

# STATEMENT OF PRINCIPLES FOR GAMBLING

UNDER THE  
SECTION 349 OF THE GAMBLING ACT 2005

Effective from: 1<sup>st</sup> May 2022 – 30<sup>th</sup> January 2025

DRAFT COPY FOR USE DURING CONSULTATION

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## 1. Process steps to develop this policy

A public consultation will be carried out in respect of this Statement of Principles from 19 November 2021 until 31 January 2022. As well as sending consultation emails directly to the parties mentioned in the Introduction and Overview. Public notices will be displayed at the Council offices at (Council offices at Kings Hill and Tonbridge Castle).

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

A list of those persons consulted is attached at Appendix 7.

Draft consultation agreed at the Licensing and Appeals Committee	16 November 2021
Public Consultation	19 November 2021 until 31 January 2022
Licensing and Appeals Committee agrees the policy and recommends to Full Council for adoption	8 March 2022
Full Council adopt policy	12 April 2022
New Policy comes into force	1 May 2022

## **Foreword**

### **Tonbridge & Malling Borough Council Statement of Principles for Gambling**

I am pleased to present to you the Tonbridge & Malling Borough Council's Statement of Principles for Gambling under the Gambling Act 2005. This edition has been comprehensively revised to reflect clearly the expectations of Tonbridge & Malling Borough Council in its role as a Licensing Authority.

We are required under the Gambling Act 2005 to produce a new policy on our approach to premises used for gambling every three years. This draft policy has been prepared in accordance with the Gambling Commission's Guidance to Licensing Authorities as amended in April and May 2021 and contains no changes to the intent or direction of the previous policy.

This Statement of Principles endeavours to carefully balance the interests of those who provide facilities for gambling and people who live, work in, and visit Tonbridge & Malling Borough. Its focus is to aim to permit gambling, as required by section 153 of the Gambling Act 2005, in so far as it is (a) in accordance with the Gambling Commission's Licence Conditions and Codes of Practice; (b) in accordance with the Gambling Commission's Guidance to Licensing Authorities that is in effect at the time the application is considered; (c) reasonably consistent with the licensing objectives and (d) in accordance with this Statement of Principles. The three licensing objectives are:

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

The Chairman of the Licensing and Appeals Committee would like to thank the Licensing Committee and, in particular, our partners for their part in, and contribution towards, the formulation of this policy.



**Councillor Christopher Brown**  
**Chairman of Licensing and Appeals Committee**

## Definitions Used in this Policy

**'the Act'** means the Gambling Act 2005

**'the Council'** means the Council of the Tonbridge & Malling Borough Council

**'the Commission'** means the Gambling Commission established under the Gambling Act of 2005

**'the Guidance'** means the Guidance to Licensing Authorities published by the Gambling Commission

**'Licensing Authority'** means the Council of the Tonbridge & Malling Borough Council

**'Licensing Committee'** refers to the Committee of the Tonbridge & Malling Borough Council to consider licensing matters

**'licensable activities'** means those activities that are required to be licensed by the Council under the Gambling Act 2005

**'Licensing Sub Committee'** refers to a Sub Committee of the Licensing Committee to consider licence applications

**'relevant representations'** means a representation conforming to the legal requirements of the Licensing Act 2003

**'Regulations'** refers to Regulations under the Licensing Act 2003 issued by the Secretary of State

**'responsible authority'** means the bodies designated under the Gambling Act 2005 and described in the Introduction to this Statement of Principles

**'the Statement'** refers to this Statement of Principles for Gambling

## 2. 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

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

### 3. Introduction

Tonbridge and Malling Borough Council is situated in the County of Kent. Tonbridge and Malling covers an area of 24,013 hectares. The main towns are Tonbridge, Aylesford, Ditton, Larkfield and Snodland.

The areas are shown in the map below.



Under Section 349 of the Gambling Act 2005, the Council is required to publish a Statement of Principles it proposes to apply when exercising its functions under the Act. The form of the Statement of Principles is set out in the Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2007 and further guidance on what should be contained in the Statement of Principles can be found in the Gambling Commission's Guidance to Licensing Authorities.

The Licensing Authority is required by virtue of section 153 of the Gambling Act 2005 to aim to permit gambling in so far as it is (a) in accordance with the Gambling Commission's Licence Conditions and Codes of Practice; (b) in accordance with the Gambling Commission's Guidance to Licensing Authorities that is in effect at the time the application is considered; (c) reasonably consistent with the licensing objectives and (d) in accordance with this Statement of Principles.

The Gambling Commission issues Licence Conditions and Codes of Practice for gambling operators. Social Responsibility Codes have the force of a licence condition. The Gambling Commission also issue Ordinary Codes, which set out best industry practice. They are not licence conditions, but operators are expected to follow them unless they have alternative arrangements in place which they can demonstrate are equally as effective.

The Licensing Authority, when carrying out inspections of gambling operators, reserves the right to assess compliance with such matters set out in the Gambling Commission's Licence Conditions and Codes of Practice as it sees fit, and will share intelligence with the Gambling Commission about any issues of non-compliance in this respect.

The Act requires the following to be consulted in the revision of the statement:

- 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 area.
- One or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's functions under the Act.

Nothing in this Statement of Principles overrides the right of any person to make an application, make representations about an application or apply for a review of a licence. Each will be considered on its own merits and in accordance with the statutory requirements of the Act.

In reviewing this Statement of Principles, the Council has had regard to the licensing objectives under the Gambling Act 2005, the Guidance to Licensing Authorities issued by the Gambling Commission and to the responses arising from our consultation.

This policy is published on Tonbridge & Malling Borough Council website and can be found at [Policy for consultation](#)

#### **4. 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 issued by the Gambling Commission, as amended, and any responses from those consulted on the policy statement.

Readers are strongly advised to seek their own legal advice if they are unsure of the requirements of the Gambling Act 2005, the Guidance, or any regulations issued under the Act.

## 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</i> to <i>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
<ul style="list-style-type: none"> <li>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</li> </ul>	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

## 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

The Licensing Authority is not involved in licensing remote gambling. This will fall to the Gambling Commission via operating licences.

Concerns about manufacture, supply or repair of gaming machines will not be dealt with by the Licensing Authority but will be notified to the Gambling Commission.

## 6. Responsible Authorities

The Council 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 Council's area; and
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

The Council designates Kent Safeguarding Children's Board to advise on the protection of children from harm under the Gambling Act 2005.

The contact details of all the Responsible Authorities under the Gambling Act 2005 are listed at **Appendix 8**

## 7. Interested parties

Interested parties are persons who may make representations to applications or apply to the Council for the review of an existing licence. These parties are defined in section 158 of the Act as a person who:

- (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).

When determining whether a person is an interested party for the purposes of the Act, the Licensing Authority will not apply rigid rules but will treat each case on its merits.

In considering whether a person lives sufficiently close to a premises to be considered to be an interested party the following matters will be taken into account:

- the size of the premises
- the nature of the premises
- the distance of the premises from the home or workplace of the person making the representation
- the potential impact of the premises (numbers of customers, routes likely to be taken by those visiting the premises)
- the circumstances of the person and nature of their interests, which may be relevant to the distance from the premises.
- 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.

In determining whether a person or organisation "has business interests" the Licensing Authority will adopt the widest possible interpretation and include trade associations, trade unions, partnerships, charities, faith groups, voluntary organisations such as hostels and medical practices, as appropriate.

The Licensing Authority will regard bodies such as trade associations, trade unions, residents' and tenants' associations and professional advisors such as solicitors, barristers and consultants as capable of representing interested parties where they are satisfied that the interested party has asked for representation. The Licensing Authority will only regard representative bodies as interested parties in their own right if they have a member who can be classed as an interested person under the terms of the Act.

In principle, the Licensing Authority will allow any person to represent an interested party but will seek confirmation that the person genuinely represents the interested party. We will generally require evidence that a person/body (e.g., an advocate or relative) 'represents' an interested party. If persons representing interested parties are Councillors, Members of Parliament or Members of the European Parliament, then no specific evidence of being asked to represent an interested person will be required so long as they represent the area likely to be affected.

If individuals wish to approach Councillors to ask them to represent their views those Councillors shall not sit on a Licensing Sub-Committee that meets to determine the licence application. If there are any doubts, then either interested parties or Councillors should contact the Licensing Authority for advice.

## 8. Exchange of Information

The Council will act in accordance with the provisions of Section 350 of the Act in its exchange of information with the Gambling Commission.

Section 29 of the Gambling Act 2005 enables the Gambling Commission to require information from Licensing Authorities (including the manner in which it is compiled, collated and the form in which it is provided), provided that it:

- forms part of a register maintained under the Gambling Act 2005;
- is in the possession of the Licensing Authority in connection with a provision under the Gambling Act 2005.

Section 350 of the Gambling Act 2005 allows Licensing Authorities to exchange information with other persons or bodies for use in the exercise of functions under the Act. These persons or bodies are:

- A constable or Police force
- An enforcement officer
- A Licensing Authority
- HMRC
- The First Tier Tribunal
- The Secretary of State
- Scottish Ministers

Information requests from such parties should be made to the Licensing Authority in writing, setting out clearly what information is required and the reason the information is required. The requirements of the Data Protection Act 1998 will be complied with. Freedom of Information requests can be submitted online at: [foi@tmhc.gov.uk](mailto:foi@tmhc.gov.uk)

The Licensing Authority will also have regard to Guidance issued by the Gambling Commission to local authorities as well as any relevant regulations issued by the Secretary of State under the powers provided for in the Act.

Information can be shared with other agencies about inspections and compliance activities. The Council has numerous policies relating to General Data Protection Regulations (GDPR), which will be considered when deciding what information to be shared.

## 9. Enforcement

The primary aim of enforcement is to achieve compliance. Though enforcement may be taken to mean the formal approach, it may also include advice and support to business to achieve compliance.

Inspections will be carried out on a risk rated basis:

- New premises, premises under new management
- Premises where complaints have been received or intelligence received relevant to the licensing objectives and premises or operators where compliance failings have been identified previously will attract a higher risk rating.
- Premises located in areas where there have been incidents of crime affecting or relating to gambling premises, or where the premises themselves have been the victims or involved in such crime, shall also attract a higher risk rating.
- The Council will conduct baselining assessments to assess initial risk ratings for gambling premises in its district.

Compliance may be achieved through encouraging a sense of community, improved communication, and proactive work with licensees and businesses. Such proactive work may include project work, giving advice and information, and initiatives that educate, inform and encourage partners and stakeholders to work together efficiently and effectively. The principal objective in taking a holistic approach to managing the gambling industry is to prevent problems from occurring before they begin.

However, it is recognised that such aims cannot always be achieved, and that active enforcement of the law may be the only effective means of securing compliance. To this end the following enforcement options are available to the Licensing Authority:

- verbal or written advice
- verbal warning
- written warning
- mediation between licensees and interested parties
- licence review
- simple caution
- prosecution

These actions are not mutually exclusive, and it may be that one course of action follows another, depending on the individual circumstances.

The Licensing Authority operates a partnership approach to dealing with enforcement matters concerning licensed premises. This may include working with the Police or any of the other responsible authorities under the Act or working with colleagues from other Council departments or outside agencies.

The Licensing Authority needs to be satisfied premises are being run in accordance with the provisions of the Act, the licensing objectives, the Licence Conditions and Codes of Practice issued by the Gambling Commission and any conditions attached to the Premises Licence. To achieve this, the Licensing Authority will inspect premises, look at gambling facilities, gaming machines and policies and procedures, meet with licence holders and carry out general monitoring of areas as necessary.

Inspection and enforcement under the Act will be based on the principles of risk assessment, a graduated response and the targeting of problem premises. The frequency of inspections will be determined on risk-based criteria with high-risk operations receiving more attention than premises carrying lower risk.

Premises found to be fully compliant will attract a lower risk rating. Those where breaches are detected will attract a higher risk rating.

The Licensing Authority will take appropriate enforcement action against those responsible for unlicensed premises/activity. Action will be carried out in accordance with the Enforcement Policy.

Before deciding which course of action to take, the Licensing Authority shall consider the following matters:

- the history of the premises
- the history of the offender
- the offender's attitude
- the circumstances of the offence
- whether the offender has a statutory defence to the allegations
- the impact or potential impact of the breach on the public
- the quality of the evidence against the offender
- the likelihood of achieving success in a prosecution
- the likely punishment that will be incurred if the case goes to Court
- whether the course of action proposed is likely to act as a deterrent
- whether the course of action, if it is publicised, is likely to have a beneficial effect on the behaviour of others

The Licensing Authority will operate within the principles of natural justice and take into account the Human Rights Act 1998. This includes, in particular:

- Every person is entitled to the peaceful enjoyment of his possessions – a licence is a possession in law and persons may not be deprived of their possessions except where it is in the public interest;
- Every person is entitled to a fair hearing.

The Licensing Authority Enforcement Team are committed to the principles of good regulation as set out in the Regulators Code. This means our inspection and enforcement activities will be carried out in a way that is:

- Proportionate: only intervening when necessary. Remedies will be appropriate to the risk posed, and costs identified and minimised;
- Accountable: able to justify our decisions, and be subject to public scrutiny;
- Consistent: implementing rules and standards fairly in a joined-up way;
- Transparent: acting in open way, and keeping conditions placed on Premises Licences simple and user friendly; and
- Targeted: focusing on the problems and aiming to minimise the side effects.

## 10. Risk Assessment

The Licensing Authority expects applicants to have a good understanding of the area in which they either operate or intend to operate. The applicant will have to provide evidence that they meet the criteria set out in this Statement of Principles and demonstrate that in operating the premises they will promote the licensing objectives.

The Gambling Commission introduced a Social Responsibility Code of Practice requiring operators of premises used for gambling to conduct local area risk assessments and an Ordinary Code stating this should be shared with the Licensing Authority in certain circumstances in May 2016.

The Licensing Authority expects applicants for Premises Licences in its area to submit a risk assessment with their application when applying for a new premises licence, when applying for a variation to a premises licence or when changes in the local environment or the premises warrant a risk assessment to be conducted again.

The risk assessment should demonstrate the applicant has considered, as a minimum.

- local crime statistics;
- any problems in the area relating to gambling establishments such as anti-social behaviour or criminal damage;
- the location of any nearby sensitive premises, such as hostels and other facilities used by vulnerable persons e.g. drug and alcohol addictions;
- whether there is a prevalence of street drinking in the area, which may increase the risk of vulnerable persons using the premises;
- the type of gambling product or facility offered;
- the layout of the premises;
- the external presentation of the premises;
- the location of nearby transport links and whether these are likely to be used by children or vulnerable persons;
- the customer profile of the premises;
- staffing levels;
- staff training, knowledge and experience;
- whether there is any indication of problems with young person's attempting to access adult gambling facilities in that type of gambling premises in the area.

It is recommended that operators liaise with other gambling operators in the area to identify risks and consult with any relevant responsible authorities as necessary.

This Statement of Principles does not preclude any application being made and every application will be decided on its individual merits, with the opportunity given for the applicant to show how potential concerns can be overcome.

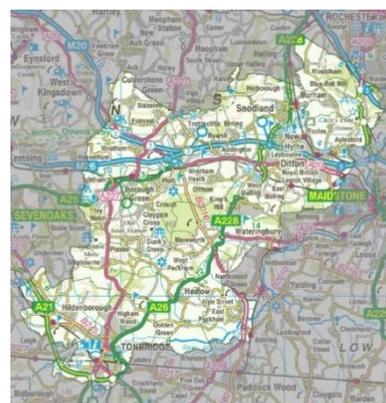
The Licensing Authority expects applicants to keep a copy of the local area risk assessment on the licensed premises and to ensure that all staff have seen the risk assessment, have received training in respect of its content, and are able to produce the risk assessment on request by an authorised officer of the Council, the Police or the Gambling Commission.

## 11. Local Area Profile

### The Area

The borough of Tonbridge and Malling lies in the heart of Kent and is an area of variety and historical interest. The borough is largely rural with few large settlements; Tonbridge in the south being the largest, the remainder of the borough is dotted with villages and smaller towns. The latest population figures from the mid 2019 Mid-year population estimates show that there are 132,200 people living in the borough. This population size makes Tonbridge & Malling the 5<sup>th</sup> largest local authority district in the Kent County Council (KCC) area.

Industry and commerce are concentrated around Tonbridge, Aylesford, Ditton, Larkfield and Snodland. Mineral extraction has been carried out in the area for many years. Paper and packaging mills, distribution, general and light industry and many small businesses make up the industrial scene. The borough is a popular area for office location and high-tech development, particularly at the Kings Hill business and residential community.



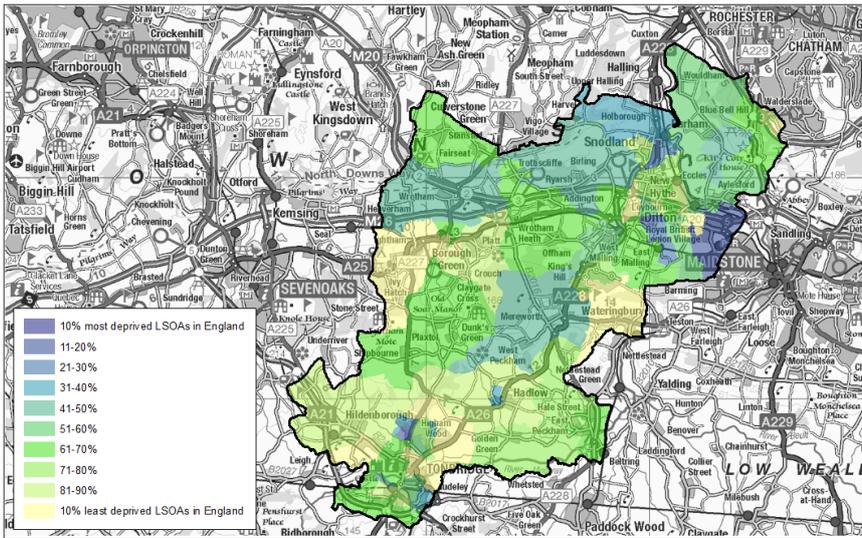
Tonbridge & Malling has a younger age profile compared to the county average, with a greater proportion of 5 – 19-year-olds than the average for the KCC area. Tonbridge & Malling also has a higher proportion of middle-aged residents, aged between 35 and 59 compared to the county average.

Over the past 10 years Tonbridge & Malling's population has grown by 11.6% (an additional 13,500 people). This is the 6<sup>th</sup> highest rate of growth of any Kent district. The population growth in Tonbridge & Malling is set to continue with current forecasts suggesting that between 2016 and 2039 the population of the borough will increase by a further 15.3%. This is the 5<sup>th</sup> highest rate of growth expected for any Kent district and a growth rate that is lower than the county average of 16.5%. This forecast is based on KCC's assessment of the district authority's future housing targets as of November 2019. Such targets will be subject to changes as district authorities develop their Local Development Framework.

95.9% of Tonbridge & Malling's population is of white ethnic origin with the remaining 4.1% being classified as of Black Minority Ethnic (BME) origin. The proportion of Tonbridge and Malling's population classified as BME is lower than the county average of 6.3%.

The largest ethnic group in Tonbridge & Malling is White British, with 92.4% of residents from this ethnic origin. Within the BME population the largest ethnic groups are White and Asian, Indian and Asian (each accounting for 0.6% of all residents with the second largest groups being residents of White and Black Caribbean and Chinese Origin (each accounting for 0.4% of all residents).

Map 1: Overall IMD2019: National rank of Lower Super Output Areas (LSOAs) in Tonbridge & Malling



Source: The English Indices of Deprivation 2019 (IoD2019): The Ministry of Housing, Communities & Local Government (MHCLG)  
 Map produced by Strategic Commissioning - Analytics, Kent County Council © Crown Copyright and database right 2019, Ordnance Survey 100019238

Tonbridge & Malling's unemployment rate is currently 4.5%. This is lower than both the county average of 6.3% and the national average of 6.5%. In September 2020 there were 3,630 unemployed people in Tonbridge & Malling which is 4.3% higher (150 more people) than August 2020 and 224.1% higher (2,510 more unemployed people) than September 2019.

Unemployment rates vary across the district. The lowest unemployment is in Hildenborough ward where 2.9% of the working age population are unemployed. The highest rate is in Trench ward where 7% of the working age population are unemployed.

A slightly higher proportion of those in Tonbridge & Malling who are unemployed (20.8%) are aged 18-24 years old than the average for Kent (20.7%), above the national average (19.5%).

### All crime

During the period October 2019 to September 2020 there were 9,153 recorded crimes compared to 9,643 in the preceding 12 months. This is a reduction of 5.1% (490 crimes). The chart below shows the crime types broken down into percentage levels. It can be seen that violent crime accounts for 45% of all recorded crime in the borough, with crimes against society (including drugs offences, possession of weapons and public order offences) following at 16%.

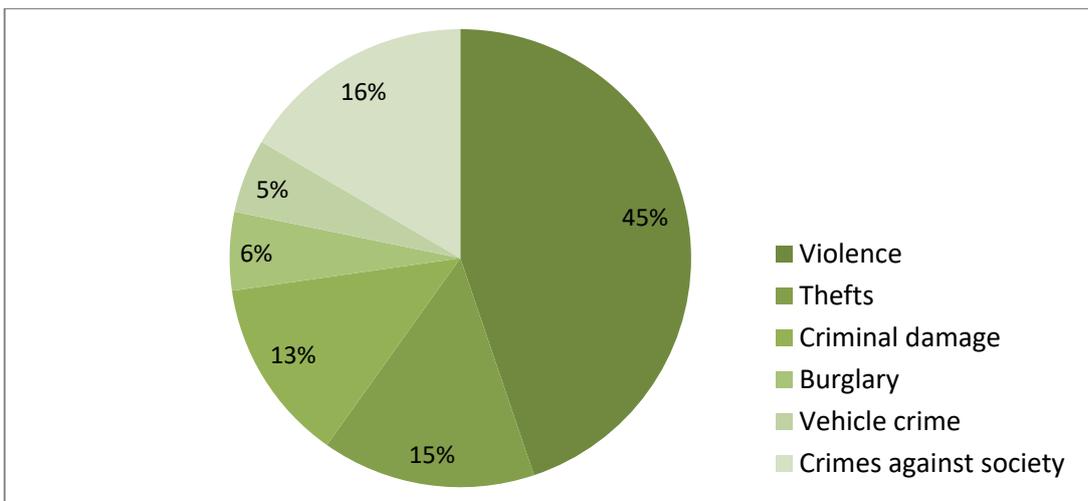


Chart 1. The percentage of recorded crime by major crime type, October 2019 to September 2020. Source: Kent Police

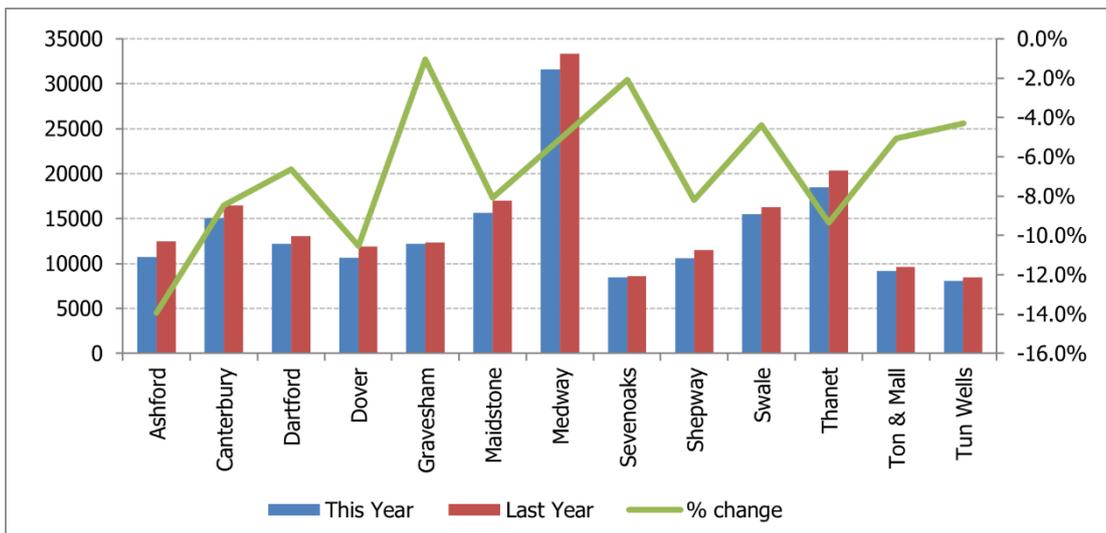


Chart 2. Amount of 'all crime' recorded across Kent, October 2019 to September 2020. Source: Kent Police

For victim-based crimes there were 7,656 recorded between October 2019 and September 2020, compared to 8,295 in the preceding 12 months. This is a decrease of 7.7% (or 639 offences).

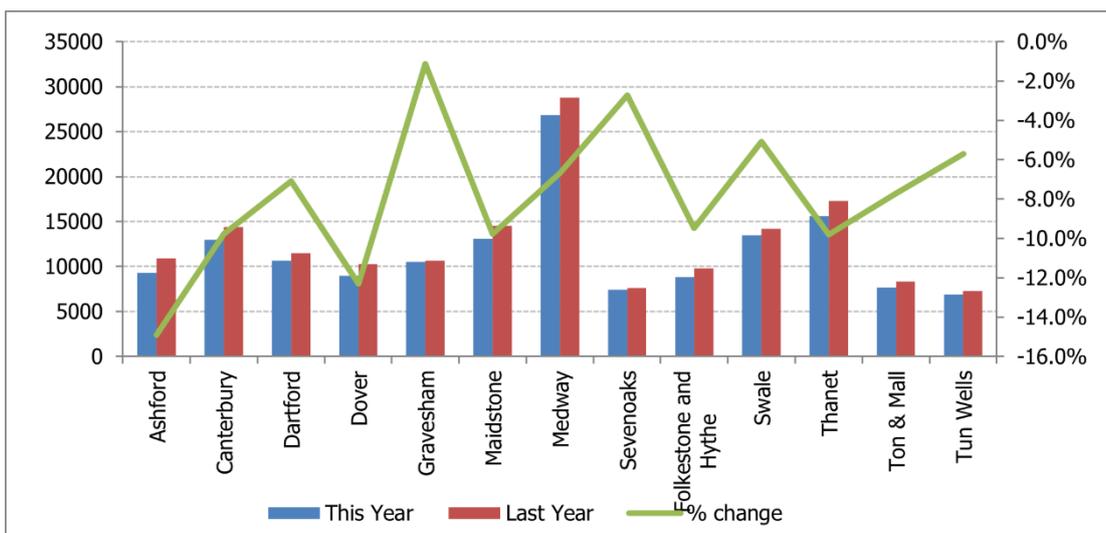


Chart 3. Amount of Victim Based Crime recorded across Kent, October 2019 to September 2020. Source: Kent Police

Tonbridge & Malling has the third lowest crime rate in Kent. The three CSPs in West Kent continue to have the lowest overall recorded crime rates in Kent.

**Kent, Surrey and Sussex Community Rehabilitation Company**

KSS CRC provides probation services in Kent, Surrey and Sussex that deliver the sentence of the court, reduce the likelihood of reoffending and protect the public. They work with adults who have been given a community sentence by the courts or released from a prison sentence under their supervision. They manage the sentence in the community and help individuals to obtain the knowledge, skills and support to enable them to lead a crime-free life.

As of 31 August 2020, their caseload was a total of 131 clients in Tonbridge & Malling (compared to 160 the previous year). Of these 75 were serving a Community Order, 26 had a suspended sentence order and 30 were on a Post Release licence. 117 of total clients were male, with 14 females. The most common offence was violence and the proportion of those who reoffend is 21.5%.

### **National Probation Service**

Data to 6 October 2020 shows that the National Probation Service were working with 67 offenders within Tonbridge & Malling. This is a decrease from the previous year when they were working with 82 offenders. Of the offenders the majority are aged between 30 – 39, with Violence being the highest offence type.

### **Integrated Offender Management**

The Integrated Offender Management (IOM) process is a multi-agency approach to manage individuals, both young and adult, who are at risk of causing the most harm to their communities. To the 26 October 2020, the IOM cohort across Kent was 243 and 4 of the cohort are female. 43% of the cohort are currently in custody and 139 individuals are in the community. Those in the community have collectively reduced their reoffending by 65%.

A breakdown of the latest crime statistics for Tonbridge & Malling Borough Council is available at the following web link:

[Tonbridge and Malling Westminster Constituency \(ukcrimestats.com\)](https://www.ukcrimestats.com/tonbridge-and-malling-westminster-constituency)

The Gambling Commission has indicated that the 2020 Pandemic has significantly impacted gambling behavior, as many of the premises remained closed and gambling moved towards the online gambling whilst people remained at home. Tonbridge and Malling Licensed premises are listed below.

Type of premises	Name of premises	Location	Address	Ward
Adult Gaming Centre	Mr P's Classic Amusements Limited	Tonbridge	75 High Street, Tonbridge	Medway
Betting Shop	Ladbrokes Betting & Gaming Ltd	Borough Green	Wrotham Road Borough Green	Borough Green
Betting Shop	Done Brothers (Cash Betting) Limited	Larkfield	9 And 13 Martin Square Larkfield	Larkfield South
Betting Shop	Betfred	Snodland	20/22 Holborough Road, Snodland	Snodland East and Ham Hill
Betting Shop	Ladbrokes Betting & Gaming Ltd	Snodland	28 High Street, Snodland	Snodland West and Holborough Lakes
Betting Shop	GR8ODDS Ltd	Tonbridge	15 York Parade Shipbourne Road Tonbridge	Trench
Betting Shop	Done Brothers Ltd	Tonbridge	85/87 High Street Tonbridge	Medway
Betting Shop	Ladbrokes Betting & Gaming Ltd	Tonbridge	2/3 Quarry Hill Road Tonbridge	Judd
Betting Shop	Ladbrokes Betting & Gaming Ltd	West Malling	79 High Street West Malling	West Malling and Leybourne

## 12. Preventing Gambling from becoming a source of crime, Problem Gambling and protecting children/vulnerable persons.

### Preventing gambling from being a source of crime or disorder.

The Licensing Authority will consider whether the premises make, or are likely to make, a contribution to the levels of crime and disorder in an area and whether the applicant has demonstrated that he has, or intends to, implement sufficient controls to prevent the premises being a source of, and/or associated with crime or disorder, or being used to support crime, if the application is granted.

Where an area is known for high levels of crime (particularly crime associated with premises used for gambling), the Licensing Authority will consider whether gambling premises are suitable to be located there, and whether additional conditions may be necessary, such as the provision of CCTV, minimum levels of staffing and licensed door supervisors.

In terms of disorder, the Guidance to Licensing Authorities published by the Gambling Commission states, "Licensing Authorities should generally consider disorder as activity that is more serious and disruptive than mere nuisance. Factors to consider in determining whether a disturbance was serious enough to constitute disorder would include whether Police assistance was required and how threatening the behaviour was to those who could hear or see it. There is not a clear line between nuisance and disorder and the Licensing Authority should take the

views of its lawyers before determining what action to take in circumstances in which disorder may be a factor”.

The Licensing Authority will consider whether the layout, lighting, staffing and fitting out of the premises have been designed so as to minimise conflict and opportunities for crime and disorder.

The Licensing Authority will consider whether sufficient management measures are proposed or are in place to prevent the premises being a source of, or associated with crime or disorder, or used to support crime either as a place of association or to avoid apprehension.

### **Ensuring that gambling is conducted in a fair and open way**

Though this licensing objective is primarily the responsibility of the Gambling Commission, the Licensing Authority will have a role in respect of the licensing of tracks, where an Operator’s Licence from the Gambling Commission is not required. Matters to be taken into account will include:

- whether the layout, lighting and fitting out of the premises have been designed so as to ensure gambling is conducted in a fair and open way.
- whether sufficient management measures are proposed or are in place to ensure that gambling is conducted in a fair and open way.
- whether the management and operation of the premises is open and transparent.
- whether the operators of the premises have been or will be fully cooperative with enforcement agencies.
- whether the operator has a transparent procedure in place for dealing with consumer complaints that are available to all customers and implemented where necessary.
- whether gaming machines are compliant with Gambling Commission Technical Standards in respect of machine livery requirements such as clear display of stakes, prizes, machine category and RTP.
- whether the terms and conditions on which gambling products and promotions are offered and rules are clear and readily available to customers.
- whether the Gambling Commission’s Licence Conditions and Codes of Practice have been complied with.

Problem gambling can have a detrimental effect on personal finances but can cost more than just money when it comes to everyday lives. Problem gamblers can often feel isolated, and this can lead to truancy or staying off work in order to gamble. Problem gambling can be progressive in nature and this in turn can lead to crime.

Link to research around problem gambling

[How the consumer engages with safer gambling opportunities - Gambling Commission](#)

Link to safer gambling

[Safer Gambling - Gambling Commission](#)

## **Protecting children and other vulnerable persons from being harmed or exploited by gambling**

The Licensing Authority will consider the following when taking this licensing objective into account:

- whether the operator has a specific training programme for staff to ensure they are able to identify children and vulnerable people and take appropriate action to promote this objective to exclude them from the premises or parts of the premises;
- if the premises is an adult only environment, whether the operator has taken effective measures to implement a proof of age scheme such as Think 21 to ensure no one under the age of 18 is admitted to the premises or restricted areas;
- whether the layout, lighting and fitting out of the premises have been designed so as to not attract children and other vulnerable persons who might be harmed or exploited by gambling;
- whether sufficient management measures are proposed or are in place to protect children and other vulnerable persons from being harmed or exploited by gambling;
- whether any promotional material associated with the premises could encourage the use of the premises by children or young people;
- whether the operator can produce a record of underage challenges and action taken to establish age and prevent underage persons from being able to gamble;
- whether the premises are located near to facilities that may encourage their use by vulnerable people, such as hostels for those with mental illness and/or addiction problems.

The Licensing Authority expects applicants to consider the measures necessary to promote the licensing objective of protecting children and other vulnerable persons from being harmed or exploited by gambling. It is noted that neither the Act nor the Gambling Commission Guidance define the term 'vulnerable persons'. The Licensing Authority consider the term 'vulnerable persons' to include 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, changes in circumstances such as bereavement, loss of employment or ill health or due to alcohol or drugs.

## Premises Licences

### Licences

Any person or business that wishes to offer gambling for which an Operating Licence from the Gambling Commission is required, and which is premises based, must apply to the Licensing Authority for a Premises Licence.

Premises Licences can authorise the provision of facilities on:

- (a) casino premises,
- (b) bingo premises,
- (c) betting premises including tracks and premises used by betting intermediaries,
- (d) adult gaming centre premises, or
- (e) family entertainment centres.

Matters the Licensing Authority may not take into account include:

- the expected demand for gambling premises in the area;
- planning or building law restrictions;
- moral or ethical objections to gambling as an activity;
- dislike of gambling;
- a general notion that gambling is undesirable.

All licences will be subject to mandatory and/or default conditions and conditions imposed by the Licensing Authority. The Licensing Authority may consider that conditions other than the mandatory or default conditions are necessary to ensure the premises are reasonably consistent with the licensing objectives, the Gambling Commission's Codes of Practice and this Statement of Principles.

The Licensing Authority will take decisions in accordance with the Gambling Commission's Guidance and Licence Conditions and Codes of Practice and will have regard to the advice which it issues from time to time. The Licensing Authority will monitor the operation of premises and report any potential breach of Operating Licence conditions to the Gambling Commission. Applicants for new Premises Licences or variations to existing ones should be clear that the premises are intended to be used for the primary gambling activity proposed. For example, a betting Premises Licence application that has four gaming machines, but no betting counter or associated betting facilities shown on the proposed plans would not be considered as offering the primary gambling activity in accordance with that indicated on the application.

The majority of Premises Licences will have mandatory and/or default conditions attached to the licence. The Licensing Authority can attach its own conditions to a Premises Licence if it believes this will promote the licensing objectives. Any conditions attached 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;
- relate to the scale and type of premises; and
- reasonable in all respects.

Certain matters are set out in the Act may not be the subject of conditions. These are:

- conditions which make it impossible to comply with an Operating Licence
- conditions as to gaming machines that contradict the provisions in the Act
- conditions making activities, premises or parts of them operate as a membership club
- conditions on fees, winnings, stakes or prizes.

Conditions will be attached to individual licences on the basis of their merits. However, there will be a number of measures the Licensing Authority will commonly consider utilising in order to pursue the licensing objectives. These may include measures such as:

- the supervision of entrances;
- separation of gambling from non-gambling areas frequented by children;
- the supervision of gaming machines in premises not specifically for adult gambling and
- appropriate signage for adult only areas.

The Licensing Authority will expect the applicant to propose how the licensing objectives can be met effectively through the use of conditions.

### **Split Premises**

The Gambling Commission's Guidance states that a building can, in principle, be divided into more than one premises and 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 reasonably be regarded as being different premises. An example is given of units within a shopping mall, where each unit is separate self-contained premises contained within one building. It is also possible for licensed premises to be located next to each other.

The Gambling Commission state they do 'not consider that areas of a building that are artificially separated, for example by ropes or moveable partitions, can properly be regarded as separate premises'.

Whether different parts of a building can be reasonably regarded as different premises will depend on the circumstances of the individual building and how any division is proposed. To agree to accept applications to grant or vary a licence for a building which has been divided, the Licensing Authority will need to be satisfied the premises are genuinely separate premises, and not an artificially created additional part of single premises.

In considering whether different areas of a building are genuinely separate premises the Licensing Authority will take into account factors which will include:

- whether there are separate registrations for business rates in place for each premises;
- whether separate sets of staff work in the individual premises;
- whether there is a separate cash desk/reception for each of the premises;
- whether each premises has its own postal address;
- whether the premises are owned or operated by the same person;
- whether each of the premises can be accessed from a street or public passageway;
- whether the premises can only be accessed from any other gambling premises.

When considering proposals to divide a building into separate premises, the Licensing Authority will also need to be satisfied that the form of separation between the premises is appropriate.

The separation between one premises and another must be clearly defined. Any barrier used to separate one premises from another must be permanent and constructed so the public cannot go from one premises to another.

It may be acceptable for staff working in adjacent premises to have access through barriers between premises. The applicant must demonstrate that in providing staff access there are suitable control measures in place that will ensure the safety and security of staff and will prevent the public from using the same access point to enter the other premises.

The Gambling Act 2005 (Mandatory and Default Conditions) Regulations 2007 restrict access to different types of licensed gambling premises. In considering proposals to divide a building into different premises, the Licensing Authority will have to be satisfied that proposals to divide buildings are compatible with the mandatory conditions relating to access between premises.

The Guidance at paragraph 7.22 states “There is no definition of ‘direct access’ in the Act or Regulations, but Licensing Authorities may consider that there should be an area separating the premises concerned (for example a street or café), which the public go to for purposes other than gambling, for there to be shown to be no direct access.”

It is the Licensing Authority’s opinion that any area which separates licensed premises, and from which those premises can be accessed, must be genuinely separate premises which are habitually and actually used by members of the public other than those using the licensed premises.

The Licensing Authority does not consider that provisions which prohibit direct access between licensed premises are satisfied where licensed premises are separated by an area created artificially within a building principally for members of the public attending the licensed premises, irrespective of whether this area is unlicensed or provides non-gambling facilities, for example refreshments or cashpoint machines.

Where the Licensing Authority is satisfied that a building can be divided into separate premises it will expect applicants to ensure that:

- the premises are configured so that children are not invited to participate in, have accidental access to, or closely observe gambling to which they are prohibited from taking part;
- the premises are not configured so children are likely to enter an adult only area to join a parent gambling in that adult only area,
- entrances and exits from parts of a building covered by one or more Premises Licences are separate and identifiable so the separation of different premises is not compromised, and people do not ‘drift’ into a gambling area. In this context it should be possible to access the premises without going through another licensed premises or premises with a permit;
- customers should be able to participate in the activity named on the Premises Licence.

This is not an exhaustive list, and the Licensing Authority will consider other aspects based on the merits of the application.

## Access to Premises

The Gambling Act 2005 (Mandatory and Default Conditions) Regulations set out access provisions for each type of licensed gambling premises. The broad principle is there can be no direct access from one licensed gambling premises to another, except between premises which allow those aged under-18 to enter and with the further exception that licensed betting premises may be accessed via other licensed betting premises.

'Direct access' is not defined, but the Licensing Authority will consider there should be an area such as a street or café to which the public attend for purposes other than gambling for there to be no direct access.

Type of Premises	Access Provisions
Casino	<ul style="list-style-type: none"> <li>• The principal access to the premises must be from a 'street';</li> <li>• No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons;</li> <li>• No customer must be able to access a casino directly from any other premises which holds a gambling premises licence.</li> </ul>
Adult Gaming Centre	<ul style="list-style-type: none"> <li>• No customer must be able to access the premises directly from any other licensed gambling premises.</li> </ul>
Betting Shop	<ul style="list-style-type: none"> <li>• Access must be from a 'street' or from other premises with a betting licence;</li> <li>• No direct access is permitted from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be any entrance to a betting shop from a shop of any kind unless that shop is in itself a licensed betting premises.</li> </ul>
Track	<ul style="list-style-type: none"> <li>• No customer must be able to access the premises directly from a casino or Adult Gaming Centre.</li> </ul>
Bingo Premises	<ul style="list-style-type: none"> <li>• No customer must be able to access the premises directly from a casino, an Adult Gaming Centre or a betting premises, other than a track.</li> </ul>
Family Entertainment Centre	<ul style="list-style-type: none"> <li>• No customer must be able to access the premises directly from a casino, an Adult Gaming Centre or a betting premises, other than a track.</li> </ul>

## Plans

The Gambling Act 2005 (Premises Licences and Provisional Statements) Regulations 2007 state that a plan to accompany an application for a Premises Licence must show:

- the extent of the boundary or perimeter of the premises
- where the premises include, or consist of, one or more buildings, the location of any external or internal walls of each such building
- where the premises forms part of a building, the location of any external or internal walls of the building which are included in the premises

- where the premises are a vessel or a part of a vessel, the location of any part of the sides of the vessel, and of any internal walls of the vessel which are included in the premises
- the location of each point of entry to and exit from the premises, including in each case a description of the place from which entry is made or to which exit leads.

The Regulations also state that other than in respect of a track, the plan must show 'the location and extent of any part of the premises which will be used to provide facilities for gambling in reliance on the licence'. The Licensing Authority may, however, consider that these minimum requirements are insufficient to satisfy them in respect of the licensing objectives at tracks, Gambling Commission Guidance, Codes of Practice or its own Statement of Principles. In such cases, the Licensing Authority may ask for such additional information to be shown on the plan as it deems necessary to enable it to discharge its duties effectively. Information shown on the plan that is not required by Regulations will not form part of the Premises Licence and will only be used by the Licensing Authority to help it make a considered decision on the application.

If plans change in any material respect during the lifetime of the licence, the applicant will be in breach of their licence and would either need to make a fresh application under s.159 or to seek an amendment to the licence under s.187 of the Gambling Act 2005. If the changes are substantial, this may, in the opinion of the Licensing Authority, render the premises different to those to which the licence was granted. In such cases, variation of the licence under s.187 would not be possible and an application for a new application would be required under s.159.

### **General Requirements for All Premises**

The Licensing Authority expects all applicants for gambling Premises Licences to ensure there is adequate provision for staff to supervise persons using the licensed premises. This is to identify those who have self-excluded, vulnerable persons, under age persons, persons gambling beyond limits they have set for themselves, person who may be involved in crime, persons who may be prone to anti-social behaviour, persons who are drinking alcohol where this is prohibited and persons who are showing signs of distress in respect of their gambling.

Applicants must take the structure and layout of the premises into account when considering their own policies and procedures. For example, where it is not possible for counter staff to supervise persons using gambling facilities such as gaming machines, the Licensing Authority would expect applicants to volunteer conditions that floor walkers will be used or that counter staff will be able to view all areas of the premises on CCTV provided to the counter area where it can be clearly seen.

Arrangements must be made for how staff will deal with customers who become aggressive and for ejecting patrons who are, for example, self-excluded, vulnerable or under age. This will include staff training and ensuring there are appropriate numbers of staff to deal with problems.

Staff should be in a position to monitor entrances and gaming machines and challenges should be initiated at the earliest opportunity.

Where access to premises is age restricted, the Licensing Authority expects applicants to have a Think 21 policy in place and to train its staff in recognising acceptable forms of

identification. Posters should also be displayed stating that the relevant policy is in place and that users may be challenged.

Licence holders should record details of persons who have self-excluded, persons who have been ejected or refused admission, persons who have been barred by the operator, and any instances of crime or disorder that occurs on, or in association with, the licensed premises.

Applicants should demonstrate how they will identify self-excluded persons.

Where applicable, operators shall be able to demonstrate they are participating effectively in the relevant multi-operator self-exclusion scheme.

## **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.

In determining applications for casino premises, the Licensing Authority shall consider the following:

- proof of age schemes
- CCTV
- entry control system
- staff numbers
- staff training
- layout of premises
- supervision of entrances/machine areas/gaming tables
- notices/ signage
- opening hours
- provision of responsible gambling information
- identification of customers

This list is not exhaustive and is merely indicative of example measures the Licensing Authority will expect applicants to offer to meet the licensing objectives.

## **Bingo**

This policy applies to applications for a Bingo Premises Licence. Bingo has its ordinary and natural meaning and includes any version of the game irrespective of by what name it is described. A holder of a bingo Premises Licence will be able to offer bingo in all its forms.

Children and young persons are permitted in bingo premises but may not participate in the bingo. If any Category B or C machines are made available for use, these must be separated from areas where children and young people are allowed.

The Licensing Authority expects that where children are permitted in bingo premises, any Category B or C machines are located in an area which is separated from the rest of the

premises by barriers or in a separate room, where it is made clear that entry is permitted only for those aged 18 or over. Appropriate signage should be provided to this effect and the area should be monitored by staff, either through direct supervision or by monitored CCTV.

To avoid a situation where a premises holds a bingo Premises Licence primarily to benefit from the gaming machine allowance, the Licensing Authority will need to be satisfied that bingo is regularly played in any premises for which a Premises Licence is issued and that the premises presentation is clearly that of a bingo premises and readily identifiable as such to any customer using the premises.

In determining applications for bingo premises, the Licensing Authority shall consider the following:

- proof of age schemes
- CCTV
- entry control system
- staff numbers
- staff training
- supervision of entrances/ machine areas
- whether children are permitted on the premises and, if so, how the operator intends to prevent them from playing bingo or being able to access adult only machine areas
- notices/ signage
- opening hours
- the times and frequency of which bingo is offered
- whether bingo is offered by a caller or only electronically
- whether the premises are clearly identifiable as being licensed for the purposes of offering bingo facilities
- provision of responsible gambling information

This list is not exhaustive and is merely indicative of example measures the Licensing Authority will expect applicants to offer to meet the licensing objectives.

Young persons, aged 16 and 17, may be employed in bingo premises provided their duties are not connected with the gaming or gaming machines. The Licensing Authority will not grant licences unless the applicant demonstrates how they intend to meet this licensing objective and identify appropriate measures they will take to protect young employees.

Where hand held gaming devices are to be used on bingo premises, the Licensing Authority expects applicants to demonstrate how use of these devices will be monitored by staff

## **Betting Premises**

This policy applies to applications for off-course betting premises. This is betting that takes place other than at a track, typically in a betting shop.

The Licensing Authority must be satisfied that the primary use of the premises is to operate as betting premises. The applicant will be expected to demonstrate they are offering sufficient facilities for betting or otherwise should not make gaming machines available on the premises.

In determining applications for betting premises, the Licensing Authority shall consider the following:

- proof of age schemes
- CCTV
- entry control system
- staff numbers
- staff training
- counter layout
- supervision of entrances/ machine areas
- machine privacy screens
- notices/ signage
- opening hours
- provision of responsible gambling information

This list is not exhaustive and is merely indicative of example measures the Licensing Authority will expect applicants to offer to meet the licensing objectives.

Betting machines made available at betting premises that accept bets on live events such as horse racing (SSBT's or self-service betting terminals) are not gaming machines and therefore do not count towards the total number of gaming machines that may be permitted at betting premises. However, where a machine is made available to take bets on 'virtual' races (e.g., results/images generated by a computer to resemble a real race or event), that IS a gaming machine and counts towards the maximum permitted number of gaming machines and is subject to the relevant statutory limits on stakes and prizes.

Section 181 of the Gambling Act 2005 permits the Licensing Authority to restrict the number of SSBT's, their nature and the circumstances in which they may be made available by attaching a relevant condition to a Premises Licence for a betting office. When considering whether to do so, the Licensing Authority will consider, among other things, the ability of employees to monitor the use of the machines by children and young persons or by vulnerable people.

The Licensing Authority when considering the number, nature and circumstances of self-service betting terminals an operator wants to offer will 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.

Where an SSBT includes functionality to be marketed or presented in languages other than English, the Licensing Authority will seek to ensure the operator has considered the ordinary code provision set by the Gambling Commission about making the following information also available in the relevant languages:

- information on how to gamble responsibly and access the help referred to in the Gambling Commission's Licence Conditions and Codes of Practice;
- the player's guide to any game, bet or lottery under the provisions of the Gambling Commission's Licence Conditions and Codes of Practice;
- the summary of the contractual terms on which gambling is offered, which is a condition of the licence holder's Operating Licence issued by the Gambling Commission.

## Betting Tracks and Other Sporting Venues

Tracks include premises where a race or other sporting event takes place or is intended to take place. These may be subject to one or more than one Premises Licence, provided each licence relates to a specified area of the track. The Gambling Commission Guidance identifies that operator of track betting premises will not necessarily hold an Operating Licence issued by the Commission. The Licensing Authority will have particular regard to proposals and measures to ensure the environment in which betting takes place is suitable for betting and that betting is conducted in a fair and open way.

Examples of tracks include:

- Horse racecourses
- Greyhound tracks
- Point to point meetings
- Football, cricket and rugby grounds
- Athletics stadia
- Golf courses
- Venues hosting darts, bowls or snooker tournaments
- Premises staging boxing matches
- Sections of river hosting fishing competitions
- Motor racing events

The offence of permitting a child or young person to enter gambling premises under section 47 of the Act does not apply to tracks. Therefore, the Licensing Authority will consider the impact upon the objective of protection of children and vulnerable persons, the need to ensure that entrances to each type of licensed premises within the sporting venue are distinct, and that children are excluded from gambling areas which they are not permitted to enter.

The possibility of multiple licences at tracks is noted in Part 20 of the Gambling Commission Guidance. The Licensing Authority will expect the applicant for a Premises Licence to demonstrate suitable measures to ensure that children do not have access to adult-only gaming facilities. Children and young persons are permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place but are still prevented from entering areas where gaming machines (other than Category D machines) are provided. Children and young persons are not prohibited from playing Category D machines on a track.

In determining applications for betting at tracks, consideration will be given to appropriate measures/licensing conditions to address the matters listed below:

- proof of age schemes such as Think 21
- CCTV
- entry control system
- supervision of entrances/ machine areas
- physical separation of areas
- notices/ signage
- opening hours
- provision of responsible gambling information
- provision of policies and procedures in relation to social responsibility measures as set out below

- staffing levels
- staff training and records of staff training
- recording of incidents such as underage challenges, customer interactions for problem gambling, self-exclusions and complaints and disputes relating to gambling
- details of action to be taken where an on-course bookmaker has breached their Gambling Commission Operating Licence conditions repeatedly, for example where children have been able to gamble.

This list is not exhaustive and is merely indicative of example measures the Licensing Authority will expect applicants to offer to meet the licensing objectives.

Track betting operators must be able to demonstrate their adoption of socially responsible gambling policies and procedures. Such policies and procedures must ensure that track betting activities promote the licensing objectives of ensuring that gambling is conducted in a fair and open way and children and other vulnerable people are not harmed or exploited by gambling.

A track Premises Licence does not in itself entitle the holder to provide gaming machines. However, by virtue of section 172(9) of the Act, track owners who hold both a track Premises Licence AND a pool betting Operating Licence issued by the Gambling Commission (this currently only applies to greyhound tracks) may provide up to four Category B2 to D gaming machines on the track.

The Licensing Authority will consider the location of gaming machines at tracks, and applicants for track Premises Licences will need to demonstrate that, where the applicant holds or seeks a pool betting Operating Licence and is going to use their full entitlement to gaming machines, these machines are located in areas from which children are excluded. The applicant will be required to provide information as to what measures it will put in place around the gaming machines to ensure that children are excluded.

The Licensing Authority will expect applicants to include detailed plans for the track itself and the area that will be used for temporary “on-course” betting facilities (often known as the “betting ring”), pool betting, and any other proposed gambling facilities. Plans should make clear what is being sought for authorisation under the track betting Premises Licence and what, if any, other areas are to be subject to a separate application for a different type of Premises Licence. Any such plans must also contain the information prescribed by regulations.

In respect of staff training, the Licensing Authority would expect staff involved with the provision of gambling facilities at the track to be trained in social responsibility measures including, but not limited to, age verification, problem gambling indicators and action to be taken, self-exclusion, complaints procedures and money laundering indicators and action to be taken. Records of such training should be retained by the track management showing the subjects the staff member was trained in and the date training took place. These should be signed off by the staff member and training should be refreshed at least annually.

The Licensing Authority expects track operators to have policies and procedures in place to deal with age verification, self-exclusion, money laundering, complaints and disputes and problem gambling as a minimum and to ensure that all staff involved in the provision of gambling facilities are aware of these policies and procedures and have been trained in their implementation.

The Licensing Authority expects track management to ensure appropriate problem gambling information is provided commensurate to the size and layout of the premises. This should be in the form of posters and also leaflets which a customer can take away. Leaflets should be provided in areas where they can be taken away discreetly by the customer.

Section 152 of the Act permits tracks to be the subject of multiple Premises Licences.

Access between premises licensed for gambling and non-gambling areas will be considered carefully by the Licensing Authority for the following reasons:

- To prevent operators from attempting to circumvent the Act by artificially subdividing premises and securing separate Premises Licences for its composite parts;
- To ensure operators do not circumvent the regulations governing the maximum number of gaming machines that may be provided at specific premises;
- To ensure people who have entered premises to take part in one form of gambling are not exposed to another form of gambling;
- To ensure there is no direct access between gambling premises to which children have access and those which they are prohibited from entering;
- To ensure all gambling premises have publicly accessible entrances;
- To ensure gambling premises are not developed in 'back rooms' of other commercial premises.

### **Adult Gaming Centres (AGC's)**

Adult gaming centre (AGC) Premises Licences allow the holder of the licence to make gaming machines available for use on the premises. Persons operating an AGC must hold a relevant Operating Licence from the Gambling Commission and must seek a Premises Licence from the Licensing Authority. Gaming machines are a form of gambling attractive to children and AGC's may contain machines of a similar format to the Category D machines on which children are allowed to play. However, persons under the age of 18 are not permitted to enter an AGC.

Because gaming machines provides opportunities for solitary play and immediate pay-outs, they are more likely to engender repetitive and excessive play. The Licensing Authority in considering Premises Licences for AGC's 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 are not attracted to, or gain access to, the premises.

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

- proof of age schemes
- CCTV
- entry control system
- supervision of entrances/ machine areas
- physical separation of areas

- notices/ signage
- opening hours
- staffing levels
- staff training
- provision of problem gambling information
- self-exclusion schemes

This list is not exhaustive and is merely indicative of example measures the Licensing Authority will expect applicants to offer to meet the licensing objectives.

### **Family Entertainment Centres (FEC's)**

Generally, FEC's must be operated by a person or body having an Operating Licence from the Gambling Commission. Unlicensed Family Entertainment Centres do not require the operator to have a Gambling Commission Operator's Licence or Premises Licence from the Licensing Authority but do need to have a gaming machine permit as set out in the section on Permits. Unlicensed Family Entertainment Centres may only be used to provide Category D gaming machines.

Gaming machines are a form of gambling which is attractive to children and licensed FEC's will contain both Category D machines on which they are allowed to play, and Category C machines on which they are not. Because gaming machines provide opportunities for solitary play and for immediate pay-outs, they are more likely to engender repetitive and excessive play. The Licensing Authority, in considering applications for FEC Premises Licences, 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.

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

- CCTV
- supervision of entrances/ machine areas
- physical separation of areas for Category C machines
- location of entry
- notices/ signage
- opening hours
- staffing levels
- staff training
- self-exclusion schemes
- provision of problem gambling information
- measures and training for dealing with children on the premises suspected of truancy.

This list is not exhaustive and is merely indicative of example measures the Licensing Authority will expect applicants to offer to meet the licensing objectives.

The Licensing Authority expects applicants to demonstrate adequate separation between the area in which Category C gaming machines are made available and areas of the premises to which children may have access. This will include whether physical separation is provided, staff supervision, signage and layout and presentation of the premises as a minimum. Operators should be aware of the risk of children entering adult only areas to speak to a parent who may be gambling in that area for example and have appropriate controls in place to reduce the risk of this.

## **Door Supervisors**

The Gambling Commission Guidance advises that Licensing Authorities may consider whether there is a need for door supervision in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, but there can also be a need for supervision to stop premises becoming a source of crime. Door supervisors at casinos or bingo premises are not required to be registered by the Security Industry Authority (SIA) under the Private Security Industry Act 2001. Door supervisors not directly employed by a casino or bingo operator do however have to be SIA registered.

For betting offices and other premises, the operator and/or the Licensing Authority may decide that supervision of entrances or machines is appropriate in particular cases. The Licensing Authority will make door supervision a requirement where there is evidence, from the history of trading at the premises or in the area, which the premises cannot be adequately supervised by counter staff or that problem customers cannot be dealt with effectively by counter staff alone and that door supervision is both necessary and proportionate.

## **Provisional Statements**

Following the grant of a provisional statement, no further representations from responsible 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 in the authority's opinion reflect a change in the operator's circumstances.

## **Reviews**

Requests for a review of a Premises Licence can be made by interested parties or responsible authorities, including the Licensing Authority. 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:

- any relevant Code of Practice issued by the Gambling Commission;
- any relevant guidance issued by the Gambling Commission;
- the licensing objectives;
- this Statement of Principles.

The Licensing Authority may reject an application for review if it thinks the grounds on which the review is sought:

- a) are not relevant to the relevant code of practice or guidance issued by the Gambling Commission, the licensing objectives or the Licensing Authority's statement of principles;
- b) are frivolous;
- c) are vexatious;
- d) 'will certainly not' cause the Licensing Authority to revoke or suspend the licence or to remove, amend or attach conditions on the Premises Licence;
- e) are substantially the same as grounds cited in a previous application relating to the same premises (the Licensing Authority will consider the length of time that has passed since the earlier application in deciding whether this is a reasonable reason to reject the review application);
- f) are substantially the same as representations made at the time the application for the Premises Licence was considered. While the Licensing Authority will consider the length of time that has passed since the representations were made, it will not normally review a licence on the basis of the same arguments considered on the grant of the Premises Licence.

General objections to gambling as an activity are not likely to be considered relevant reasons for a review. Other examples of irrelevant considerations include demand for gambling premises, issues relating to planning, public safety and traffic congestion.

The Licensing Authority can initiate a review of a particular Premises Licence, or any particular class of Premises Licence, for any reason it believes is appropriate. This includes reviewing 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.

The Licensing Authority may review any matter connected with the use made of a particular premises if it has reason to believe the Premises Licence conditions are not being observed, or for any other reason which gives it cause to believe a review may be appropriate.

A responsible authority or interested party may apply to the Licensing Authority to review a Premises Licence. Such reviews can be made in relation to, amongst other things if there are repeated incidents of crime and disorder associated with the premises or the gambling activity which the premises operator has failed to adequately address, where incidents that have adversely effected one or more licensing objectives have occurred at premises that could have been prevented if advice and guidance from a responsible authority had been heeded, or if the premises due to the activities being undertaken is either attracting children or people likely to be involved in crime and disorder.

As a review of a Premises Licence can lead to its revocation, the Licensing Authority will consider whether informal actions to ensure timely or immediate compliance have been exhausted prior to an application being made. The Licensing Authority accepts that an application for review may be appropriate without informal measures being taken but will seek to establish that all options have been considered in determining review applications.

### Travelling Fairs and Permits

#### Travelling Fairs

The Act defines a travelling fair as 'wholly or principally' providing amusements and they must be on a site that has been used for fairs for no more than 27 days per calendar year. Travelling fairs do not require a permit to provide gaming machines but must comply with legal requirements about the way the machines are operated.

It will fall to the 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. The 27-day statutory maximum for the land being used as a fair each calendar year 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. The Licensing Authority will keep a record of any travelling fairs that take place in Tonbridge & Malling Borough Council **that** offer gambling as an ancillary use to the fair. The Licensing Authority will ensure the 27-day statutory maximum for the land being used is not breached. The Licensing Authority will advise travelling fair operators if requested of the statutory time period remaining for the land they intend to use.

#### Permits

Permits regulate gambling and the use of gaming machines in a premises which do not hold a Premises Licence. They are required when a premises provides gambling facilities but either the stakes are very low, or gambling is not the main function of the premises.

The Licensing Authority is responsible for issuing the following permits:

- a) unlicensed family entertainment centre gaming machine permits;
- b) alcohol licensed gaming machine permits;
- c) prize gaming permits;
- d) club gaming permits and club machine permits.

The Licensing Authority can only grant or reject an application for a permit and cannot attach conditions. Therefore, the Licensing Authority will consider a number of factors before determining an application for a permit to ensure that the permit holder and the premises are suitable for the proposed gambling activities.

#### Unlicensed family entertainment centre gaming machine permits

This policy applies to those premises that are proposed to be used as Unlicensed Family Entertainment Centres (uFEC's). uFEC's are premises primarily used for making gaming machines available that offer only Category D gaming machines. A uFEC permit allows any number of these machines to be made available at the premises (subject to other

considerations such as health and safety and fire regulations). Given that Category D machines have no age restrictions, these premises particularly appeal to children and young persons. Therefore, the Licensing Authority will give particular weight to matters relating to child protection issues.

The Licensing Authority will grant an application for a permit only if it is satisfied that the premises are used wholly or mainly for making gaming machines available for use and following consultation with the Police.

The Licensing Authority will not grant uFEC permits where the premises are not primarily used for making gaming machines available for use in accordance with section 238 of the Gambling Act 2005. This will preclude granting permits to lobbies in shopping centres or motorway service areas for example.

In cases where an existing uFEC permit has been granted to premises not primarily used for making gaming machines available, the Licensing Authority shall refuse to renew such permits.

Applicants for uFEC permits are expected to provide a scale plan of the premises with their application showing entrances/exits, location of CCTV cameras, cash desk, and machine locations as well as other features such as a bowling alley for example or play area which may form part of the premises.

The Licensing Authority will require applicants to demonstrate as a minimum:

- a full understanding of the maximum stakes and prizes of gambling that is permissible in unlicensed FECs;
- that problem gambling information will be provided in the premises commensurate with its size and layout;
- that the applicant has a written policy in place to deal with complaints and disputes which can be given to a customer on request;
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act);
- that staff are trained to recognise problem gambling and signpost a customer to problem gambling information;
- that staff have been trained in how to deal with complaints and disputes in line with the applicant's policy.

The Licensing Authority will expect the applicant to show there are policies and procedures in place to protect children and vulnerable people 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:

- measures/training for staff regarding suspected truant school children on the premises;
- measures/training covering how staff will deal with unsupervised very young children being on the premises;
- measures/training covering how staff would deal with children causing perceived problems on or around the premises.
- Safeguarding awareness training.

## **Automatic entitlement to two gaming machines**

Premises licensed to sell alcohol on the premises under the Licensing Act 2003 are automatically entitled to provide two gaming machines of Category C and/or D. The holder of the Premises Licence under the Licensing Act 2003 must notify the Licensing Authority of their intention to make the gaming machines available for use and must pay the prescribed fee.

This entitlement only relates to premises with a Licensing Act 2003 Premises Licence that authorises the sale of alcohol for consumption on the premises and which contain a bar at which alcohol is served without the requirement that alcohol is only sold ancillary to the provision of food.

Licensee's siting gaming machines must comply with the relevant Gambling Commission Code of Practice.

Licensees must be aware that gaming machines can only be supplied by a person holding an Operating Licence from the Gambling Commission enabling them to do this. A register of licensed suppliers can be found on the Gambling Commission's website at [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk).

In the event that the relevant authorisation under the Licensing Act 2003 is transferred, lapses or is revoked, the automatic entitlement to two gaming machines ceases to have effect and a new notification will need to be served on the Licensing Authority.

The Licensing Authority will 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 provision 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 for three or more gaming machines**

This policy applies to alcohol licensed premises that propose to have three or more gaming machines. Licensed premises wishing to have three or more gaming machines of Category C or D must apply to the Licensing Authority for a permit. This permit will replace the automatic entitlement to two gaming machines rather than be in addition to it and the holder must comply with the relevant Gambling Commission Code of Practice.

As gaming machines provide opportunities for solitary play and immediate pay-outs, they are more likely to engender repetitive and excessive play. The Licensing Authority, on considering an application, will consider whether granting a permit would be appropriate on a case-by-case basis, but will specifically have regard to:

- the need to protect children and vulnerable people from harm or being exploited by gambling;
- measures taken by the applicant to satisfy the Licensing Authority that there are sufficient measures to ensure that under 18-year-olds do not have access to the adult only gaming machines;
- whether the applicant has an effective policy in place for handling customer complaints or disputes about the gaming machines.

The Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives. However, appropriate measures may cover issues such as:

- the adult machines being in the sight of staff who will monitor that the machines are not being used by those under 18 and look for signs of problem gambling, attempts to cheat the machine, or suspected money laundering;
- notices and signage;
- the provision of information leaflets or helpline numbers for organisations who can assist with problem gambling.

If the Licensing Authority is not satisfied that appropriate measures have been taken by the applicant to comply with this policy, it may refuse to grant the permit, or it may vary the number or category of gaming machines authorised by the permit.

The Licensing Authority may cancel a permit or may vary the number or category (or both) of gaming machines authorised by it if:

- (a) it would not be reasonably consistent with pursuit of the licensing objectives for the permit to continue to have effect,
- (b) gaming has taken place on the premises in purported reliance on the permit but otherwise than in accordance with the permit or a condition of the permit,
- (c) the premises are mainly use or to be used for making gaming machines available, or,
- (d) an offence under the Gambling Act 2005 has been committed on the premises.

Before the Licensing Authority cancels or varies a permit it will give the permit holder 21 days' notice of its intention and allow him/her the opportunity to make a representation. If the permit holder requests a hearing the Licensing Authority will arrange a Licensing Sub-Committee hearing to consider the permit holder's representation and any other evidence available before making its determination.

When determining an application for an alcohol-licensed premises gaming machine permit, the Licensing Authority will consider each application on its own merits.

### **Prize Gaming Permits**

This policy applies to applications for, or renewals of, Prize Gaming Permits. Gaming is prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. Normally the prizes are determined by the operator before play commences.

Prize gaming may take place without a permit in various premises. These are casinos, bingo halls, adult gaming centres, licensed and unlicensed family entertainment centres and travelling fairs.

Given that the prize gaming will particularly appeal to children and young persons, the Licensing Authority will give weight to child protection issues.

The applicant will be expected to set out the types of gaming that they are intending to offer and will also be expected to demonstrate:

- an understanding of the limits to stakes and prizes set out in regulations;
- that the gaming offered is within the law;
- clear policies that outline the steps to be taken to protect children and vulnerable persons from harm.

The Licensing Authority will only grant a permit after consultation with the Police. This will enable the Licensing Authority to determine the suitability of the applicant in terms of any convictions that they may have that would make them unsuitable to operate prize gaming, the suitability of the premises in relation to their location, and issues about disorder.

There are conditions in the Act with which the permit holder must comply, though 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.

### **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. Commercial clubs such as snooker clubs run on a profit basis may apply for a club machine permit. Each type of permit allows the provision of different types of gaming and provision of game machines. The current entitlements Club Gaming machine can be found by visiting the Gambling Commission's website ([www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)).

A commercial club is defined as a club where membership is required but the club is operated for commercial gain.

A non-commercial club is a club where no commercial gain is made. A non-commercial club must meet the following criteria to be considered a members' club:

- it must have at least 25 members;
- it must be established and conducted wholly or mainly for purposes other than gaming (with the exception of bridge or whist);
- it must be permanent in nature;
- it must not be established to make a commercial profit;
- it must be controlled by its members equally.

Examples of these include working men's clubs, branches of the Royal British Legion and clubs with political affiliations.

The Licensing Authority 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 Gambling Commission or the Police.

There is also a "fast-track" procedure available under the Act for premises that hold a club premises certificate under the Licensing Act 2003. Under the fast-track procedure there is no opportunity for objections to be made by the Gambling Commission or the Police, and the grounds upon which a Licensing Authority can refuse a permit are reduced. The grounds on which an application under this process may be refused are that:

- a) the club is established primarily for gaming, other than gaming prescribed under schedule 12;
- b) in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- c) 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 may use a Category B or C gaming machine on the premises and that the holder complies with any relevant provision of a Gambling Commission Code of Practice about the location and operation of gaming machines.

The Licensing Authority will need to satisfy itself that the club meets the requirements of the Gambling Act 2005 to hold a club gaming permit. In order to do this, it may require proof of additional information from the operator such as:

- is the primary activity of the club something other than gaming?
- are the club's profits retained solely for the benefit of the club's members?
- are there 25 or more members?
- are the addresses of members of the club genuine domestic addresses and do most members live reasonably locally to the club?
- do members participate in the activities of the club via the internet?

- do guest arrangements link each guest to a member?
- is the 48-hour rule being applying for membership and being granted admission being adhered to?
- are there annual club accounts available for more than one year?
- how is the club advertised and listed in directories and on the internet?
- are children permitted in the club?
- does the club have a constitution, and can it provide evidence that the constitution was approved by members of the club?
- is there a list of Committee members and evidence of their election by the club members?

When examining the club's constitution, the Licensing Authority would expect to see evidence of the following:

- Who makes commercial decisions on behalf of the club?
- Are the aims of the club set out in the constitution?
- Are there shareholders or members? Shareholders indicate a business venture rather than a non-profit making club.
- Is the club permanently established? (Clubs cannot be temporary).
- Can people join with a temporary membership? What is the usual duration of membership?
- Are there long-term club membership benefits?

Aside from bridge and whist clubs, clubs may not be established wholly or mainly for the purposes of gaming. The Licensing Authority may consider such factors as:

- How many nights a week gaming is provided;
- How much revenue is derived from gambling activity versus other activity;
- How the gaming is advertised;
- What stakes and prizes are offered;
- Whether there is evidence of leagues with weekly, monthly or annual winners;
- Whether there is evidence of members who do not participate in gaming;
- Whether there are teaching sessions to promote gaming such as poker;
- Where there is a tie-in with other clubs offering gaming through tournaments and leagues;
- Whether there is sponsorship by gaming organisations;
- Whether participation fees are within limits.

### Notices

#### Temporary Use Notices

This policy applies to applications for 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 gambling would include hotels, conference centres and sporting venues.

The Licensing Authority can only grant a Temporary Use Notice to a person or a company holding a relevant Operating Licence.

Currently, 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 overall winner.

The Licensing Authority, in considering applications for Temporary Use Notices, will consider whether gambling should take place, or should only take place with modifications to the TUN. In doing so, the Licensing Authority will consider:

- the suitability of the premises;
- the location of the premises, paying particular attention to its proximity to any schools, hostels or other sensitive premises;
- the CCTV coverage within the premises;
- the ability of the premises to provide sufficient staff and/or licensed door supervisors for the notice period;
- whether the premises or the holder of the Operating Licence have given the Licensing Authority any cause for concern at previous events in relation to the licensing objectives, the guidance issued by the Gambling Commission, the relevant code of practice or this Statement of Principles.

#### Occasional Use Notices

The Licensing Authority has very little discretion on Occasional Use Notices for betting at tracks aside from ensuring the statutory limit of eight days a calendar year is not exceeded. The Licensing Authority will consider the definition of a “track” and whether the applicant can demonstrate they are responsible for the administration of the “track” or an occupier, and thus permitted to avail themselves of the notice. The definition of “track” in the Act is wider than dog tracks or horse racecourses and includes places where races or other sporting events take place. This could include major halls, hotels and other venues. If notices are given for a single track which would permit betting to occur for more than eight days per year, the Licensing Authority is obliged to issue a counter notice preventing such a breach occurring.

### Small Society Lotteries

The Gambling Act 2005 provides that promoting or facilitating a lottery is illegal, unless it falls into one of two categories of permitted lottery, namely:

- licensed lotteries – these are large society lotteries and lotteries run for the benefit of local authorities that are regulated by the Commission and require operating licences
- exempt lotteries – there are four types of exempt lottery that are expressly permitted under Schedule 11 of the Act, including the small society lottery.

#### Definition of lottery

A lottery is any arrangement that satisfies all of the criteria contained within the statutory description of either a simple lottery or a complex lottery, under s.14 of the Gambling Act 2005.

An arrangement is a simple lottery if:

- persons are required to pay to participate
- one or more prizes are allocated to one or more members of a class
- the prizes are allocated by a process which relies wholly on chance.

An arrangement is a complex lottery if:

- persons are required to pay to participate
- one or more prizes are allocated to one or more members of a class
- the prizes are allocated by a series of processes
- the first of those processes relies wholly on chance.

#### Definition of society

A 'society' is the society, or any separate branch of such a society, on whose behalf a lottery is to be promoted. Section 19 of the Gambling Act 2005 defines a society as such if it is established and conducted:

- for charitable purposes, as defined in s.2 of the Charities Act 2006
- for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity
- for any other non-commercial purpose other than that of private gain.

It is inherent in this definition that the society must have been established for one of the permitted purposes as set out in s.19 of the Act, and that the proceeds of any lottery must be devoted to those purposes. It is not permissible to establish a society whose sole purpose is to facilitate lotteries.

Participation in a lottery is a form of gambling. Lotteries must be conducted in a socially responsible manner and in accordance with the Act.

The minimum age for participation in a lottery is sixteen. The holder of a small society lottery registration must take reasonable steps to ensure that all those engaged in the promotion of their lottery understand their responsibilities for preventing underage gambling, returning stakes and not paying prizes to underage customers.

## **External Lottery Managers**

External lottery managers (ELM's) are required to hold a lottery operator's licence issued by the Gambling Commission to promote a lottery on behalf of a licensed society.

However, individuals or firms can and do provide services to a society or local authority lottery without assuming the role of an ELM. When determining whether a third party is a 'service provider' only, or has assumed the role of an ELM, the degree of management undertaken by both the promoter and the sub-contractor will be crucial factors. Key indicators will include:

- who decides how the lottery scheme will operate
- who appoints and manages any sub-contractors
- the banking arrangements for handling the proceeds of the lottery
- who sells the tickets and pays the prizes
- who controls promotional aspects of the lottery.

Societies employing an unlicensed ELM may be committing an offence and they will need to satisfy themselves that any ELM they employ holds the relevant operator's licence issued by the Commission. The Commission publishes a register of operating licences on its website at [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk).

## **Lottery Tickets**

Lotteries may involve the issuing of physical or virtual tickets to participants (a virtual ticket being non-physical, for example in the form of an email or text message). All tickets must state:

- the name of the promoting society
- the price of the ticket, which must be the same for all tickets (e.g. there can be no option to 'buy two tickets, get one free')
- the name and address of the member of the society who is designated as having responsibility at the society for promoting small lotteries or, if there is one, the ELM
- the date of the draw, or information which enables the date to be determined.

The requirement to provide this information can be satisfied by providing an opportunity for the participant to retain the message electronically or print it.

The society should maintain written records of any unsold and returned tickets for a period of one year from the date of the lottery draw. The Licensing Authority may wish to inspect the records of the lottery for any purpose related to the lottery.

## **Where tickets may be sold**

The Licensing Authority expects holders of small society lottery registrations not to sell lottery tickets to a person in any street. For these purposes 'street' includes any bridge, road, lane,

footway, subway, square, court, alley or passage (including passages through enclosed premises such as shopping malls) whether a thoroughfare or not. Tickets may, however, be sold in a street from a static structure such as a kiosk or display stand. Tickets may also be sold door to door. Licensees must ensure that they have any necessary local authority permissions, such as a street trading licence, in order to do this.

## **Prizes**

Prizes awarded in small society lotteries can be either cash or non-monetary. Prizes declared on returns must not exceed the limits on prizes set out by the Act - in effect that combined with any expenses incurred with the running of the lottery, such as managers' fees, they must not comprise more than 80% of the total proceeds of the lottery. Donated prizes would not be counted as part of this 80% (as no money would be withdrawn from the proceeds to cover their purchase) but are still subject to the limit on a single maximum prize of £25,000 and should be declared on the return following the lottery draw.

Alcohol should not be offered as a prize in a lottery without the society first ensuring that no Licensing Act 2003 consent is required for this from the Licensing Authority. If such consent is required, then alcohol shall not be offered as a prize unless such consent has been obtained.

## **Small society registration**

The promoting society of a small society lottery must, throughout the period during which the lottery is promoted, be registered with a Licensing Authority. Parts 4 and 5 of Schedule 11 of the Act set out the requirements on both societies and Licensing Authorities with respect to the registration of small society lotteries.

The Licensing Authority with which a small society lottery is required to register must be in the area where their principal office is located.

Applications for small society lottery registrations must be in the form prescribed by the Secretary of State and be accompanied by both the required registration fee and all necessary documents required by the Licensing Authority to assess the application. This information shall include a copy of the society's terms and conditions and their constitution to establish that they are a non-commercial society.

Societies may not circumvent the requirement to hold a Gambling Commission Lottery Operating Licence by obtaining two or more registrations with the same or different Licensing Authorities. As set out previously, the Act states that a society lottery is a large lottery if the arrangements for it are such that its proceeds may exceed £20,000 in a single lottery, or if the aggregate proceeds in a calendar year exceed £250,000.

In cases where a society has separate branches with different aims and objectives, it is acceptable for them to hold more than one licence or registration. However, in cases where a society holds more than one registration and the aims and objectives of those societies are the same, this may constitute a breach of the threshold limits for small society lotteries set out in Schedule 11 of the Act.

By virtue of Schedule 11 paragraph 31(5) of the Act, societies may not hold an Operating Licence with the Gambling Commission and a local authority registration with the same aims and objectives at the same time. This paragraph also provides for a statutory period of three years during which a large society cannot convert to small society status.

Registrations run for an unlimited period, unless the registration is cancelled.

### **Refusal of registration**

The Licensing Authority may propose to refuse an application for any of the following reasons:

- An operating licence held by the applicant for registration has been revoked or an application for an operating licence made by the applicant for registration has been refused, within the past five years. The Commission will be able to advise the details of people and organisations that have been refused an operating licence or have had an operating licence revoked in the past five years. Licensing Authorities should consult the Commission as part of their consideration process.
- The society in question cannot be deemed non-commercial.
- A person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence, listed in Schedule 7 of the Act.
- Information provided in or with the application for registration is found to be false or misleading.

The Licensing Authority may only refuse an application for registration after the society has had the opportunity to make representations. These can be taken at a formal hearing or via correspondence. The Licensing Authority shall inform the society of the reasons why it is minded to refuse registration and provide it with at least an outline of the evidence on which it has reached that preliminary conclusion, in order to enable representations to be made.

### **Revocation of a small society's registered status**

The Licensing Authority may revoke the registration of a society if it thinks that they would have had to, or would be entitled to, refuse an application for registration if it were being made at that time. The Licensing Authority will inform the society of the reasons why it is minded to revoke the registration and provide them with the evidence on which it has reached that preliminary conclusion.

### **Administration and returns**

The Act requires that a minimum proportion of the money raised by the lottery is channelled to the goals of the society that promoted the lottery. If a small society lottery does not comply with these limits, it will be in breach of the Act's provisions, and consequently be liable to prosecution.

The limits are as follows:

- at least 20% of the lottery proceeds must be applied to the purposes of the society (Schedule 11, paragraph 33)

- no single prize may be worth more than £25,000 (Schedule 11, paragraph 34)
- rollovers between lotteries are only permitted where every lottery affected is also a small society lottery promoted by the same society, and the maximum single prize is £25,000 (Schedule 11, paragraph 35)
- every ticket in the lottery must cost the same and the society must take payment for the ticket fee before entry into the draw is allowed (Schedule 11, paragraph 37).

Paragraph 39 of Schedule 11 in the Act sets out the information that the promoting society of a small society lottery must send as returns to the Licensing Authority with which it is registered, following each lottery held. This information allows Licensing Authorities to assess whether financial limits are being adhered to and to ensure that any money raised is applied for the proper purpose. The following information must be submitted:

- the arrangements for the lottery - specifically the date on which tickets were available for sale or supply, the dates of any draw and the value of prizes, including any donated prizes and any rollover
- the total proceeds of the lottery
- the amounts deducted by the promoters of the lottery in providing prizes, including prizes in accordance with any rollovers
- the amounts deducted by the promoters of the lottery in respect of costs incurred in organising the lottery
- the amount applied to the purpose for which the promoting society is conducted (this must be at least 20% of the proceeds)
- whether any expenses incurred in connection with the lottery were not paid for by deduction from the proceeds, and, if so, the amount of expenses and the sources from which they were paid.

Paragraph 39 of Schedule 11 in the Act also requires that returns must:

- be sent to the Licensing Authority no later than three months after the date of the lottery draw, or in the case of 'instant lotteries' (scratch cards) within three months of the last date on which tickets were on sale
- be signed (electronic signatures are acceptable if the return is sent electronically) by two members of the society, who must be aged 18 or older, are appointed for the purpose in writing by the society or, if it has one, its governing body, and be accompanied by a copy of their letter or letters of appointment.

The Gambling Commission may inspect a society's returns, although it will not routinely do so. The Licensing Authority is required to retain returns for a minimum period of three years from the date of the lottery draw. They must also make them available for inspection by the general public for a minimum period of 18 months following the date of the lottery draw.

The Licensing Authority will monitor the cumulative totals of returns to ensure that societies do not breach the annual monetary limit of £250,000 on ticket sales. The Licensing Authority must notify the Commission if returns reveal that a society's lotteries have exceeded the values permissible, and such notifications will be copied to the society in question. The Gambling Commission will contact the society to determine if they are going to apply for a lottery operator's licence, thereby enabling them to run large society lotteries lawfully, and will inform the Licensing Authority of the outcome of its exchanges with the society.

Summary of machine provisions by premises

Premises type	Machine category						
	A	B1	B2	B3	B4	C	D
<b>Large casino</b> (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)					
<b>Small casino</b> (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)					
<b>Pre-2005 Act casino</b> (no machine/table ratio)		Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead					
<b>Betting premises and tracks occupied by pool betting</b>		Maximum of 4 machines categories B2 to D (except B3A machines)					
<b>Bingo premises</b> <sup>1</sup>				Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4		No limit on category C or D machines	
<b>Adult gaming centre</b> <sup>2</sup>				Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4		No limit on category C or D machines	
<b>Licensed Family entertainment centre)</b>						No limit on category C or D machines	
<b>Family entertainment centre (with permit)</b> <sup>3</sup>						No limit on category D machines	
<b>Clubs or miners' welfare institute (with permits)</b> <sup>4</sup>					Maximum of 3 machines in categories B3A or B4 to D*		
<b>Qualifying alcohol-licensed premises</b>						1 or 2 machines of category C or D automatic upon notification	

Premises type	Machine category						
	A	B1	B2	B3	B4	C	D
Qualifying alcohol-licensed premises (with licensed premises 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

## References

<sup>1</sup> Bingo premises licence are entitled to make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines on the premises. Where a premises licence was granted before 13 July 2011, they are entitled to make available eight ([The Gambling Act 2005 \(Gaming Machines in Bingo Premises\) Order 2009 \(opens in new tab\)](#)) category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. Category B machines at bingo premises are restricted to sub-category B3 and B4 machines, but not B3A machines.

<sup>1.2</sup> Adult gaming centres are entitled to make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises and any number of category C or D machines. Where a premises licence was granted before 13 July 2011, they are entitled to make available four category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. Category B machines at adult gaming centres are restricted to sub-category B3 and B4 machines, but not B3A machines.

<sup>2.3</sup> Only premises that are wholly or mainly used for making gaming machines available may hold an unlicensed FEC gaming machine permit or an FEC premises licence. Category C machines may only be sited within licensed FECs and where an FEC permit is in force. They must be in a separate area to ensure the segregation and supervision of machines that may only be played by adults. There is no power for the licensing authority to set a limit on the number of machines under the FEC permit.

<sup>3.4</sup> Members' clubs and miners' welfare institutes with a club gaming permit or with a club machine permit, 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.

<sup>4.5</sup> Commercial clubs with club machine or gaming permits are entitled to a total of three machines in categories B4 to D.

Summary of gaming machine categories and entitlements

Category of machine	Maximum stake	Maximum prize
<b>A</b>	Unlimited – No category A gaming machines are currently permitted	
<b>B1</b>	£5	£10,000*
<b>B2</b>	£2	£500
<b>B3A</b>	£2	£500
<b>B3</b>	£2	£500
<b>B4</b>	£2	£400
<b>C</b>	£1	£100
<b>D - non-money prize</b>	30p	£8
<b>D – non-money prize (crane grab machine only)</b>	£1	£50
<b>D (money prize)</b>	10p	£5
<b>D - combined money and non-money prize</b>	10p	£8 (of which no more than £5 may be a money prize)
<b>D - combined money and non-money prize (coin pusher or penny falls machines only)</b>	20p	£20 (of which no more than £10 may be a money prize)

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
<b>Equal chance gaming</b>	Yes	Bridge and/or Whist only	Yes	Yes	Yes
<b>Limits on stakes</b>	No limit	No limit	<b>Poker</b> £1000 per week £250 per day £10 per person per game <b>Other gaming</b> No limit	<b>Poker</b> £1000 per week £250 per day £10 per person per game <b>Other gaming</b> No limit	<b>Poker</b> £100 per premises per day <b>Other gaming</b> £5 per person per game  <b>Cribbage &amp; dominoes</b> No limit
<b>Limits on prizes</b>	No limit	No limit	<b>Poker</b> £250 per game <b>Other gaming</b> No limit	<b>Poker</b> £250 per game <b>Other gaming</b> No limit	<b>Poker</b> £100 per game <b>Other gaming</b> No limit
<b>Maximum participation fees – per person per day</b>	<b>Bridge and/or whist*</b> £20 <b>Other gaming</b> £3	£18 (without club gaming permit) £20 (with club gaming permit)	<b>Bridge and/or whist*</b> £18 <b>Other gaming</b> £3 (commercial club) £1 (members' club)	<b>Bridge and/or whist*</b> £18 <b>Other gaming</b> £1	None permitted
<b>Bankers or unequal chance gaming</b>	Pontoon Chemin de Fer	None permitted	None permitted	None permitted	None permitted
<b>Limits on bingo</b>	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

### List of Consultees

- British Amusement Catering Trade Association (BACTA)
- Association of British Bookmakers
- Gamble Aware
- The Gambling Commission
- The Chief Officer of Kent Police
- Kent Fire & Rescue
- TMBC – Environmental Health / Health and Safety
- TMBC – Planning
- Social Services
- HM Revenue and Customs
- Operators of Betting Premises in Tonbridge & Malling Borough Council
- Operators of Adult Gaming Centres in Tonbridge & Malling Borough Council
- Holders of Gaming Machine Permits in Tonbridge & Malling Borough Council
- Holders of Club Gaming Permits in Tonbridge & Malling Borough Council
- Holders of Club Machine Permits in Tonbridge & Malling Borough Council
- Tonbridge & Malling Borough Council Ward Members
- Parish Councils

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

### Responsible Authorities:

#### **The Chief Officer of Kent Police**

Community Safety Unit  
Tonbridge & Malling Borough Council  
Gibson Drive  
Kings Hill  
West Malling  
Kent ME19 4LZ  
[west.division.licensing@kent.pnn.police.uk](mailto:west.division.licensing@kent.pnn.police.uk)

#### **Kent Fire & Rescue**

Maidstone Fire Station  
Loose Road  
Maidstone  
Kent ME15 9QB

[TFS.midgroup@kent.fire-uk.org](mailto:TFS.midgroup@kent.fire-uk.org)

#### **Environmental Health / Health and Safety**

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

[environmental.protection@tmbc.gov.uk](mailto:environmental.protection@tmbc.gov.uk)

#### **Licensing Services**

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

[licensing.services@tmbc.gov.uk](mailto:licensing.services@tmbc.gov.uk)

#### **Planning**

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

[planning.applications@tmbc.gov.uk](mailto:planning.applications@tmbc.gov.uk)

**Social Services**

Kent Safeguarding Children's Board  
Sessions House  
County Hall  
Maidstone  
Kent ME14 1XQ  
[social.services@kent.gov.uk](mailto:social.services@kent.gov.uk)

**The Gambling Commission**

Victoria Square House  
Victoria Square  
Birmingham B2 4PB  
[info@gamblingcommission.gov.uk](mailto:info@gamblingcommission.gov.uk)

**HM Revenue and Customers**

Excise Processing Team  
HM Revenue and Customs  
BX9 1GL  
United Kingdom  
[nrubetting&gaming@hmrc.gsi.gov.uk](mailto:nrubetting&gaming@hmrc.gsi.gov.uk)