



**SEFTON METROPOLITAN BOROUGH COUNCIL**

**GAMBLING ACT 2005**

**STATEMENT OF GAMBLING LICENSING POLICY**

**Version 2**

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## **ANNEXES**

The following annexes do not form part of the approved Statement of Gambling Licensing Policy but are included to assist applicants in meeting the requirements of the licensing process.

Annex 1 - Map of Sefton

Annex 2 - Responsible Authorities

Annex 3 - Gaming Machine Definition Tables

## **1.0 GENERAL STATEMENT**

- 1.1 Sefton Metropolitan Borough Council (the Council) is the Licensing Authority (the Authority), under the Gambling Act 2005 (the Act), responsible for granting Premises Licences, issuing certain Permits and Provisional Statements, receiving and endorsing Temporary Use Notices, receiving Occasional Use Notices and registering Small Lotteries under the Act.
- 1.2 Section 349 of the Act requires that all Licensing Authorities prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act during the period to which the policy applies.
- 1.3 The three licensing objectives which guide the way that the Licensing Authorities perform their functions and the way that gambling businesses carry on their activities, 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; and
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling.

See Section 3.0 for more information.

- 1.4 In producing this policy statement, the Authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the guidance to Licensing Authorities issued by the Gambling Commission, and any responses from those consulted on the statement.
- 1.5 The Act requires that the following parties are consulted by Licensing Authorities:
- The Chief Officer of Police
  - One or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area
  - One or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's functions under the Act

- 1.6 The list of the persons consulted by this Authority is as below:

Merseyside Police; the Gambling Commission; local fire and rescue authority; Sefton Council Planning; Sefton Council Environmental Health & Licensing Section; Sefton Council Safeguarding Children's Unit; and HM Revenue and Customs; The Betting and Gaming Council; British Amusement Catering Trade Association (BACTA); The Bingo Association; National Association of Bookmakers; Association of British Bookmakers Ltd (ABB); Hospice Lotteries Association; The Lotteries Council; The British Association of Leisure Parks; Piers and Attractions Limited (BALPPA); The Racecourse Association Limited; The British Beer and Pub Association; Gamcare; Liverpool & Sefton Chamber of Commerce; the Southport BID; all Borough Councillors; all Sefton Members of Parliament; and all Parish Council Clerks.

Residents' comments were also invited by:

- i) Publishing the draft revision, a consultation response proforma and general information on the Sefton Council Website ([www.sefton.gov.uk](http://www.sefton.gov.uk)) and via Sefton Council's Online Consultation Hub (<https://yourseftonyoursay.sefton.gov.uk/>);
- ii) News items placed on the various Sefton Council social media pages;
- iii) Placing copies of the draft Policy in local libraries; and,
- iv) Through press releases to all local press agencies.

- 1.7 This policy statement sets out the general approach to the making of licensing decisions. It does not prevent any individual from making any application, under the terms of the Act, and having that application considered on its individual merits. Nor does it override the right of any person to make representations on an application nor to seek a review of a licence where the Act allows them to do so.
- 1.8 Unmet demand is not a criterion for a licensing authority in considering an application for a Premises Licence under the Act. As a result each application will be considered on its merits without regard to demand.
- 1.9 This policy statement will be subject to a periodic review every three years. Between those periodic reviews it may also be subject to ongoing reviews, particularly where feedback indicates that the Licensing Objectives are not being met.

### Sefton

- 1.10 Sefton is one of the six Metropolitan Boroughs that make up Merseyside. It lies in the northern part of the Liverpool City Region with which it shares close economic, social, cultural and transport links and stretches 22 miles north from Bootle to Southport. It also has important links to Preston and West Lancashire. Sefton adjoins the City of Liverpool to the south, the borough of Knowsley to the south-east, and the largely rural West Lancashire elsewhere. The location of Sefton is shown by the map provided at Annex 1.
- 1.11 Sefton is an area of great contrasts with beautiful coastlines, rural landscapes and industrial/commercial areas; working docklands, commuter towns and a busy seaside resort; areas of great affluence but also some of the most deprived communities in England and Wales. Sefton has a number of famous features that help make it distinctive. These include the resort of Southport, an outstanding natural coast, the home of the Grand National at Aintree, England's 'golf coast' including Royal Birkdale, and Antony Gormley's 'Iron Men' sculptures on Crosby beach with most of the Port of Liverpool being situated in the south of the Borough.
- 1.12 Sefton has a resident population of 274,853 (2016 census) and has a high proportion of retired people, widowed people and long term unemployed when compared with the rest of England and Wales.
- 1.13 The main centres of population are the urban and suburban areas of Bootle, Crosby, Maghull, Formby and Southport.

- Bootle is an area of mainly Victorian terraced properties, with busy working docklands and a mixture of retail and office developments at its centre. In recent years, much of the area was designated as part of the Merseyside ‘Housing Market Renewal Area’. The initiative has begun to change the housing quality, type and tenure available, mainly through demolition of low-demand homes and clearance of low grade or vacant industrial sites and rebuilding of new homes.
- Southport at the north of the Borough has a traditional, quality image, borne out of its Victorian and Edwardian architectural and landscape grandeur. This heritage has led to Southport being described as a ‘classic resort’. This, coupled with family attractions and recent growth in ‘eco-tourism’, has enabled it to endure changing holiday patterns. There has been significant investment in the town centre and Seafront in recent years, but both its leisure and retail areas continue to need to be revitalised. Southport Business Improvement District, the Council, Merseyside Police, Pubwatch, Light for Life and Street Pastors have been successful in applying for Purple Flag status.
- Formby, Crosby and Maghull are largely residential with a smaller number of commercial premises, there are therefore relatively few employment areas here. These are however distinctive settlements in their own right, and all function as commuter settlements for the Liverpool City Region.

1.14 The Local Plan for Sefton will allow development in town centre areas as long as it does not cause significant harm to amenity, would not result in grouping of similar uses which would harm the character of the area or harm residential amenity. Planners may use conditions to restrict opening hours.

## 2.0 SCOPE

2.1 Licensing authorities are required to undertake various regulatory functions in relation to a number of gambling activities. They are required to:

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

- Receive *Occasional Use Notices*.
- Provide information to the Gambling Commission regarding details of licences issued (see Section 7.0 regarding 'information protocols').
- Maintain registers of the permits and licences that are issued under these functions.

2.2 It should be noted that local licensing authorities are not involved in licensing remote gambling at all. This falls to the Commission via Operating Licences.

#### Premises Licence

2.3 A Premises Licence is required for any premises where it is intended to provide gambling facilities.

2.4 The types of Licence available are as follows:

- Casino Premises Licence
- Bingo Premises Licence
- Adult Gaming Centre Premises Licence (enabling the provision of category B3, B4, C and D machines)
- Family Entertainment Centre Premises Licence (enabling the provision of category C and D machines)
- Betting Premises Licence (enabling the provision of facilities for betting, by making or accepting bets or by acting as a betting intermediary)

2.5 An application for a Premises Licence may only be made by persons (which includes companies or partnerships):

- Who have the right to occupy the premises;
- Who have an Operating Licence which allows him/her to carry out the proposed activity, or have applied for an Operating Licence (except in the circumstances outlined in Paragraph 2.9, the Premises Licence may only be issued once the Operating Licence has been issued by the Commission); and

2.6 An applicant for a Premises Licence must be over the age of 18.

2.7 The Authority is aware that, as per Section 153, in making decisions about Premises Licences it should aim to permit the use of premises for gambling in so far as it thinks it is:

- In accordance with any relevant code of practice issued by the Gambling Commission;
- In accordance with any relevant guidance issued by the Gambling Commission;
- Reasonably consistent with the licensing objectives; and
- In accordance with the licensing authority's statement of policy.

2.8 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, in effect 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. The Authority will therefore seek to avoid any duplication with other statutory / regulatory systems where possible, including planning. The Authority will not consider whether a licence application is likely to be awarded planning or building consent, in its consideration of it. However, the Authority will listen to, and consider carefully, any concerns about conditions that can not be met by Licence Holders due to planning restrictions, should such a situation arise.

- 2.9 Except in the case of Tracks (where the occupier may not be the person offering gambling), Premises Licences will only be issued to people with the relevant Operating Licences issued by the Commission.

### **Definition of “premises”**

- 2.10 Premises is defined in the Act as “any place”. Different Premises Licences cannot apply in respect of a single premises at different times. However, it is possible for a single building to be subject to more than one Premises Licence, provided they are for different parts of the building and the different parts can be reasonably regarded as being different premises. Whether different parts of a building can be properly regarded as being separate premises will always be a question of fact in the circumstances. However, the Commission does not consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.
- 2.11 The Authority takes particular note of the Gambling Commission’s Guidance with regard to applications for multiple licences for a building, or those for a specific part of the building to be licensed. The Guidance indicates that the premises should be configured so that children are prohibited from participating in gambling, such that they are not invited to participate in, have accidental access to, or can closely observe gambling. Additionally 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.
- 2.12 When considering applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed), the Authority will consider, as per the Guidance, whether taken as a whole, the co-location of the licensed premises with other facilities may have the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act.

### **Location**

- 2.13 Demand issues cannot be considered with regard to the location of premises but considerations in terms of the licensing objectives can (see Section 3.0). The 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. For example, the Authority would have regard to the proximity of the premises to schools,

vulnerable adult centres or residential areas where there may be a high concentration of families and children.

### **Premises “ready for gambling”**

- 2.14 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.
- 2.15 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.
- 2.16 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:
- Firstly, whether the premises ought to be permitted to be used for gambling; and
  - Secondly, 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.
- 2.17 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.

### **Betting tracks**

- 2.18 Tracks are different from other premises in that they may be subject to one or more Premises Licences, provided that each Licence relates to a specified area of the track.
- 2.19 The Authority will have particular regard to the protection of children and vulnerable persons from being harmed or exploited by gambling and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 2.20 The Authority would expect Premises Licence applicants to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. Children and young persons will be permitted to enter track areas on days when dog-racing and/or horse racing takes place, including areas where facilities for betting are provided, however, they must be prevented from entering areas where gaming machines (other than category D machines – see Annex 3 for Gaming Machine definitions) are provided.
- 2.21 The Authority notes that the Commission considers that it is disproportionate and unnecessary to insist that betting rules are displayed at each distinct betting location and that the rules should be made available at suitable central locations. We further note that the Commission indicates that the track premises licence holder should make the necessary arrangements to ensure that betting rules are accessible to all customers, regardless of which area of the track they are in.



2.22 It is sometimes difficult to define the precise location of betting areas on tracks and the Authority notes that 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.

### **Bingo premises**

2.23 It is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than category D machines. Where category C machines, or above, are available in the premises to which children are admitted, applicants will ensure that:

- All such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- Only adults are admitted to this area where the machines are located;
- Access to the area where the machines are located is supervised;
- The area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder, and
- At the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

2.24 Appropriate licence conditions, covering the above issues, may be imposed by the Authority.

2.25 In imposing any additional licence conditions the Authority will consider any Guidance issued by the Commission relating to the suitability and layout of bingo premises.

2.26 Further information on this type of Licence can be found on the Sefton Council website at [www.sefton.gov.uk](http://www.sefton.gov.uk).

### **Self Service Betting Terminals**

2.27 The Authority will take into account the size of the premises, the number of counter positions available for person-to-person transactions, and (as per the Commission's Guidance) the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of Self Service Betting Terminals an operator wants to offer.

### Permits

2.28 Permits are required when premises provide a gambling facility but either the stakes and/or prizes are very low or gambling is not the main function of the premises. The permits regulate gambling and the use of gaming machines in a specific premises.

2.29 The types of Permit available are as follows:

- Family Entertainment Centre Gaming Machine Permit
- Club Gaming Permit
- Club Machine Permit
- Licensed Premises Gaming Machine Permit
- Prize Gaming Permit

### **Family Entertainment Centre Gaming Machine Permit**

- 2.30 The Act states that a licensing authority may prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit, and/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 Commission's Guidance indicates that in its policy statement a licensing authority may include a statement of principles that it proposes to apply when exercising its functions in considering applications for these type of permits.
- 2.31 The principles that this Authority intends to adopt will require the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations.
- 2.32 The efficiency of such policies and procedures will each be considered on their merits, however, they may include:
- CRB checks for staff
  - 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
  - Children causing perceived problems on / around the premises.
- 2.33 In addition to the above, the Authority will also expect, as per Commission Guidance, that:
- Applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
  - The applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and
  - Staff are trained to have a full understanding of the maximum stakes and prizes.

### **Club Gaming and Club Machine Permits**

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

- 2.35 The Act states that 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 restricted to bridge and whist. A members’ club must be permanent in nature, not be established to make commercial profit and be controlled by its members equally; there is no need for a club to have an alcohol licence. Examples include working men’s clubs, branches of Royal British Legion and clubs with political affiliations.
- 2.36 The Commission Guidance states that licensing authorities may only refuse an application on the grounds that:
- a) the applicant does not fulfil the requirements for a members’ or commercial club or miners’ welfare institute and therefore is not entitled to receive the type of permit for which it has applied
  - b) the applicant’s premises are used wholly or mainly by children and/or young persons
  - c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities
  - d) a permit held by the applicant has been cancelled in the previous ten years
  - e) an objection has been lodged by the Commission or the police.
- 2.37 There is also a ‘fast-track’ procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). 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 the Authority can refuse a permit are reduced; those grounds being:
- (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.
- 2.38 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.

### **Licensed Premises Gaming Machine Permit**

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

(for example, the gaming machines have been made available in a way that does not comply with requirements on the location and operation of gaming machines);

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

2.41 Should a premises wish to have more than two machines, then it will need to apply for a Licensed Premises Gaming Machine Permit and the Authority will need to consider that application based upon the licensing objectives, any guidance issued by the Commission, and “any other matters that are considered relevant to the application”. This Authority considers that “any other matters” will be decided upon on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm and we will expect the applicant to satisfy that there will be sufficient measures in place to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the Authority may include that the adult only gaming machines will be within sight of the bar (or within the sight of staff who will monitor that the machines are not being used by those under 18). As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare or indeed training for staff under the GamCare Certification scheme (details available via [www.gamcare.org.uk](http://www.gamcare.org.uk)).

### **Prize Gaming Permit**

2.42 The Act states that a Licensing Authority may prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit.

2.43 This Authority has prepared a Statement of Principles, which is that the applicant should set out the types of gaming that s/he is intending to offer and that the applicant should be able to demonstrate:

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

2.44 In making its decision on an application for this Permit the Authority does not need to have regard to the licensing objectives but must have regard to any Commission Guidance.

2.45 It should be noted that there are conditions in the Act by which the Permit holder must comply, but that the 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

### **Travelling fairs**

- 2.46 Where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the Authority will need to determine whether the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 2.47 The Authority will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 2.48 The 27-day statutory maximum for the land being used as a fair is per calendar year, and 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. The Authority will work with its neighbouring authorities to ensure that land that crosses our boundaries is monitored so that the statutory limits are not exceeded.
- 2.49 Further information on Permits can be found on the Sefton Council website at [www.sefton.gov.uk](http://www.sefton.gov.uk).

### **Provisional Statements**

- 2.50 Section 204 of the Act provides for a person to make an application to the Authority for a Provisional Statement in respect of premises that s/he:
- Expects to be constructed;
  - Expects to be altered; or
  - Expects to acquire a right to occupy.
- 2.51 Developers may wish to apply for Provisional Statements before they enter into a contract to buy or lease property or land to judge whether or not a development is worth taking forward in light of the need to obtain a Premises Licence. It is also possible for an application for a Provisional Statement to be made for premises that already have a Premises Licence (either for a different type of gambling or for the same type).
- 2.52 Applicants for Premises Licences must fulfill certain criteria (see Para 2.5). These restrictions do not apply in relation to an application for a Provisional Statement.
- 2.53 Further information on Provisional Statements can be found on the Sefton Council website at [www.sefton.gov.uk](http://www.sefton.gov.uk).

### **Temporary Use Notices**

- 2.54 These 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 (TUN) would include hotels, conference centres, and sporting venues. A TUN may only be granted to a person or company holding a relevant Operating Licence (for example, the holder of a Betting Operating Licence could apply to provide betting facilities at a snooker tournament).

- 2.55 Regulations state that the only activities permitted under a TUN are the provision of facilities for any form of equal chance gaming where those participating in the gaming are taking part in a competition which is intended to produce a single, overall winner (this does not include providing such facilities in circumstances where any person participating in the gaming does so by means of a gaming machine).
- 2.56 The same set of premises may not be the subject of a TUN for more than 21 days in any 12-month period, but may be the subject of several Notices provided that the total does not exceed 21 days.
- 2.57 Further information on TUNs can be found on the Sefton Council website at [www.sefton.gov.uk](http://www.sefton.gov.uk).

#### Occasional Use Notices

- 2.58 The Authority has very little discretion as regards these Notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. However, the Authority will need to consider the definition of a ‘track’ and whether the applicant is permitted to avail him/herself of the Notice. Provided that the Notice will not result in betting facilities being available for more than eight days in a calendar year, there is no provision for counter-notices or objections to be submitted.
- 2.59 Further information on Occasional Use Notices can be found on the Sefton Council website at [www.sefton.gov.uk](http://www.sefton.gov.uk).

#### Small Lotteries

- 2.60 These are lotteries operated by non-commercial societies, as defined in Section 19, which states that a society is non-commercial if it is established and conducted:
- For charitable purposes;
  - For the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity; or
  - For any other non-commercial purpose other than private gain.
- 2.61 If the lottery has proceeds which exceed £20,000 for a single draw or aggregated proceeds that exceed £250,000 in a calendar year then they must be licensed with the Commission.
- 2.62 The promoting society of a small society lottery must, throughout the period during which the lottery is promoted, be registered with a licensing authority. The licensing authority with which a small society lottery is required to register must be in the area where their principal office is located. If the Authority believes that a society’s principal office is situated in another area, it will inform the society and the other relevant authority as soon as possible.
- 2.63 Further information on Small Lotteries can be found on the Sefton Council website at [www.sefton.gov.uk](http://www.sefton.gov.uk).

### **3.0 GAMBLING LICENSING OBJECTIVES**

3.1 In carrying out its licensing functions the Authority will be guided by the Gambling Licensing Objectives which 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; and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

3.2 The Authority, in exercising its functions under the Act, shall also have regard to the Guidance issued by the Commission.

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

3.3 The Authority is aware that the Commission will be taking a leading role in preventing gambling from being a source of crime and that it will maintain rigorous licensing procedures that aim to prevent criminals from providing facilities for gambling. The Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Therefore, if an area has known high levels of organised crime then the Authority will consider whether or not gambling premises are suitable for that location and whether conditions may be suitable such as the provision of Door Supervisors.

3.4 Except in the circumstances outlined in Paragraph 2.9, anyone applying to the Authority for a Premises Licence will have to hold an Operating Licence from the Commission before a licence can be issued. Therefore, the Authority will not generally be concerned with the suitability of an applicant and where concerns about a person's suitability arise the Authority will bring those concerns to the attention of the Commission.

3.5 Issues of disorder should only be dealt with under the Act if the disorder amounts to activity which is more serious and disruptive than mere nuisance and it can be shown that gambling is the source of that disorder. This Authority is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction. Issues of nuisance cannot be addressed via the Gambling Act provisions.

Ensuring that gambling is conducted in a fair and open way

3.6 Generally, the Commission do not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way, as this will be a matter for either the management of the gambling business (and therefore relevant to the Operating Licence), or will be in relation to the suitability and actions of an individual (and therefore relevant to the Personal Licence), both of these options falling under the purview of the Commission.

3.7 Where the Authority has concerns that gambling at any premises is not being conducted in a fair and open way those concerns will be brought to the attention of the Commission.

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

3.8 The Authority has noted the Commission Guidance which states that “the intention of the Gambling 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 objective refers to 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, excepting Category D gaming machines”.

3.9 The Authority will also make itself aware of the Codes of Practice that the Commission issues as regards to this licensing objective, in relation to specific premises such as casinos.

3.10 There is no definition offered with regard to the term “vulnerable persons”, therefore the Authority will consider this objective on a case-by-case basis. In seeking to protect vulnerable persons the Authority will include people who gamble more than they want to, people who gamble beyond their means, and people who may not be able to make informed or balanced decisions about gambling, perhaps due to a mental impairment, alcohol or drugs.

3.11 Applicants shall have regard to the need to protect children and vulnerable persons from harm, or being exploited by gambling, and there should be sufficient measures to ensure that under 18 year olds do not have access to adult only gaming machine areas.

3.12 Appropriate licence conditions may therefore be imposed by the Authority and they 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;
- Self barring schemes;
- The provision of information leaflets / helpline numbers for organisations such as GamCare as well as training for staff under the GamCare Certification scheme; details available via [www.gamcare.org.uk/](http://www.gamcare.org.uk/).



- 3.13 This list is not mandatory, nor exhaustive; further details on Conditions can be found at Section 6.0.
- 3.14 In recent years there has been an increasing awareness of the problems in society generally connected with Child Sexual Exploitation. It is this Authority's opinion that Child Safeguarding is everyone's responsibility and that gambling premises should be vigilant in this regard. Operators whose premises are allowed to admit under 18s should have in place appropriate child safeguarding measures and should seek the advice of the Council's Safeguarding Children's Unit in this respect.
- 3.15 The Authority will always treat each case on its own individual merits and when considering whether specific measures are required to protect children and other vulnerable persons will balance its considerations against the overall principle of aiming to permit the use of premises for gambling.

#### **4.0 CASINO LICENCES**

- 4.1 The Authority has not passed a 'no casino' resolution under Section 166 of the Act, but it is aware that it has the power to do so. Should the Authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution.

#### **5.0 THE LICENSING PROCESS**

- 5.1 In determining a licence or permit application the overriding principle adopted by the Authority will be that each application will be determined on its merits.

##### Interested Parties

- 5.2 Interested parties may make representations about Premises Licence applications, or apply for a review of an existing Licence.

- 5.3 These parties are defined within the Act as follows:

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

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

- 5.4 The Authority is required by regulations to state the principles it will apply in exercising its powers under the Act to determine whether a person is an interested party or not.

- 5.5 The principles are that each case will be decided upon its merits. This Authority will not apply a rigid rule to its decision making. It will however consider the following:

- The size of the premises

- The nature of the premises
- The distance of the premises from the location of the person making the representation
- The potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment); and
- The circumstances 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.
- The ‘catchment’ area of the premises (i.e. how far people travel to visit); and
- Whether the person making the representation has business interests in that catchment area that might be affected.

5.6 Interested parties can be persons who are democratically elected such as councillors and MP’s. 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 (e.g. an advocate / relative) ‘represents’ someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

#### Responsible authorities

5.7 Section 157 of the Act details the necessary “responsible authorities”, which are:

- The Gambling Commission;
- The chief officer of police;
- The local fire authority;
- The local planning authority;
- An authority which has functions in relation to pollution to the environment or harm to human health;
- The body responsible for the protection of children from harm;
- Any other licensing authority in whose area part of the premises are situated; and,
- HM Revenue & Customs

5.8 In exercising the Authority’s powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the Authority about the protection of children from harm, the following principles have been applied:

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

- 5.9 Therefore, in accordance with the Commission's Guidance, this Authority designates Sefton Council's Safeguarding Children's Unit for this purpose.
- 5.10 The appropriate points of contact for the abovementioned responsible authorities, i.e. the person to whom copies of applications should be sent, are listed within Annex 2.

Delegation of decisions and functions

- 5.11 Licensing decisions and functions may be taken or carried out by the Licensing Committee, or delegated, where appropriate, to sub-committees or officers. The principal of delegation will be to ensure that decisions and functions, particularly non-contentious applications and purely administrative functions, are taken or carried out in a speedy, efficient and cost-effective way.
- 5.12 The delegation of decisions and functions will be as follows:

<b>Matter to be dealt with</b>	<b>Full Council</b>	<b>Sub-committee of licensing committee</b>	<b>Officers</b>
Three year licensing policy	✓		
Policy not to permit casinos	✓		
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission or responsible authority	Where no representations received from the Commission or responsible authority
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		✓	
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		✓	
Applications for other permits			✓
Cancellation of licensed premises gaming machine permits			✓
Consideration of temporary use notice			✓
Decision to give a counter notice to a temporary use notice		✓	

- 5.13 Where there is licensing authority discretion as to the level of fee that may be set, the level of fee will be decided by the Licensing and Regulatory Committee.

#### Hearings

- 5.14 A hearing will be arranged to deal with any application that cannot be dealt with under delegated powers or resolved by agreement between applicants and ‘interested parties’ and/or ‘responsible authorities’. Hearings will be held at the earliest possible date having regard to the regulations published under the Act and the laws of natural justice. The Licensing Sub-Committee will conduct a quasi-judicial consideration of the application, objections and representations.
- 5.15 Conditions may be attached to Licences where relevant representations are received. Any condition attached to a Licence will be related to one or more of the Licensing Objectives, and conditions will not relate to matters that are the subject of other legislation.

#### Review of licences

- 5.16 Requests for a review of a Premises Licence can be made by interested parties or responsible authorities. However, it is for the Authority to decide whether or not the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below (as well as to consideration as to whether the request is considered to be frivolous or vexatious):
- i) It is in accordance with any relevant code of practice issued by the Commission;
  - ii) It is in accordance with any relevant guidance issued by the Commission;
  - iii) It is reasonably consistent with the licensing objectives; and,
  - iv) It is in accordance with this policy statement
- 5.17 The Authority can also initiate a review of a licence on the basis of any reason that it thinks is appropriate.

#### Local risk assessments

- 5.18 The Commission’s Licence Conditions and Codes of Practice (LCCP) (issued in February 2015) requires operators to consider local risks in their applications.
- 5.19 As part of the application process licensees are required to submit a local risk assessment when applying for a new Premise Licence. An updated risk assessment must also be submitted:
- When applying for a variation of a Premise Licence
  - To take account of significant changes in local circumstances, including those identified in a licensing authority’s policy statement
  - When there are significant changes at a licensee’s premises that may affect their mitigation of local risks.

- 5.20 This Authority will require a licensee to share their risk assessment with it. The risk assessment will set out the measures the licensee has in place to address specific issues where concerns exist over new or existing risks. By adopting this proactive approach the Authority and licensees should be able to reduce the occasions on which a premises review is required.

#### Local Area Profiles

- 5.21 Whilst this Authority does not currently have a Local Area Profile, as referenced in the Commission's Guidance, nonetheless its clear priority is to ensure that children and vulnerable persons are not harmed by gambling. To this end the Authority will expect applicants to research and understand the local environment in which they wish to operate and to demonstrate that they have effective and robust measures in place to promote this licensing objective and mitigate any risks related to it.
- 5.22 It should be noted that the Authority may develop a Local Area Profile setting out the local issues, local data, local risks and the expectations that it has of operators who either currently offer gambling facilities or wish to do so in the future. Should it do so it will be included as an Annex to this Statement.
- 5.23 In the absence of a Local Area Profile when considering applications for Premise Licences, permits and other permissions, and when determining whether to review a Licence, the Authority will still consider each application on its merits and relevant considerations are likely to include the type of gambling proposed and the proximity of gambling premises to schools and vulnerable adult centres, or to residential areas where there may be a high concentration of families with children.

## **6.0 LICENSING CONDITIONS**

### Mandatory conditions

- 6.1 Mandatory conditions may be attached to Premises Licences by the Secretary of State under Section 167 of the Act. They can be attached generally to all Premises Licences, or may be attached to all Premises Licences of a particular type, or to a particular type of Premises Licences under certain specified circumstances.
- 6.2 The Secretary of State considers that mandatory conditions are most appropriate where there are basic minimum requirements to which all Premises Licence holders, or holders of a particular type of Licence, should adhere.
- 6.3 Once mandatory conditions are attached they can only be removed by further Secretary of State regulations. The Authority has no discretion to decide not to include them, or to modify them.

### Default conditions

- 6.4 The Secretary of State considers the use of default conditions are most appropriate where a general industry or sector wide approach is desirable in order to assist national consistency, but where licensing authorities ought to be able to respond to local circumstances by altering those conditions if necessary.

- 6.5 Section 169 of the Act gives licensing authorities the ability to exclude from Premises Licences any default conditions that have been imposed under section 168. However, as default conditions are considered to be the industry norm, and while licensing authorities are free to limit or remove them where appropriate, this Authority will only extend them with reference to the Commission Codes of Practice and Guidance, the Licensing Objectives and this Policy Statement.
- 6.6 There are conditions that the 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 Act 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
- 6.7 Any conditions attached to Premises Licences will be proportionate and will be:
- Relevant to the need to ensure that the premises are suitable to meet the licensing objectives and are suitable to provide facilities for gambling;
  - 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.
- 6.8 Decisions upon individual conditions will be made on a case-by-case basis. The Authority will expect the applicant to offer his/her own suggestions as to the way in which the Gambling Licensing Objectives can be met effectively. The Authority may, however, exclude a condition and substitute it with one that is either more or less restrictive. In this instance the Authority will give clear and regulatory reasons for so doing.
- 6.9 The Authority will consider specific measures that may be required for buildings subject to multiple Premises Licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Commission's Guidance.
- 6.10 The Authority will also ensure that where category C or above machines are on offer in premises to which children are admitted that:
- All such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
  - Only adults are admitted to the area where these machines are located;
  - Access to the area where the machines are located is supervised;

- The area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- At the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

6.11 These considerations will apply to premises, including buildings, where multiple Premises Licences are applicable.

#### Door Supervisors

6.12 The Commission advises in its Guidance 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 condition to this effect.

6.13 Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether or not these supervisors need to be licensed by the Security Industry Authority 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).

### **7.0 INFORMATION PROTOCOLS**

7.1 Authorities are required to include in their Policy Statements the principles to be applied by them in exercising the functions under Sections 29 and 30 of the Act, with respect to the exchange of information between them and the Commission, and the functions under Section 350 of the Act with the respect to the exchange of information between them and the other persons listed in Schedule 6 to the Act.

7.2 The principle that this Authority applies is that it 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 Authority will also have regard to any Guidance issued by the Commission to local authorities on this matter as well as any relevant regulations issued by the Secretary of State under the powers provided in the Act.

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

### **8.0 ENFORCEMENT PROTOCOLS**

8.1 Licensing Authorities are required by regulation under the Act to state the principles to be applied in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under Section 346 of the Act to institute criminal proceedings in respect of the offences specified.

8.2 This Authority's principles are that it will be guided by the Commission's Guidance and it 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.

8.3 As per the Commission's Guidance this Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

8.4 The Authority has, again as recommended by the Commission's Guidance, adopted a risk-based inspection programme.

8.5 The main enforcement and compliance role for this Authority in terms of the Act will be to ensure compliance with the Premises Licences and other permissions that it authorises. The Commission will be the enforcement body for the Operator and Personal Licences and it should also be noted that concerns about manufacture, supply or repair of gaming machines will not be dealt with by the Authority but will be notified to the Commission.

8.6 This Authority embraces the Department for Business Innovation and Skills' "Regulators Code" which came into force on 6<sup>th</sup> April 2014, and its standards have been integrated into our regulatory culture and processes. The Authority supports the principals of better regulation to promote efficient and effective approaches to regulatory inspection and enforcement that improve regulatory outcomes without imposing unnecessary burdens on business.