



Tonbridge and Malling Borough Council

Gambling Act 2005

Draft Gambling Policy Statement

January 2010

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The Licensing Objectives

In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:

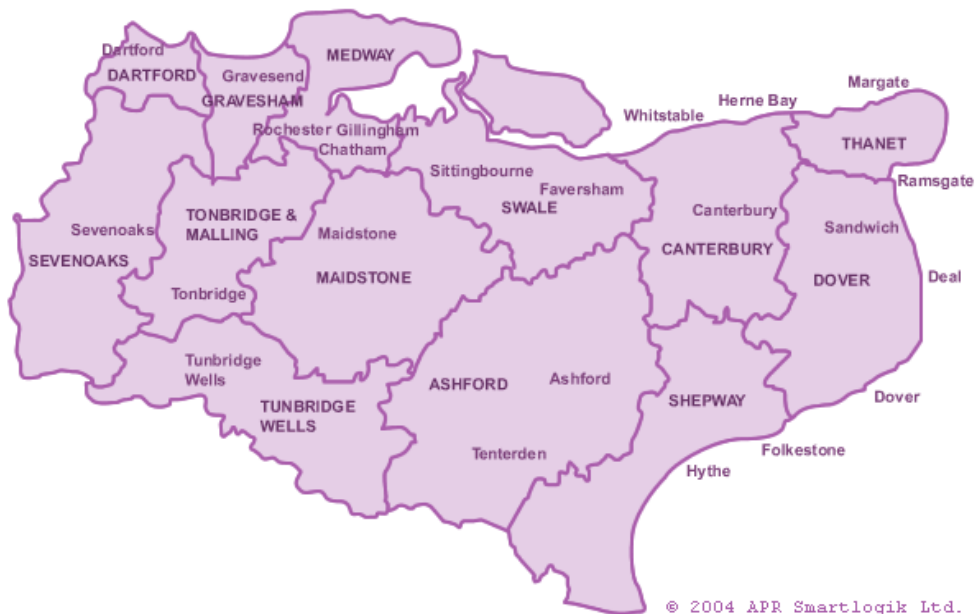
- preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- ensuring that gambling is conducted in a fair and open way
- protecting children and other vulnerable persons from being harmed or exploited by gambling

1. Introduction

Tonbridge and Malling 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 and Medway Regulatory Licensing Steering Group (KMRLSG) 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.

This policy is based on the model policy which has been formulated by the KMRLSG.

The areas are shown in the map below.



Licensing authorities are 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 can also be reviewed from “time to time” and the amended parts re-consulted upon. The statement must then be re-published.

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.

Tonbridge and Malling Borough Council consulted widely on this policy statement before finalising and publishing it. A list of the persons consulted is provided below... **[To be completed after consultation period]**

The Gambling Act requires that the following parties be consulted by Licensing Authorities:

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

The list of persons consulted when preparing this Policy statement is deliberately wide. List of persons this authority consulted included *{add final list}*

- The police
- Social Services
- X trade association
- X residents association

[To be completed after consultation period]

The consultation took place between [date] and [date]. We followed the Revised Code of Practice and the Cabinet Office Guidance on consultations by the public sector. These documents are available via:

<http://www.cabinetoffice.gov.uk/regulation/consultation-guidance/>

The full list of comments made, the consideration of them by the Council and the reasons given for decisions made in drafting the policy following consultation, is available by request to the *Licensing Manager* telephone number 01732 876368 or e-mail melvyn.wood@tmbc.gov.uk.

The policy was approved at a meeting of the Council on [date] and was published on our website on [date]. Copies have been 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:

The Licensing Manager,
Tonbridge and Malling Borough Council
Gibson Building, Gibson Drive,
Kings Hill, West Malling, Kent, ME19 4LZ
Telephone: 01732 876368
E-mail: melvyn.wood@tmbc.gov.uk

This policy statement will not override the right of any person to make an application, make representations about an application or apply for a review of a licence. Each application or representation will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005 and the Guidance issued by the Gambling Commission (the Guidance)..

3. Declaration

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

4. Casinos

No Casinos resolution – Section 166 of the Gambling Act 2005 gives a Licensing Authority the ability to resolve not to issue casino premises licences. This licensing authority has **not** passed a 'no casino' resolution. 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. Functions

Function	Who deals with it
Be responsible for the licensing of premises where gambling activities are to take place by issuing <i>Premises Licences</i>	Licensing Authority
Issue <i>Provisional Statements</i>	Licensing Authority
Regulate <i>members' clubs</i> and <i>miners' welfare institutes</i> who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits	Licensing Authority
Issue <i>Club Machine Permits to Commercial Clubs</i>	Licensing Authority
Grant permits for the use of certain lower stake gaming machines at <i>unlicensed Family Entertainment Centres</i>	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 <i>Licensed Premises Gaming Machine Permits</i> 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 <i>small society lotteries</i> below prescribed thresholds	Licensing Authority
Issue <i>Prize Gaming Permits</i>	Licensing Authority
Receive and Endorse <i>Temporary Use Notices</i>	Licensing Authority
Receive <i>Occasional Use Notices</i>	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

Please Note:

- § The Gambling Commission functions are listed on page 23.
- § The Licensing Authority is not responsible for remote gambling.
- § Concerns about the manufacture, supply or repair of gaming machines will not be dealt with by the licensing authority, but will be notified to the Gambling Commission.

6. 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 for local authorities this authority designates the following for this purpose:

Children and Families – KCC Social Services

7. 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 someone who, in the opinion of the licensing authority which issues the licence or to which the application is made, -

- 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 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. This authority will not apply a rigid rule to its decision-making. It will however consider the following matters as recommended by the Guidance to local authorities:

- the size of the premises
- the nature of the premises
- the distance of the premises from the location of the person making the representation
- the potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment); and
- the nature of the complainant (not the personal characteristics of the complainant but the interests of the complainant, which may be relevant to the distance from the premises. For example, it could be reasonable for an authority to conclude that "sufficiently close to be likely to be affected" could have a different meaning for (a) a private resident (b) a residential school for children with truanting problems and (c) residential hostel for vulnerable adults).
- the catchment area of the premises (i.e. how far people travel to visit); and

- whether the person making the representation has business interests in that catchment area, that might be affected.

The Gambling Commission has emphasised to licensing authorities that 'demand' cannot be a factor in decisions. The Guidance also states that moral 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.

The Gambling Commission has also recommended that the licensing authority states that interested parties will include trade associations and trade unions, and residents and tenants' associations. This authority will not, however, generally view these bodies as interested parties unless they have a member who can be classed as one under the terms of the Gambling Act 2005, ie lives sufficiently close to the premises to be likely to be affected by the authorised activities.

Interested parties can be represented by other persons such as Ward Councillors, Councillors for the Division, MP's etc. Councillors who are part of the Licensing Committee dealing with the licence may not be able to represent an interested party, but they may recommend another councillor who may be able to help.

8. Exchange of Information

In holding and exchanging information with other bodies during the exercise of its functions under the Act the licensing authority will act in accordance with the provisions of the Act, the Data Protection principles as set out in the Data Protection Act 1998 and its duties under the Freedom of Information Act 2000. The Licensing Authority will make reasonable endeavours to enter into an information exchange protocol with the Gambling Commission, and the bodies with functions under the Act in this regard as set out in section 350 and Schedule 6 to the Act. The protocol will cover mechanisms for the exchange of information, authorisation of any such exchange, information security and retention schedules relating to data held by the signatories to the protocol.

The licensing authority will have regard to any Guidance issued by the Gambling Commission to Local Authorities on this matter as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005

9. Enforcement

KMLRSG 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.

In accordance with the Guidance, this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

This licensing authority will also, as recommended in the Guidance, adopt a risk-based inspection programme.

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 Guidance 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

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.

The Gambling Commission will be responsible for compliance as regards unlicensed premises.

Introduction

Factors to be taken into account when considering applications for premises licences, permits and other permissions including matters that will be considered when determining whether to review a licence

1. Permits

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

Where a premise 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).

This licensing authority intends to require applicants to demonstrate:

a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed family entertainment centres;

that the applicant has no relevant convictions as set out in Schedule 7 of the Act; and

that staff are trained to have a full understanding of the maximum stakes and prizes.

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.

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.

For initial applications, the Licensing Authority does not have to have regard to the licensing objectives but does need to have regard to any Gambling Commission guidance.

Guidance for local authorities 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.

The 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. Relevant considerations to take into account would be the applicant’s suitability, such as any convictions that they may have that would make them unsuitable to operate a family entertainment centre; and the suitability of the premises in relation to their location and issues about disorder.”

This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not confined to harm from gambling but includes wider child protection issues. The efficiency of such policies and procedures will each be considered on their merits and could include such matters as measures and staff training to deal with suspected truant schoolchildren, unsupervised very young children and children causing perceived problems in the vicinity of 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 that if any general themes arise it will

endeavour to provide examples of such in this licensing policy statement by way of a revision.

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. 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.

(iii) Prize Gaming Permits – (Statement of Principles on Permits - Schedule 14 Para 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”..

The Guidance states: “In their three year licensing policy statement, licensing authorities should include a statement of principles that they propose to apply when exercising their functions in considering applications for permits. In particular, they may want to set out the matters that they will take into account in determining the suitability of the applicant.

Given that the 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 for the applicant, this licensing authority will want to give weight to child protection issues **and will ask the applicant to set out the types of gaming that he or she is intending to offer.**

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 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 Machine Permits

Members Clubs and Miners’ welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Club Gaming machines permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of

chance as set out in regulations. A Club machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).

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.

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

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 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 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 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 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

As regards licence conditions, the Guidance for local authorities states that "Conditions imposed by the licensing authority must be proportionate to the circumstances which they are seeking to address. In particular, licensing authorities should ensure that the premises licence conditions:

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

The Commission also adds that "the licensing authority should take decisions on individual conditions on a case by case basis, although this will be against the background of any general policy set out in this guidance or their own licensing policy statement."

This licensing authority is in agreement with these statements by the Gambling Commission.

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, winnings or prizes

The Gambling Commission has also emphasised to local authorities, that ‘demand’ cannot be a factor in decisions.

(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 and as the Gambling Commission states in its Guidance for local authorities, it “will always be a question of fact in the circumstances.” 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 draft 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 that they are not permitted to be 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; and
- entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not ‘drift’ into a gambling area.”

This licensing authority will also take note of the Guidance that: “Licensing authorities should pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). Clearly, there will be specific issues that authorities should consider before granting such applications, for example, whether children can gain access; compatibility of the two establishments; and ability to comply with the requirements of the Act. But, in addition an overriding consideration should be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act.”

(iii) Location:

This licensing authority notes the Guidance which states that: “Licensing authorities will need to consider the location of premises without the context of this¹ licensing objective. If an application for a licence or permit is received in relation to premises that are in an area noted for particular problems with organised crime for example, licensing authorities should think about what (if any) controls might be appropriate to prevent those premises becoming a source of crime. These might include conditions being put on the licence, such as a requirement for door supervisors”

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.” This licensing authority will adhere to this advice.

(iv) Planning:

Planning and licensing are different regulatory systems and will be dealt with separately. The Guidance states: “When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have to 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.”

This authority will though listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions should such a situation arise.

¹ Preventing gambling being a source of crime or disorder, being associated with crime or disorder or being used to support crime.

(v) Duplication

In accordance with the Guidance this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

(vi) Door Supervisors

The Guidance states 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.

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

However where a casino or bingo premises are licensed under the Licensing Act 2003 door supervisors employed are required to be licensed under the PSIA Act 2001 to enable them to perform their functions under that Act.

(vii) Licensing objectives

This licensing authority has considered the Gambling Commission's Guidance to local authorities in respect of 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:

(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

as well as consideration 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

This licensing authority notes that the Guidance states:

- "An applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed. The intention behind part 8 of the Act is the reference to "the premises" are to premises in which gambling may now take place. Thus a licence to use premises for gambling should only be issued in relation to premises that are ready to be used for gambling. This is why the Act allows an operator to apply for a provisional statement if the building is not yet complete, needs alteration, or he does not yet have a right to occupy it"
- "It is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence. For example, the fact that a wall needed painting would not stop a full assessment of the

premises as gambling premises, and in such circumstances it would probably be wrong to insist that the applicant applied for a provisional statement rather than a premises licence.”

- “Once an operator has completed a building, the licensing authority will be able to consider a premises licence application for it.”
- “Requiring the building to be complete ensures that the authority can inspect it fully, as can other responsible authorities with inspection rights under Part 15 of the Act. Inspection will allow authorities to check that gambling facilities comply with all necessary legal requirements. For example, Category C and D machines in a licensed family entertainment centre must be situated so that people under 18 do not have access to the category C machines. The physical location of the machines will be an important part of this, and inspection will allow the authority to check that the layout complies with the operator’s proposals and the legal requirements.” (in relation to Provisional Licences)

In terms of representations about premises licence applications, following the grant of a provisional statement, the 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:

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

This authority also has noted in the 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

This licensing authority particularly notes that the Guidance states: “No-one under the age of 18 is permitted to enter an Adult Gaming Centre. Licensing authorities will wish to have particular regard to the location of an entry to Adult Gaming Centres 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 Adult Gaming Centre is in a complex, such as a shopping centre or airport.”

This licensing authority will expect applicants to offer their own measures to meet the licensing objectives which could cover such issues as:

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

This list is not mandatory or exhaustive but indicates example measures.

(xi) (Licensed) Family Entertainment Centres

This licensing authority will, in accordance with the 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.

This licensing authority will expect applicants to offer their own measures to meet the licensing objectives which could cover such issues 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/helpline numbers for organisations such as GamCare
Measures/training for staff to identify and deal with suspected truant schoolchildren on the premises***

This list is not mandatory or exhaustive but indicates example measures.

(xii) Tracks

This licensing authority is aware that the Gambling Commission may provide specific guidance as regards tracks. We shall have regard to this Guidance in the discharge of our functions.

(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 (see Gambling Commission's Guidance for Local Authorities).

(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 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 shared boundaries is monitored so that the statutory limits are not exceeded.

(xviii) Betting premises

Betting machines –The Guidance states: “Section 181 contains an express power for licensing authorities to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence or to a casino premises licence (where betting is permitted in the casino). When considering whether to impose a condition to restrict the number of betting machines in particular premises, the licensing authority, amongst other things, should 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 persons.”

Gambling Commission Functions

Function	Who deals with it
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 Licensing 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 Commission decisions	Gambling Appeals Tribunal

Responsible Authorities' contact details

Licensing Authority:

Legal Services, Tonbridge and Malling Borough Council
Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ

Gambling Commission

Victoria Square House, Victoria Square, Birmingham B2 4BP

The Chief Officer of Police

Kent Police, The Police Station, Pembury Road, Tonbridge, Kent, TN9 2HS

Kent Fire and Rescue Service

Tonbridge Fire Station, 424 Vale Road, Tonbridge, Kent, TN9 1SW

Local Planning Authority

Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ

Environmental Protection/ Health and Safety Authorities

Tonbridge and Malling Borough Council, Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent, ME19 4LZ

Child Protection Service

Kent County Council Social Services, Children and Families Unit, Sessions House, County Road, Maidstone, Kent, ME14 1XQ

HM Revenue and Customs

Medvale House, Mote Road, Maidstone, Kent ME15 6AE

Any other body prescribed in regulations made by the Secretary of State.

Appendix 4: Summary of machine provisions by premises

Premises type	Machine category						
	A	B1	B2	B3	B4	C	D
Large casino (machine/table ratio of 5-1 up to maximum)	Maximum of 150 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine/table ratio)						
Small casino (machine/table ratio of 2-1 up to maximum)	Maximum of 80 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine/table ratio)						
Pre-2005 Act casino (no machine/table ratio)	Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead						
Betting premises and tracks occupied by pool betting	Maximum of 4 machines categories B2 to D						
Bingo premises				Maximum of 8 machines in category B3 or B4	No limit on category C or D machines		
Adult gaming centre				Maximum of 4 machines in category B3 or B4	No limit on category C or D machines		
Family entertainment centre (with premises licence)						No limit on category C or D machines	
Family entertainment centre (with permit)						No limit on category D machines	
Clubs or miners' welfare institute (with permits)				Maximum of 3 machines in categories B3A or B4 to D*			
Qualifying alcohol-licensed premises						1 or 2 machines of category C or D automatic upon notification	
Qualifying alcohol-licensed premises (with gaming machine permit)						Number of category C-D machines as specified on permit	
Travelling fair						No limit on category D machines	
	A	B1	B2	B3	B4	C	D

* It should be noted that members' clubs and miners' welfare institutes are entitled to site a total of three machines in categories B3A to D but only one B3A machine can be sited as part of this entitlement. Commercial clubs are entitled to a total of three machines in categories B4 to D.

Appendix 5: Summary of gaming machine categories and entitlements

Category of machine	Maximum stake (until June 2009)*	Maximum prize (until June 2009)*	Maximum stake (from June 2009)*	Maximum prize (from June 2009)*
A	Unlimited	Unlimited	Unlimited	Unlimited
B1	£2	£4,000	£2	£4,000
B2	£100 (in multiples of £10)	£500	£100 (in multiples of £10)	£500
B3A	£1	£500	£1	£500
B3	£1	£500	£1	£500
B4	£1	£250	£1	£250
C	50p	£35	£1	£70
D - non-money prize (other than a crane grab machine)	30p	£8	30p	£8
D – non-money prize (crane grab machine)	30p	£8	£1	£50
D (money prize)	10p	£5	10p	£5
D - combined money and non-money prize (other than a coin pusher or penny falls machine)	10p	£8 (of which no more than £5 may be a money prize)	10p	£8 (of which no more than £5 may be a money prize)
D - combined money and non-money prize (coin pusher or penny falls)	10p	£8 (of which no more than £5 may be a money prize)	10p	£15 (of which no more than £8 may be a money prize)

*Subject to EC Notification process

Appendix 6: Summary of gaming entitlements for clubs and pubs

	Members' club or MW institute with club gaming permit	Bridge or whist club	Members' club or commercial club with club machine permit	Members' club, commercial club or MW institute without a club gaming permit	Pubs and other alcohol-licensed premises
Equal chance gaming	Yes	Bridge and/or Whist only	Yes	Yes	Yes
Limits on stakes	No limit	No limit	Poker £1000 per week £250 per day £10 per person per game	Poker £1000 per week £250 per day £10 per person per game	Cribbage & dominoes No limit Poker £100 per premises per day
			Other gaming No limit	Other gaming No limit	Other gaming £5 per person per game
Limits on prizes	No limit	No limit	Poker £250 per game Other gaming No limit	Poker £250 per game Other gaming No limit	Poker £100 per game Other gaming No limit
Maximum participation on fees – per person per day	Bridge and/or whist* £20 Other gaming £3	£18 (without club gaming permit) £20 (with club gaming permit)	Bridge and/or whist* £18 Other gaming £3 (commercial club) £1 (members' club)	Bridge and/or whist* £18 Other gaming £1	None permitted
Bankers or unequal chance gaming	Pontoon Chemin de Fer	None permitted	None permitted	None permitted	None permitted
Limits on bingo	Maximum of £2,000 per week in stakes/prizes. If more then will need an operating licence.	No bingo permitted	Maximum of £2,000 per week in stakes/prizes. If more then will need an operating licence.	Maximum of £2,000 per week in stakes/prizes. If more then will need an operating licence.	Maximum of £2,000 per week in stakes/prizes. If more then will need an operating licence.

* On a day when no other facilities for gaming are provided