.26)

It should be noted that there is a 'fast-track' procedure available for premises that hold a Club Premises Certificate under the Licensing Act 2003. 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 this process may be refused are that:

- a) the club is established primarily for gaming, other than gaming prescribed by regulations under section 266 of the Act
- b) in addition to the prescribed gaming, the applicant provides facilities for other gaming
- c) a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled. (25.30)

There are statutory conditions on club gaming permits that no child uses a category B3A, B4 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.

Appendix 2

2. Premises Licences

(i) Decision making - general:

Premises Licences will be subject to the permissions/restrictions 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.

This licensing authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:

- 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

Any conditions attached to licences by the licensing authority will be proportionate and will be:

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

Decisions upon individual conditions on a case by case basis, although there may be a number of measures that may be relevant, including the use of supervisors, appropriate signage for adult only areas, etc. This licensing authority will expect the applicant to offer their own suggestions as to the way in which the licensing objectives can be promoted.

There are also 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.

(ii) “premises”:

Premises is defined in the Act as “any place”. It is for the licensing authority to decide whether different parts of a building can be properly regarded as being separate premises it this will be considered on a case by case basis. The Gambling Commission does not however consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.

This licensing authority takes particular note of the Gambling Commission’s Guidance for local authorities which states that in considering applications for multiple licences for a building or those for a specific part of the building to be licensed, “licensing authorities should be aware that:

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to, or closely observe gambling where they are prohibited from participating.
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not ‘drift’ into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers should be able to participate in the activity named on the premises licence.

This licensing authority will also take note of the Gambling Commission’s Guidance to local authorities that in determining whether two or more proposed premises are truly separate, the licensing authority should be aware of factors which could assist them in making their decision. Depending on all the circumstances of the case, these may include:

- Is a separate registration for business rates in place for the premises?
- Is the premises' neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?

(iii) Location:

This licensing authority notes the Gambling Commission’s Guidance for local authorities which states that: “Local authorities are experienced in making judgements in relation to the suitability of premises, particularly those for which they have responsibilities under the Licensing Act 2003, in which context they have wider powers to also take into account measures to prevent nuisance. In relation to preventing disorder, licensing authorities have the ability under section 169 of the Act to attach additional conditions to premises licences, and

are entitled to include a requirement for door supervision, as provided for in section 178 of the Act. If a person employed on door supervision would be required to hold a licence issued by the Security Industry Authority (SIA), that requirement will have force as though it were a condition on the premises licence.” (5.14-15)

The Commission also states in its Guidance: “For example, a licensing policy statement might set out that the authority will consider very carefully whether applications for premises licence in respect of certain gambling premises located very close to a school, or a centre for gambling addicts should be granted in light of the third licensing objective. Any such policy must, however, come with the qualification that each case will be decided on its merits, and will depend to a large extent on the type of gambling that it is proposed will be offered on the premises. If an applicant for a premises licence can show how licensing objective concerns can be overcome, that will have to be taken into account.” (6.12). This licensing authority will adhere to this advice.

(iv) Planning:

Planning and licensing are different regulatory systems and will be dealt with separately. As the Gambling Commission’s Guidance states: “When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence. Section 210 of the 2005 Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.” (7.66)

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.

(v) Duplication

As stated in the section above on Enforcement, as per the Gambling Commission’s Guidance for local authorities this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

(vi) Door Supervisors

The Gambling Commission advises in its Guidance for local authorities that licensing authorities may require persons operating premises in which gambling takes place to take measures such as the supervision of entrances; segregation of gambling from non-gambling areas frequented by children (assuming such non-gambling areas are compatible with requirements of the Act); and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. The authority will make a

door supervisor requirement only if there is clear evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.

Any person employed to fulfil a condition on a premises licence (under the Licensing Act 2003) that requires door supervision should hold a relevant licence issued by the Security Industry Authority (SIA).

It is to be noted that door supervisors at licensed casino or bingo premises may be exempt from the requirements of the Private Security Industry Act 2001. Where an authority imposes door supervision requirements on such licences, the personnel may not need licensing under the 2001 Act.

(vii) Licensing objectives

This licensing authority has considered the Gambling Commission's Guidance to local authorities and some comments are provided with regard to the licensing objectives.

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

This licensing authority will pay particular attention to any Codes of Practice, which the Gambling Commission issues as regards this licensing objective.

(viii) Reviews:

Interested parties or responsible authorities can make requests for a review of a premises licence; 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 following matters:

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

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

The licensing authority can also initiate a review of a licence on the basis of any reason that it thinks is appropriate.

(ix) Provisional Statements

Section 204 of the Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:

- expects to be constructed
- expects to be altered
- expects to acquire a right to occupy.

In terms of representations about premises licence applications, following the grant of a provisional statement, the Gambling Commission's Guidance states: "If a provisional statement has been granted, the licensing authority is constrained in the matters it can consider when an application for a premises is made subsequently in relation to the same premises. No further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances. In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- which could not have been raised by way of representations at the provisional licence stage
- which, in the authority's opinion, reflect a change in the operator's circumstances
- where the premises has not been constructed in accordance with the plan and information submitted with the provisional statement application. This must be a substantial change to the plan and licensing authorities should discuss any concerns they have with the applicant before making a decision.

This authority has noted the Gambling Commission's Guidance that "A licensing authority must not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with planning or building law."

(x) Adult Gaming Centres (AGCs):

This licensing authority particularly notes the Gambling Commission's Guidance which states: "No-one under the age of 18 is permitted to enter an AGC. Licensing authorities will wish to have particular regard to the location of an entry to AGCs to minimise the opportunities for children to gain access. This may be of particular importance in areas where young people may be unsupervised and an AGC is in a complex, such as a shopping centre or airport." (21.4)

The 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-barring schemes
- Provision of information, leaflets and helpline numbers for organisations such as Gamcare.

This list is not mandatory nor exhaustive, but merely indicative of possible measures.

(xi) (Licensed) Family Entertainment Centres:

Family Entertainment Centres are wholly or mainly used for having gaming machines available for use. This licensing authority will, as per 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 machines should be delineated. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

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

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

This list is not mandatory nor exhaustive, but merely indicative of possible measures.

(xii) Tracks:

This licensing authority will have regard to the Gambling Commission's guidance.

(xiii) Casinos

This licensing authority will have regard to the Gambling Commission's guidance.

(xiv) Bingo

This licensing authority will have regard to the Gambling Commission's guidance.

(xv) Temporary Use Notices

There are a number of statutory limits as regards Temporary Use Notices. It is noted that it falls to the licensing authority to decide what constitutes a 'set of premises' where Temporary Use Notices are received relating to the same building / site.

(xvi) Occasional Use Notices:

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

(xvii) Travelling Fairs:

It will fall to this licensing authority to decide whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

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

It 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.

Appendix 3

Responsible Authorities Contact details:

Licensing Authority

Licensing Authority
Ashford Borough Council
Civic Centre
Tannery Lane
Ashford
Kent
TN23 1PL

Chief Officer of Police

The Superintendent
Ashford Police Station
Tufton Street
Ashford
Kent
TN23 1BT

The Fire Authority

Maidstone Fire Safety Office
Fire Station
Loose Road
Maidstone
Kent
ME15 9QB

The Local Planning Authority

Martin Vink
Joint Development Control Manager
Strategic Planning Unit
Ashford Borough Council
Civic Centre
Tannery Lane
Ashford
Kent
TN23 1PL

Enforcing Authority for Pollution and Harm to Human Health & the enforcing authority for Health and Safety at Work etc. Act 1974 *

Environmental Health Manager
Environmental Services
Ashford Borough Council
Civic Centre
Tannery Lane
Ashford
Kent
TN23 1PL

HM Principal Inspector, Services Group / Enforcement Liaison
Health & Safety Executive
Phoenix House,
23 - 25 Cantelupe Road,
East Grinstead,
West Sussex,
RH19 3BE

Social Services

District Manager
Social Services Children & Families
Kent County Council
Civic Centre
Tannery Lane
Ashford
Kent
TN23 1PL

Gambling Commission

Gambling Commission
Victoria Square House
Victoria Square
Birmingham
B2 4BP

HM Revenue & Customs
HM Revenue and Customs
National Registration Unit
Portcullis House
21 India Street
Glasgow
G2 4PZ