



# Gambling Act 2005 Licensing Policy 2019-2022

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**Gambling Act 2005  
Licensing Policy for Aylesbury Vale District Council  
2019-2022**

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## **PART A**

### **GENERAL PRINCIPLES**

#### **1. The Licensing Objectives**

The Gambling Act 2005 regulates most forms of gambling in the UK, and places local control of gambling in the hands of local authorities. Aylesbury Vale District Council is the licensing authority for the District of Aylesbury Vale.

In exercising most of their functions under the Gambling Act 2005 ("the Act"), the licensing authority will 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

While the term "vulnerable" is not defined in the Act, the Gambling Commission assumes for regulatory purposes that vulnerable people include those who gamble more than they want to, people who gamble beyond their means and people who may not be able to make informed or balanced decisions about gambling due to, for example, mental health, a learning disability or substance misuse relating to alcohol or drugs. The licensing authority will make the same assumption when exercising its powers under the Act.

In making decisions under section 153 of the Act in relation to premises licences the licensing authority is bound to aim to permit the use of premises for gambling in so far as it thinks it:

- a) in accordance with any relevant code of practice issued by the Gambling Commission
- b) in accordance with any relevant guidance issued by the Gambling Commission
- c) reasonably consistent with the licensing objectives (subject to the above) and
- d) in accordance with the authority's licensing policy (subject to the above).

The licensing authority will therefore pay close attention to the compliance of any proposal with each part of section 153. Applicants are strongly advised to provide such information as is necessary in the circumstances of each case as will enable the licensing authority to reach a confident conclusion as to the compliance of the proposal with section 153.

#### **2. Introduction**

Aylesbury Vale is situated in the County of Buckinghamshire, which contains four District Councils and one County Council in total. It is home to 193,113 people (ONS 2017), with the area seeing a 10.4% increase since 2011, the fifth highest rate of growth of any local authority in Great Britain. While one third of this population lives in Aylesbury itself, the remainder is distributed sparsely across almost 350 square miles and 109 parishes. Attached as Appendix 1 is a map of the Council area.

Licensing authorities are required by the Act to publish a statement of the principles i.e. a policy, which they intend to apply when exercising their functions under the Act. That is the purpose of this policy. In summary this policy is divided into three sections. The first section deals with general principles relating to the implementation of the Gambling Act 2005. The second part concentrates

on premises licences and provides guidance on this authority's general approach in an effort to assist all parties involved in an application. The final section relates to permits under the Act. The policy must be published at least every three years. The policy must also be reviewed from "time to time" and any amended parts re-consulted upon. The policy must be then re-published.

The Act makes licensing authorities responsible for licensing premises for gambling e.g. gaming machine arcades, betting shops, casino gaming and bingo. The ability of the council to regulate gambling activities in the District provides an opportunity for the council and its partners to have more direct influence on the determination of licence applications. Residents who are, or who could be, affected by premises providing gambling facilities have an opportunity to influence decisions and the council is able to work with others to protect children and vulnerable people from being harmed or exploited by gambling activities.

The responsibility for regulating gambling is shared between the Gambling Commission and Local Authorities or Councils. The Gambling Commission is responsible for issuing operating licences to organisations and individuals who provide facilities for gambling and personal licences to persons working in the gambling industry. The Commission takes the lead role on ensuring that gambling is conducted in a fair and open way through the administration and enforcement of operating and personal licence requirements. The Commission is also responsible for remote gambling activities such as facilities provided via the Internet, television or radio. The Gambling Commission issues national guidance to licensing authorities, which authorities must take into account when exercising their own functions. The current edition of the guidance is the fifth edition, as updated in September 2016. The licensing authority has had regard to that guidance in preparing this policy.

The licensing authority has consulted widely upon this policy before finalising and publishing it. A list of those persons the authority has consulted with is provided as Appendix 2. The Gambling Act requires that the following parties are consulted by licensing authorities:

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

Consultation took place between 9 July 2018 and 31 August 2018 and the reviewed policy was approved at a meeting of the Full Council on . The full list of comments made and their consideration by the Council of those comments is available by request to the Licensing Service

The policy was approved at a meeting of the Full Council on (Date to be inserted) and was subsequently published via our website. Copies were placed in the public libraries of the area as well as being available from the Council Office. Should you have any comments as regards this policy statement please send them via e-mail or letter to the following address:

Aylesbury Vale District Council  
Licensing Services, Customer Fulfilment, The Gateway, Gatehouse Road, Aylesbury, Bucks HP19 8FF  
[licensing@aylesburyvale.gov.uk](mailto:licensing@aylesburyvale.gov.uk)

It should be noted that this policy statement will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each

will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

### **3. Declaration**

In producing the final statement, the licensing authority declares that it had regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission, and any responses from those consulted on the statement.

### **4. Responsible Authorities**

For the purpose of the Gambling Act 2005, the following are responsible authorities in relation to premises:

- A licensing authority in whose area the premises are wholly or partly situated
- The Gambling Commission
- Thames Valley Police
- Bucks Fire and Rescue
- Head of Planning, Aylesbury Vale District Council
- Environmental Health, Regulatory Services, Aylesbury Vale District Council
- Buckinghamshire Safeguarding Children Board, Bucks County Council
- HM Commissioners of Customs and Excise

The licensing authority is required by regulations to state the principles it will apply in exercising its 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 principles are:

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

The licensing authority designates the Buckinghamshire Safeguarding Children Board for this purpose.

The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the Council's website at:

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

### **5. Interested parties**

Interested parties can make representations about licence applications, or apply for a review of an existing licence. To be an 'interested party' a person must meet one of the following criteria:

- live sufficiently close to the premises to be likely affected by the gambling activities
- have business interests that might be affected by the gambling activities
- represent persons in either of these two groups for example residents' and tenants' associations, trade unions and trade associations, partnerships, charities, community groups, faith groups, medical practices, Assembly Members, Councillors and MPs.

When considering whether a person lives sufficiently close to the premises, the Licensing Authority will take 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, for example the number of customers and routes likely to be taken by those visiting the establishment
- the circumstances of the complainant

In considering 'likely affected', the Licensing Authority recognises that there is a broad context in which people may possibly be affected by premises providing gambling facilities in their vicinity. The Licensing Authority will maintain an open-mind when considering the circumstances presented in any representation.

Having a 'business interest' will be given the widest possible interpretation and include community and voluntary groups, schools, charities, faith groups and medical practices. The Licensing Authority will consider the following factors relevant when determining whether a person's business interests may be affected:

- the size of the premises
- the catchment area of the premises, for example how far people travel to visit the premises
- whether the person making the representation has business interests in the affected catchment area

The Licensing Authority will not take into account representations that are:

- repetitive, vexatious or frivolous
- from a rival gambling business where the basis of the representation is unwanted competition
- moral objections to gambling
- concerned with expected demand for gambling
- anonymous

Details of applications and representations referred to a licensing sub-Committee for determination will be published in reports that are made publicly available and placed on the council's website in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000. Personal details will however be redacted from representations in the final website version of reports.

Names and addresses of people making representations will be disclosed to applicants and only be withheld from disclosure to the applicant on the grounds of personal safety where the Licensing Authority is specifically asked to do so.

## **6. Exchange of Information**

Licensing authorities are required to include in their statements the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

The principle that the licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information, and the provisions of the applicable data protection legislation. The licensing authority will also have regard to guidance from the Gambling Commission on this matter.

## **7. Enforcement**

Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

The licensing authority's principles are that it will be guided by advice contained in national guidance and will endeavour to be:

- Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
- Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
- Consistent: rules and standards must be joined up and implemented fairly;
- Transparent: regulators should be open, and keep regulations simple and user friendly; and
- Targeted: regulation should be focused on the problem, and minimise side effects.

As the national guidance advises, the licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible. The licensing authority will adopt a risk-based approach to enforcement based on;

- The licensing objectives
- Relevant codes of practice
- Guidance issued by the Gambling Commission
- The principles set out in this statement of licensing policy

The licensing authority will also have regard to the Regulators' Code issued by the Better Regulation Delivery Office.

The purpose of the Code is to promote proportionate, consistent and targeted regulatory activity through the development of transparent and effective dialogue and understanding between regulators and those they regulate. The Code also aims to promote efficient and effective approaches to regulatory inspection and enforcement, improving the outcome of regulation without imposing unnecessary burdens.

The main enforcement and compliance role for the licensing authority under the Act is to ensure compliance with the premises licences and other permissions which it authorises. In circumstances where the Licensing Authority is made aware of possible illicit gambling activities at premises within the Council's area, the Licensing Officers will carry-out investigations and take robust enforcement action where evidence of offences is established.

The Gambling Commission is the enforcement body for operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines will not be dealt with by the licensing authority but will be notified to the Gambling Commission.

## **8. Licensing Authority functions**

Licensing Authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences
- Issue Provisional Statements
- Regulate members' clubs and miners' welfare institutes which wish to undertake certain gaming activities, by issuing Club Gaming Permits and/or Club Machine Permits
- Issue Club Machine Permits to Commercial Clubs

- Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- Register small society lotteries below prescribed thresholds
- Issue Prize Gaming Permits
- Receive, endorse and, if necessary, determine Temporary Use Notices
- Receive Occasional Use Notices
- Provide information to the Gambling Commission regarding details of licences issued (see section above on information exchange)
- Maintain registers of the permits and licences that are issued under these functions.

Local licensing authorities are not involved in licensing remote gambling; this is the responsibility of the Gambling Commission through operating licences. Remote gambling means gambling in which persons participate by the use of the internet; telephone; television; radio or any other kind of electronic or other technology for facilitating communication.

### **9. Electronic submissions and Communication**

The Licensing Authority welcomes the use of electronic communication. The use of electronic communication, such as email, is not only considered more efficient in terms of time and effort, it brings about greater cost savings. The Licensing Authority will accept applications, notices and representations submitted via email, or by other electronic means available, to the Licensing Service. Further information and application forms are available on the Council's web site, [www.aylesburyvaldc.gov.uk](http://www.aylesburyvaldc.gov.uk)



## **PART B**

### **PREMISES LICENCES**

#### **10. General**

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

#### **11. Decision-making**

The Licensing Authority aims to permit the use of premises for gambling in accordance with the requirements of the Act. The Licensing Authority considers it important to emphasise that “aim to permit” does not create a “presumption to grant”. The Licensing Authority will allow premises to be used for gambling in so far as it considers it:

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

The ‘aim to permit’ framework provides wide scope for the Licensing Authority to impose conditions on a premises licence, reject, review or revoke premises licences where there is a potential conflict with the relevant codes of practice, relevant Guidance issued by the Commission, the licensing objectives or the licensing authorities own statement of policy.

The general approach expressed in this policy does not override the right of any person to make an application and to have that application considered on its merits.

As far as is possible the Licensing Authority will avoid duplication with other regulatory regimes., such as planning and building control regulations.

The Licensing Authority will avoid taking into account demand for gambling premises when making decisions.

The Licensing Authority will not take into account representations based on moral objections.

#### **12. Definition of “premises”**

In the Act, "premises" is defined as including "any place" and Section 152 prevents more than one premises licence applying to any place. However, a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. In considering whether it is lawful to licence part of a building, the Licensing Authority will take into account national guidance issued by the Gambling Commission.

In deciding whether a proposed licence for a part of a premises is consistent with the licensing objectives, the licensing authority will pay special heed to the need to protect children. As advised by the Gambling Commission, children should be protected not only from taking part in gambling, but also from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.

### **13. Split premises**

The Licensing Authority will always give the closest consideration to whether a sub-division has created separate premises meriting a separate machine entitlement.

The Authority will not automatically grant a licence for sub-divided premises even if the mandatory conditions are met, particularly where the Authority considers that this has been done in order to sidestep controls on the number of machines which can be provided in a single premises. The Authority will consider if the sub-division has harmed the licensing objective of protecting the vulnerable. The Authority may also take into account other relevant factors as they arise on a case-by-case basis.

### **14. Premises “ready for gambling”**

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

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

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

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

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

More detailed examples of the circumstances in which such a licence may be granted can be found at Part 7 of the guidance.

### **15. Risk assessment**

From 6 April 2016 gambling operators, such as those operating betting shops and adult gaming centres, are required to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises.

Local risk assessments must take into account the relevant matters identified in the Licensing Authority’s statement of licensing policy.

Risk assessments should take into account the risks presented by the local landscape, such as the premises’ exposure to particular vulnerable groups and crime.

Operators are required to conduct or update a risk assessment when:

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

It is the operator's responsibility to identify when significant changes require their existing risk assessment to be reviewed. To assist, the Licensing Authority will notify licensed operators when changes are made to the 'local area profile', see 'Local Area Profiles'. The characteristics identified in the local area profiles are not exhaustive and operators may identify other significant factors that they need to take into account. Operators are expected to take a proactive approach in reacting to significant changes to the local environment and they should not wait to be notified by the Licensing Authority before reviewing their risk assessment to account for a change in local circumstances.

Operators will need to review their risk assessment when changes occur at their premises, arising for example from changes to layouts or working practices.

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

Risk does not necessarily relate to events that have happened but also to events that could happen. Risk is related to the probability of an event happening and the likely impact of that event on one or more of the licensing objectives.

The Licensing Authority will challenge an operator's risk assessment where it can be evidenced that there are local risks that the operator has failed to take into consideration or the proposed control measures are deemed inadequate.

Licensees are required to share their local risk assessments with licensing authorities when applying for a premises licence, applying for a variation to an existing premises licence or otherwise at the request of the licensing authority. We therefore consider it appropriate for operators to hold premises risks assessments on the premises. Doing so can also save considerable time and expense, as well as increasing the confidence of those agencies as to the operator's awareness of their obligations.

Information provided in respect of risk assessments may be used by the Licensing Authority when determining applications for new licences, variations, provisional statements and reviews.

Operators are strongly encouraged to refer to the sections on 'Local Area Profiles' and 'Licensing Objectives' when formulating or reviewing their risk assessments.

## **16. Local Area Profiles**

The Licensing Authority believes Local Area Profiles provide significant benefits in raising awareness of local risks to the licensing objectives in an area. They enable the Licensing Authority to better serve the local community by: identifying the risks within it, providing greater clarity for operators, improving decision making and encouraging a proactive approach.

The Licensing Authority, in conjunction with partner agencies, will produce and publish a Local Area Profile which will be made available on the Council's website and on request from the Licensing Service. The profile will provide geographical information, associated with key characteristics, which have been identified as representing higher levels of risk to one or more of the licensing objectives.

The Licensing Authority expects operators of licensed premises to utilise the latest Local Area Profile information when formulating and reviewing their risk assessments. Operators are expected to establish whether the site of their gambling premises is in, or in the vicinity of, a high risk area. Operators will be expected to clearly show that they have fully considered the potential impact of the operation of gambling facilities at their premises on the promotion of the licensing objectives in the local area.

The Licensing Authority will refer to the latest Local Area Profile information when considering all licence applications.

The Licensing Authority will seek to restrict facilities for gambling in areas where it feels its vulnerable persons will be put at potential risk of harm. However, each case will be decided on its merits and new and existing operators will always be given the opportunity to demonstrate how they might overcome Licensing Authority concerns in this area prior to determination of any licence application.

## **17. Planning**

The licensing authority will not take into account the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.

Further, when dealing with a premises licence application for finished buildings, the licensing authority will not take into account whether those buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence.

The licensing authority will, however, consider whether compliance with a planning or building regulation consent would interfere with compliance with licence conditions or the licensing objectives.

## **18. Duplication with other regulatory regimes**

The licensing authority will seek to avoid any duplication with other statutory / regulatory systems where possible, including health and safety and fire regulation.

## **19. Licensing objectives**

Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered Part 5 of national guidance, and will generally exercise its functions having regard to it. Some particular comments are made below.

### **19. 1 Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.**

Licensees and applicants will be expected to demonstrate through their risk assessment that they have given careful consideration to preventing gambling from being a source of crime and disorder, being associated with crime or disorder or being used to support crime and appropriate control measures are in place.

Licence applications, including review applications, in areas with higher levels of crime and/or disorder associated with gambling premises will receive particular attention by the Licensing Authority.

The Licensing Authority will expect licence holders and applicants to demonstrate they have robust control measures in place to tackle crime and disorder issues. In circumstances where the Licensing Authority considers that the proposals are inadequate, additional conditions may be imposed.

Appropriate control measures that may be considered include (but are not limited to):

- Provision of comprehensive CCTV, including details of areas covered and arrangements for operation, monitoring and maintenance.
- Conspicuous warning signs in appropriate places relating to use of CCTV, zero drug tolerance policies, zero staff abuse policy.

- The layout of the premises so that staff can have an unobstructed views of customers, machines, entry points and access to toilets.
- Use of fixed/secured furniture.
- Minimum staff levels and arrangements for securing staff safety.
- The location of gaming machines and gaming machine design.
- Robust incident reporting procedures.
- Provision of SIA registered door supervisors at key times or days of the week.
- Use of a search policy.
- Strategically placed panic buttons, burglar alarms, personal alarms
- Barring procedures and alerts systems.
- Active participation in Bet Watch or similar schemes.
- Encourage customers to report crime and disorder issues.
- Appropriate lighting levels.
- Arrangements for monitoring the immediate vicinity of premises.
- Measures to prevent street drinking, urinating in the street, begging, drug taking, litter and obstruction of the public highway associated with the premises.
- Liaison with local police with regard to local crime trends.
- Provision of toilets, with suitable maintenance and monitoring arrangements in place.
- Comprehensive staff training including incident reporting, spotting signs of drug use, crime scene preservation, CCTV and conflict resolution.
- Removal of gambling facilities at certain times or days associated with high risk of crime and disorder.
- Use of security counter screens.

In circumstances where the Licensing Authority considers that the risk to the crime and disorder objective cannot be sufficiently mitigated by either the proposed control measures or additional conditions, then an application may be refused or licence revoked in the case of a review application.

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

Generally the integrity of operators of licensed gambling premises will be vetted by the Gambling Commission. Operating and personal licences issued by the Gambling Commission need to be in place prior to licensed premises becoming operational. The Licensing Authority will therefore not normally need to be concerned with ensuring gambling is conducted in and a fair and open way as this will have been addressed by the Gambling Commission.

The provision of unauthorised facilities for gambling can be deleterious to the fairness and transparency objective. Examples of unauthorised activity include the provision of illegal gaming machines, unlicensed betting syndicates and “underground” card schools. The Licensing Authority will take robust enforcement action where it is established unauthorised gambling is taking place at premises within Aylesbury Vale.

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

The Gambling Act defines 'child' as those persons under 16 years of age and 'young persons' as those persons aged 16 or 17 years of age. For the purposes of this policy, the Licensing Authority considers "children" to refer to all persons under 18 years old.

The term 'vulnerable persons' is not defined, however the Gambling Commission does offer some guidance:

- People who gamble more than they want to.
- People who gamble beyond their means.
- People who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.

The Licensing Authority believes that 'vulnerable persons' include the above persons but this list is not exhaustive. The Licensing Authority is aware that the impact of gambling is complex, it is not just the gambler who may be vulnerable to harm or exploitation but also their friends, family, customers and staff at gambling facilities and the wider society. The Licensing Authority will consider what constitutes a vulnerable person on a case-by-case basis, taking into account the local area.

What constitutes 'harmed or exploited' is not defined within the Gambling Act. There are potentially numerous issues associated with compulsive or problem gambling including physical, psychological and social harms. The Licensing Authority will consider what constitutes 'harm' and 'exploited' on a case-by-case basis, taking into account the local area.

Licensees and applicants will be expected to demonstrate through their risk assessment that they have given careful consideration to indications of deprivation in the local area and the impact of their gambling activities on young people, the homeless, the unemployed, those affected with mental health conditions, those on low incomes and those from identified vulnerable ethnic minority groups, who may be living in or visiting the local area.

Licence applications, including review applications, in areas of where there is a higher degree of concern because of increased risk of harm to or exploitation of children and/or vulnerable persons will receive particular attention by the Licensing Authority.

Licensees and applicants will be expected to demonstrate through their risk assessment that they have given careful consideration to protecting children and vulnerable persons from harm and exploitation and have robust control measures in place. In circumstances where the Licensing Authority considers that the proposals are inadequate, additional conditions may be imposed.

Appropriate control measures that may be considered include:

- Use of refusal logs to record failed proof of age ID checks.
- Conspicuous signage advertising proof of age policy.
- Use of till prompts to remind staff to implement proof of age policy.
- Leaflets offering assistance to problem gamblers prominently displayed on the premises.
- Notices displayed on the premises, in appropriate languages, to sign post support services for problem gamblers.
- Documented staff training, with regular refresher training, with a focus on identifying vulnerable persons and implementing appropriate strategies for action where necessary.
- Routine staff meetings to discuss and identify local vulnerability issues.
- Robust implementation of self-exclusion schemes, supported with signposting to appropriate sources of support and advice eg GamCare and Gamblers Anonymous.
- Windows and entrance displays designed not to entice passers-by in.

- Designing the layout, lighting and fitting out of the premises so as not to attract children and other vulnerable persons who might be harmed or exploited by gambling.
- Promotional material associated with the premises will be designed not to encourage the use of the premises by children or young people if they are not legally allowed to do so.
- Regular liaison with local support services to identify emerging trends and existing issues in respect of vulnerability.
- Avoidance of incentives to enter or loiter within shops, for example by not offering free food and drink or prohibiting customers from bringing their own refreshments.
- Active participation and support for local Bet Watch or similar schemes.
- Avoidance of loan working, particularly in high risk areas.
- Positioning gaming machines so they are not visible to passers-by.
- Daily staff diaries to record any issues of concern observed by staff or actions taken.
- The provision of SIA registered door supervisors.
- The use of floor walkers to interact with customers.
- Monitoring outside areas for signs of customer vulnerability for example alcohol and drug use, signs of homelessness, begging, children congregating outside or children of customers left outside unsupervised.
- Effective staff support systems.
- Prohibit ATMs on the premises.

This list not is by no means exhaustive and is provided as a guide. Operators and applicants should also be aware that there are extensive conditions attached to operating and personal licences issued by the Gambling Commission.

In circumstances where the Licensing Authority considers that the risk to children and other vulnerable persons being harmed or exploited cannot be sufficiently mitigated by either the proposed control measures or additional conditions, then an application may be refused or licence revoked in the case of a review application.

For multi-occupied premises consideration should be also be given to the arrangements for controlling access to children and the compatibility of the activities of the occupants. In many cases separate and identifiable entrances may be required so that people do not drift inadvertently into a gambling area.

Children are not permitted to use Category C or above machines and in premises where these machines are available and children are permitted on the premises, the Licensing Authority will require:

- all Category C and above machines to be located in an area of the premises which is separated from the remainder of the premises by a physical barrier to prevent access other than through a designated entrance
- adults only admitted to the area where these machines are located
- adequate supervised access to the area where the machines are located
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder
- prominent notices displayed at the entrance to, and inside, any such areas there indicating that access to the area is prohibited to persons under 18

## **20 . Conditions**

Licensed premises are subject to a variety of conditions. Premises licences, granted by the Licensing Authority, are subject to mandatory, default as well as additional conditions imposed by the licensing authority. Furthermore they are subject to conditions and codes of practice by virtue of operating licences and personal licences issued by the Gambling Commission.

When considering application, the Licensing Authority can attach conditions to any licence if it is believes that the imposition of conditions will ensure that the operation of the premises is reasonably consistent with the licensing objectives. The Licensing Objectives section in Part 2 of this policy provides further guidance on suggested control measures which may form the basis of the types of conditions imposed by the Licensing Authority. The suggested measures are not exhaustive and they may be other types of conditions considered necessary dependant on the particular circumstances. Conditions will be attached to individual licences on the basis of their merits.

Any conditions attached to a licence will be:

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

Certain matters are set out in the Act that may not be the subject of conditions:

- conditions which prevent compliance with an operating licence condition;
- conditions relating to gaming machines categories, numbers or method of operation;
- conditions requiring membership of a club or body in respect of any part or activity at the premises;
- conditions on limits of stakes, fees, winnings or prizes..

## **21. Door Supervisors**

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

## **22. Adult Gaming Centres / Family Entertainment Centres.**

The licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises. Accordingly, the licensing authority will give specific consideration to the following control measures:

- Implementation of proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Location of machines
- Physical separation of areas
- Location of entry
- Notices / signage



- Specific opening hours
- Staff training
- Measures to recognise and deal with children, including truants.

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

### **23. Casinos**

The licensing authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should this licensing authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution. Any such decision will be made by the Full Council. At present, no such resolution is necessary because the Act gives the licensing authority no power to issue casino licences in any event.

### **24. Bingo premises**

As advised by national guidance, the licensing authority will satisfy itself that bingo can be played in any bingo premises for which it issues a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.

The licensing authority considers that the ability for children to enter bingo premises poses a particular risk in terms of access to gaming machines. The licensing authority expects applicants to propose robust procedures to ensure that no such access occurs.

### **25. Betting premises**

Betting premises are the most common form of premises licensed by the Licensing Authority for gambling in Aylesbury Vale. Holders of betting premises licences may make available for use up to four gaming machines of category B, C or D. Regulations state that category B machines at betting premises are restricted to sub-category B2, B3 and B4 machines; the most common form of gaming machine in licensed betting premises, Fixed Odd Betting Terminals (FOBTs), fall under this category. Children are not permitted to enter, or be employed at, any premises with a betting premises licence.

Licensed betting premises are subject to a variety of conditions. Premises licences, granted by the Licensing Authority, are subject to mandatory, default and possible additional conditions imposed by the licensing authority. Furthermore they are subject to conditions and codes of practice by virtue of operating licences and personal licences issued by the Gambling Commission.

Licensed betting premises are only permitted to offer gambling facilities between 7am and 10pm (default condition), unless the Licensing Authority has granted a variation application to extend these hours. The Licensing Authority is concerned that later/earlier opening hours will attract the more vulnerable, such as those who are intoxicated or who have gambling addictions. The Licensing Authority also has concerns that licensed betting premises operators may seek to extend the permitted hours for the primary purpose of making gaming machines available to customers for longer. As a consequence although applications will be considered on merit, the Licensing Authority will expect applicants to demonstrate that robust measures will be in place to protect the vulnerable and the additional hours are not being sought to take advantage of the gaming machine entitlement.

The Licensing Authority has the power to restrict the number of betting machines (bet receipt terminals), their nature and the circumstances in which they are available for use by way of conditions. Essentially betting machines allow customers to place bets in the same way that they

can at the betting shop counter without the need for staff interaction. When considering imposing conditions the Licensing Authority will take into account, among other factors:

- the size and physical layout of the premises
- the number of counter positions
- the ability of staff to monitor the use of machines by children or vulnerable people, people under the influence of drink or drugs and those involved in criminal activity, for example 'money laundering'.

## **26. Tracks**

This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track.

The licensing authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

It is noted that children will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided. The authority will therefore expect the premises licence applicant to risk assess the proposed operation and demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities.

Control measures may include:

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

This list is neither mandatory nor exhaustive, and is merely indicative of example measures.

## **27. Provisional Statements**

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

S204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:

- expects to be constructed;

- expects to be altered; or

- expects to acquire a right to occupy.

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

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

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

- they concern matters which could not have been addressed at the provisional statement stage, or
- they reflect a change in the applicant's circumstances.

In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- which could not have been raised by objectors at the provisional statement stage;
- which in the authority's 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 this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

## **28. Reviews**

Requests for a review of a premises licence can be made by interested parties or responsible authorities. However, it is for the licensing authority to decide whether the review is to be carried out.

This will be on the basis of whether the request for the review is relevant to the matters listed below.

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

The request for the review will also be subject to the consideration by the authority as to whether the request is frivolous, vexatious, or whether it will certainly not cause this authority to wish to alter/ revoke/ suspend the licence, or whether it is substantially the same as previous representations or requests for review. The decision by the Licensing Authority to accept a formal review application is in no way a pre-judgement of the outcome.

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

The 'aim to permit' framework provides wide scope for the Licensing Authorities to review premises licences where there is a potential conflict with the Gambling Commission's codes of practice, the Gambling Commission's Guidance to Licensing Authorities, the licensing objectives or this statement of policy.

The licensing authority will endeavour to engage with operators of licensed premises prior to discharging its powers to instigate a review. As part of this engagement process, the Licensing Authority will expect operators to make their local risk assessment available. The Licensing

Authority may exercise its right to instigate a review if the operator's local risk assessment does not offer reasonable measures to address and mitigate the risks.

Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. The licensing authority must 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 licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:-

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

In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

In particular, the licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

Once the review has been completed, the licensing authority must, as soon as possible, notify its 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
- Her Majesty's Commissioners for Revenue and Customs

## **PART C**

### **Permits / Temporary & Occasional Use Notice**

#### **29. Unlicensed Family Entertainment Centre (FEC) gaming machine permits (Statement of Principles on Permits - Schedule 10 paragraph 7)**

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

The Gambling Act 2005 states that a licensing authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25. In accordance with national guidance, given that the premises may be likely to appeal particularly to children, the licensing authority will give weight to matters relating to protection of children from being harmed or exploited by gambling.

Also in accordance with national guidance, the licensing authority may ask applicants to demonstrate:

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

The licensing authority 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 would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises.

#### **30. (Alcohol) Licensed premises gaming machine permits - (Schedule 13 paragraph 4(1)) Automatic entitlement: 2 machines**

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority. If the person ceases to be the holder on the on premises alcohol licence the automatic entitlement to the two gaming machines also ceases. Whoever applies for the new premises licence alcohol licence will also need to apply under S 82 (2) notifying the licensing authority of their intention to make the gaming machine available for use and paying the prescribed fee. If the alcohol licence ceases to have effect because it is suspended then the gaming machine can not be used.

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

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of either section 279 or section 282(1) of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice

issued by the Gambling Commission about the location and operation of the machine has been complied with);

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

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

If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*”

The licensing authority will consider each application on its merits, but generally the authority will have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and so will expect the applicant to satisfy it that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Such measures may include the ability to supervise the machines from the bar, or by supervisory staff specifically trained for that purpose. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

It should also be noted that the holder of a permit must comply with the code of practice for gaming machines in clubs and premises with an alcohol licence issued by the Gambling Commission.

### **32. Prize Gaming Permits**

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

The licensing authority will apply the following principles. The applicant should set out the types of gaming that he or she is intending to offer and be able to demonstrate:

- that they understand the limits to stakes and prizes that are set out in Regulations;
- that the gaming offered is within the law
- clear policies that outline the steps to be taken to protect children from harm.

### **33. Club Gaming and Club Machines Permits**

Members clubs and miners’ welfare institutes (but not commercial clubs) may apply for a club gaming permit. The permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in the regulations.

Members clubs, miner’s welfare institutes and commercial clubs may apply for a club machine permit. The permit will enable the premises to provide gaming machines (3 machines of categories B, C or D but only one B3A machine). NB commercial clubs may not site any category B3A gaming machines offering lottery games in their club.

The provision of equal chance gaming must comply with the Gambling Commission’s code of practice for equal chance gaming in clubs and premises with an alcohol licence; while the provision of gaming machines must comply with the code of practice for gaming machines in clubs and premises with an alcohol licence issued by the Gambling Commission.

In considering applications for permits under these provisions, the licensing authority will have regard to Part 25 of the national guidance issued by the Gambling Commission.

#### **34. Temporary Use Notices**

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

The licensing authority can only grant a temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.

Regulations state that Temporary Use Notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.

If objections are received to a Temporary Use Notice, the objections will be considered at a hearing, unless all parties agree that a hearing is unnecessary. The principles applied by the licensing authority will be those under section 153 of the Act.

#### **35. Occasional Use Notices:**

The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

Appendix 1

Aylesbury Vale District Council





**Statement of Principles (Gambling Policy) 2019-22**

**List of Consultees**

**The Gambling Act, Section 349**

The following persons have been consulted in the preparation of this revised policy:

The Chief Officer of Police, Thames Valley Police

The Licensing Authority

The Gambling Commission

Bucks Fire and Rescue

Planning, Aylesbury Vale District Council

Environmental Health, Aylesbury Vale District Council

Buckinghamshire Safeguarding Children Board, Bucks County Council

HM Commissioners of Customs and Excise

Premises licence and permit holders under the Gambling Act 2005 within the District

Buckinghamshire Safeguarding Adult Board, Bucks County Council

One Recovery Bucks

Bucks Mind

Healthy Minds Bucks

CAB Aylesbury

Wycombe DC

Chiltern and South Bucks DC

Gamcare

Gamblers Anonymous

Councillors, Aylesbury Vale District Council

Councillors, Bucks County Council

Town/Parish Councils

BACTA

Association of British Bookmakers Limited

The Bingo Association Limited