

# South Cambridgeshire District Council

Gambling Act 2005

Gambling Policy Guidance – 2016 – 2019

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Explanatory Note – The Gambling Act 2005 came into force from 1 September 2007. With the exception of the National Lottery and Spread betting, the Gambling Commission regulates gambling and betting. Local Authorities have a duty under the Act to licence premises where gambling takes place and to licence certain other activities such as small lotteries and gaming machines. **Summary of Some Terms Under the Gambling Act 2005** This guidance document is to be read in conjunction with and as support to the Licensing Statement of Principles.

## Summary of some terms under the Gambling Act 2005

The following document is not part of the policy and is guidance only that will be amended to reflect any changes either by this Licensing Authority, The Gambling Commission, Central Government, Case Law or similar matters that may affect the meaning or interpretation of the Gambling Act 2005.

Below are a list of definitions that are defined nationally, but they are included in the Gambling Act Licensing Policy and guidance to assist the reader.

**Casinos** are defined by the Act to mean a game of chance, which is not equal chance gaming. Equal chance gaming is gaming which does not involve playing or staking against a bank, and where the chances are equally favourable to all participants.

**Bingo** has no statutory definition. It is to have its ordinary and natural meaning. Under the previous legislation, two types of bingo could be offered:

- Cash bingo, where the stakes paid make up the cash prizes that were won; or
- Prize bingo, where various forms of prizes are won, not directly related to the stakes paid.

Under the 2005 Act, the distinction between these two versions of the game has been abolished for commercial operators, and the holder of a bingo operating licence is able to offer any type of bingo game, whether cash or prize. That means that premises with a bingo premises licence, or a casino premises licence (where the operator holds a bingo as well as a casino operating licence), are able to offer bingo in all its forms.

Apart from commercial bingo halls, prize bingo is traditionally a game played in arcades, especially seaside amusement arcades, or travelling funfairs. For these operators, prize bingo is now subsumed within the allowances for prize gaming in the Act. This means that adult gaming centres, both licensed and unlicensed family entertainment centres, and travelling fairs (or any premises with a prize gaming permit) are able to offer prize gaming, which includes prize bingo.

In this form of gaming, the nature of the prize must not be determined by reference to the number of people playing the game, and the nature or size of the prize must not be determined by reference to the amount paid for or raised by the gaming.

**Gaming Machine** is defined as a machine, which is designed or adapted for use by individuals to gamble (whether or not it can also be used for other purposes).

Most gaming machines are of the reel-based type, also known as fruit, slot or jackpot machines. According to the last major prevalence study, fourteen percent of people said they had played fruit machines in the past year.

Under the Gambling Act 2005, gaming machines fall into categories depending on limits on the stake laid down and prizes available.

Table of categories

Machine category	Maximum stake	Maximum prize
<b>A</b>	Unlimited	Unlimited
<b>B1</b>	£5	£10
<b>B2</b>	£100 (in multiples of £10)	£500
<b>B3</b>	£2	£500
<b>B3A</b>	£1	£500
<b>B4</b>	£1	£250
<b>C</b>	£1	£100
<b>D</b> combined money and non-money prize (coin pusher and penny falls machines)	30p	£8
<b>D</b> money prize	10p	£5
<b>D</b> Combined money and nonmoney prize (other than coin pusher or penny fall machines)	10p	£8 of which no more than £5 may be taken as prizes
<b>D</b> non-money prize (crane grab machines)	£1	£50
<b>D*</b> Non-money prize (other than crane grab machines)	20p	£20 (of which no more than £10 may be a money prize)

**Family Entertainment Centres (FEC)** are premises, which are wholly or mainly used for making gaming machines available for use (such as small arcades in holiday parks, theme parks and seaside resorts) may hold a FEC Gaming Machine Permit. A permit allows any number of Category D machines, these are the lowest category of gaming machines available, and the only type that children and young people are allowed to play.

## Part A

### 1. 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 has stated: “The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”.

In preparing this statement of licensing principles and guidance we have consulted with:-

- Gambling Commission
- Cambridgeshire police service
- Social Services
- Gamcare and local community organisations that are known to SCDC as working with gamblers
- Parish Councils
- Faith and belief Groups
- Citizens’ Advice Bureau
- Primary Care Trust
- Trade associations including; Ladbrokes, William Hills, Coral, Gala, Independent bookmakers within SCDC area and other trade representatives as may become apparent in due course.

It should be noted that this policy or any associated guidance will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

## **Responsible Authorities**

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

- Licensing Authority
- The Gambling Commission
- The Chief of Police for Cambridgeshire
- The Cambridgeshire Fire and Rescue Authority
- South Cambridgeshire Planning Authority
- South Cambridgeshire Health and Environmental Services
- County Council Children's Services (Safeguarding and Standards Unit)
- HM Revenue and Customs
- Any other person prescribed in regulations to be prescribed by the Secretary of State.

## **Interested Parties**

Section 158 of the Act defines interested parties. To accept a representation from an interested party, the licensing authority must take the view that the person:

- (a) lives sufficiently close to the premises to be likely to be affected by the authorised activities
- (b) has business interests that might be affected by the authorised activities (c) represents persons in either of these two groups.

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

If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the licensing section at South Cambridgeshire District Council, Cambourne Business Park, Cambourne, Cambridgeshire CB23 6EA.

The following gives further advice on how licensing authorities determine whether someone is an interested party.

**People living close to the premises** Licensing Authorities may take into account the following when determining what “**sufficiently close to the premises**” means (in each case);

- Size of premises
- Nature of the premises
- The distance of the premises from the location of the person making the representation
- The potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment); and
- The nature of the complainant. This is not the personal characteristics of the complainant but the interests of the complainant, which may be relevant to the distance from the premises. For example, it could be reasonable for an authority to conclude that “**sufficiently close to be likely to be affected**” could have a different meaning for (a) a private resident (b) a residential school for children with truanting problems and (c) residential hostel for vulnerable adults.

#### **Nature and scope of business interests that could be affected**

It could be argued that any gambling business could be affected by another gambling business expanding into any part of Great Britain. But that is unlikely to be enough to satisfy the test of being “**a person with business interests that might be affected by the premises under consideration.**” For example, an operator in a particular sector (be it casino, bingo, betting, etc) should not be able to lodge representations on every application put by a rival operator anywhere in the country, simply because they are in competition within the same gambling sector. The licensing authority should be satisfied that the relevant business is likely to be affected. In this respect, licensing authorities may bear in mind that the ‘demand test’ from the 1963 and 1968 Acts is not continued in the 2005 Act.

Factors that are likely to be relevant include:

- The size of the premises
- The ‘catchments’ area of the premises (that is, how far people travel to visit the premises)
- Whether the person making the representation has business interest in that catchment area that might be affected.

## **People representing those in the above categories**

Examples of people that may fall within the categories above include:

- Democratically elected representatives such as local councillors and MPs
- Bodies such as trade associations
- trade unions
- residents' and tenants' associations

Circumstances may arise where the authority needs to satisfy itself in a case by case basis and possibly request written evidence that a person does represent interested parties. For example, a school head or governor might act in representing the interests of pupils or parents and a community group might represent vulnerable people living near to the proposed premises.

Licensing authorities may have regard to anything an interested party says about their status to make representations.

## **Enforcement**

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

This licensing authority also keeps 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, this licensing authority's enforcement schedule is available upon request to the licensing department at South Cambridgeshire District Council, South Cambridgeshire Hall, Cambourne Business Park, Cambourne, Cambridge, CB23 6EA or via our website [www.scambs.gov.uk](http://www.scambs.gov.uk). At present there is no schedule on risk -based inspections in relation to gambling premise. If such a policy is developed this will be made available on [www.scambs.gov.uk](http://www.scambs.gov.uk).

## **Hearings**

In dealing with applications members of the Licensing Committee will act in accordance with South Cambridgeshire District council's constitution but in particular in making decisions on applications, Members of the Committee will;

- Act fairly and openly approach each application with an open mind
- Carefully weigh up all the material considerations

- Avoid undue contact with interested parties
- Ensure that reasons for decisions are clearly stated.

All hearings in respect of the Gambling Act 2005 will be heard by a Licensing Act 2003 Committee or a sub-committee, where there is a conflict of interest for a member or members, if the interest is prejudicial then this Authority will follow the guidelines laid out in the Procedural Guidance for members and officers in Planning and Licensing – supplemental to the Code of Conduct Guidance adopted by the Council on 25 April 2002, Section 51 of the Local Government Act 2000.

It should be noted that licensing authorities are not to be involved in licensing remote gambling at all, which is regulated by the Gambling Commission via operating licences.

### Delegation Table

Matter to be dealt with	Full Council	Licensing Committee or Licensing Sub-Committee	Officers
Final approval of three year licensing policy	X	-	-
Policy not to permit casinos	X	-	-
Fee setting (when appropriate)	-	Portfolio Holder	-
Application for premises licence	-	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 licence	-	Where representations have been received from the Commission or a Responsible Authority	Where no representations received from the Commission or a Responsible Authority

Matter to be dealt with	Full Council	Licensing Committee or Licensing Sub-Committee	Officers
Application for a provision statement	-	Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Review of Premises Licence	-	X	-
Application for club gaming / club machine permits	-	Where objections have been made (and not withdrawn)	Where no objections made / objections have been withdrawn
Cancellation of club gaming / club machine permits	-	X	-
Applications for other permits	-	-	X
Cancellation of licensed premises gaming machine permits	-	-	X
Consideration of temporary use notice	-	-	X
Decision to give a counter notice to a temporary use notice	-	X	-

## Part B – Premises Licences: Consideration of Applications

### 1. General Principles

Premises licences are subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

**(ii) Definition of “premises”** – In the Act, “premises” is defined as including “any place”. Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

The Gambling Commission states in the third edition of its Guidance to Licensing Authorities that:

“In most cases the expectation is that a single building / plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises.”

This licensing authority takes particular note of the Gambling Commission’s Guidance to Licensing Authorities which states that: licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be

configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.

- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not “drift” into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers should be able to participate in the activity named on the premises licence.

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

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

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

## 2. Local Risk Assessments (April 2016 onwards)

From 6 April 2016 premises licence holders must conduct a local risk assessment for each of their current premises. This applies to:

- adult gaming centres
- family entertainment centres
- non-remote betting
- non-remote bingo
- non-remote casinos
- remote betting intermediary (trading room only).

You will also be required to conduct or update a risk assessment when:

- applying for a new premises licence
- applying for a variation to a premises licence
- changes in the local environment or your own premises warrant a risk assessment to be conducted again.

We expect your risk assessment to be structured in a manner that offers sufficient assurance that a premises has suitable controls and procedures in place. These controls should reflect the level of risk within your particular area, which will be determined by local circumstances.

Your risk assessment should take into account the risks presented by the local landscape, such as the premises' exposure to particular vulnerable groups. This authority will challenge an operator's risk assessment where it can be evidenced that there are local risks that the operator has failed to take into consideration.

The aim of this requirement is to enable this authority to engage in constructive dialogue at an early stage, reducing the likelihood of costly enforcement action at a later date.

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

Government Guidance : (GLA September 2012 part 7)

### 3. Casinos

- The principal access entrance to the premises must be from a street (as defined at 7.23 of the Guidance)
- No entrance to a casino must be from premises that are used wholly or mainly by children and / or young persons
- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence

### 4. Adult Gaming Centre

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

### 5. Betting Premises

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

## 6. Tracks

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

## 7. Bingo Premises

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

## 8. (licensed)Family Entertainment Centre

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

Part 7 of the Gambling Commission's Guidance to Licensing Authorities contains further guidance on this issue, which this authority will also take into account in its decision-making. **(iii) Premises "ready for gambling"**

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

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

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

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

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

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

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

**(v) Planning:**

The Gambling Commission Guidance to Licensing Authorities states:

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

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

**7.66** – “When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence. Section 210 of the 2005 Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.”

## 9. Conditions

It is noted that there are conditions, which the licensing authority cannot attach to premises licences, which are:

- any condition on the premises licence, which makes it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated; and
- conditions in relation to stakes, fees, winning or prizes.

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

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

## 10. Adult Gaming Centres

This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.

This licensing authority may consider measures to meet the licensing objectives such as:

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

- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.

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

#### 11. (Licensed) Family Entertainment Centres:

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

This licensing authority may consider measures to meet the licensing objectives such as:

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

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

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

#### 12. Bingo Premises

A holder of bingo premises licences may make available for use a number of category B machines not exceeding 20% of the total number of gaming machines which are available for use on the premises.

Government guidance states:-

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

### 13. Tracks

The Act does not give a list of premises that are officially recognised as “tracks” but there are a number of venues where sporting events do or could take place, and accordingly could accommodate the provision of betting facilities. Examples of tracks include

- A horse racecourse
- A greyhound track
- A point to point horserace meeting
- Football, cricket and rugby grounds
- An athletics stadium
- A golf course
- Venues hosting darts, bowls or snooker tournaments
- A premises staging boxing matches
- A section of river hosting a fishing competition
- A motor racing event.

This list is by no means exhaustive as in theory, betting could take place at any venue where a sporting or competitive event is occurring.

As guidance in respect of protection of children this licensing authority may consider measures to meet the licensing objectives such as:

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

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

### 14. Applications and plans

The Gambling Act (s51) requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be

used for the licensing authority to plan future premises inspection activity. (See Guidance to Licensing Authorities, paragraph 20.28).

Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations. (See Guidance to Licensing Authorities, paragraph 20.29).

Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises (See Guidance to Licensing Authorities, paragraph 20.31).

In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined. (See Guidance to Licensing Authorities, paragraph 20.32).

This authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the “**five times rule**” (commonly known as betting rings) must be indicated on the plan. (See Guidance to Licensing Authorities, paragraph 20.33).

## 15. Travelling Fairs

South Cambridgeshire District Council is 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 licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

It is noted that the 27-day statutory maximum for the land being used as a fair applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land, which crosses our boundaries, is monitored so that the statutory limits are not exceeded.

## 16. Provisional Statements

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

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

In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

## 17. Reviews:

Interested parties or responsible authorities can make requests for a review of a premises licence; however, it is for the licensing authority to decide whether the review is to be carried out. Any request for a review will also be subject to the consideration by the authority as to whether the request is frivolous, vexatious, or whether it will certainly not cause this authority to wish to alter / revoke / suspend the licence, or whether it is substantially the same as previous representations or requests for review.

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

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

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

## Part C – Permits / Temporary & Occasional Use Notice

### 1. Unlicensed Family Entertainment Centre gaming machine permits

#### **(Policy on Permits – Schedule 10 paragraph 7)**

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

The Gambling Act 2005 states that a licensing authority may prepare a policy that they propose to consider in determining the suitability of an applicant for a permit and in preparing this policy, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25. The Gambling Commission's Guidance to Licensing Authorities also states:

"In their three year licensing policy, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits, licensing authorities will want to give weight to child protection issues." (24.6)

Guidance also states:

"...An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application. Licensing authorities might wish to consider asking applications to demonstrate:

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

It should be noted that a licensing authority cannot attach conditions to this type of permit.

#### **Child Protection considerations**

The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises

## 2. (Alcohol) Licensed premises gaming machine permits

### **(Schedule 13 paragraph 4(1)) Automatic entitlement: 2 machines**

This Authority notes that there is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of categories C and / or D. The premises merely need to notify the licensing authority.

The licensing authority can remove the automatic authorisation in respect of any particular premises if:

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

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

Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

It is recognised that some alcohol-licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.

## 3. Prize Gaming Permits

The Gambling Act 2005 states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority proposes to consider in determining the suitability of the applicant for a permit”.

In making its decision on an application for this permit the licensing authority does not need to (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance. (Gambling Act 2005, Schedule 14 paragraph 8(3)).

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

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

#### 4. Club Gaming and Club Machines Permits

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

Gambling Commission Guidance states: "Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming unless the gaming is permitted by separate regulations. The Secretary of State has made regulation and these cover bridge and whist clubs, which replicates 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."

There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines

#### 5. Temporary Use Notices

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

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

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

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