



**SALISBURY**  
District Council

SALISBURY DISTRICT LICENSING AUTHORITY

GAMBLING ACT 2005

DRAFT STATEMENT OF LICENSING POLICY

Revised 06/11/2006

# Gambling Act 2005 (draft)

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## STATEMENT OF LICENSING POLICY

### PART A

#### A 1.0 The Licensing Objectives

In exercising their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives 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.

#### A.2.0 Introduction

The Gambling Act 2005 introduces new procedures and will significantly affect the administration of gambling. There will be several different types of licence.

- Operating Licence – individuals who intend to provide facilities for certain types of gambling must obtain an Operating Licence from the Gambling Commission.
- Personal Licence – for each Operating Licence at least one person who holds a specified management office, must have a Personal Licence from the Gambling Commission.
- Premises Licence – granted by the licensing authority, the licence authorises the provision of facilities in certain premises.
- Permits – granted by the licensing authority, these cover gaming machines and prize gaming.
- Occasional Use Notices and Temporary Use Notices.

Salisbury District Council will become the licensing authority under the Gambling Act 2005. This will result in the council becoming responsible for dealing with Premises Licences, permits and Occasional Use Notices and Temporary Use Notices in the Salisbury District Council area.

The Gambling Act 2005 requires the council to prepare and publish a “ Statement of Licensing Policy ” that sets out how the council will generally promote the licensing objectives when making decisions on applications made under the Act.

This draft “ Statement of Licensing Policy ” has been prepared with reference to the guidance issued by the Gambling Commission and the licensing objectives of the Gambling Act 2005. It is intended to be a discussion document leading to adoption of a formal Statement of Licensing Policy, after consideration of any responses from consultees. A list of consultees is provided in Appendix A.

The formal Statement of Licensing Policy will be adopted at a meeting of the full council and be available on Salisbury District Council website. Copies will also be placed in public libraries and in the main council offices.

The policy will come into effect on the “first appointed day” 31 January 2007 and it will be reviewed as necessary at least every three years.

The Gambling Act will be brought fully into effect on 1 September 2007.

Should you have any comments about this draft policy statement please send them via email or letter to Salisbury District Licensing Authority.

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

## A.3.0 Salisbury District Council – Salisbury Licensing Authority

Located in south Wiltshire, Salisbury District Council covers an area of 400 square miles (1004 square kilometres), which represents about one third of the total land area of Wiltshire.

Salisbury district has a population of 115,850. About a third live in or close to Salisbury itself.

Salisbury is a medieval cathedral city based on a chequer street system dating from the 13<sup>th</sup> century. Nearby is the world heritage site at Stonehenge.

There are 13 Ministry of Defence (MOD) establishments in the district.

Salisbury Tourism Information Centre welcomed around 200,000 visitors in 2005. It is estimated that the tourism industry in Salisbury district supports over 4000 jobs.

Almost half of the district is categorised as an area of outstanding natural beauty (AONB)

A map of the area is provided – Appendix B.

## A.4.0 Glossary of Terms

Licensing objectives:	as defined in section A.1.0 and B.2.0.
Council:	Salisbury District Council (map appended at appendix B)
Responsible authorities:	See section A.6.0
Interested parties:	See section A.7.0
Premises:	Includes any place – see also section B1
Set of Premises:	See section C.5.1.
Location:	See section B.1.1
Act:	The Gambling Act 2005.
Regulations:	Regulations made under the Gambling Act 2005.
Code of practice:	Any relevant code of practice under section 24 of the Gambling Act 2005.
Mandatory condition:	A specified condition provided by regulations to be attached to a licence.
Default conditions:	Default conditions may be made by the Secretary of State and will apply to all licences unless the licensing authority decides to exclude them. These may relate for example to opening hours (not made at the time of the publication of this document).
Gambling:	Means ; (a) gaming (b) betting (c) participation in a lottery
Gaming:	Means playing a game of chance for a prize

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Lottery:	Defined under section 14 of the Gambling Act – simple lottery – complex lottery.
Betting Machine:	There is no legal definition but these machines are used for example to bet on future real events or for the playing of bingo. They are not gaming machines but the number may be restricted.
Gaming Machine:	A machine which is designed or adapted for the use of individuals to gamble (but – there are many machines that are not gaming machines)

It is anticipated that gaming machines will be categorised as follows:-

Category of Machine	Maximum Stake	Maximum Prize
A	Unlimited	Unlimited
B1	£2	£4,000
B2	£100	£500
B3	£1	£500
B4	£1	£250
C	50p	£35
D	10p or 30p when non-monetary prize	£5 cash or £8 non-monetary prize

## A.5.0 Declaration

In producing the final Statement of Licensing Policy we declare that we will have regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission and any responses from those consulted on the policy statement.

## A.6.0 Responsible Authorities

Responsible authorities are public bodies that must be notified of applications and that are entitled to make representations to the licensing authority in relation to applications for and in relation to Premises Licences. All representations made by responsible authorities are likely to be relevant representations if they relate to the licensing objectives.

The responsible authorities are:

- a licensing authority in England and Wales in whose area the premises are wholly/partly situated.
- the Gambling Commission
- the chief officer of police or chief constable for the area in which the premises is wholly or partially situated.
- the fire and rescue authority for the same area.
- the local planning authority
- the authority which has functions in relation to pollution, to the environment or harm to human health.

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- a body, designated in writing by the licensing authority as competent to advise about the protection of children from harm.
- HM Revenue and Customs.

## A.6.1 Designation of body to advise on the protection of children.

In accordance with the Gambling Commission's guidance for local authorities this authority designates the Local Safeguarding Children Board to be the body competent to advise us about the protection of children from harm. When coming to this decision we considered:

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

The contact details of all responsible bodies under the Gambling Act 2005 are shown in appendix D and are available via the council's website at: [www.salisbury.gov.uk](http://www.salisbury.gov.uk).

## A.7.0 Interested parties

A.7.1 Interested parties can make representations about licence applications or apply for a review of an existing licence.

A person is an interested party in relation to an application for a Premises Licence if the person:

- lives sufficiently close to the premises to be likely to be affected by the authorised activities.
- has business interests that might be affected by the authorised activities, or
- represents persons who satisfy the above criteria.

In determining whether a person is an interested party each case will be considered upon its merits. Rigid rules will not be applied and consideration will be given to examples provided in the Gambling Commission's guidance to local authorities.

A.7.2 The factors that will be taken into account when determining the meaning of "sufficiently close to the premises" might include:

- the size of the premises
- the nature of the premises
- the distance of the premises from the location of the person making the representation
- the potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment) and
- the nature of the complainant. This means the interests of the complainant that may be relevant to the distance from the premises. For example, it could be reasonable to conclude that "sufficiently close to be likely to be affected" could have a different meaning for: a private resident, a residential school for children with truanting problems and a residential hostel for vulnerable adults.

A.7.3 The factors that will be taken into account when considering "persons with business interests that might be affected" might include.

- the size of the premises
- the 'catchment' area of the premises (that is how far people travel to visit) and

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

Care will be taken to distinguish between deciding whether a person is an interested party (that is whether their representations are admissible) and forming a view on the substance of their representations (whether their representations are relevant). Representations would not be relevant if they did not relate to the licensing objectives, but instead related to demand and competition. Representations would be accepted as admissible (if the grounds were made out) and consideration would then be given to their relevance to the licensing objectives.

A.7.3.1 Arguments concerning gambling businesses affected by another gambling business are 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) should not be able to lodge representations on every application put in by a rival operator simply because they are in competition within the same gambling sector. We must be satisfied that the relevant business is likely to be affected. In this respect, we will bear in mind that the “demand test” in the 1963 Act has not been preserved in the 2005 Act.

A.7.4 Types of people who may be considered as “persons representing” those in the above categories might include

- persons who are democratically elected such as councillors and MPs. For representatives other than these persons, for example a trade association, trade union or residents or tenants’ association’, we will require written evidence that they are representing someone. A letter from one of these persons, requesting the representation is sufficient evidence.

If individuals wish to approach local 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 authority.

## **A.8.0 Exchange of information**

Regarding our functions under section 29 of the Gambling Act 2005 (provision of information to the Gambling Commission) and section 30 (receiving of information from the Gambling Commission and the exchange of information between those persons and bodies listed in schedule 6 of the Gambling Act 2005) we will apply the following principles:-

- We will act in accordance with the provisions of the Gambling Act in any exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened.
- We will also have regard to any guidance issued by the Gambling Commission to local authorities when it is published, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

## **A.9.0 Enforcement**

Regarding the exercising of functions under part 15 of the Act (the inspection of premises) and the powers under the section 346 of the Act (to institute criminal proceedings in respect of the offences specified), we will be guided by the Gambling Commission’s guidance for local authorities. We will endeavour to be:-

- proportionate: we will only intervene when necessary, remedies will be appropriate to the risks posed and costs identified and minimised.

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- accountable: we must be able to justify decisions and be subject to public scrutiny.
- consistent: rules and standards must be joined up and implemented fairly.
- transparent: we will be open and keep regulations simple and user friendly and
- targeted: we will be focused on the problem and minimise side effects.

Salisbury District council is a signatory to the Regulatory Compliance Code (previously known as the Enforcement Concordat) and will carry out enforcement duties accordingly.

We will adopt a risk-based inspection programme.

Our main enforcement and compliance role will be to ensure compliance with the Premises Licences and other permissions that we authorise. The Gambling Commission will be the enforcement body for the operator and Personal Licence holders.

Concerns about manufacture, supply or repair of gaming machines will be notified to the Gambling Commission. We understand that the Gambling Commission will be responsible for compliance as regards unlicensed premises.

We will also be aware of developments in the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

Following the principle of transparency, our enforcement and/compliance protocols/ and written agreements will be available upon request .

A.9.0.1 Duplication with other regulator regimes – We will seek to avoid any duplication with other statutory and/regulatory systems where possible, including planning. The licensing authority will not consider whether a licence application is likely to be awarded planning or building consent. We will however listen to and consider carefully any concerns about conditions that are not able to be met by licensees due to planning restrictions should such a situation arise.

## **A.10.0 Licensing Authority functions**

Licensing authorities are required to be responsible for the licensing of premises by issuing Premises Licences for:

- casino premises (see note)
  - bingo premises
  - betting premises, including tracks and premises used by betting intermediaries
  - adult gaming centre (for categories B3, C and D gaming machines F) and
  - family entertainment centres (for category C & D gaming machines).
- 
- issue Provisional Statements
  - regulate members' clubs 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 more than two machines are required.



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- 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 above on information exchange)
- maintain registers of the permits and licences that are issued under these functions.

It should be noted that local licensing authorities will not be involved in licensing remote gambling. This will be dealt with by the Gambling Commission through Operator Licences.

## **A.11.0 Fees**

Fees will be payable for licences and permits. Detailed information on the scale of fees is not yet available but a table of fees and charges will be published.

## **A.12.0 Delegations**

Duties may be delegated to committees and officers – see Appendix C.

## **A.13.0 Complaints**

We will investigate complaints against licensed premises upon matters relating to the licensing objectives for which we have responsibility. In the first instance, complainants are encouraged to raise the complaint direct with the licence holder or business concerned to seek a local resolution.

Where an interested party has made either a valid representation about licensed premises or a valid application for a licence to be reviewed, we may initially arrange a condition meeting to address and clarify the issues of concern.

This process will not override the right of any interested party to ask that the licensing committee consider their valid objections, or for any licence holder to decline to participate in a conciliation meeting.

## **A.14.0 Further Information**

Sources of further information are provided in Appendix E.

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## PART B – PREMISES LICENCES

**B1.0** Premises Licences will be subject to the permissions and/restrictions set out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which will be detailed in the regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is appropriate.

We are aware that in making decisions about Premises Licences we should aim to permit the use of premises for gambling in so far on this is:-

- in accordance with any relevant Code of Practice or guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives and
- in accordance with our statement of licensing policy

The Gambling Commission's guidance for local authorities states that "moral objections to gambling are not a valid reason to reject applications for Premises Licences" (except as regards any 'no casino resolution', see section on casinos. It is also appreciated that unmet demand is not a criterion for a licensing authority.

Different Premises Licences cannot apply to 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 which can be reasonably regarded as being different premises. This will always be a question of fact in the circumstances. However, the Gambling Commission does not consider that areas of a building that are artificially or temporarily separate, can be properly regarded as different premises.

The Gambling Commission's guidance for local authorities also 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 that entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area.
- Licensing authorities should pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). Clearly, there will be specific issues that authorities should consider before granting such applications, for example, whether children can gain access; compatibility of the two establishments; and ability to comply with the requirements of the Act. But, in addition an overriding consideration should be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act.

It should also be noted that an applicant cannot obtain a full Premises Licence until the premises in which it is proposed to offer gambling is constructed. The Gambling Commission has advised us that references to "the premises" are to the premises in which gambling may now take place. Thus a licence to use premises for gambling will only be issued in relation to premises that are ready to be used for gambling. We agree with the Gambling Commission that it is a question of fact and degree whether premises are finished to a degree that they can be considered for a Premises Licence. The Gambling Commission emphasises that requiring the building to be complete will ensure that the authority can, if necessary, inspect it fully, as can other responsible authorities with inspection rights.

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**B.1.1 Location** – We are aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. Following the Gambling Commission’s guidance for local authorities, we 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 about areas where gambling premises should not be located, this statement 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 responsibility upon the applicant to show how potential concerns can be overcome.

## **B.2.0 More about Licensing Objectives**

Premises Licences granted must be reasonably consistent with the licensing objectives. We have considered the Gambling Commission’s guidance to local authorities and consider that:-

**B.2.1 Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** – We are aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. The Gambling 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. Thus, where an area has known high levels of organised crime we will consider carefully whether gambling premises are suitable to be located there and whether conditions should be applied such as the provision of door supervisors. We are 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 witnessed it, so as to make that distinction. Issues of nuisance cannot be addressed through the Gambling Act provisions.

**B.2.2 Ensuring that gambling is conducted in a fair and open way** – We note that the Gambling Commission has stated that it would generally not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via Operating and Personal Licences. There is however more of a role with regard to tracks explained in more detail in the ‘tracks’ section.

**B.2.3 Protecting children and other vulnerable persons from being harmed or exploited by gambling** – We note the Gambling Commission’s guidance for local authorities states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at, or are particularly attractive to children). We will therefore consider, as suggested in the Gambling Commission’s Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances or /machines, or segregation of areas.

We will be aware of the Codes of Practice that the Gambling Commission issue about this licensing objective, in relation to specific premises such as casinos.

Regarding the term “vulnerable persons” it is noted that the Gambling Commission is not seeking to offer a definition but states that “it will, for regulatory purposes, assume that this group includes people who gamble more than they want to; people who gamble beyond their means and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.” We will consider this licensing objective on a case-by-case basis. Should a practical definition prove possible in future, then this policy statement will be updated.

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## B.3.0 Conditions

Any conditions attached to licences will be proportionate and will be:

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

Decisions upon individual conditions will be made on a case-by-case basis, although we will consider using a number of measures should there be a need, such as the use of supervisors or appropriate signage for adult only areas. We will expect the licence applicant to offer his/ or her own suggestions as to the way in which the licensing objectives can be met effectively.

We will consider specific measures that may be required for buildings that are 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. These matters are in accordance with the Gambling Commission's guidance.

We will also seek to ensure that where category C or above machines are on offer in premises to which children are admitted:

- all such machines are located in an area of the premises that 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 an 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 areas is prohibited to persons under 18.

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

We are aware that tracks may be subject to one or more than one Premises Licence, provided each licence relates to a specified area of the track. Following the Gambling Commission's guidance, we will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas that they are not permitted to enter.

It is noted that there are some conditions that the licensing authority cannot attach to a Premises Licence

- any condition on the Premises Licence which makes it impossible 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.

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## **B.4.0 Door Supervisors**

The Gambling Commission advises that licensing authorities may consider whether there is a need for door supervisors in order to meet the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling and also in terms of preventing premises becoming a source of crime. However it is noted though that the door supervisors at casinos or bingo premises cannot be licensed by the Security Industry Authority (SIA). We will therefore, if the need arises, consider specific requirements for door supervisors working at casinos or bingo premises. This is in recognition of the nature of the work which includes searching individuals and dealing with potentially aggressive persons.

For premises other than casinos and bingo premises, operators and licensing authorities may decide that supervision of entrances/ or machines is appropriate for particular cases but it will need to be decided whether these need to be SIA licensed or not. It will not be automatically assumed that they need to be.

## **B.5.0 Adult Gaming Centres**

We will pay specific attention 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 ensure that under 18 year olds do not have access to the premises. We will expect applicants to offer their own measures. Appropriate licence conditions may cover issues such as:

- proof of age schemes
- CCTV
- door supervisors
- supervision of entrances/machine areas
- physical separation of areas
- location of entry
- notices/signage
- specific opening hours
- self-barring schemes
- provision of information leaflets/helpline numbers for organisation such as GamCare
- measures/and training for staff on how to deal with suspected truant school children on the premises.

This list is not exhaustive

## **B.6.0 (Licensed) Family Entertainment Centres:**

We pay specific attention 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 ensure that under 18 year olds do not have access to the adult only gaming machine areas. We will expect applicants to offer their own measures. Conditions may cover issues such as:

- proof of age schemes
- CCTV
- door supervisors
- supervision of entrances/machine areas
- physical separation of areas
- location of entry

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- notices/signage
- specific opening hours
- self-barring schemes
- provision of information leaflets/helpline numbers for organisation such as GamCare
- measures/training for staff on how to deal with suspected truant school children on the premises.

This list is not exhaustive.

We will refer to the commission's website for any conditions that apply to Operators Licences covering the way in which the area containing the category C machines should be delineated. We will also be aware of any mandatory or default conditions on these Premises Licences, when they have been published.

## **B.7.0 Casinos**

There are currently no casinos operating within the district.

B.7.1 There is no resolution to prohibit casinos in the district at present. However the council reserves the right to review this situation and may, at some time in the future, resolve not to permit casinos.

Should the council choose not to make such a resolution, this will be a resolution of full council following considered debate and the reasons for making the resolution will be given. There is no right of appeal against this resolution.

## **B.8.0 Bingo Premises**

We note that the Gambling Commission's Guidance states:

It is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted licensing authorities should 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 the 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.

We are also aware that the Gambling Commission is going to issue further guidance about the particular issues that licensing authorities should take into account in relation to the suitability and layout of bingo premises. We will consider this guidance once it is made available.

## **B.9.0 Betting Premises**

There are different types of premises. Probably the majority will be associated with off-course betting – often called a licensed betting office.

Premises may make available gaming machines and/or betting machines (not licensable).

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## B.9.1 Betting Machines

Powers are available to restrict the number of betting machines in premises. When considering such a restriction we will take into account the size of the premises, the number of counter positions available for person-to-person transactions and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people.

## B.10.0 Tracks

We are aware that tracks may be subject to one or more than one Premises Licence, provided each licence relates to a specified area of the track. Following the Gambling Commission's guidance, we will especially consider the impact upon the third licensing objective ( 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 that they are not permitted to enter.

We will therefore expect the Premises Licence applicant to demonstrate suitable measures to ensure that children have no access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

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

- proof of age schemes
- CCTV
- door supervisors
- supervision of entrances/machine areas
- physical separation of areas
- location of entry
- notices/signage
- specific opening hours
- self-barring schemes
- provision of information leaflets/helpline numbers for organisation such as GamCare

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

## B.10.1 Gaming Machines

Further guidance from the Gambling Commission is awaited about where such machines may be located on tracks and any special considerations that should apply in relation, for example, to supervision of the machines and preventing children from playing on them. We note the commission's guidance that licensing authorities therefore need to consider the location of gaming machines at tracks and applications for track Premises Licences will need to demonstrate that, where the applicant holds a pool betting Operating Licence and is going to use his entitlement to four gaming machines, these machines are located in areas from which children are excluded. Children and young persons are not prohibited from playing category D gaming machines on a track.

## B.10.2 Betting Machines

Following the Gambling Commission's guidance we will take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when

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considering the number/nature/circumstances of betting machines an operator wants to offer. We will also take note of the Gambling Commission's suggestion that licensing authorities will want to consider restricting the number and location of such machines in respect of applications for track betting Premises Licences.

## **B.10.3 Conditions on rules being displayed**

The Gambling Commission has advised in its guidance for local authorities that "... licensing authorities should attach a condition to track Premises Licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office."

## **B.10.4 Application and plans**

We await regulations setting out any specific requirements for application for Premises Licences but in accordance with the Gambling Commission's suggestion to ensure that licensing authorities gain a proper understanding of what they are being asked to licence we will require detailed plans for the racetrack itself. We will also require plans of the area that will be used for temporary "on course" betting facilities (often known as the "betting ring") and in the case of horse racecourses fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities and that "plans should make clear what is being sought for authorisation under the track betting Premises Licence and what if any other areas are to be subject to a separate application for a different type of Premises Licence."

We also note that in the commission's view, it would be preferable for all self-contained premises operated by off-course betting operators on track to be the subject of separate Premises Licences. This would ensure that there is clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

## **B.11.0 Travelling Fairs**

It will be the responsibility of this licensing authority to decide whether, where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

We will also consider whether the applicant falls within the statutory definition of a travelling fair.

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

## **B.12.0 Provisional Statements**

We note the guidance from the Gambling Commission which states that "it is a question of fact and degree whether premises are finished to a degree that they can be considered for a Premises Licence" and that "requiring the building to be complete ensures that the authority could, if necessary, inspect it fully".

In terms of representations about Premises Licence applications, following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into



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account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances. In addition, we may refuse the Premises Licence (or grant it on term different to those attached to the provisional statement) only by reference to matters:

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

We note the Gambling Commission's Guidance that "a licensing authority should not take into account irrelevant matters ... one example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal."

## **B.13.0 Reviews**

Requests for a review of a Premises Licence can be made by interested parties or responsible authorities, however, it is for the licensing authority to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below, as well as consideration as to whether the request is frivolous, vexatious, 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. Requests for review must be:-

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

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

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## PART C – PERMITS/TEMPORARY and OCCASIONAL USE NOTICE

### C.1.0 Unlicensed Family Entertainment Centre Gaming Machine Permits (Statement of Principles on Permits)

Where a premises does not hold a Premises Licence but wishes to provide gaming machines. It may apply to the licensing authority for a permit. The permit will allow the use of category D machines only. The applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.

*Licensing authorities may include in their policy a statement of principles they propose to apply when exercising their functions in considering permits – the following is the draft statement of principles.*

#### C.1.1 Statement of Principles

Applicants will be expected to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures/training for staff about dealing with 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. It will also be expected, following Gambling Commission guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed Family Entertainment Centres that the applicant has no relevant convictions (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.

### C.2.0 (Alcohol) Licensed premises gaming machine permits

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

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

C.2.1 If an applicant wishes to have more than two machines on a premises, then it needs to apply for a permit and the licensing authority must consider that applications based upon the licensing objectives, any guidance issued by the Gambling Commission and “*such matters as they think relevant.*” It is considered that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from being harmed or being exploited by gambling. We will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming 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 be helpful. As regards the protection of vulnerable

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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. An such application would most likely need to be applied for and dealt with as an Adult Gaming Centre Premises Licence.

It should be noted that the licensing authority could decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these cannot be attached).

It should also be noted that the holder of a permit should comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

## **C.3.0 Prize Gaming Permits – (Statement of Principles on Permits)**

Gaming is prize gaming if the nature of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prize will be determined by the operator before play commences.

A permit authorises the provision of facilities for gaming with prizes on specified premises.

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

### **C.3.1 Statement of Principles**

The applicant will be expected to set out the types of gaming that he or she is intending to offer and should be able to demonstrate:

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

In making a decision on an application for this permit there is no need to consider the licensing objectives but regard must be given to any Gambling Commission guidance.

It should be noted that there are conditions in the Gambling Act 2005 to 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.

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## C.4.0 Club Gaming and Club Machine Permits

Members Clubs (not commercial clubs) may apply for a Club Gaming Permit or a Club's Gaming Machine's permit. The Club Gaming Permit will enable the premises to provide equal chance gaming, games of chance as set out in forthcoming regulations and gaming machines (three machines of categories B4, C or D). A Club Gaming machine permit will enable the premises to provide gaming machines (three machines of categories B4, C or D).

Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968. They 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."

Applications may only be refused on the grounds that:

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

C.4.1 There is also a 'fast-track' procedure available under the Act for premises that hold a Club Premises Certificate under the Licensing Act 2003 (schedule 12 paragraph10). As the Gambling Commission's Guidance for local authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the commission or the police and the ground upon which an authority can refuse a permit are:

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

There are statutory conditions on Club Gaming Permits that no child uses a category 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.

## C.5.0 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 premises temporarily for providing facilities for gambling. A notice may only be granted to a person or company holding a relevant Operating Licence. The same set of premises may not be the subject of a Temporary Use Notice for more than 21 days in any 12 months.

C.5.1 Gambling Commission guidance notes that the meaning of "premises" is different to the definition of "a set of premises", and there will be a question of fact in the particular circumstances of each notice that is given. In considering whether a place falls within the definition of "a set of premises", we will look at, amongst other things, the ownership/occupation and control of the premises. Objections to notices may be made

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where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.

## **C.6.0 Occasional Use Notices**

Where there is betting on a track on eight days or less in a calendar year betting may be permitted by an Occasional Use Notice without the need for a Premises Licence.

The licensing authority has very little discretion about these notices aside from ensuring that the statutory limit of eight days in a calendar year is not exceeded. Consideration will be given to the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

## Disclaimer

This statement of Principles has been drafted at a time when a number of regulations, Operating/Personal Licence conditions, Codes pr Practise and guidance are not yet published. Should anything in these impact upon the content of this document it will need to be borne in mind and amended at a later stage, nearing in mind the resource implications for the authority. All references to the Gambling Commission's Guidance for local authorities refer to the Guidance published in April 2006

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## APPENDIX A - Consultees

Responsible Authorities (see Appendix D)

South Wiltshire Strategic Alliance (via email)  
Churches Together  
HQ Land Command  
Salisbury Healthcare NHS Trust  
South Wiltshire Primary Care Trust  
Citizens Advice Bureau

Licence Victuallers Association  
Pubwatch  
Holders of existing licences

Children's and Young People's Strategic Partnership  
Community Safety Partnership

Councillors – District/Parish

Wiltshire County Council  
Council Tax Payers Association  
Chamber of Commerce  
City Centre Management Board

Association of British Bookmakers Ltd (by email)  
British Amusement Catering Trade Association (by email)  
GamCare (by email)

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## APPENDIX B – Area Map

### SALISBURY DISTRICT

Area now covered by the  
Salisbury District Council  
Names represent parishes  
Numbers indicate electoral wards



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## APPENDIX C - TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

MATTER TO BE DEALT WITH	FULL COUNCIL	SUB-COMMITTEE	OFFICERS
Three year licensing policy	X		
Policy not to permit casinos	X		
Fee setting – when appropriate			X (to be approved by Full Council)
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 a licence		Where representations have been received from the commission	Where no representations received from the commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Review of a Premises Licence		X	
Application for Club Gaming/Club Machine permits		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Cancellation of Club/Gaming/Club Machine Permits		X	
Applications for other permits		Where an application is received to operate more than 4 gaming machines on an alcohol licensed premises	X
Cancellation of licences premises Gaming Machine Permits			X
Consideration of Temporary Use Notices			X
Decision to give a counter Notice to a Temporary Use Notice		X	
Determination as to whether a person is an interested party			X
Determination as to whether			X



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representations are relevant			
Determination as to whether a representation is frivolous, vexatious or repetitive			X

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## APPENDIX D - RESPONSIBLE AUTHORITIES

Licensing Authority	Salisbury District Licensing Authority The Council House Bourne Hill Salisbury SP1 3UZ enhlicence@salisbury.gov.uk
The Gambling Commission	Gambling Commission Victoria Square House Victoria Square Birmingham B2 4BP www.gamblingcommission.gov.uk
Chief Officer of Police	Wiltshire Constabulary Police Headquarters Wilton Road Salisbury SP2 7HR
Fire & Rescue Authority	Fire Officer Wiltshire Fire Brigade Ashley Road Salisbury SP2 7TN
Local Planning Authority	Local Planning Authority Salisbury District Council Wyndham Road Salisbury Wiltshire
Authority which has functions in relation to pollution to the environment and human health	Environmental Services Salisbury District Council Bourne Hill Salisbury SP1 3UZ enhmail@salisbury.gov.uk
Body competent to advise about the protection of children from harm	Wiltshire Local Safe Guarding Children's Board Wiltshire County Council Room 271 County Hall Trowbridge BA14 8JB
H M Revenue & Customs	National Registration Unit Portcullis House 21 India Street Glasgow G2 4PZ NRVbettingandgaming@hmrc.gsi.gov.uk

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## APPENDIX E - FURTHER INFORMATION

Gambling Act	The Stationers Office Ltd ISBN 0 10 541905 2 <a href="http://www.legislation.gov.uk/acts/acts_2005/20050019.htm">http://www.legislation.gov.uk/acts/acts_2005/20050019.htm</a>
Gambling Commission	<a href="http://www.gamblingcommission.gov.uk">www.gamblingcommission.gov.uk</a> Victoria Square House Victoria Square Birmingham B2 4SP
Salisbury District Licensing Authority	Salisbury District Council Bourne Hill Salisbury SP1 3UZ <a href="mailto:enhlicensing@salisbury.gov.uk">enhlicensing@salisbury.gov.uk</a>