



**SANDWELL METROPOLITAN BOROUGH COUNCIL**

**GAMBLING ACT 2005**

**STATEMENT OF PRINCIPLES**

Determined by Full Council on....to be implemented on

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## **SANDWELL METROPOLITAN BOROUGH COUNCIL**

### **GAMBLING ACT 2005**

### **STATEMENT OF PRINCIPLES**

#### **Introduction**

Sandwell is a Metropolitan Borough formed in 1974 and is one of seven authorities that make up the West Midlands conurbation. The Sandwell borough is made up of six towns - Oldbury, Rowley Regis, Smethwick, Tipton, Wednesbury and West Bromwich.

Sandwell borders Birmingham City, Dudley Metropolitan Borough, Walsall Metropolitan Borough and Wolverhampton City. It is one of the four Black Country authorities; Dudley, Walsall, Wolverhampton and Sandwell

Sandwell has excellent access to the national motorway network with five junctions feeding in to the M5 and M6 motorways serving the South West, South East and North West regions of the UK.

Sandwell also benefits from a mainline train station - Sandwell and Dudley and the Midland Metro.

The borough has 1,200 hectares of parks, playing fields and local green space, and over 30 miles of canals.

**Population:** 309,000 (Jun'11)

Further information on Sandwell can be found at:

<http://www.sandwelltrends.info/lisv2/navigation/home.asp>

## **LIST OF CONSULTEES**

In preparing this policy, the following key organisations and agencies were consulted in accordance with Section 349(3) of the Act:-

### **A West Midlands Police**

Chief Constable, West Midlands Police Headquarters, Lloyd House,  
Birmingham  
Sandwell LPU

### **B Other Key Agencies / Responsible Authorities**

West Midlands Fire and Rescue Service  
Planning and Development Services  
Local Safeguarding Children Board (SSCB)  
Director of Public Health  
Regulatory Services:-  
Air Pollution/Noise Control  
Health and Safety  
HM Revenue and Customs

**C Persons / Bodies representative of the interests of persons carrying on gambling businesses in Sandwell**

Chamber of Commerce

Licensing Solicitors

British Beer & Pub Association

Association of British Bookmakers

General Secretary Casino Operators' Association of the UK

National Casino Industry Forum

British Amusement Catering Trade Association (BACTA)

Responsibility in Gambling Trust (RIGT)

Gamcare

The Gambling Commission

The Bingo Association

The British Casino Association

Business in Sport & Leisure

British Beer and Pub Association Midland Counties

Breweries

Gaming Machine Companies

Operators of gambling premises in Sandwell

Amusement Arcades

Bingo Halls

Casinos

Betting Offices and/or their Registered Offices

**D Persons representative of the interests of the local community, residents and others likely to be affected by the exercise of the Council's functions**

All Members of the Council [Councillors]

Members of Parliament for the Sandwell area

MEPs for the Sandwell area

Consultation was carried out during ... in accordance with Section 349 of the Gambling Act 2005

The full list of comments made and the consideration by the Council of those comments is available by request to the Licensing Team on 0121 569 6744 or by e mail to [licensing\\_team@sandwell.gov.uk](mailto:licensing_team@sandwell.gov.uk)

### **Gambling Act 2005**

This Statement of Principles is intended to meet the Council's obligations under Section 349 of the Gambling Act 2005 (referred to in this Statement as "the Act").

In carrying out its licensing functions under the Act, the Council will act in accordance with the relevant legislation, adopt the principles of better regulation, regulate gambling in the public interest and aim to permit the use of premises for gambling as it thinks fit so long as it is :-

- in accordance with any relevant Codes 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 this Statement of Principles

There are 3 licensing objectives which are central to the regulatory regime created by the Act. These 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

The Act provides for 3 categories of licence:

- operating licences
- personal licences
- premises licences

The Council is responsible for issuing premises licences. The Gambling Commission is responsible for issuing operating and personal licences.

### **Declaration**

In producing this Statement, the Council declares that it has had regard to the licensing objectives of the Act, any Guidance issued by the Gambling Commission, and any responses received from those consulted prior to the preparation of this Statement.

### **The Gambling Commission**

The Gambling Commission regulates gambling in the public interest. It does so by keeping crime out of gambling;

- by ensuring that gambling is conducted fairly and openly;
- And by protecting children and vulnerable people.

The Commission provides independent advice to the government about the manner in which gambling is carried out, the effects of gambling, and the regulation of gambling generally.

The Commission has issued Guidance under Section 25 of the Act regarding the manner in which local authorities exercise their licensing functions under the Act and, in particular, the principles to be applied by local authorities.

The Commission has issued a number of codes of practice under Section 24 of the Act about the manner in which facilities for gambling are provided, including the advertising of gambling facilities.

The Gambling Commission can be contacted at:

[www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

### **Authorised Activities**

'Gambling' is defined in the Act as either gaming, betting, or taking part in a lottery.

- gaming means playing a game of chance for a prize
- betting means making or accepting a bet on the outcome of a race, competition, or other event or process; the likelihood of anything occurring or not occurring; or whether anything is true or not
- A lottery is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance



The main functions of the Council are to:

- licence premises for gambling activities
- grant permits for gambling and gaming machines in clubs
- regulate gaming and gaming machines in alcohol licensed premises
- grant permits to family entertainment centres for the use of certain lower stake gaming machines
- grant permits for prize gaming
- consider notices given for the temporary use of premises for gaming
- consider occasional use notices for betting at tracks
- register small societies lotteries

Spread betting is regulated by The Financial Conduct Authority

Remote Gambling is regulated by the Gambling Commission

The National Lottery is regulated by The National Lottery Commission

### **General Statement of Principles**

The Council recognises the wide variety of premises which require a licence or a permit. These include casinos, betting shops, bingo halls, pubs, clubs and amusement arcades.

In carrying out its licensing functions the Council will have regard to any guidance issued by the Gambling Commission from time to time.

The Council will not seek to use the Act to resolve matters more readily dealt with under other legislation.

To ensure the licensing objectives are met the Council has established a good working relationship with the Gambling Commission and will continue to conduct joint inspection visits with the Commission and other responsible authorities as appropriate.

Where children, young persons and other vulnerable people are allowed access to premises where gambling takes place, the Council may take whatever steps are considered necessary to either limit access generally or by introducing measures to prevent under age gambling where it believes it is right to do so for the prevention of their physical, moral or psychological harm, especially where it receives representations to that effect.

Applicants seeking premises licences are encouraged to propose any prohibitions or restrictions of their own in circumstances where it is felt that the presence of children would be undesirable or inappropriate.

However, the overriding principle is that all applications and the circumstances prevailing at each premises will be considered on their own individual merits.

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

The Gambling Commission plays the leading role in preventing gambling from being a source of crime and maintains rigorous licensing procedures that aim to prevent criminals from providing facilities for gambling.

Anyone applying to the Council for a premises licence will have to hold an operating licence from the Commission before a licence can be issued, ( unless the premises is a 'track' for which an operating licence is not necessary ). Therefore, the Council is not generally concerned with the suitability of an applicant and where concerns about a person's suitability arise the Council will bring those concerns to the attention of the Commission.

If an application for a licence or a permit is received in relation to premises which are in an area noted for particular problems with organised crime, the Council will, in consultation with the police and other relevant authorities, consider whether specific controls need to be applied to prevent those premises from being a source of crime. This could include conditions being put on the licence, such as a requirement for door supervisors, although this would only be considered in cases where there is clear evidence that the premises in question are not being adequately supervised and door supervision is considered both necessary and proportionate.

As far as nuisance is concerned, there are already powers in existing anti-social behaviour and other licensing legislation to deal with measures designed to prevent nuisance, whether it arises as a result of noise from a building or from general disturbance once people have left a building. The Council does not therefore intend to use the Act to deal with general nuisance issues, for example, parking problems, which can easily be dealt with using alternative powers.

Issues of disorder would normally 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. A disturbance might be serious enough to constitute disorder if police assistance was required to deal with it. Another factor which could be taken into account is how threatening the behaviour was to those who could see or hear it, and whether those people live sufficiently close to be affected or have business interests that might be affected.

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

The Gambling Commission does not expect local authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will either be a matter for the management of the gambling business or will relate to the suitability and actions of an individual. Both issues are adequately addressed by the Commission through the operating and personal licensing regime.

Because betting track operators do not need an operating licence from the Commission the Council may, if the circumstances warrant it, require conditions to be applied to the licence which relate to the suitability of the environment in which the betting activity takes place.

### **Protecting children and other vulnerable people from gambling**

With limited exceptions, the intention of the Act is that children and young persons should not be allowed to gamble and should therefore be prevented from entering gambling premises which are 'adult-only' environments.

In practice, steps are generally taken to prevent children from taking part in, or being in close proximity to, gambling especially with regard to premises situated in areas where there may be a high rate of reported truancy. There may also be some 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.

When considering whether to grant a premises licence or a permit the Council will consider whether any measures are necessary to protect children, such as the supervision of entrances, the segregation of gambling from areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises, such as pubs, clubs, betting tracks etc.

The Act seeks to protect what are termed as 'vulnerable people'. Although there is no specific definition of this term the Council includes in this description, among others, 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.

The Council is required by Regulations to state the principles it has applied in exercising its powers under Section 157(h) of the Act to designate, in writing a body which is competent to advise the Council about the protection of children from harm. These principles are:-

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

The Council has therefore designated the Local Safeguarding Children Board of Sandwell MBC for this purpose.

The Council will always treat each case on its own individual merits and when considering whether specific measures are required to protect children and other vulnerable people will balance its considerations against the overall principle of aiming to permit the use of premises for gambling.

### **Premises licences**

A premises licence can authorise the provision of gambling facilities at the following:

- casino premises
- bingo premises
- betting premises, including betting tracks
- adult gaming centres
- family entertainment centres

Premises can be 'any place' but the Act generally prevents more than one premises licence applying to any one place. A single building could be subject to more than one premises licence provided they are for different parts of the building and those parts can be genuinely regarded as being separate 'premises'. It is recommended that applicants familiarise themselves with paragraphs 7.5 to 7.11 of the Commission's Guidance in this respect. With regard to 'splitting' premises the Council has particular regard to paragraphs 7.29 to 7.37 of the Commission's

Guidance. Applicants will need to satisfy the Council that premises are genuinely 'different' and 'separate' in each case.

Any entrances and exits from parts of a building covered by one or more licences need to be separate and identifiable so that the separation of the premises is not compromised and that people are not allowed to 'drift' accidentally into a gambling area from one licensed activity to another.

Applicants will need to satisfy the Council that, in the case of 'split' premises, the mandatory conditions can be complied with at all times. Where the Council has concerns about the use of premises for gambling these will generally be addressed through additional licence conditions.

Other than an application for a betting premises licence in respect of a track, the Council is not able to issue a premises licence unless the applicant holds the relevant operating licence from the Gambling Commission.

When considering applications for premises licences the Council will consider each case on its own individual merits without regard to demand. With regard to primary gambling activity issues the Council will take into account any representations made by the Commission.

The Council will maintain a Register of premises licences issued which will be available for public inspection on request. Please contact the Licensing Team on 0121 569 6744 or by e mail to:  
[licensing\\_team@sandwell.gov.uk](mailto:licensing_team@sandwell.gov.uk)

## **Responsible Authorities**

These are generally public bodies that must be notified of all applications and who are entitled to make representations to the Council if they are relevant to the licensing objectives.

Section 157 of the Act defines those authorities; for our purposes they are as follows:

- The Gambling Commission
- The Chief officer of Police
- West Midlands Fire and Rescue Service
- The Local Planning Authority
- Environmental Health
- Local Safeguarding Children Board
- HM Revenue and Customs
- A licensing authority in whose area the premises is situated

Any concerns expressed by a responsible authority in relation to their own functions cannot be taken into account unless they are relevant to the application itself and to the licensing objectives. In this regard the Council will not generally take into account representations which are deemed to be irrelevant, e.g:

- there are too many gambling premises in the locality
- planning permission has not been obtained for the premises
- the location of the premises is likely to lead to traffic congestion
- the premises will cause crowds to congregate in one area causing noise and nuisance



Each representation will, however, be considered on its own individual merits.

### **Interested Parties**

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

An interested party is someone who:

- lives sufficiently close to the premises to be likely to be affected by the authorised activities, or
- has business interests that might be affected by the authorised activities, or
- represents persons in either of the two groups above

The Council 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.

Each case will be determined upon its merits, however, in determining whether someone lives sufficiently close to particular premises, so as to be affected, the Council will take into account, among other things:

- the size of the premises
- the nature of the premises
- the distance of the premises from the person making the representation
- the nature of the complaint
- the potential impact of the premises

In determining whether a person has a business interest which could be affected the Council will consider, among other things:

- the size of the premises
- the catchment area of the premises (how far people travel to visit the premises) whether the person making the representation has business interests in the catchment area that might be affected

If an existing gambling business makes a representation that it is going to be affected by another gambling business starting up in the area the Council would not normally consider this, in the absence of other evidence, as a relevant representation as it does not relate to the licensing objectives and instead relates to demand or competition.

The Council may, in certain circumstances, consider a representation to be either frivolous or vexatious. This will generally be a matter of fact given the circumstances of each individual case but, before coming to a decision the Council will normally consider:

- who is making the representation and whether there is a history of making representations that are not relevant,
- whether it raises a 'relevant' issue or not, or
- whether it raises issues specifically to do with the premises which are the subject of the application

### **Local Risk Assessments**

From April 2016, operators are required to consider local risks to the licensing objectives by the provision of gambling facilities at their

premises. They are required to have policies, procedures and controls in place to mitigate these risks.

Operators are required to undertake a local risk assessment in the following situations:

- when applying for a new premises licence
- when applying to vary the premises licence
- when significant changes occur in local circumstance (see below) when there are significant changes at the premises, (see below)

when requested to do so by the licensing authority. In this context risk includes any actual, potential and any possible future emerging risks to the licensing objectives.

### **Significant changes in local circumstances**

The following lists sets out some examples of what the Licensing Authority considers to be significant changes in local circumstances:

□

- The local area is classified or declassified by the Licensing Authority as being an area of heightened risk within its Local Area Profile
- Any substantial building development or conversion of existing premises in the local area which may increase or decrease the number of visitors. For example, where premises are converted to a local supermarket or a new office building is constructed nearby.
- Any new pay day loan establishment or pawn brokers open in the local area
- Changes are made to the provision, location and/or timings of public transport in the local area, such as a bus stop which is used

by children to attend school is moved to a location in proximity to gambling premises

- Educational facilities increase in the local area. This may occur as a result of the construction of a new school/college or where a significant change is made to an existing establishment.
- The local area is identified as a crime hotspot by the police and/or Licensing Authority.
- Any vulnerable group is identified by the Licensing Authority or venues relating to those vulnerable groups are opened in proximity to gambling premises (e.g. additional homeless hostels or gambling or mental health care/support facilities are opened in the local area).
- A new gambling premises opens in the local area.

The list above is not exhaustive and each change in circumstances will be considered on its own merits.

Operators must consider what is happening in their local areas and it is their responsibility to identify significant changes which may require a review and possible amendment to their risk assessment. A significant change can be temporary and any temporary changes should be considered and adjustments made to the risk assessment if necessary.

The Licensing Authority will provide information to gambling operators when it feels a significant change has occurred in the local area. The Licensing Authority will set out what that change is and may provide information on any specific concerns it may have that should be considered by operators.

## **Significant changes to the premises**

The following list sets out some examples of what the Licensing Authority considers to be significant changes to the premises (some of which may also require a variation to the existing premises licence). operators must consider whether any change that they are proposing is one that may be considered significant.

- Any building work or premises refit where gambling facilities are relocated within the premises.
- The premises licence is transferred to a new operator who will operate the premises with its own procedures and policies which are different to those of the previous licensee.
- Any change to the operator's internal policies which as a result requires additional control measures or changes to existing control measures, and/or staff will require retraining on those policy changes.
- The entrance or entrances to the premises are changed, for example, the door materials are changed from metal with glazing to a full glass door or doors are reallocated from egress to ingress or vice versa.
- New gambling facilities are made available on the premises which were not provided previously, for example, bet in play, handheld gaming devices for customers, Self Service Betting Terminals, or a different category of gaming machine is provided.
- The premises operator makes an application for a licence at that premises to provide an activity under a different regulatory regime, for example, to permit the sale of alcohol or to provide sexual entertainment on the premises.

The list above is not exhaustive, any significant changes to the premises will be considered on its own merits.

Operators must consider what is happening within their premises and it is their responsibility to identify significant changes which may require a review and possible amendment to their risk assessment. A significant change can be temporary and any temporary changes should be considered and adjustments made to the risk assessment if necessary.

The risk assessment should be specific to the local area within which the premises is situated and should be sufficiently detailed to enable the licensing authority and the operator to consider whether any conditions are required to mitigate the risks.

When completing the risk assessment, the operator must have regard to the local area profile created by the licensing authority and to the Licensing Authority's Statement of Principles.

### **Local Area Profile**

The Licensing Authority will produce a profile of the areas within the authority, which will assess the local environment and identify local concerns and risks. This will be available from March 2016.

The profile will take account of a wide range of factors, data and information held by the licensing authority and its partners. Responsible Authorities and other relevant organisations will be invited to take part in the preparation of the profile.

The profile will enable operators to clearly identify the risks and concerns in the community when completing their risk assessment.

The Local Area Profile is a separate document to this policy and will be made publically available. It will be reviewed and amended as and when required taking into account changes in the local areas.

### **Conditions of licence**

The Council will not normally impose conditions that limit the use of premises for gambling unless it is deemed to be necessary as a result of the requirement to act in accordance with the Gambling Commission's guidance, any codes of practice issued by the Commission, this Statement of Principles or in a way that is reasonably consistent with the licensing objectives.

Any conditions imposed by the Council will be proportionate to the circumstances they are intended to address. In particular, the Council will ensure that any conditions are:

- relevant to the need to make the premises 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
- reasonable in all other respects

Examples of some conditions which are likely to be attached in certain circumstances include those relating to opening hours, age limits, or keeping children and young persons away from gaming machines. Further examples can be found in the appendix to the Guidance.

The Council will not consider imposing conditions:

- which make it impossible to comply with an operating licence condition imposed by the Gambling Commission
- relating to gaming machine categories, numbers or method of operation
- which specify that membership of a club or other body is required and
- in relation to stakes, fees, winnings or prizes

Duplication with other statutory or regulatory regimes will be avoided as far as possible. Each case will be assessed on its own individual merits.

Conditions relating to the good conduct of gambling premises will primarily be set as mandatory or default conditions by the Secretary of State. The Council will only consider imposing conditions in this regard in the light of local circumstances, especially where there are specific risks or problems associated with a particular locality, a specific premises or class of premises.

### **Casinos**

The Council has passed a 'no casino' resolution on the basis of all material considerations including the responses received during the consultation process and in order to promote the power of well being of the people it represents, to promote the health of the people it represents and to promote the prevention of crime and disorder within the Borough.

Or



*The Council has not passed a 'no casino' resolution under Section 166 of the Act, but is aware that it has the power to do so. Should the Council decide in the future to pass such a resolution, it will update this statement with details of that resolution. Any such decision will be made by Full Council.*

Existing casino operators have 'grandfather' rights and are entitled to a casino premises licence under the Act issued by the Council.

The Council will be mindful, when considering applications, of section 152 of the Gambling Act 2005 which states that a premises licence may not be issued in respect of premises if a premises licence already has effect.

The Gambling Commission are responsible for issuing codes of practice about access to casino premises by children and young persons, which would mean that no one under 18 would be able to enter casino premises and entrances to the casino or gambling area would be required to be properly supervised.

The Gambling Commission may issue further guidance to local authorities generally regarding licence conditions in respect of casino premises.

### **Betting**

Anyone wishing to operate a betting office will require a betting premises licence from the Council. Children and young persons will not be able to enter premises with a betting premises licence.

Betting premises will be able to provide a limited number of gaming machines and some betting machines.

The Council has powers under the Act to restrict the number of betting machines, their nature and the circumstances in which they are made available. It will not normally exercise this power unless there is clear evidence that such machines have been, or are likely to be used in a way, which adversely affects the promotion of the licensing objectives. In such cases the Council will consider, among other things, the size of the premises, the level of management and supervision especially where children, young persons and vulnerable people are concerned, and also the ability of staff to closely monitor the use of such machines.

It is not possible for an operator to offer gaming machines on premises which are licensed for betting without offering sufficient facilities for betting. The Gambling Commission and the Council take the view that customers need to be offered a balanced mix of betting and gaming machines, in line with the licensing objective of protecting vulnerable persons from being harmed or exploited by gambling. Betting should therefore remain the primary element of the gambling facilities being offered. In this regard betting may be provided by way of betting terminals or over a counter (i.e., face to face).

If the Council receives an application to vary a betting premises licence in order to extend the opening hours, it will need to satisfy itself that the reason for the application is in line with the need for operators to ensure that the main gambling activity associated with the licence type is actually going to be offered at the premises and not replaced merely by making gaming machines available.

In other words, applicants will need to demonstrate that the extension of hours is not designed solely to benefit from the gaming machine entitlement and that the use of gaming machines remains ancillary to the 'primary' purpose of the licence, i.e. to provide betting on the premises.

In all cases, each application will be considered on its own individual merits.

### **Tracks**

Only one premises licence can be issued for any particular premises at any time unless the premises are a 'track'. A track is a site where races or other sporting events take place.

Track operators are not required to hold an 'operators licence' granted by the Gambling Commission. Therefore, premises licences for tracks, issued by the Council may contain requirements for premises licence holders about their responsibilities in relation to the proper conduct of betting. Indeed, track operators have an important role to play, for example in ensuring that betting areas are properly administered and supervised.

Unlike betting offices, a betting premises licence in respect of a track does not give an automatic entitlement to use gaming machines.

When considering whether to exercise its power to restrict the number of betting machines at a track the Council will consider the circumstances of each individual application and, among other things will consider the potential space for the number of machines requested, the ability of track

staff to supervise the machines, especially if they are scattered around the site, and the ability of the track operator to prevent children and young persons and vulnerable people betting on the machines.

## **Bingo**

The holder of a bingo operating licence will be able to provide any type of bingo game including cash and prize bingo.

Commercial bingo halls will require a bingo premises licence from the Council.

It is important that where children are allowed to enter premises licensed for bingo, they are not allowed to participate in any bingo game. When considering applications of this type the Council will therefore take into account, among other things, the location of the games or machines, access to those areas, general supervision of the premises and the display of appropriate notices.

A limited number of gaming machines may also be made available at bingo licensed premises.

Bingo is classed as equal chance gaming and will be permitted in alcohol licensed premises and in clubs provided it remains below a certain threshold, otherwise it will be subject to a bingo operating licence which will have to be obtained from the Gambling Commission.

As with the previous section in relation to betting premises, if an application for variation is made to extend the licensing hours of bingo premises, the Council will want to establish that the primary purpose of

the premises throughout the extended period remains the provision of bingo facilities. Gaming machines may only be made available for use in licensed bingo premises on days when sufficient facilities for playing bingo are also available for use.

In this regard, in cases where bingo is being offered exclusively by means of electronic bingo terminals (EBTs) there must be more individual player positions made available for bingo than there are gaming machines available for use.

Where playing is permitted, on the licensed premise, using mobile electronic devices, then it should only be permitted within the licensed area.

## **Gaming**

A gaming machine can cover all types of gambling activity, including betting on 'virtual' events.

The Act itself prescribes the number and category of gaming machines that are permitted in each type of gambling premises.

Subject to the provisions of the Act, gaming machines can be made available in a wide variety of premises, including:

- casinos
- bingo premises
- betting premises( including tracks )
- adult gaming centres

- family entertainment centres
- clubs
- pubs and other alcohol licensed premises
- travelling fairs

A machine is not a gaming machine if the winning of a prize is determined purely by the player's skill. However, any element of 'chance' imparted by the action of the machine would cause it to be a gaming machine.

The Council will, where appropriate, seek to encourage premises licence and permit holders to adopt and adhere to any codes of practice which may be introduced by the amusement trade industry from time to time.

The Council will treat every application for a permit on its own merits, regardless of the number of machines applied for. Applicants for permits in respect of alcohol licensed premises may, where the number of machines applied for is 3 or more, be asked to provide additional information, for example in the form of a plan, in order to satisfy the Council that the premises are suitable for the purpose and will not result in the 'primary' use of the premises being changed to one of gambling.

The Gambling Commission have introduced a Code of practice for gaming machines in clubs and premises with an alcohol licence

which can be accessed by the Commission's website:

[www.Gamblingcommission.gov.uk](http://www.Gamblingcommission.gov.uk)

The code includes sections relating to –

- the location and operation of machines
- access to gambling by children
- a good practice guide for permit-holders

For general information about the issue of permits to relevant premises, including alcohol licensed premises, please direct your enquiries to the Licensing Team by telephone to (0121) 569 6744 or by e mail to:

[Licensing\\_Team@sandwell.gov.uk](mailto:Licensing_Team@sandwell.gov.uk)

### **Lotteries**

All lotteries are unlawful unless they are run in accordance with an operating licence issued by the Gambling Commission or it is an ‘exempt’ lottery as defined by the Act.

One of those exemptions is in respect of what are termed “small societies lotteries” and the Council is responsible for registering these ‘small’ lotteries.

A society will be allowed to register with the Council if it is a ‘non-commercial’ lottery, in other words, it is established and conducted:

- for charitable purposes ;
- for the purpose of enabling participation in, or of supporting, sport, athletic or a cultural activity ; or
- any other non-commercial purpose other than for private gain.

The Council maintains a register of small societies lotteries. Please contact the licensing team for further information by telephone to (0121) 569 6744 or by e mail: [Licensing\\_Team@sandwell.gov.uk](mailto:Licensing_Team@sandwell.gov.uk)

The Gambling Commission has strengthened its Guidance to licensing authorities as a result of some small society lotteries avoiding applying for an operating licence from the Commission by obtaining 2 or more registrations with the same or different licensing authorities.

A society lottery is a large lottery requiring an operating licence if the arrangements for it are such that its proceeds may exceed £20,000 or the aggregate proceeds in any calendar year exceed £250,000.

If a society has separate branches with different aims and objectives it is acceptable for them to hold more than one local authority registration.

If the Council receives more than one registration which appears to come from the same society the applicant may well be asked to provide further information in support of the application so that the Council can satisfy itself that the societies are genuinely separate and the aims and objectives are different.

Similar checks may be carried out on societies at the time the annual registration fees are due and, if the limits on proceeds are likely to be exceeded, the matter will be referred to the Gambling Commission for further investigation.



## **Exchange of Information**

To ensure the licensing objectives are met, the licensing authority will establish a close working relationship with the police, the Gambling Commission and, where appropriate, other responsible authorities.

Subject to the provisions of the Data Protection Act 1998, we will share any information we receive through the application process with the Gambling Commission and any relevant responsible authority. In doing so we will have regard to the Act itself, any guidance issued by the Commission and to any Regulations issued by the Secretary of State. People can access personal information that we hold about them by contacting our Information Management Unit.

We are committed to being open about what we do and how we come to our decisions, in accordance with the spirit of the Freedom of Information Act 2000 (FOIA). An important feature of the FOIA is the requirement for each public authority to produce a publication scheme setting out what information it will publish as a matter of course, how and when it will be published, and whether this information will be free of charge or on payment.

FOIA also provides the public with a general right of access to information held by public authorities, and subject to exemptions, be supplied with a copy of that information. Information about how the authority handles FOI requests can be found at the [Councils website](#)

Requests must be submitted to the council in writing. You can either fill in the [online form](#) or send an email or letter stating what information you would like to receive.

Emails should be sent to [contact@sandwell.gov.uk](mailto:contact@sandwell.gov.uk)

Letters should be addressed to:

Information Management Unit

Oldbury Council House

Freeth Street

Oldbury

West Midlands

B69 3DE

Unless restricted by the Gambling Act, details about applications, licenses and representations will be made available in our public register. Representations that we accept will be copied in their entirety to applicants, to provide an opportunity for mediation and to ensure that the rights of the applicant are not compromised.

Operators/premises are requested to share relevant information with the Licensing Authority about test purchasing results (subject to primary authority agreements) and such information as the number of self-exclusion and underage attempts to gamble to help the Licensing Authority develop its understanding about the risk of problem gambling in its area. The Authority may seek information from operators/premises for this purpose

Details of applications and representations which are referred to the Licensing Committee or a Licensing Panel may be published in reports that are made publicly available in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000. The personal details of those making representations may be disclosed to applicants and other parties to a hearing and will normally only be withheld on the grounds of personal safety where the Council is specifically requested to do so.

## **Enforcement Protocols**

The Council is required by Regulations under the Act to state the principles to be applied by it in exercising the functions under Part 15 of the Act in respect of the inspection of premises; and the powers under Section 346 of the Act to institute criminal proceedings in respect of the offences specified.

The Council will have regard to the principles of better regulation and any Regulators' Code in force at the time. In addition, the Council will act in accordance with the relevant legislation, be guided by the Commission's Guidance and will endeavour at all times to be:

- proportionate – the Council will only intervene when necessary: any remedies will be appropriate to the risk posed, and costs identified and minimised
- accountable – decisions will be justified and subject to public scrutiny
- consistent – any rules and standards will be joined up and implemented fairly
- transparent - the Council will be open and any licence conditions will be kept simple and user friendly and
- targeted – regulation will be focused on the problem with the aim of minimising side effects

We are committed to the principles of good enforcement and our Enforcement Policy sets out how we will go about achieving that aim.

Compliance with the Enforcement Policy will ensure that we will strive to be fair, impartial, independent and objective and will not be influenced by issues such as ethnicity or national origin, gender, religious beliefs, political views or the sexual orientation of the suspect, victim, witness or offender. Decisions will not be influenced by improper or undue pressure from any source.

The purpose of our enforcement policy is to provide a framework to ensure that we work in an equitable, practical and consistent manner.

We recognise that most businesses want to comply with the law. We will endeavour to help those businesses and others to meet their legal obligations without unnecessary expense. When a business does break the law, we will consider all the surrounding circumstances before deciding whether formal action is appropriate. A prosecution will only be brought if there is sufficient evidence to provide a realistic prospect of conviction and it is in the public interest to do so; in accordance with the Code for Crown Prosecutors.

We aim to prioritise and direct our regulatory effort effectively; using intelligence and relevant risk assessment schemes.

Such risk assessments will have regard to all available, relevant and good-quality data. We will give due consideration to the combined effect of the potential impact and likelihood of non-compliance – this approach will enable us to focus our resources on the areas that need them most and to ensure that persistent offenders are identified quickly.

Powers of entry and associated powers are important tools that facilitate the protection of the public from harm, enable the effective investigation of offences and allow for the necessary enforcement of regulations.

Powers of entry and associated powers (such as search and seizure) are intrusive in nature and may engage rights enshrined in the European Convention on Human Rights.

We will balance the need to protect the public from harm against the human rights of the individual and have regard to relevant Codes of Practice.

In general, the Gambling Commission will take the lead role on the investigation and, where appropriate, the prosecution of illegal gambling.

The Council will continue to work with the Commission, the police and other enforcing authorities to provide for the targeting of agreed problem or high-risk premises. A lighter touch will be applied to those premises which are shown to be well managed and maintained. Inspections will generally be undertaken on a reactive basis. The overall aim is to permit the use of premises for gambling. With that in mind it is intended that action will generally be taken against 'problem' premises through the review process.

Test purchasing is one method by which the Licensing Authority, in partnership with The Gambling Commission can measure the compliance of licensed operators, or groups of licensed operators, with aspects of the Gambling Act 2005. In conducting test purchasing, we may work in partnership with Gambling Commission which have the

primary responsibility for issues related to individual gambling premises. Test purchasing is also a means by which operators themselves can demonstrate the effectiveness of their policies and procedures.

### **The licensing process**

The Council's licensing functions under the Act will be carried out by the Licensing Committee, supported by a number of Licensing Panels and by officers acting under the delegated authority of the committee.

Where there are no areas of contention it is considered that many of the functions will be largely administrative. In the interests of efficiency and effectiveness these will, for the most part, be carried out by officers.

Where there are relevant representations in respect of an application the matter will be determined by the Licensing Committee or one of its sub-committees, as will any application for the review of a licence.

Factors which will be considered when considering applications and reviews include;

- History of the premises operation
- Compliance history
- Attitude of the licence holder
- Results of interventions
- Consultation with responsible authorities.
- The seriousness of any non-compliance

This Statement is not intended to override the right of any person to make an application under the Act, and to have that application considered on its merits. Equally, this Statement of Principles is not intended to undermine the right of any person to make representations about an application or to seek a review of a licence where provision has been made for them to do so.

In preparing this Statement, the Council has had regard to any Guidance issued by The Gambling Commission and has given appropriate weight to any views received as part of the consultation process.

This Statement must be kept under review from time to time and, in accordance with the Act, will be subject to review every three years.

The Gambling Commission's Guidance to Licensing Authorities can be accessed via the following link:

[www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

Applicants wishing to submit applications, notices or revisions should visit [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk). Forms can be submitted online.

Those wishing to find information out about fees and the application process can contact the licensing team for further information by telephone to (0121) 569 6744 or by e mail:

[Licensing\\_Team@sandwell.gov.uk](mailto:Licensing_Team@sandwell.gov.uk)

