

Surrey Heath Borough Council

**GAMBLING ACT 2005  
STATEMENT OF PRINCIPLES**

**2022 to 2025**

**Draft**

This statement of principles has been prepared following reference to guidance from the Gambling Commission to licensing authorities published in April 2021

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## 1. Introduction

### 1.1 General

The Gambling Act 2005 ('the Act') imposes a duty on licensing authorities (LAs) to exercise a number of regulatory functions in relation to gambling activities. These include:

- Licensing premises for gambling activities by issuing Premises Licences;
- Considering notices given for the temporary use of premises for gambling;
- Granting permits for gaming and gaming machines in clubs and miners' welfare institutes;
- Regulating gaming and gaming machines in premises licensed for the supply of alcohol;
- Granting permits to family entertainment centres for the use of certain lower stake gaming machines;
- Granting permits for prize gaming;
- Considering occasional use notices for betting at tracks;
- Registering small societies' lotteries that fall below certain limits.

Details of gaming machine classifications as dealt with later in this statement are set out in Annex 1

Surrey Heath Borough Council ('the Council') is a LA for the purposes of the Act. In exercising our statutory functions we have broad discretion in regulating the local provision of gambling through a wide range of powers, including

- Requirement to Issue a statement of licensing policy(principles), setting expectations about how gambling will be regulated in our area
- Granting, refusing and attaching conditions to premises licences
- Reviewing premises licences and attaching conditions or revoking them as a result.

The Gambling Commission (the Commission) has responsibility for dealing with personal licences and operating licences.

We will work in partnership with the Commission to regulate gambling. The Commission tends to focus on operators and matters of national or regional significance and LAs take the lead on regulating gambling locally. We will work together on issues relating to say building capacity and learning which may be rolled out more widely.

This Statement of Principles will be published on the Council's website [licensing@surreyheath.gov.uk](mailto:licensing@surreyheath.gov.uk)

### 1.2 Licensing Objectives

*The Act places a duty on both the Commission and LAs to aim to permit gambling, in so far as it is considered to be reasonably consistent with the pursuit of the licensing objectives.*

In exercising our functions under the Act, particularly in relation to premises licences, temporary use notices and some permits we must have regard to the licensing objectives as set out in section 1 of the Act.

The licensing objectives are:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- Ensuring that gambling is conducted in a fair and open way;
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

As a LA we aim to permit the use of premises for gambling as set out in s.153 of the Act. When making decisions about premises licences and temporary use notices we will only permit the use of premises for gambling:

- In accordance with any relevant Codes of Practice made under section 24 of the Act;
- We will also have regard to guidance issued by the Commission under section 25;and
- In accordance with this Statement of Principles, and consistent with the licensing objectives.

### **1.3 Description of Surrey Heath Borough**

Surrey Heath is located in the northwest corner of Surrey and is home to over 89,000 people. The Borough covers an area of 36.5 square miles which is comprised of a mixture of residential, rural, urban, and heathland areas. These areas are shown on the map attached as Annex 2.

Camberley Town Centre is the largest shopping and business area within the Borough and the largest cluster of entertainment venues is situated in the town including shopping facilities, restaurants, theatre, a multiscreen cinema and a ten pin bowling complex. Areas of the Borough remain undeveloped and parts are covered by 'Green Belt'. Most areas are primarily residential in nature but there are large tracts of heathland and open green spaces.

The agriculture and farming element of the area is now virtually non-existent and areas formerly used for these purposes are now often used in connection with open air recreational activities.

### **1.4 Obligation to Publish Statement of Principles**

Licensing authorities are required by section 349 of the Act to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act. This statement must be reviewed and published at least every three years. The statement may also be reviewed from "time to time" and any amended parts re-consulted upon. This may occur, for example, in the event of a change in local planning policy. The statement must then be re-published.

### **1.5 Local Risk Assessment (LRA)**

The Gambling Commission's Licence Conditions and Code of Practice (LCCP) require gambling premises licence holders to undertake a LRA taking into consideration local

information. They may be required to share these risk assessments with the licensing authority under certain circumstances. This includes when they are applying for a new premises licence, applying for a variation to an existing licence or otherwise on request. The LRA must be kept under regular review and updated as necessary.

The LRA must be updated;

- When applications are made for a variation of a premises licence;
- To take account of significant changes in local circumstances;
- When there are significant changes at a licensee's premises that may affect their mitigation of local risks.

Risks in this context include actual, potential and possible future emerging risks to the licensing objectives.

Further details may be seen at Annex 3 of this document.

Current Gambling Commission guidance recommends that LAs adopt a Local Area Profile (LAP). A LAP is a process of gathering and presenting information about a locality and any particular areas of concern. In turn where a LAP is in place it could help applicants to develop their LRA by ensuring that they are addressing relevant local areas of concerns as part of their application. This would help them to demonstrate that they are aiming to meet the licensing objectives.

**We are proposing to develop a LAP during the life of this Statement of Principles.**

In due course this will help to inform our inspection regime.

### 1.6 Consultation

Under section 349(3) of the Act we are required to consult with the following on our statement of principles and any subsequent revision:

- The Chief Officer of Police for this area;
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area;
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.

A full list of consultees is attached as Annex 4.

This statement of policy is likely to take effect from February 2022. It will remain in force for no more than 3 years, but may be reviewed at any time.

When undertaking a review we will carry out a consultation on any proposed changes. This will include publishing and advertising the revisions which will subsequently become part of the SoP.

### 1.7 Declaration

This statement of principles has been prepared with due regard to the licensing objectives, the guidance to licensing authorities issued by the Commission, and with due weight attached to any responses received from those consulted.

This statement of policy 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 Act.

### 1.8 Responsible Authorities (RAs)

*The Act sets out two categories of organisations and individuals that may feature in applications for, and in relation to, premises licences, RAs and interested parties.*

We must inform RAs of any applications we receive under the Act as they are entitled to make representations to the LA in relation to applications for, and in relation to, premises licences.

Section 157 of the Act identifies the bodies that are to be treated as RAs as listed below:

- The Gambling Commission;
- The chief officer of police or chief constable for our area;
- The fire and rescue authority;
- The local planning authority;
- An authority with responsibility in relation to pollution to the environment or harm to human health;
- Anyone designated as competent to advise about the protection of children from harm;
- HM Revenue and Customs;
- Any other person prescribed in regulations by the Secretary of State.

The contact details of all the RAs under the Act are available via the Council's website at [www.surreyheath.gov.uk](http://www.surreyheath.gov.uk).

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

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

Having regard to the above principles, the Council designates the Surrey Children's Service for this purpose.

### 1.9 Interested parties

Interested parties can make representations about licence applications, or apply for a review of an existing licence. Section 158 of the Act defines interested parties as persons who, in the opinion of the licensing authority;

- a) Live sufficiently close to the premises to be likely to be affected by the authorised activities;
- b) Have business interests that might be affected by the authorised activities; or
- c) Represent persons who satisfy paragraph (a) or (b) \*

Whether or not a person is an interested party is a decision that will be taken by the Council on a case-by-case basis. However, the following factors will be taken into account:

- 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);
- The nature of the complainant. This is not the personal characteristics of the complainant but the interests of the complainant which may be relevant to the distance from the premises. For example, it could be reasonable for an authority to conclude that “sufficiently close to be likely to be affected” could have a different meaning for (a) a private resident (b) a residential school for children with truanting problems and (c) residential hostel for vulnerable adults;
- The ‘catchment’ area of the premises (i.e. how far people travel to visit); and whether the person making the representation has business interests in that catchment area, that might be affected.

This list is not exhaustive and other factors may be taken into consideration in an individual case.

The Council considers the following bodies/ associations to fall within the category of those who represent persons living close to premises, or having business interests that might be affected by the authorised activities:-

- Trade associations;
- Trade unions;
- Residents and tenants associations;
- Ward/ county/ parish councillors;
- MP's.

This list is not exhaustive and the Council may consider other bodies/ associations and persons to fall within the category in the circumstances of an individual case.

The Council may require written evidence that the person/ association/ body represents an interested party.

### 1.10 Exchange of Information

*The Act requires the Council to include the principles we apply in exercising our functions under sections 29 and 30 of the Act regarding the exchange of information between the*

*Commission and us. This also applies in relation to the functions under section 350 of the Act. The following therefore applies.*

The Council regards the lawful and correct treatment of information as very important to the successful and efficient performance of the Council's functions, and to maintaining confidence between the people/ bodies we deal with and ourselves. We ensure that our organisation treats information lawfully and correctly.

The Council may share information in accordance with the following provisions of the Act: -

- Sections 29 & 30 (with respect to information shared between the Council and the Commission);
- Section 350 (with respect to information shared between the Council and the other persons listed in Schedule 6(1) of the Act). Those relevant to us as a LA are as follows:
  - A constable or police force;
  - An enforcement officer;
  - A licensing authority;
  - HMRC;
  - The First Tier Tribunal
  - The Secretary of State.

In the exercise of the above functions, consideration shall also be given to the common law duty of confidence, the law relating to defamation, the guidance issued by the Commission and to the Council's policies in relation to data protection and freedom of information.

*The Council will act in accordance with the relevant legislation and guidance from the Commission and will adopt the principles of better regulation.*

Any information shared between the Council and Surrey Police must also be carried out in accordance with the Surrey Information Sharing Protocol produced by the Surrey Community Safety Unit.

Any person wishing to obtain further information about their rights under the General Data Protection Regulations or the Freedom of Information Act 2000 may view the Council's policies at [www.surreyheath.gov.uk](http://www.surreyheath.gov.uk) or alternatively contact the Information Governance Manager, Surrey Heath Borough Council, Surrey Heath House, Knoll Road, Camberley GU15 3HD – Tel No. 01276-707100 – e-mail [foi@surreyheath.gov.uk](mailto:foi@surreyheath.gov.uk)

### **1.11 Equality and Diversity**

The Council encourages the promotion of a culturally diverse range of entertainment, which is available to all the community.

The Equality Act 2010 applies to all licensed premises and those who operate them. It also places a legal duty on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. It is discriminatory to treat a person less favourably than another person, because that person has one or more of those protected characteristics.



Operators and applicants are obliged by the Act to make reasonable adjustments to help disabled persons access their goods, services and facilities where those persons would be at a substantial disadvantage compared to non-disabled persons and this extends to persons who are workers.

The Council has an Equality Strategy which sets out its approach to equality and diversity and how it implements the public sector equality duty.

### 1.12 Compliance and Enforcement

The Act requires the Council to state the principles we will apply in exercising our functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of specified offences.

The Council has adopted a risk-based approach to the inspection of premises including those where gambling takes place. This will allow for the targeting of high-risk premises, or those where a breach would have serious consequences. Premises that are low risk and/ or well run will be subject to a less frequent inspection regime.

Our risk based inspection of premises is based on:

- The licensing objectives;
- Relevant codes of practice;
- Guidance issued by the Commission, in particular at Part 36;
- The principles set out in this statement of principles; and
- Surrey Heath's Corporate Enforcement Policy

Our main enforcement role in terms of the Act is to ensure compliance with premises licences and other permissions, which we authorise. The Commission is the enforcement body for operating licences and personal licences.

All of our enforcement activities will be carried out in a way which is transparent, accountable, proportionate and consistent and will be targeted only at cases in which action is needed. We will have regard to the Regulators' Code (previously the Regulators' Compliance Code).

Where necessary, appropriate enforcement (including prosecution under section 346 of the Act) will be carried out in a fair and consistent manner in accordance with the principles set out in the Council's Corporate Enforcement Policy.

The Council has established protocols with the local Police and Fire Authority to avoid duplication and to provide for the most efficient deployment of Council, Police and Fire Authority officers in respect of inspection of licensed premises and the use of appropriate enforcement tools.

The Licensing Authority encourages licensees to seek advice from the Environmental Health and Licensing Services and/or the police for clarification, advice or assistance with issues which arise, but places the responsibility for effective management solely with licence holders.

We are committed, as far as possible, to avoiding duplication with other regulatory regimes. This includes, for example, duties imposed on the self-employed, employers

and operators of gambling premises, both in respect of employees and of the general public by legislation governing health and safety at work and fire safety.

Concerns about manufacture, supply or repair of gaming machines will not be dealt with by the Council but will be notified to the Commission.

### 1.13 Delegation of Functions

Information on how functions under the Act are delegated to officers and the Licensing Committee can be obtained from licensing services.

## 2. Premises Licences

In accordance with section 150 of the Act, premises licences can authorise the provision of facilities in:

- Casino premises;
- Bingo premises;
- Betting premises, including tracks and premises used by betting intermediaries;
- Adult gaming centre (AGC) premises (for category B3, B4, C and D machines);
- Family entertainment centre (FEC) premises (for category C and D machines) – the LA may issue a FEC gaming machine permit which authorises the use of category D machines only.

The Act defines 'premises' as including any place, section 152 prevents more than one premise licence applying to any one place. This is further explained in the Commission guidance.

### 2.1 Decision making - general

In accordance with Section 153(1) of the Act, the Council aims to permit the use of premises for gambling in so far as it thinks it is:

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

The Council will not have regard to the expected demand for the facilities which it is proposed to provide, nor the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal.

Moral objections to gambling will not be considered by the Council, as they are not a valid reason for rejecting an application for a premises licence.

Each case will be considered on its individual merits. However, in order to assist applicants and objectors alike, this section sets out the general factors that will be taken into account by the Council when considering applications for premises licences.

Operators can apply for a premises licence in respect of premises which have still to be constructed or altered. We are required to determine such applications on its merits.

The Council regularly reviews its constitution and scheme of delegation to officers to ensure effective implementation of the Act. The Licensing Committee and Sub-Committee will be asked to deal with licensing issues and the determination of applications in certain cases, i.e. those where representations have been made or where premises licences require review. Non contentious issues are delegated to officers.

### 2.2 Location

The location of premises may be relevant to the promotion of the licensing objectives. In particular, premises located in close proximity to the following may give rise to concern

- Schools
- Vulnerable adult centres
- Residential areas with a high concentration of children

Much will depend upon the type of gambling that it is proposed will be offered on the premises. The Council will, where appropriate, consider the location on a case-by-case basis. If the proposed location does pose a risk to the promotion of the licensing objectives, the applicant will be invited to show how they propose to overcome such concerns.

### 2.3 Multiple licences/ layout of buildings

Premises are defined in the Act as including 'any place', but no more than one premises licence can apply in relation to any one place. A single building can be subject to more than one premises licence, provided they are for different parts of the building and those parts can reasonably be regarded as being different premises.

Where multiple licences are sought for a building (or a discrete part of a building used for other non gambling purposes), specific issues will need to be considered by the Council before such application(s) can be granted. These include

- the ability of children to gain access to or observe gambling facilities (even accidentally) – entrances and exits from parts of a building covered by more than one premises licence should be separate and identifiable so that the separation of different premises is not compromised and that people (and in particular, children) do not drift into a gambling area;
- the compatibility of the 2 or more establishments; and
- the ability of the establishments to comply with the requirements of the Act.

In accordance with the Gambling Commission guidance, an overriding consideration will 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.

### 2.4 Conditions

The Act provides that licences may be subject to conditions in a number of ways. These are

- (a) **Mandatory** – as set out in the Act and by the Secretary of State as prescribed in regulations, for all, or classes of licence;
- (b) **Default** – prescribed in regulations made by the Secretary of State, to be attached to all or classes of licences unless excluded by the licensing authority;

- (c) **Specific** – conditions that can be attached to an individual licence by the licensing authority.

Conditions imposed by the Council will be proportionate to the circumstances that they are seeking to address and will be designed to ensure that the licensing objectives are met. In particular, this Council will ensure that premises licence conditions are:

- 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.

Certain matters may not be the subject of conditions. These are:

- Any condition on the premises licence which makes it impossible to comply with an operating licence condition;(s169(4));
- Conditions relating to gaming machine categories, numbers, or method of operation; (s 172(10));
- Conditions which provide that membership of a club or body be required (the Act specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated;(s 170 ); and
- Conditions in relation to stakes, fees, winning or prizes. (s 171)

### 2.5 Door Supervisors

The Act does not require a LA to impose conditions relating to door supervision. However, where we consider it necessary to impose a condition on a premises licence requiring the presence of door supervisor(s), such person(s) would need to hold a licence under the Private Security Industry Act 2001(PSIA).

This requirement does not apply to door supervisors at licensed casino or bingo premises, who are exempt from the licensing requirements of the PSIA. The Council may however impose specific requirements on door supervisors at such premises if considered appropriate in individual cases.

### 2.6 Adult gaming centres (AGCs) (Page 125)

*An AGC is one of three types of amusement arcade. This type of arcade can provide higher pay out gaming machines (Category B3 and B4) and access is restricted to persons who are 18 or over.*

Persons operating an AGC must obtain a gaming machines general operating licence from the Commission and a premises licence from the Council. This will allow the operator to make category B, C & D machines available to their customers. No one under the age of 18 is permitted to enter an adult gaming centre.

In considering licence applications for AGCs, weight will be given to the need to protect children and vulnerable persons from harm or being exploited by gambling. The Council will therefore expect applicants to demonstrate that there will be sufficient measures in place to promote this objective.

Applicants are encouraged to consider the following steps:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Location of and entry to premises (so as to minimise the opportunities for children to gain access)
- Notices / signage
- Training for staff on challenging persons suspected of being under-age
- Specific opening hours
- Self-barring schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.

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

Please see paragraph 2.4 for details of conditions that may be attached to premises licences authorising AGCs.

A notice **MUST** be displayed at all entrances to AGCs stating that no person under the age of 18 years will be admitted to the premises.

Additional mandatory conditions apply to AGCs as set out in guidance including the following:

- The consumption of alcohol in AGCs is prohibited at any time during which facilities for gambling are being provided on the premises.

### **2.7 Licensed family entertainment centres (LFECs)**

*A LFEC is the second type of amusement arcade. This type of arcade can provide the lowest two categories of gaming machines (category C and D). Children can enter a LFEC but they can only gamble on category D machines. All category C machines must be located in a separate area, which can only be accessed by persons who are ages 18 and over.*

Operators of licensed LFECs require a gaming machine general operating licence from the Gambling Commission, and a premises licence from the Council. This will allow the operator to make category C & D machines available to their customers.

As LFECs will particularly appeal to children and young persons, weight will be given to child protection issues. Where category C machines are available in LFECs the Council will normally require 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.

Applicants are therefore encouraged to consider the steps set out at paragraph 2.6 of this statement in order to prevent children and young persons from gaining access to category C machines. In addition, applicants are encouraged to consider the following

- Physical separation of areas;
- Measures/training for staff on how to deal with suspected truant school children on the premises.

This list is indicative of measures that could be considered.

Please see paragraph 2.4 for details of conditions that may be attached to premises licences authorising LFECs. Whilst currently there are no default conditions specific to LFECs the Commission guidance list a number of mandatory conditions that must be applied to LFECs.

### **2.8 Tracks**

Tracks are sites (including racecourses and dog tracks) where sporting events take place.

**There are currently no tracks located in Surrey Heath.**

Operators proposing to provide a track within the Borough will require a premises licence from the Council, but they do not need to obtain an operating licence from the Gambling Commission (although they may have one).

Tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track.

It will be a mandatory condition of all track licences that children and young persons are excluded from any areas where facilities for betting are provided, and any area where a gaming machine, other than a category D machine, is situated. Special dispensation from this rule is provided for dog tracks and horse racecourses, on days when racing takes place, in relation to the areas used for betting. On these days families will be entitled to attend the track or racecourse, and children enter the areas where facilities for betting are provided. This race day dispensation does not apply to the areas where gaming machines of category B & C are provided, and the Council will therefore wish to ensure that suitable measures are in place to prevent children from entering such areas.

Applicants are encouraged to consider the steps set out at paragraph 2.6 in order to prevent the access of children and young people to machines of category B & C. In addition, applicants are encouraged to consider the following

- Physical separation of areas;
- Measures/training for staff on how to deal with suspected truant school children on the premises.

**Gaming machines at tracks:**

Holders of betting premises licences in respect of tracks who also hold a pool betting operating licence may make available up to 4 gaming machines (categories B2 to D) on the track. The Council will therefore expect the applicant to demonstrate that suitable measures are in place to ensure that children are prevented from entering areas where machines (other than category D machines) are made available.

Betting machines at tracks:

The Council will apply similar considerations to those set out in paragraph 2.10 (in relation to betting machines made available at off-course betting premises) to betting machines made available at tracks.

Condition on rules being displayed:

The Council will 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.

Applications and plans:

The Council will require the following information from applicants for premises licences in respect of tracks: -

- Detailed plans for the racetrack itself and the area that will be used for temporary “on-course” betting facilities (often known as the “betting ring”);
- In the case of dog tracks and horse racecourses, details of the fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities

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.

### 2.9 Casinos

A casino is an arrangement whereby people are given the opportunity to participate in one or more casino games. Casino games are defined as a game of chance which is not equal chance gaming. This means that casino games offer the chance for multiple participants to take part in a game competing against the house or banks at differed odds to their fellow player.

The Gambling (Geographical Distribution of Large and Small Casino Premises Licences) Order 2008 specifies which authorities may issue large and small casino premises licences. Surrey Heath Borough Council is not one of the local authorities permitted to issue these casino licences.

The Council is not therefore proposing to pass a resolution under Section 166 of the Gambling Act 2005 stating that no casino premises will be licensed in the Borough, but is aware that it has the power to do so. Any such decision would be made by the Full Council. Should this LA consider it necessary in the future to pass such a resolution or the Council is granted authority to issue a casino licence this statement of principles will be updated.

***There are currently NO casinos located within Surrey Heath Borough Council.***

### 2.10 Betting Premises (BPs)

This paragraph deals with off-course betting, that is betting that takes place other than at a track (commonly known as a licensed betting office). Operators of BPs will require an operating licence from the Gambling Commission and a premises licence from the Council.

The holder of a betting premises licence may make available for use up to 4 gaming machines of category B (B2, B3 or B4), C or D. (s 172(8))

The Council may, in accordance with section 181 of the Act, restrict the number of betting machines, their nature, and the circumstances in which those machines are made available for use. When considering whether to impose such a condition, the Council will take into account the following: -

- The size of the premises;
- The structure and layout 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

Please see paragraph 2.4 for details of conditions that may be attached to betting premises licences. These include both mandatory and default conditions.

### 2.11 Bingo

Bingo is not given a statutory definition in the Act although two types of bingo are commonly understood:

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

Operators of premises offering bingo (cash or prize) will require a bingo operating licence from the Gambling Commission, and a premises licence from the Council.

The holder of a bingo premises licence may, in addition to bingo in all its forms, make available for use up to 4 category B gaming machines (B3 & B4) and any number of category C & D machines.

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 the Council will normally require 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.

Please see paragraph 2.4 for details of conditions that may be attached to bingo premises licences.

### **2.12 Temporary Use Notices (TUNs) (sections 214-234 of the Act)**

TUNs allow the use of premises for gambling where there is no premises licence but where a person or company holding a relevant operators licence wishes to use the premises temporarily for providing facilities for gambling.

Examples of premises where TUNs may be used include:

- Hotels
- Conference Centres
- Sporting Venues

We will have regard to the Gambling Act 2005(Temporary Use Notices) Regulations 2007 (SI 2007/3157) when considering applications for TUNs.

There are a number of statutory limits in regards to temporary use notices. This includes the following:

- Gambling may only be available on a maximum of 21 days in any 12 month period for any or all of a named set of premises.

If objections are received to a temporary use notice (from the Police, the Commission, HMRC or any other licensing authority in whose area the premises are situated), the Council must hold a hearing to consider the representation (unless all the participants agree that a hearing is unnecessary).

If the Council, after a hearing has taken place or been dispensed with, considers that the temporary use notice should not have effect, it must issue a counter-notice which may:

- Prevent the temporary use notice from taking effect;
- Limit the activities that are permitted;
- Limit the time period of the gambling; or
- Allow the activities to take place subject to a specified condition

The Council will apply the principles set out in paragraph 2.1 of this statement to any consideration as to whether to issue a counter-notice.

### **2.13 Provisional Statements (PSs)**

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

Section 204 of the Act provides for a person to make an application to the LA for a PS in respect of premises he or she expects to:

- Be constructed;
- Be altered; or
- Acquire a right to occupy.

The process for considering an application for a PS is the same as that for a premises licence application. The applicant is required to give notice of the application. RAs and interested parties may make representations and there is no right of appeal.

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

The holder of a PS may then apply for a premises licence once the premises are constructed, altered or acquired. The Council will be constrained in the matters it can consider when determining the premises licence application. In terms of representations about premises licence applications that follow the grant of a PS, no further representations from RAs or interested parties will be taken into account unless:

- They concern matters which could not have been addressed at the PS stage; or
- They reflect a change in the applicant's circumstances.

In addition, we may refuse the premises licence (or grant it on different terms attached to the PS) only with reference to matters:

- Which could not have been raised by objectors at the PS stage;
- Which in our opinion reflect a change in the operator's circumstances; or
- Where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and we will discuss any concerns we have with the applicant before making a decision.

### 2.14 Reviews

RAs or interested parties can make a request for a review of a premises licence, however it is for the Council 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:

- In accordance with any relevant Code of Practice or guidance issued by the Commission;
- Reasonably consistent with the licensing objectives; and
- In accordance with the authority's statement of principles.

The Council will consider whether the request is frivolous, vexatious, or whether it will cause us to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous requests for a review.

The Council can also initiate a review of a particular premises licence, or a particular premises licence based on any reason, which we think is appropriate.

Once a valid application for a review is received, RAs and interested parties can make representations during a 28 day period. This period begins on the day the application is made to the LA and we will publish notice of the application within 7 days of receipt.

The Council will carry out the review as soon as possible after the 28-day period for making representations has passed.

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

- Add,remove or amend a licence condition imposed by the LA;
- Exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such exclusion;
- Suspend the premises licence for a period not exceeding three months; and
- Revoke the premises licence.

We will have regard to the principles set out in s153 of the Act, as well as any representations in determining what action, if any, we should take following a review.

We may initiate a review of a premises licence if a premises licence holder has NOT provided facilities for gambling at the premises. This is to deter people from applying for licences in a speculative manner without intending to use them.

Once the review has been completed, we will, as soon as possible, notify our decision to:

- The licence holder;
- The applicant for review(if any);
- The Commission;
- Any person who made representations;
- The chief officer of police or chief constable; and
- HMRC

### **2.15 Register of Premises Licences**

*Section 156 of the Act requires LAs to maintain a register of premises licences that it has issued. .*

This register can be found on the licensing pages of our website [www.surreyheath.gov.uk](http://www.surreyheath.gov.uk)

## **3. Permits**

The Act introduces a range of permits for gambling which are granted by LAs. They are designed as a light touch approach to low level ancillary gambling. The permits regulate gambling and the use of gaming machines in certain premises.

Holders of alcohol-licensed premises gaming machine permits and club permits are required to comply with codes of practice drawn up by the Gambling Commission about the location and operation of the machines.

As a LA we are responsible for issuing:

- FEC gaming machine permits;
- Club gaming permits and club machine permits;
- Alcohol-licensed premises gaming machine permits;
- Prize gaming permits

LAs may only grant an application for a permit. We are not allowed to attach conditions to a permit.

Once granted the permit will have effect for 10 years, unless it ceases to have effect because it is surrendered or lapses or is renewed.

### **3.1 Unlicensed Family Entertainment Centre (UFEC) gaming machine permits**

UFEC will be able to offer category D machines if granted a permit by the Council. If an operator of a FEC wishes to make category C machines available in addition to category D machines, they will need to apply for an operating licence from the Gambling Commission and a premises licence from the Council.

As UFECs will particularly appeal to children and young persons, weight shall be given to child protection issues when considering an application.

The Council will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures/training for staff as regards suspected truant school children on the premises, measures/training covering how staff should deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises. The Council will also expect applicants to demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in UFECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 to the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

### **3.2 (Alcohol) Licensed premises gaming machine permits**

Premises licensed to sell alcohol for consumption on the premises, can automatically have 2 gaming machines, of categories C and/or D. The holder of the premises licence authorising the sale of alcohol will simply need to notify the Council, and pay the prescribed fee.

The Council can remove the automatic authorisation in respect of any particular premises if;

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Act;
- the premises are mainly used for gaming; or
- An offence under the Act has been committed on the premises.

If a premises wishes to have more than 2 machines, then the holder of the premises licence will need to apply for a permit. The Council shall consider that application having regard to the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Act, and any other matters that are considered relevant.

The Council shall determine what constitutes a relevant consideration on a case-by-case basis, but weight shall be given to the third licensing objective i.e. protecting children and vulnerable persons from being harmed or being exploited by gambling. To this end, the Council will expect applicants to demonstrate that there will be sufficient measures in place to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority 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 of help.

With respect to the protection of vulnerable persons, the Council will expect applicants to provide information leaflets / helpline numbers for organisations such as GamCare.

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

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

### 3.3 Prize gaming permits

*S288 of the Act defines gaming as prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or the amount paid for or raised by the gaming. Normally the prizes are determined by the operator before play commences.*

Applicants for prize gaming permits should set out the types of gaming that he or she is intending to offer. The applicant should be able to demonstrate:

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

In making its decision on an application for this type of permit the Council does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance. Weight will be given to child protection issues, and relevant considerations are likely to include the suitability of the applicant (i.e. if the applicant has any convictions which would make them unsuitable to operate prize gaming) and the suitability of the premises. Applicants for prize gaming permits must disclose any previous relevant convictions to the Council.

The Council can grant or refuse an application for a permit, but cannot attach any conditions. However, there are 4 conditions in the Act that permit holders must comply with. These 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.

### 3.4 Club gaming and club machine permits

The Act creates a separate regime for gaming in clubs from that in other relevant alcohol licensed premises. It defines two types of clubs for the purposes of gaming:

- Members' clubs (including miners' welfare institutes)
- Commercial clubs

Members clubs (but not commercial clubs) may apply for a club gaming permit. The club gaming permit will enable the premises to provide gaming machines (3 machines of categories B4, C or D), equal chance gaming and games of chance.

If a club does not wish to have the full range of facilities permitted by a club gaming permit or if they are a commercial club not permitted to provide non-machine gaming (other than exempt gaming under section 269 of the Act), they may apply for a club machine permit, which will enable the premises to provide gaming machines (3 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. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations.

An application may only be refused on one or more of the following grounds;

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

The Council shall have regard to the guidance issued by the Gambling Commission and (subject to that guidance), the licensing objectives.

There is a 'fast-track' procedure available for clubs which hold a club premises certificate under the Licensing Act 2003. Under the fast-track procedure there is no opportunity for objections to be made by the Gambling Commission or the Police, and the grounds upon which an authority can refuse a permit are reduced.

The grounds on which an application under the fast track procedure may be refused are;

- that the club is established primarily for gaming, other than gaming prescribed by regulations under s.266 of the Act;
- that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- That a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

The Council can grant or refuse an application for a club gaming or club machine permit, but cannot attach any conditions. However, there are a number of conditions in the Act that the holder must comply with.

### Further Information

Further information about the Act, this SoP or the application process can be obtained from:  
- [licensing@surreyheath.gov.uk](mailto:licensing@surreyheath.gov.uk)

Helen Lolley  
September 2021

### ANNEX 1 – MACHINE CATEGORIES

ANNEX 2 – MAP OF SURREY HEATH BOROUGH (to be attached to the consultation document)

ANNEX 3– LOCAL RISK ASSESSMENTS

ANNEX 4– LIST OF CONSULTEES

## MACHINE CATEGORIES

Summary of gaming machine categories and entitlements.

Category of Machine	Maximum Stake (from April 2019)	Maximum Prize (from January 2014)
A	Unlimited No category A gaming machines are currently permitted	
B1	£5	£10,000 †
B2	£2	£500
B3A	£2	£500
B3	£2	£500
B4	£2	£400
C	£1	£100
D – non-money prize	30p	£8
D – non-money prize (crane grab machines only)	£1	£50
D – money prize	10p	£5
D – combined money prize and non-money prize	10p	£8 (of which no more than £5 may be a money prize)
D – combined money prize and non-money prize (coin pusher or penny falls machines only)	20p	£20 (of which no more than £10 may be a money prize)

† With option of max £20,000 linked progressive jackpot on premises basis only



## Annex B

### Summary of machine provisions by premises.

Premises Type	Machine Category						
	A	B1	B2	B3	B4	C	D
Regional casino (machine/table ratio of 25 - 1 up to maximum)	Maximum of 1250 machines Any combination of machines in categories A to D, within the total limit of 1250 (subject to machine/table ratio)						
Large casino (machine/table ratio of 5 - 1 up to maximum)		Maximum of 150 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine/table ratio)					
Small casino (machine/table ratio of 2 - 1 up to maximum)		Maximum of 80 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine/table ratio)					
Pre-2005 Act casinos (no machine/table ratio)		Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead					
Betting premises and tracks occupied by Pool Betting			Maximum of 4 machines categories B2 to D (except B3A machines)				
Bingo Premises				Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4		No limit C or D machines	
Adult gaming centre				Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4		No limit C or D machines	
Family entertainment centre (with premises licence)						No limit on Category C or D machines	
Family entertainment centre (with permit)							No limit on Category D machines
Clubs or miners' welfare institutes with permits					Maximum of 3 machines in categories B4 to D		
Qualifying alcohol licensed premises						1 or 2 machines of category C or D automatic upon notification	
Qualifying alcohol licensed premises with gaming machine permit						Number as specified on permit	
Travelling fair							No limit on Category D machines

	<b>A</b>	<b>B1</b>	<b>B2</b>	<b>B3</b>	<b>B4</b>	<b>C</b>	<b>D</b>
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### **Local Risk Assessments**

From 6 April 2016, it has been a requirement of the Gambling Commission's Licence Conditions and Codes of Practice (LCCP), under Part 2, section 10.1, for licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at their premises and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account this Statement of Gambling Policy and the LCCP.

<http://www.gamblingcommission.gov.uk/pdf/Latest-LCCP-and-Extracts/Licence-conditions-and-codes-of-practice.pdf>

Licensees must review (and update as necessary) their local risk assessments:

- a) To take account of significant changes in local circumstances, including those identified in a licensing authority's statement of licensing policy;
- b) When there are significant changes at a licensee's premises that may affect their mitigation of local risks;
- c) When applying for a variation of a premises licence; and
- d) In any case, undertake a local risk assessment when applying for a new premises licence.

Licensees must share their risk assessments with the Council when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise on request.

The Council will expect the local risk assessment to consider as a minimum:

- Whether the premises is in an area of deprivation
- Whether the premises is in an area subject to high levels of crime and/or disorder
- The ethnic profile of residents in the area
- The demographics of the area in relation to vulnerable groups
- The location of services for children such as schools, playgrounds, toy shops, leisure centres and other areas where children will gather

Where specific local risks are identified, the risk assessment should set out how the operator proposes to mitigate and monitor these risks. The risk assessment should also show how vulnerable people, including people with gambling dependencies, are protected.

Other matters that the assessment may include:

- The training of staff in brief intervention when customers show signs of excessive gambling, the ability of staff to offer brief intervention and how the manning of premises affects this.

- Details as to the location and coverage of working CCTV cameras, and how the system will be monitored.
- The layout of the premises so that staff have an unobstructed view of persons using the premises.
- The number of staff that will be available on the premises at any one time. If at any time that number is one, confirm the supervisory and monitoring arrangements when that person is absent from the licensed area or distracted from supervising the premises and observing those persons using the premises.
- Arrangements for monitoring and dealing with under age persons and vulnerable persons, which may include dedicated and trained personnel, leaflets, posters, self-exclusion schemes, window displays and advertisements not to entice passers-by etc.
- The provision of signage and documents relating to games rules, gambling care providers and other relevant information is provided in both English and any other prominent first language for that locality.
- Where the application is for a betting premises licence, other than in respect of a track, the location and extent of any part of the premises which will be used to provide facilities for gambling in reliance on the licence.

Such information may be used to inform the decision the council makes about whether to grant the licence, to grant the licence with special conditions or to refuse the application.

This policy does not preclude any application being made and each application will be decided on its merits, with the onus being upon the applicant to show how the concerns can be overcome.

**GAMBLING ACT 2005**  
**POLICY STATEMENT - LIST OF CONSULTEES**

Chief Officer of Police for Surrey Heath

Clubs

Licensing Committee

Member of Parliament

Citizens Advice Bureau (CAB)

Parish Councils

Public Houses and Betting Shops

Residents Associations

Selection of Groups, Clubs and Organisations

Surrey Heath Business Association

Surrey Children's Service

The consultation document will be placed on the Council's web site. The document will not be enclosed with letters seeking comments and recipients will be asked to refer to the document via the web site. In addition to seeking comments directly by letter, publicity will also be given to this matter via the media.