

<b>TITLE</b>	<b>Gambling Act 2005 - Statement of Principles</b>
<b>FOR CONSIDERATION BY</b>	Licensing and Appeals Committee on 5 November 2012
<b>WARD</b>	None Specific
<b>STRATEGIC DIRECTOR</b>	Paul Anstey, Joint Service Delivery Manager for Environmental Health & Licensing

**OUTCOME / BENEFITS TO THE COMMUNITY**

This report introduces a draft policy for consideration together with the results from the consultation exercise undertaken during September and October 2012.

**RECOMMENDATION**

Members are recommended to agree the Statement of Principles as presented in the Appendix to this report and to recommend its adoption by Resolution to the Council

**SUMMARY OF REPORT**

This report presents the outcomes of the consultation exercise on the Gambling Act draft Statement of Principles previously agreed by Members on 3 September 2012 and remains unchanged as a result of the consultation.

**Background**

Under the Gambling Act 2005, the Council is required to review and consult upon its 'Statement of Gambling Principles' every three years from the date of adoption. The present Statement of Gambling Principles was published on 31 January 2010 and therefore must undergo a review and be re-published on or before 31 January 2013.

The statement must be produced following consultation with those bodies and persons set out in subsection (3) of section 349. This includes the Chief Officer of Police, persons who represent the interests of persons carrying on gambling businesses in the area and persons who represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act.

Section 349 of the Gambling Act 2005 requires all licensing authorities to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act. The Statement of Principles ('the Statement') will last for a maximum of three years and can be reviewed and revised by the authority at any time. The current policy is attached to this report as **Appendix One**.

The existing statement has so far been found to be suitable for its purpose. This policy was subject to an extensive consultation exercise in 2009. Amendments to the policy were made as a result of the original consultation. It is not proposed to make any changes to the existing policy, apart from typographical errors highlighted in the minutes from the last meeting which was done before the consultation was undertaken.

A period of just over 7 weeks was allowed for consultation on the draft statement of principles. No responses were received.

There have therefore been no amendments to the draft statement of Principles which members agreed in September following consultation. (Appendix One).

For members information the dates for completion of this process are as follows:

22 November	Draft statement for consideration for adoption by Council
17 December	New statement published
31 January 2013	Statement comes into effect

### Analysis of Issues

Draft Statement of Gambling Principles for consideration which is unchanged from the existing one.

## FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	Nil	Yes	
Next Financial Year (Year 2)	Nil	Yes	
Following Financial Year (Year 3)	Nil	Yes	

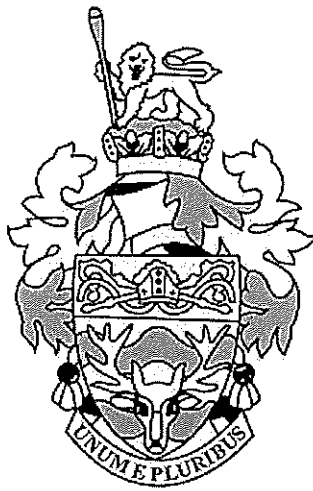
Other financial information relevant to the Recommendation/Decision
None

Cross-Council Implications (how does this decision impact on other Council services and priorities?)
Not applicable

Reasons for considering the report in Part 2
None

List of Background Papers
Gambling Act 2005
Gambling Commission - Guidance to Licensing Authorities

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<b>Date</b>	22 October 2012	<b>Version No.</b>	1



**WOKINGHAM  
BOROUGH COUNCIL**

# Gambling Act 2005 Statement Of Principles

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*This Statement of Principles was approved by Wokingham Borough Council on 18 November 2010.*

*All references to the Guidance refer to the Gambling Commission's Guidance to Licensing Authorities, 3<sup>rd</sup> Edition, published in May 2009.*

## **PART A**

### **1. The Licensing Objectives**

In exercising functions under the Gambling Act 2005, the Wokingham Licensing Authority will have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:

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

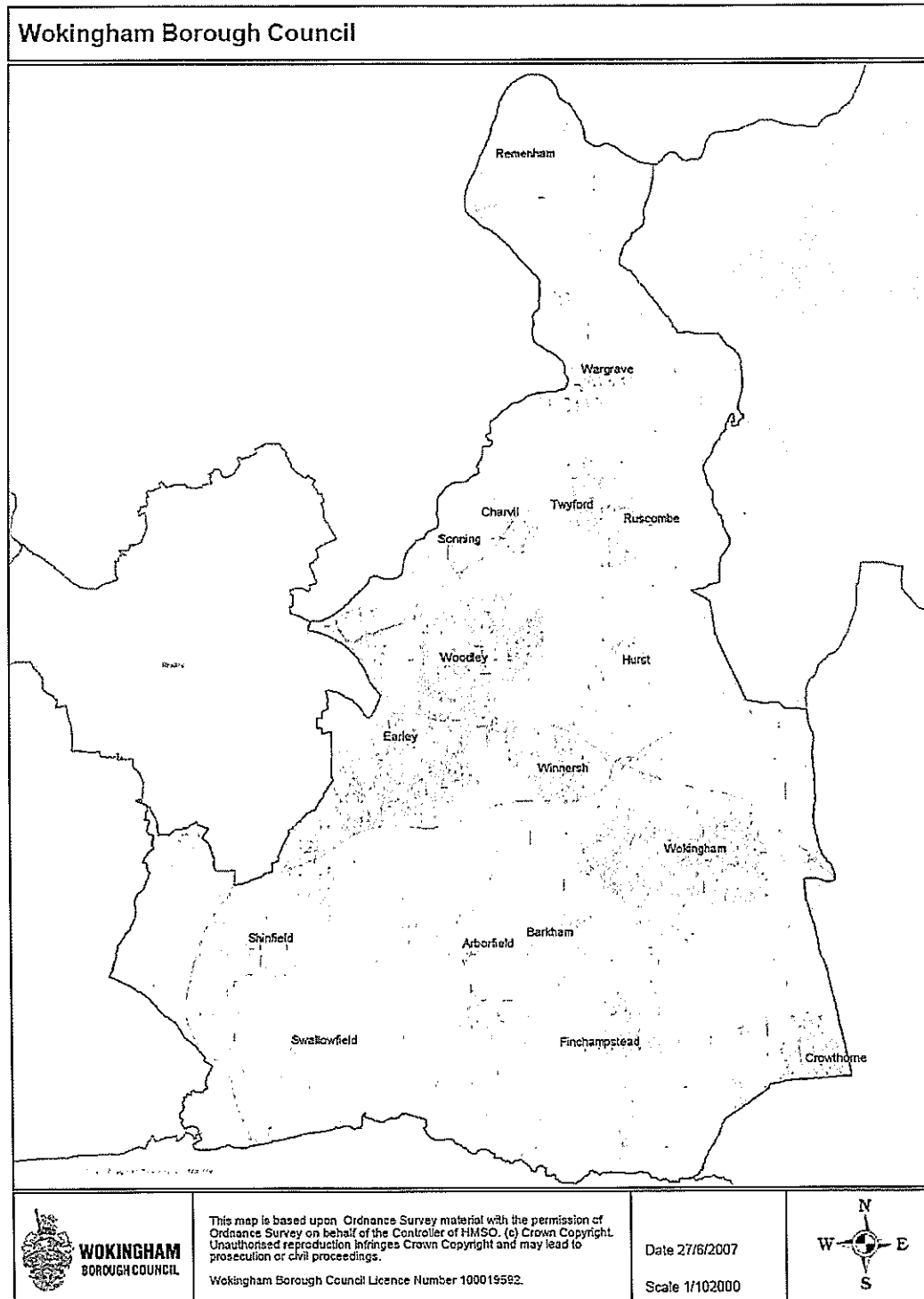
It should be noted that the Gambling Commission has stated: "The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling".

Wokingham Licensing Authority is aware that, in accordance with Section 153, 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 and
- in accordance with the authority's statement of principles

## 2. Introduction

Wokingham Borough Council is situated in the County of Berkshire, which contains 6 Unitary Councils in total. The Council area has a population of 150,229 (2001 Census) making it the largest in the County in terms of population. In terms of area it covers 17,892 hectares. The Council area is mixed rural/urban. The area is shown in the map below.



Wokingham Licensing Authority is required by the Gambling Act 2005 to publish a statement of the principles that they proposed 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 be re-published.

Wokingham Licensing Authority consulted widely upon this statement before finalising and publishing. A list of those organisations consulted is provided below.

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 to represent the interests of persons carrying on gambling businesses in the authority's area;
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.

We consulted:

- Thames Valley Police
- Royal Berkshire Fire and Rescue Service
- Gambling Commission
- Wokingham Borough Planning Service
- Wokingham Borough Environmental Health Service
- Wokingham Safeguarding Children Board
- HM Revenue and Customs
- Existing Gambling operators within the Wokingham Borough area
- Gambling Trade Associations
  - Association of British Bookmakers
  - Association of Licensed Multiple Retailers
  - Bar Entertainment and Dance Association
  - British Amusement Catering Trade Association
  - British Institute of Inn Keeping
  - British Beer and Pub Association
  - Committee of Registered Clubs Association
  - Federation of Community Associations
  - Federation of Licensed Victuallers Associations
  - Gamblers Anonymous
  - GAMCARE
  - Guild of Master Victuallers
  - National Association of Bookmakers
  - The Bingo Association

- Wokingham Borough Citizens Panel
- Parish and Town Councils

Our consultation took place during September and October 2009 and we followed the HM Government Code of Practice on Consultation (published July 2008), which is available at:

<http://www.berr.gov.uk/files/file47158.pdf>



The full list of comments made and the consideration by the Wokingham Licensing Authority of those comments is available by request to:

The Licensing Service  
Wokingham Borough Council  
PO Box 155  
Shute End  
Wokingham  
Berks  
RG40 1BN  
e-mail to: [licensing@wokingham.gov.uk](mailto:licensing@wokingham.gov.uk)

and the Agenda and Minutes of the Council meetings where the Statement of Principles was considered can be viewed on the Council website at [www.wokingham.gov.uk](http://www.wokingham.gov.uk).

The policy was approved at a meeting of the Full Council on (Date to be added) and was published via our website on (Date to be added).

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

The Licensing Service  
Wokingham Borough Council  
PO Box 155  
Shute End  
Wokingham  
Berks  
RG40 1BN  
e-mail to: [licensing@wokingham.gov.uk](mailto:licensing@wokingham.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 statement, the Wokingham Licensing Authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the Guidance issued by the Gambling Commission to Licensing Authorities, and any responses from those consulted on the statement.

### **4. Responsible Authorities**

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

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

In accordance with the suggestion in the Gambling Commission's Guidance for local authorities, Wokingham Licensing Authority designates the Wokingham Safeguarding Children Board for this purpose.

The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the Council's website at: [www.wokingham.gov.uk](http://www.wokingham.gov.uk).

## **5. Interested parties**

Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:

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

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

*Interested parties can be persons who are democratically elected such as Councillors and MPs. No specific evidence of being asked to represent an interested person will be required as long as the Councillor / MP represents the ward likely to be affected. Likewise, parish councils likely to be affected, will be considered to be interested parties. Other than these however, Wokingham Licensing Authority will generally require written evidence that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.*

Wokingham 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:

Each case will be decided upon its merits. Wokingham Licensing 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 Licensing Authorities at 8.11 to 8.19. It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

If individuals wish to approach Councillors to ask them to represent their views then care should be taken that the Councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the licensing service. E-mail: [licensing@wokingham.gov.uk](mailto:licensing@wokingham.gov.uk) or telephone 01189 746359

## **6. Exchange of Information**

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

The principle that Wokingham 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. Wokingham Licensing Authority will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

Should any protocols be established as regards information exchange with other bodies then they will be made available.

## **7. Enforcement**

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.

Wokingham Licensing Authority's principles are that:

It will be guided by the Gambling Commission's Guidance for local authorities and 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.

In accordance with the Gambling Commission's Guidance for local authorities, Wokingham Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

Wokingham Licensing Authority has also adopted and implemented a risk-based inspection programme based on:

- The licensing objectives
- Relevant codes of practice
- Guidance issued by the Gambling Commission, in particular at Part 36
- The principles set out in this statement of licensing policy

*The main enforcement and compliance role for Wokingham Licensing Authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines will not be dealt with by the Wokingham Licensing Authority but will be notified to the Gambling Commission.*

Wokingham Licensing Authority will also keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

Bearing in mind the principle of transparency, Wokingham Licensing Authority's enforcement policy will be available upon request to the licensing service. E-mail: [licensing@wokingham.gov.uk](mailto:licensing@wokingham.gov.uk) or telephone 01189 746359. Our risk methodology is also be available upon request.

## **8. Licensing Authority functions**

Licensing Authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing *Premises Licences*
- Issue *Provisional Statements*
- Regulate *members' clubs* and *miners' welfare institutes* who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue *Club Machine Permits* to *Commercial Clubs*
- Grant permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- Issue *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines

- 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

*It should be noted that local licensing authorities are not to be involved in licensing remote gambling at all, which is regulated by the Gambling Commission via operating licences. Remote gambling is defined as "gambling in which persons participate by the use of remote communication" namely, the internet, telephone, television, radio or "any other kind of electronic or other technology for facilitating communication".*

The Council will carry out its responsibilities under the Gambling Act 2005 speedily, efficiently and cost-effectively. To do this functions are delegated from the Licensing and Appeals Committee to either Sub-Committees or officers as appropriate. Decisions will be delegated in the following manner, however the definitive delegations are included within the Councils Scheme of Delegations which can be found on the Council's website – [www.wokingham.gov.uk](http://www.wokingham.gov.uk):

Matter to be dealt with	Council	Sub-committee of licensing committee	Officers
Final approval of three year licensing policy	X		
Policy not to permit casinos	X		
Fee setting (when appropriate)			X
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence		X	
Application for club gaming/ club machine permits		Where objections have been made (and not withdrawn)	Where no objections made/objections have been withdrawn
Cancellation of club gaming/ club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

## PART B

### PREMISES LICENCES: CONSIDERATION OF APPLICATIONS

#### 1. General Principles

Premises licences are 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.

##### (i) Decision – making

Wokingham 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 is:

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

It is appreciated that in accordance with the Gambling Commission's Guidance for local authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos below) and also that unmet demand is not a criterion for a licensing authority.

**(ii) Definition of “premises”** – “Premises” is defined in the Act as “any place”. Section 152 therefore prevents more than one premises licence applying to any place. However, it is possible for a single building to be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

*The Gambling Commission states that in the third edition of its guidance to Licensing Authorities that: “In most cases the expectation is that a single building/plot will be the subject of an application for a licence. But that does not mean that the premises cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the*

*division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises."*

Wokingham Licensing Authority takes particular note of the Gambling Commission's Guidance for local authorities which states 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 of the following:*

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

*The Guidance also gives a list of factors which the licensing authority should be aware of, which may include:*

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

*Wokingham Licensing authority will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.*

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

***7.25:***

### ***Casinos***

- The principal access entrance to the premises must be from a street (as defined at 7.23 of the Guidance)*
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons*



- *No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence*

### **Adult Gaming Centre**

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

### **Betting Shops**

- *Access must be from a street (as per para 7.23 Guidance to Licensing Authorities) or from another premises with a betting premises licence*
- *No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.*

### **Tracks**

- *No customer should be able to access the premises directly from:*
  - *a casino*
  - *an adult gaming centre*

### **Bingo Premises**

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

### **Family Entertainment Centre**

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

*Part 7 of the Gambling Commission's Guidance to Licensing Authorities contains further guidance on this issue, which Wokingham Licensing authority will also take into account in its decision-making.*

### **(iii) Premises “ready for gambling”**

*The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.*

*If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.*

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

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

*Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.*

*More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.59-7.66 of the Guidance.*

**(iv) Location** – Wokingham licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. As per the Gambling Commission's Guidance to Licensing Authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

**(v) Planning:**

*The Gambling Commission Guidance to Licensing Authorities states:*

*7.59 – In determining applications the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.*

Wokingham Licensing authority will not take into account irrelevant matters as per the above guidance. In addition Wokingham Licensing authority notes the following excerpt from the Guidance:

7.66 - 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.

**(vi) Duplication with other regulatory regimes** - Wokingham Licensing Authority will seek to avoid any duplication with other statutory / regulatory systems where possible, including planning. Wokingham Licensing Authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It 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.

When dealing with a premises licence application for finished buildings, Wokingham Licensing Authority will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

**Licensing objectives** - Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, Wokingham Licensing Authority has considered the Gambling Commission's Guidance to local authorities and some comments are made below.

**Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** - Wokingham 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 Wokingham Licensing 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. Wokingham Licensing Authority is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction.

**Ensuring that gambling is conducted in a fair and open way** - Wokingham Licensing Authority has noted that the Gambling Commission has stated that it would generally not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences.

**Protecting children and other vulnerable persons from being harmed or exploited by gambling** - Wokingham Licensing Authority has noted the Gambling Commission's Guidance for local authorities states 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 Wokingham Licensing Authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

Wokingham 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.

Regarding the term "vulnerable persons" it is noted that the Gambling Commission does not seek to offer a definition but states that "it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs." Wokingham 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.

**Conditions** - Any conditions attached to licences will be proportionate and will be:

- relevant to the need to make the proposed building suitable as a gambling facility;
- directly related to the premises 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 will be made on a case by case basis, although there will be a number of measures Wokingham Licensing Authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. Wokingham Licensing Authority will also expect the licence applicant to offer their own suggestions as to ways in which the licensing objectives can be met effectively.

Wokingham 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.

Wokingham Licensing 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.

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

It is noted 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.

**Door Supervisors** - *The Gambling Commission advises in its Guidance to Licensing Authorities that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a premises licence to this effect.*

*Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether these need to be SIA licensed or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary (as per the Guidance, Part 33).*

## **2. Adult Gaming Centres**

Wokingham 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, for example, ensure that under 18 year olds do not have access to the premises.

Wokingham Licensing Authority may consider measures to meet the licensing objectives 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-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.

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

### **3. (Licensed) Family Entertainment Centres:**

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

Wokingham Licensing Authority may consider measures to meet the licensing objectives such as:

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

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

Wokingham Licensing Authority will, in accordance with the Gambling Commission's guidance, refer to the Commission's website to see any

conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. Wokingham Licensing Authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

#### **4. Casinos**

There are currently no casinos operating within the Wokingham Borough Council area.

This Council passed a 'no casino' resolution on 30 November 2006. Details of the resolution can be viewed on the Council's website.

Potential licence applicants should note that as a 'no-casino' resolution has been passed by this Council no applications for casino premises licences will be considered. Any applications received will be returned with a notification that a 'no-casino' resolution is in place.

#### **5. Bingo premises**

Wokingham Licensing Authority notes that the Gambling Commission's Guidance states:

18.4 Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.

This authority also notes the Guidance at paragraph 18.8 regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

18.7 Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.

#### **6. Betting premises**

*Betting machines* - Wokingham Licensing Authority will, in accordance with 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**

There are currently no tracks with the Wokingham Borough Council area. Should such a facility be proposed this Statement will be revised to include issues relating to this type of premises.

## **8. Travelling Fairs**

It will fall to Wokingham 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 is noted that the 27-day statutory maximum for the land being used as a fair applies on a per calendar year basis, 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**

*Developers may wish to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.*

*S204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:*

- expects to be constructed;*
- expects to be altered; or*
- expects to acquire a right to occupy.*

*The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.*

*In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission*



*(except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.*

*The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:*

- they concern matters which could not have been addressed at the provisional statement stage, or*
- they reflect a change in the applicant's circumstances.*

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

- which could not have been raised by objectors at the provisional statement stage;*
- which in the authority's opinion reflect a change in the operator's circumstances; or*
- where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.*

## **10. Reviews:**

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;

- in accordance with any relevant Code of Practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the authority's statement of principles.

The request for the review will also be subject to the consideration by the authority as to whether the request is frivolous, vexatious, or whether it will certainly not cause this authority to wish to 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 particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.

*Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.*

*The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.*

*The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:-*

- (a) add, remove or amend a licence condition imposed by the licensing authority;*
- (b) exclude a default condition imposed by the Secretary of State or Scottish Ministers (e.g. opening hours) or remove or amend such an exclusion;*
- (c) suspend the premises licence for a period not exceeding three months; and*
- (d) revoke the premises licence.*

*In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.*

*In particular, the licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.*

*Once the review has been completed, the licensing authority must, as soon as possible, notify its decision to:*

- the licence holder*
- the applicant for review (if any)*
- the Commission*
- any person who made representations*
- the chief officer of police or chief constable; and*
- Her Majesty's Commissioners for Revenue and Customs*

**PART C**  
**Permits / Temporary & Occasional Use Notice**

**1. Unlicensed Family Entertainment Centre (FEC) 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. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).

The Gambling Act 2005 states that 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 under section 25. 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 permits, licensing authorities will want to give weight to child protection issues." (24.6)

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 FEC, 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 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.

Statement of Principles - Wokingham 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. Wokingham Licensing Authority will also expect, in accordance with Gambling Commission Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that

the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

## **2. (Alcohol) Licensed premises gaming machine permits - (Schedule 13 paragraph 4(1))**

### **Automatic entitlement: 2 machines**

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the 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.
- 

### **Permit: 3 or more machines**

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.*"

Wokingham 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 harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Compliance with the Gambling Commission Code of Practice will also be taken into consideration. Notices and signage may also help. As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

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.

It should be noted that Wokingham 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.

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

### **3. Prize Gaming Permits - (Statement of Principles on Permits - Schedule 14 paragraph 8 (3))**

The Gambling Act 2005 states that a 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".

Wokingham 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.

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 with 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 Machine Permits

Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Club Machine 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. A Club Machine Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).

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."

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."

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 grounds 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."

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**

*Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Use Notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.*

*The licensing authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.*

*The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this Statement the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.*

*There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place".*

*In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.*

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

## **6. 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. This licensing authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.*  
*End*