



STATEMENT OF GAMBLING LICENSING POLICY

October 2006

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1. INTRODUCTION

Luton Borough Council is the licensing authority for the Borough of Luton under the Gambling Act 2005 (“the Act”).

The Act requires the Council to publish a Statement of Licensing Policy every three years, containing the principles it intends to apply when exercising its functions under the Act. The Council will keep the Policy under constant review and will consult statutory consultees as set out in the Act and any other person who the Council deems appropriate on any proposed new or revised policy.

This statement sets out the Council’s general approach to the exercise of its functions. It does not override the right of any person to make an application under the Act and to have that application considered on its own merits. Nor does it undermine the right of any responsible body or interested party to make representations on an application or to seek a review of a licence.

In producing this statement the Council has had regard to the Licensing Objectives, the Guidance issued by the Gambling Commission and responses from those consulted on this statement

2. LICENSING OBJECTIVES

It is the duty of the Council to carry out its licensing functions under the Act with a view to promoting the licensing objectives. 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.

3. BACKGROUND TO LUTON

Luton has a population of 184,000 people, making it one of the largest towns in South East England. Luton's people come from a wide range of ethnic backgrounds and the town is proud of its cultural diversity. Approximately 37% of the town's population is under 25. Luton has a thriving university, an international airport and excellent transport links to many of the country's major cities.

Luton is densely populated and is in a conurbation with the neighbouring towns of Houghton Regis and Dunstable.

As at April 2006 the numbers of premises issued with licences, permits or registrations are as follows:

- 3 Casinos (a further 2 casinos have sought planning permission and are expected to seek an existing licence under the Gaming Act 1968)
- 2 Bingo Halls
- 28 Bookmakers/ Betting shops
- 1 Family Entertainment Centre
- 3 Adult Entertainment Centres
- 116 Alcohol Premises and 35 Registered Clubs (these may request a grant or renewal of Gaming Machine Permits)
- 33 Small Society Lottery Registrations

4. CONSULTATION

This policy has been drawn up after consultation with the following organisations and individuals:

- Bedfordshire Police
- British Casino Association
- The Association of British Bookmakers
- The Bingo Association
- BACTA - British Amusement Catering Trade Association
- Luton & Bedfordshire Fire & Rescue Service
- Safer Luton Partnership
- Religious Groups
- Luton Churches Education Trust
- Existing Casino, FEC, Bingo, Betting shops and Lottery licence/
permit holders
- Local Residents – through area committees, resident associations
and local media
- LBC Town Centre Manager
- Disability resource centre
- LBC Equalities Unit
- LBC Planning
- LBC Environmental Services
- LBC Environment & Regeneration
- LBC Social Services
- HM Revenues and Customs
- Luton Magistrates Court
- Area Child Protection Committee/ Local Safeguarding Children
Board
- Primary Care Trust
- The Chamber of Trade
- Licensing Committee
- Scrutiny Committee
- Gamblers Anonymous

Gam Care
Pubs and clubs
Mencap
Help the Aged
Citizen's Advice Bureau
Trade unions
Voluntary and community groups working with children and young people

Following adoption of this Policy, the Council will keep it under constant review. The Head of Environmental and Consumer Services will maintain an "Issues Log" in which matters pertaining to this Policy will be recorded. Any interested party or responsible body may raise an issue with the Council in relation to the Policy and the Head of Environmental and Consumer Services will determine whether the issue is relevant to this policy and if so, whether it requires an immediate review of the current policy or to be noted in an "Issues Log" for consideration on a future review of the policy. In addition, when the policy is reviewed, either in accordance with the statutory requirements or because relevant issues have arisen, the Council will consult with the statutory consultees and with any other consultees as deemed appropriate. The Council will establish a Gambling Licensing Consultative Group to meet twice a year for representatives of licensed premises and interested parties, including local residents to discuss and review matters relating to gambling licensing.

5. GENERAL PRINCIPLES

The Council is responsible under the Gambling Act 2005 for:

- Issuing premises licences for premises where gambling activities are to take place
- Issuing Provisional Statements
- Regulating members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issuing Club Machine Permits to Commercial Clubs
- Granting permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
- Receiving notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or fewer gaming machines
- Granting Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required
- Registering small society lotteries below prescribed thresholds
- Issuing Prize Gaming Permits
- Receiving and Endorsing Temporary Use Notices
- Receiving Occasional Use Notices
- Providing information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
- Maintaining registers of the permits and licences that are issued under these functions

NB: The Council will not be involved in licensing remote gambling - this is dealt with by the Gambling Commission via Operator Licences.

In carrying out its licensing functions, the Council will have regard to the Act, the statutory guidance and this policy. It will also carry out its functions with a view to promoting the licensing objectives.

The Council will inform its residents and other interested bodies of applications for the grant, transfer, variation and review of premises licences through the maintenance of a public register of all applications received. This information will be available on the Council's website and details communicated to the Ward Councillors. In addition, the Council will inform those residents and other interested bodies which it considers are likely to be affected by applications for the grant, transfer, variation and review of licences by supplying them details of the application.

Every application will be considered on its own merits. All relevant representations will be considered when determining an application, except those that the Council considers are frivolous or vexatious. Representations should be based on the Licensing Objectives (see page 4).

In determining whether to grant a Premises Licence the Council will not have regard to the expected demand for the facilities which it is proposed to provide. Each application will be considered on its merits without regard to demand.

The Council will seek to avoid any duplication with other statutory / regulatory systems where possible. For example, the council will not consider whether a licence application is likely to be awarded consent under planning or building regulations.

The Council will however listen to, and consider carefully, any concerns about conditions which licensees will not be able to be meet due to planning restrictions, should such a situation arise.

6. RESPONSIBLE AUTHORITIES AND INTERESTED PARTIES

Where a Responsible Authority or Interested Party makes a relevant written representation in respect of an application for a Premises Licence, the Council must hold a hearing.

Responsible Authorities

The Responsible Authorities under the Act are:

- The Council as Licensing Authority
- The Gambling Commission
- The Chief Officer of Bedfordshire police
- Bedfordshire Fire and Rescue Authority
- The Council's Planning department
- The Council's Environmental Health department
- Customs and Excise
- A body designated in writing by the Council as competent to advise it about the protection of children from harm. The Guidance suggests that the Council may designate the Local Safeguarding Children Board for this purpose.

The contact details of the Responsible Authorities under the Gambling Act 2005 are available via the Council's website at: www.luton.gov.uk

Interested Parties

A person is an Interested Party in relation to an application for a premises licence if, in the opinion of the Council they:

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

In deciding whether a person is an interested party the Council will apply the following principles:

Each case will be decided upon its merits, and in accordance with Gambling Commission Guidance. In particular, in deciding whether a person “lives sufficiently close to the premises to be likely to be affected by the authorised activities”, the Council will have regard to:

- the size of the premises (For example, larger premises may affect people over a wider area compared to smaller premises offering similar activities.)
- the nature of the premises
- the distance of the premises from the location of the person making the representation
- the potential impact of the premises (number of customers, routes likely to be taken by those visiting the premises and
- the nature of the complainant e.g. private resident/school/hostel for vulnerable adults.

“Business interests” will be given the widest possible interpretation, including partnerships, charities, faith groups and medical practices.

In order to avoid doubt, whilst individuals can make representations themselves in their own right, the council will also accept representations from organisations such as residents and tenants associations.

The Council regards residents’ and tenants’ associations as representing persons living sufficiently close to the premises and trade associations and trades unions as representing those having business interests that might be affected by the authorised activities.

The Council will not however generally view these bodies as interested parties unless they have a member who can be classed as one under the terms of

the Gambling Act 2005 e.g. lives sufficiently close to the premises to be likely to be affected by the activities being applied for.

Those democratically elected, such as Councillors and MPs may represent persons living close to or having businesses likely to be affected by the authorised activities.

Other than these persons, the Council may seek written evidence that a person 'represents' someone in one of these categories. A letter from one of these persons, requesting the representation is sufficient.

7. PREMISES LICENCES

(i) General

Where an individual or company proposes to offer gambling for which an operating licence from the Gambling Commission is required, and which is premises based, that individual or company will need to apply to the Council for a premises licence.

A premises licence is one which authorises premises (which are defined in the Act as “any place”) to be used for:-

- The operation of a casino (a “casino premises licence”)
- The provision of facilities for playing bingo (a “bingo premises licence”)
- Making Category B gaming machines available for use (an “adult gaming centre premises licence”)
- Making Category C gaming machines available for use (a “family entertainment centre premises licence”) or
- The provision of facilities for betting (a “betting premises licence”)

The Council will aim to permit the use of premises for gambling in so far as it thinks it:

- (a) in accordance with any relevant Code of Practice under s24
- (b) in accordance with Guidance issued by the Gambling Commission
- (c) reasonably consistent with the Licensing Objectives (subject to (a) and (b)).
- (d) in accordance with this statement of policy (subject to (a) – (c)).

With regard to the Licensing Objectives, the Council will apply the following principles:

a) Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime

The Council is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it.

Where appropriate the Council will consider controls to prevent premises becoming a source of crime, for example, including a condition requiring door supervisors.

b) Ensuring that gambling is conducted in a fair and open way

The Gambling Commission's Guidance states that this will generally be a matter for either the management of the gambling business, and therefore subject to the operating licence, or will be in relation to the suitability and actions of an individual and therefore subject to the personal licence. Operating and personal licences are the responsibility of the Gambling Commission rather than the Council. The Council will have regard to any future guidance from the Gambling Commission on this issue.

c) Protecting children and other vulnerable persons from being harmed or exploited by gambling

Generally, the intention of the Act is that children and young persons should not be permitted to gamble and should be prevented from entering those gambling premises which are adult – only environments. The Gambling Commission's Guidance states that "The objective talks of protecting children from being "harmed or exploited by gambling", that means preventing them from taking part in gambling and for there to be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children...".

The Council will pay particular attention to any Codes of Practice which the Gambling Commission issues regarding this licensing objective in relation to specific premises such as casinos. It is understood that a Code for casinos must:

- specify steps that the premises licence-holder must take to ensure that children (i.e. those under 16) and young persons (i.e. those aged 16 – 18) do not enter casino premises, or in the case of the regional casino do not enter the gambling area;
- amongst those specified steps, ensure that each entrance to the casino or gambling area is supervised by at least one person (“the supervisor”) who is responsible for compliance with the code of practice; and
- require that, unless the supervisor is certain that a person seeking admittance is an adult, evidence of age must be required of all those seeking to enter the casino or gambling area.

The Gambling Commission has not defined the term “vulnerable persons” but states that “it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.” The Council will consider this licensing objective on a case by case basis.

Location

The Council may comment on the location of premises insofar as the location relates to one or more of the licensing objectives. The Council will consider very carefully whether applications for premises licences located very close to a school or centre for vulnerable adults, or in residential areas where there may be a high concentration of families with children should be granted in light of the third licensing objective. However, each application will be considered on its own merits and will depend to a large extent on the type of gambling that it is proposed will be offered on the premises. The Council will

take into account any measures proposed by the applicant to overcome concerns relating to the licensing objectives.

Door Supervisors

The Gambling Commission's Guidance states that licensing authorities may consider whether there is a need for door supervisors in terms of the licensing objective of the protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime.

The Council will make a door supervision requirement if it is satisfied that there is clear evidence for example from the history of trading at the premises that the premises cannot be adequately supervised otherwise and that door supervision is both necessary and proportionate

Where the Council imposes a condition requiring door supervisors then such personnel will be expected to hold a Security Industries Authority licence unless the premises is a casino or bingo premises (whose staff do not have to be licensed by the Security Industries Authority).

Where non Security Industries Authority registered door supervisors are required at casino or bingo premises, the Council will normally require them to have received training from a recognised provider. This training should normally include the following subjects:

- Licensing Law
- Civil & Criminal Law
- Drug Awareness
- Equal Opportunities and Customer Service
- Children and Vulnerable Adults
- Eviction/ Arrest & searching people
- First Aid
- Door Supervisor Roles/ Procedures and Standards

(ii) Adult Gaming Centres

The Council will expect the applicant to satisfy it that there will be sufficient measures to ensure that those under 18 do not have access to the premises.

Appropriate licence conditions may cover issues such as:

- Proof of age schemes
- CCTV
- Door supervisors
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours

This list is not exhaustive.

As regards the protection of vulnerable persons, the Council will consider measures such as the use of self-barring schemes, provision of information leaflets / helpline numbers for organisations such as GamCare.

(iii) Family Entertainment Centres:

The Council will expect the applicant to satisfy it that there will be sufficient measures to ensure those under 18 years do not have access to the adult only gaming machine areas. Appropriate licence conditions may cover issues such as:

- Proof of age schemes
- CCTV
- Door supervisors
- Supervision of entrances / machine areas

- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours

This list is not exhaustive.

As regards the protection of vulnerable persons, the Council will consider measures such as the use of self-barring schemes, provision of information leaflets / helpline numbers for organisations such as GamCare.

The Council will, in accordance with the Gambling Commission's guidance, refer to the Commission's website to see any conditions that apply to operator licences covering the way in which the area containing category C machines should be delineated. The Council will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

(iv) Casinos

The Council has submitted a proposal for a premises licence for a large casino, to the Casinos Advisory Panel. Details regarding this proposal can be found at www.luton.gov.uk or are available on request from: Luton Borough Council, Regeneration, Business & Inward Investment, Town Hall, Luton. LU1 2BQ. Tel 01582 546000, e-mail erregeneration@luton.gov.uk

If the Council is enabled to grant a Premises Licence for a new style casino, it will run a 'competition' to select the operator in accordance with the Act and any regulations issued under the Act.

Betting machines: When considering whether to impose a condition to restrict the number of betting machines in particular premises, the Council will, amongst other things, take into account the size of the premises, the number

of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable persons.

Credit: The Act does not prevent the licensee from permitting the installation of cash dispensers (ATMs) on the premises. Such machines may accept credit cards (and debit cards) and the arrangement is subject to a requirement that the licensee has no other commercial connection in relation to gambling (aside from the agreement to site the machines) with the service-provider and does not profit from the arrangement, nor make any payment in connection with the machines.

(v) Bingo premises

The Gambling Commission's Guidance states:

- "Licensing authorities will be able to find information about the restrictions that apply in the codes of practice that will be published on the Commission's website"
- "Further guidance will be issued in due course about the particular issues that licensing authorities should take into account in relation to the suitability and layout of bingo premises"

Once this information is available, the Council will consider its application to premises licences for bingo premises

(vi) Betting premises

Betting machines: As stated above, when considering whether to impose a condition to restrict the number of betting machines in particular premises, the Council will, amongst other things, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable persons.

While the Council has discretion as to the number, nature and circumstances of use of betting machines, there is no evidence that such machines give rise to regulatory concerns. The Council will consider limiting the number of machines only where there is clear evidence that such machines have been or are more likely to be used in breach of the licensing objectives. Where there is such evidence, the Council may consider, when reviewing the licence, the ability of staff to monitor the use of such machines

(vii) Travelling Fairs

The Council will be responsible for deciding 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 Council will also consider whether the applicant falls within the statutory definition of a travelling fair.

The statutory maximum for land to be used as a fair is 27 days per calendar year, regardless of whether one or more travelling fairs occupy the land. The Council will work with neighbouring authorities to ensure that land which crosses authority boundaries is monitored so that the statutory limits are not exceeded.

8. PROVISIONAL STATEMENTS

A person may apply to the Council for a provisional statement in respect of premises:

- they expect to be constructed
- they expect to be altered or
- they expect to acquire a right to occupy

Such applications are dealt with in the same manner as applications for premises licences. Once the premises are constructed, altered or acquired the holder of a provisional statement may apply for the necessary premises licence. The Gambling Commission's guidance states that "It is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence" and that "Requiring the building to be complete ensures that the authority can inspect it fully."

Where the holder of a provisional statement applies for a premise licence, 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 Council 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.

The Council must not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with planning or building law."

9. REVIEWS

Responsible Authorities and Interested Parties (see definitions in Section 6) may apply to the Council for a review of a premises licence. The Council may reject an application if it thinks that the grounds on which the review is sought do not raise an issue relevant to the principles listed below; are frivolous or vexatious; will certainly not cause the Council to wish to alter/revoke/suspend the licence; are substantially the same as previous representations or requests for review. The principles referred to above are:

- in accordance with any relevant code of practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives (subject to the above) and
- in accordance with the authority's statement of licensing policy (subject to all of the above).

The Council can also initiate a review of a licence on the basis of any reason which it thinks is appropriate.

10. CONDITIONS

Conditions may be attached:

- Automatically under the Act or Regulations
- By the Council

The Council will not refuse applications for premises licences where relevant representations can be dealt with through the use of conditions. The Council will make decisions regarding conditions on a case by case basis. Conditions attached by the Council will relate only to gambling. They will be proportionate and :

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

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of control measures the Council will consider using should there be a perceived need, for example the use of door supervisors, supervision of adult gaming machines, appropriate signage for adult only areas etc. The Council will also expect applicants for licences to offer their own suggestions as to ways in which the licensing objectives can be met effectively.

NB: The Council cannot impose:

- conditions which make it impossible to comply with an operating licence condition
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions requiring membership of a club or body
- conditions in relation to stakes, fees, winnings or prizes

11. PERMITS

Statement of principles

In considering applications for the grant of permits, the Council will have regard to the Licensing Objectives. In particular, Applicants will be expected to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures/ training for staff in relation to suspected truant school children on the premises/ dealing with unsupervised very young children being on the premises, or children causing perceived problems on or around the premises.

In addition to the statutory requirements, as part of any application for a Permit the Council may seek the following in order to ensure that adequate information is provided to enable a proper assessment to be made:

- an up to date enhanced Criminal Record Bureau check;
- details of any permit granted to the applicant that has previously been refused, lapsed, surrendered or forfeited;
- details of any other permit held by the applicant in respect of other premises;
- the nature of the prizes;
- the proposed frequency of prize gaming at the premises;
- details of any training and training programme on the limits of stakes, prizes and permissible gambling relating to such permits; and
- details of any proposed precaution to secure the prevention of harm to persons under the age of eighteen and measures for implementing the same.

- An awareness of local school holiday times and how to contact the local education office should truants be identified.

The Council will accept evidence of compliance with the Codes of Practice issued by the British Amusement Catering Trade Association (BACTA) as supporting evidence that (apart from the criteria relating to criminal convictions) the applicant has met the above requirements.

Applicants must submit with their application two copies of plans of the premises, to a scale of 1:100, showing the exits/entrances to the premises, location of gaming machines, and the location of safety equipment such as fire extinguishers.

(i) . Unlicensed Family Entertainment Centre Gaming Machine Permits

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

The Gambling Commission's Guidance for local authorities states: "In their three year licensing policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits...., licensing authorities will want to give weight to child protection issues. Further guidance on the information that should be obtained from the applicant and others will be provided in the next version of this guidance." The "statement of principles" only applies to initial applications and not to renewals.

The Guidance also states: "An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application".

As unlicensed FECs will not be subject to scrutiny by the Gambling Commission the Council will ask applicants to demonstrate

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

NB: The Council may grant or refuse an application for a permit but cannot attach conditions to this type of permit.

Renewals

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

(ii) (Alcohol) Licensed premises gaming machine permits

The Act provides that premises licensed to sell alcohol for consumption on the premises, are automatically authorised to have 2 gaming machines, of categories C and/or D. The premises merely need to notify the Council. The Council can remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. they have failed to provide written notice to the Council, failed to pay a fee or have failed to comply with any relevant code of practice issued by the Gambling Commission about the location and operation of the machine)

- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises

If a premises wishes to have more than 2 machines, it must apply for a permit and the Council must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*” The Council will decide what is relevant on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy it that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. The types of measures which may satisfy the Council that there will be no access include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Applicants may also wish to consider the use of notices and signage. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application must be made and dealt with as an application for an Adult Gaming Centre or Family Entertainment Centre premises licence, as the case may be.

NB 1: The Council can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

NB 2: The holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machines.

(iii) Prize Gaming Permits

The Gambling Commission's Guidance for local authorities states: "In their three year licensing policy statement, licensing authorities should include a statement of principles that they propose to apply when exercising their functions in considering applications for permits. In particular they may wish to set out the matters they will take into account when determining the suitability of the applicant. Given that the premises will particularly appeal to children and young persons ... licensing authorities will want to give weight to child protection issues."

The Council will ask applicants to set out the types of gaming they intend to offer and will expect applicants to demonstrate that:

- they understand the limits to stakes and prizes that are set out in the Regulations and
- that the gaming offered is within the law

In making its decision on an application for this permit the Council does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

It should be noted that there are conditions in the Gambling Act 2005 which the permit holder must comply with, but that the Council cannot attach conditions. The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are

- allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
 - participation in the gaming must not entitle the player to take part in any other gambling.

(iv). Club Gaming and Club Machines Permits

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

Gambling Commission Guidance for local authorities states: "Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations."

The Guidance also makes it clear that "Before granting the permit the authority will need to satisfy itself that the premises meet the requirements of a members' club and may grant the permit if the majority of members are over 18."

The Council may only refuse an application on the grounds that:

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

It should be noted that there is a 'fast-track' procedure available for premises which hold a Club Premises Certificate under the Licensing Act 2003. As the Gambling Commission's Guidance for local authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which an authority can refuse a permit are reduced" and "The grounds on which an application under the process may be refused are:

- (a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
- (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."

See Section 18, useful information for categories of Gaming Machines

12 TEMPORARY AND OCCASIONAL USE NOTICES

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. A Temporary Use Notice may only be granted to a person or company holding a relevant operating licence.

There are a number of statutory limits as regards Temporary Use Notices. It is for the Council to decide what constitutes a 'set of premises' where Temporary Use Notices are received relating to the same building / site (see Gambling Commission's draft Guidance for Local Authorities).

Occasional Use Notices:

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

The meaning of a "Track" in the Act covers not just a horse racecourse or dog track, but also any other premises on any part of which a race or other sporting event takes place or is intended to take place.

13. EXCHANGE OF INFORMATION

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

The Council will act in accordance with the provisions of the Act in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The Council will also act in accordance with any Regulations issued under the Act and will have regard to any Guidance issued by the Gambling Commission.

14. ENFORCEMENT

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

- Proportionate: regulators should only intervene when necessary; remedies should be appropriate to the risk posed, and costs identified and minimised;
- Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
- Consistent: rules and standards must be joined up and implemented fairly;
- Transparent: regulators should be open, and keep regulations simple and user friendly; and
- Targeted: regulation should be focused on the problem, and minimise side effects

The Council will endeavour to avoid duplication with other regulatory regimes so far as possible.

The Council will, as recommended by the Gambling Commission's Guidance for local authorities, adopt a risk-based inspection programme.

The main enforcement and compliance role for the Council in terms of the Act is to ensure compliance with the Premises Licences and other permissions it authorises. The Gambling Commission will be the enforcement body for the Operator and Personal Licences and will also deal with concerns about the manufacture, supply or repair of gaming machines. The Council understands that the Gambling Commission will also be responsible for dealing with unlicensed premises.

The Council will keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

Bearing in mind the principle of transparency, the Council's enforcement/ compliance protocols/ written agreements will be available upon request from the Licensing Service (*See Section 17, Useful Contacts*). Our risk methodology will also be available upon request.

The Council has an enforcement policy that is based around the principles of targeting, consistency, transparency and proportionality as set out in the Department of Trade and Industry's Enforcement Concordat and which also takes into account the Attorney General's Guidelines to Crown Prosecutors for bringing prosecutions. The enforcement policy is available for inspection on request.

The enforcement policy proposes that a graduated response is taken where offences against licensing legislation are found or where licence conditions have been contravened. For example, an isolated administrative offence such as failing to maintain a record may be dealt with by means of a written warning. More serious offences which jeopardise public safety or where less serious offences are committed consistently over a period of time will result in the matter being referred for prosecution.

The Council will implement an inspection regime which will be dependant on the type of premises to be inspected i.e. well managed and maintained premises will not require the same number of inspections as problem and high risk premises.

The Council will continue to seek to work actively with the Police in enforcing licensing legislation. The Police and the Council will continue to share information about licensees and licensed premises under the Crime and Disorder Act 1998 and common law powers. It is anticipated that the Police will consult closely with the Council when enforcement action may be required. A joint enforcement protocol is being developed between the

Bedfordshire licensing authorities, environmental health authorities, and Bedfordshire Constabulary, and Bedfordshire and Luton Fire & Rescue Service, Luton.

15. APPLICATION PROCESS

Luton Borough Council will accept applications for Premises Licences, on the statutory prescribed application form and accompanied by the prescribed fee and supporting documentation.

Applications will be considered in accordance with the delegation of functions table set out in Section 16. It is considered that many of the licensing functions will be largely administrative and where there are no areas of contention, the responsibility for processing any such application shall be delegated to officers.

16. ADMINISTRATION, EXERCISE AND DELEGATION OF FUNCTIONS

Decisions under the Act will be made by the Council's Licensing Committee, which consists of 15 councillors. The Licensing Committee has delegated its functions to a Licensing Sub-committee consisting of 3 councillors or to an officer. The licensing authority intends to delegate functions under the Gambling Act in the following way in the interests of speed, efficiency and cost-effectiveness.

Matter to be dealt with	Full Council	Sub-Committee of Licensing Committee	Officer
Three Year Licensing Policy	X		
Fee setting (when appropriate)	X		
Application for Premises Licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Gambling Commission	Where no representations have been received from the Gambling Commission
Application for a provisional Statement		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence		X	
Application for a club gaming/ club machine permits		Where objections have been made (and not withdrawn)	Where no objections received/ objections have been withdrawn

Cancellation of club gaming/ club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

Ward councillors will not sit on a sub-committee involving an application within their ward. Where a councillor who is also a member of the licensing committee or sub-committee is making or has made representations on behalf of an interested party or has a direct involvement in the affairs of an application, in the interests of good governance they will disqualify themselves from any involvement in the decision-making process affecting the premises licence. Councillors' conduct is governed by the Code of Conduct for Members set out in the Council's Constitution. This sets out personal and prejudicial interests which a councillor must disclose and the effect of these interests on their ability to vote on a matter. Members of the licensing committee and sub-committee are bound by this Code.

Every determination of a licensing decision by the licensing committee or a licensing sub-committee shall be accompanied with clear, cogent reasons for the decision. A copy of the decision, including the reasons will be available for public inspection and will be kept as part of the statutory licensing register. The Council endeavours to ensure that good practise is maintained in the execution of its Licensing Committee. It also wishes to ensure that applicants and objectors have a fair hearing. The process of determining licensing applications is broadly administrative in nature. In the absence of specific regulations under the Act, the licensing committee will set its own procedure which will comply with the rules of natural justice and the Human Rights Act 1998.

17. USEFUL CONTACTS

Licensing Unit

Licensing Manager,
Luton Borough Council,
Town Hall, Luton LU1 2BQ
Tel: 01582 546040
Email: lbcercensing@luton.gov.uk
Website: www.luton.gov.uk

Department for Media, Culture and Sport

2-4 Cockspur Street, London SW1Y 5DH
Tel: 020 7211 6200
Email: enquiries@culture.gov.uk
Website: www.culture.gov.uk

Gambling Commission

Victoria Square House
Victoria Square
Birmingham
B2 4BP
0121 230 6500

Email: Info@gamblingcommission.gov.uk
Website: www.gamblingcommission.gov.uk

A copy of the Gambling Act 2005 is available from www.opsi.gov.uk

18. Useful Information

Gaming Machines – Categories

<u>Category of Machine</u>	<u>Maximum Stake</u>	<u>Maximum Prize</u>
A	Unlimited	Unlimited
B1	£2	£4000
B2	£100	£500
B3	£1	£500
B4	£1	£250
C	50p	£25
D	10p or 30p when non-monetary prize	£5 or £8 non-monetary prize

There is a minimum age of 18 yrs for all players for category A, B and C Machines. There is no minimum age for players of category D machines