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*... bridging the communities ...*

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# **Gambling Act 2005 Statement of Policy**

**Required under the provisions of  
s349 Gambling Act 2005**

**Adopted on 07 December 2016  
Coming into effect on 06 January 2017  
Expiring on 31 December 2019**

Environmental Services  
Services Directorate

This statement of policy has been prepared in accordance with guidance from the Gambling Commission but may be amended in light of changes to such guidance. It has also been prepared following public consultation and has been amended in the light of such a consultation.

This statement will be reconsidered at least every three years.  
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# 1. Introduction

## 1.1 The Licensing Objectives

The Gambling Act 2005 ('the Act') regulates almost all gambling that takes place in England and Wales except exempt gambling specified under the Act and the National Lottery which has its own legislation. Responsibility for administering and enforcing the legislation is split between the Gambling Commission and Licensing Authorities. Elmbridge Borough Council ('the Council' or 'the Licensing Authority') is the Licensing Authority for the purposes of the Act.

The Act gives licensing authorities various regulatory functions in relation to gambling.

The main functions of licensing authorities are:

- Licensing premises for gambling activities;
- 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 alcohol licensed premises;
- 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.

The Licensing Authority also has enforcement powers relating to these areas.

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

There will be an overriding aim on the part of the Licensing Authority to regulate gambling in the public interest, and in doing so it will act in accordance with the following.

In exercising most of their functions under the Act, the Licensing Authority 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; and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

In relation to exercising their functions in connection with the licensing of premises for gambling purposes the Licensing Authority will act in accordance with section 153 of the Act. That requires that the Licensing Authority shall aim to permit the use of premises for gambling in so far as they think it is:

- a) in accordance with any relevant code of practice under section 24;
- b) in accordance with any relevant guidance issued by the Commission under section 25;
- c) reasonably consistent with the licensing objectives (subject to paragraphs a) and b)); and
- d) in accordance with the statement published by the authority under section 349 (subject to paragraphs a) to c)).

In addition, section 153(2) makes it clear that demand for the facilities to be provided at gambling premises cannot be taken into account in determining any application.

## **1.2 The Borough of Elmbridge**

The Borough of Elmbridge has a total population of 131,400, comprised of a total of 56,785 households within an area of 9634 hectares (Source: 2011 Census, Office for National Statistics and DCLG live tables\* 2015/16). Elmbridge is one of eleven Surrey Borough Councils and is situated South West of London in North East Surrey.

The principal town centres are Walton, Weybridge, Esher, Molesey and Cobham.

The Borough provides a mix of residential and business and the area enjoys the influence of the capital, being almost entirely within the boundaries of the M25, and bordering two London Boroughs. The population is in general affluent, resulting in a significant number of restaurants, bars and retail outlets clustered around the centres of the communities.

The Gambling Commission recommends that each licensing authority create a Local Area Profile as an aid to discharging its functions under the Gambling Act, and to provide assistance to applicants and licensees in formulating their own risk assessments (see Part 2 below). At present, Elmbridge Borough Council has not created a Local Area Profile but it intends to do so during the currency of this policy. Once it is completed it will be read with this Statement of Policy.

## **1.3 Gambling Premises within the Borough**

A map of the Elmbridge Borough area is attached as Annex 1.

There are a number of alcohol licensed premises within the borough in which gambling (low level poker, for example) can take place without the need for a specific authorisation (see paras 7.6 & 7.7). These include 141 restaurants, 74 pubs and hotels and 85 members' clubs.

The Borough does not have a casino but does have a major horse racing track, Sandown Park situated in Esher.

\* Housing Flow Reconciliation Form 2015/16 pre-filled by the Department for Communities and Local Government

The following premises licences have effect at the publication of this policy:

- 1 Track betting licence
- 15 Betting shops
- 0 Bingo halls
- 1 Adult gaming centre
- 0 Family entertainment centres
- 0 Unlicensed Family Entertainment Centres
- 0 Casinos

Gambling permits:

- 3 Licensed premises gaming machine permits
- 1 Club gaming permit
- 11 Club machine permits

In addition:

- 54 Local society lotteries are registered with the authority and;
- 48 Notifications, which are in effect for 2 or less gaming machines in alcohol licensed premises

There have been 0 temporary use notices and 0 occasional use notices issued since the Act came into force.

Public consultation has been achieved by widely advertising the draft revised Statement of Policy and including it on the Council's website.

## **1.4 Consultation**

This Statement of Policy has been prepared following consultation with the following persons/ bodies:

- The Chief Officer of Surrey Police;
- Persons who appear to the Council to represent the interests of persons carrying on gambling businesses in the authority's area; and
- 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.
- The Local Planning Authority;
- Environmental Health
- Surrey Fire & Rescue Service
- Surrey County Council Safeguarding Children Unit

A full list of consultees is attached as Annex 2.

This Statement of Policy was published on 08 December 2016 and comes into effect on 06 January 2017. It will remain in force until 31 December 2019, but may be reviewed at any time.

## 1.5 Declaration

This Statement of Policy has been prepared with due regard to the licensing objectives, guidance to licensing authorities issued by the Gambling 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.

## 1.6 Responsible Authorities

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

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

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

Having regard to the above principles, the Licensing Authority designates the Surrey County Council Safeguarding Children Unit for this purpose.

## 1.7 Interested parties

Interested parties can make representations about licence applications, or apply for a review of an existing licence. 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) represents 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 Licensing Authority 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 (representor);
- the potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment);
- the nature of the representor. This is not the personal characteristics of the complainant but the interests of the representor, 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 appropriate factors may be taken into consideration in an individual case.

The Licensing Authority considers that the following persons, bodies or associations will generally 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. “Business” will be interpreted widely and will include incorporated bodies, partnerships and sole traders including “not for profit” undertakings:

- Trade associations;
- Trade unions;
- Residents’ and tenants’ associations;
- Ward/ county/ parish councillors; and
- Member of Parliament whose constituency includes an interested party.
- Charities that have premises nearby or who support those adversely affected by gambling
- Faith groups who have members within the district or premises nearby

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

The Licensing Authority may require written evidence that the person, association or body represents an interested party.

## **1.8 Exchange of Information**

The Licensing Authority regards the lawful and correct treatment of information as very important to the successful and efficient performance of the Licensing Authority’s

functions, and to maintaining confidence between the people and bodies the Council deals with and itself. The Council ensures that it treats information lawfully and correctly.

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

- Sections 29 and 30 with respect to information shared between the Licensing Authority and the Gambling Commission; and
- Section 350 with respect to information shared between the Licensing Authority and the other persons listed in Schedule 6 to the Act. Those are:
  - A constable or police force
  - An enforcement officer
  - A licensing authority
  - Her Majesty's Commissioners of Customs and Excise
  - The First-tier Tribunal (formerly the Gambling Appeals Tribunal)
  - The Secretary of State
  - The Scottish Ministers

In the exercise of the above functions, the licensing authority will take into account the common law duty of confidence, the law relating to defamation, the Guidance issued by the Gambling Commission and to the Licensing Authority's policies in relation to data protection and freedom of information (both of which are available at [www.elmbridge.gov.uk](http://www.elmbridge.gov.uk)).

Information will only be exchanged in accordance with legislative requirements, and to the extent that is necessary and proportionate in the circumstances.

In relation to protecting the identity of the makers of representations, the licensing authority will consider each case on its merits. The principles of open government and transparency, combined with fairness to applicants and licensees will generally require the identity of those making representations to be revealed, but in certain circumstances e.g. where there are genuine well-founded fears of violence, intimidation or other unacceptable outcomes, the licensing authority may determine that the identity of representatives will be withheld.

The licensing authority will comply with all aspects of the Data Protection Act in situations where it is the data controller, and subjects can access that data in accordance with the legislative requirements.

Any requests for information will be considered on their own individual merits taking into account the statutory duties and powers of the Licensing Authority. The Licensing Authority does not intend to establish specific protocols for information exchange at this time.

Any person wishing to obtain further information about their rights under the Data Protection Act 1998 or the Freedom of Information Act 2000 may view the Licensing Authority's policies at [www.elmbridge.gov.uk](http://www.elmbridge.gov.uk).

The Licensing Authority will follow the principles of Better Regulation (see below).

## 1.9 Enforcement

The Licensing Authority will inspect premises and enforce the legislation as required. All inspections and, where necessary appropriate enforcement (including but not limited to prosecution under section 346 of the Act) will be carried out in a fair and consistent manner in accordance with:

- The Regulators Code available at: (<https://www.gov.uk/government/publications/regulators-code>)
- The Licensing Authority's enforcement policies (available at [www.elmbridge.gov.uk/licensing](http://www.elmbridge.gov.uk/licensing) and
- The Gambling Commission's Guidance

The Licensing Authority will endeavour to avoid duplication of enforcement and compliance requirements covered by other regulatory regimes so far as possible.

The Licensing Authority will adopt a risk-based approach to both inspection and enforcement as required. This will mean that premises that are identified by the Licensing Authority as being at a higher risk of non-compliance will be given greater attention than those identified as low-risk. The determination of risk will be based upon the nature of the premises, the history of the premises and the quantity and nature of any complaints relating to those premises. This may be informed by the Local Area Profile when it is completed.

Concerns reported to the Licensing Authority 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, as will any concerns about the provision of gambling by an operator. In both these circumstances, enforcement responsibilities lie with the Gambling Commission.

## 1.10 Reviews of Premises Licences

Requests for a review of a premises licence can be made by interested parties or Responsible Authorities (it should be noted that there is no mechanism to review any permit or notice). However, it is for the Licensing Authority to decide whether such a request will result in a review. Such a decision will be taken by considering, amongst other matters, the following:

- any relevant code of practice or guidance issued by the Gambling Commission;
- the licensing objectives;
- the Licensing Authority's Statement of Policy;
- whether the request is considered frivolous, vexatious, or whether it will certainly not cause the authority to wish to alter or revoke or suspend the licence; and
- whether the request is substantially the same as previous representations or requests for a review.

The Licensing Authority, may also initiate a review of a premises licence as a Responsible Authority. The purpose of such a review would be to determine whether the Licensing Authority should take any action in relation to the licence.

Following a review, the actions open to the Licensing Authority are:

- add, remove or amend a licence condition imposed by the Licensing Authority;
- exclude a default condition imposed by the Secretary of State or Scottish Ministers or remove or amend such an exclusion;
- suspend the licence for any period not exceeding three months; and
- revoke the licence.

In considering what action, if any, should be taken following a review the Licensing Authority must have regard to the principles referred to in section 153 of the Act as well as any relevant representations.

## **2. Premises Licences – Consideration of Applications**

The Gambling Commission's "*Licence Conditions and Codes of Practice*" require all premises licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In undertaking these risk assessments, licensees must take into account relevant matters identified in this statement of policy.

In addition, any applicants for a new premises licence must also undertake a local risk assessment.

In both cases these must be shared with the Licensing Authority whenever an application for a premises licence for a variation to a premises licence is made. The Licensing Authority can also request to see these risk assessments when required.

### **2.1 Decision making - general**

Each application for a premises licence under the Act will be considered on its own merits, in the light of the following.

In accordance with section 153 of the Act, the Licensing Authority shall aim to permit the use of premises for gambling in so far as it thinks it is:

- in accordance with any relevant code of practice issued by the Gambling Commission under section 24 of the Act;
- in accordance with any relevant guidance issued by the Gambling Commission under section 25 of the Act;
- reasonably consistent with the licensing objectives; and
- in accordance with the Licensing Authority's Statement of Licensing Policy.

In making a decision under the Gambling Act the Licensing Authority will not have regard to the expected demand for the facilities which are proposed to be provided, 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 Licensing Authority, as they are not a legally valid reason for rejecting an application for a premises licence.

In order to assist applicants and objectors alike, this section sets out the general factors that will be taken into account by the Licensing Authority when considering applications for premises licences.

## **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 and similar premises;
- centres for vulnerable adults; and
- 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 Licensing Authority 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 given an opportunity to show how they intend to overcome such concerns.

## **2.3 Multiple licences and layout of buildings**

Premises are defined in the Act as including 'any place' and Section 152 of the Act prevents more than one premises licence applying to any place. However, a single building could be subject to more than one premises licence, provided that they are for different parts of the building and where those different parts can reasonably be regarded as being different premises. This approach would allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall, to obtain discrete premises licences, where appropriate safeguards are in place. Particular attention will be paid if there are issues about sub-divisions of a single building or plot to ensure that mandatory conditions relating to access between premises are observed. In addition, the nature of the division will be carefully considered and temporary or flimsy partitions may indicate an artificial division which would be unacceptable.

The Licensing Authority takes note of the Commission's Guidance to Licensing Authorities in relation to multiple licences for a building, and the access requirements.

## **2.4 Premises “ready for gambling”**

The Guidance issued under Section 25 of the Act states that a licence to use premises for gambling should only be issued if the Licensing Authority is satisfied that they are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

## **2.5 Provisional Statements**

Developers may wish to apply for a provisional statement before entering into a contract to buy or lease premises or land so that they can judge whether the development is worthwhile. There is no requirement for an applicant to hold an operating licence before applying for a provisional statement.

Section 204 of the Act provides that a person may make an application for a provisional statement in respect of a premises:

- that he expects to be constructed; or
- that he expects it to be altered; or
- that he expects to acquire a right to occupy.

## **2.6 Conditions**

Conditions may be imposed upon a premises licence in a number of ways. These are:

- a) Mandatory – set out within the Gambling Act or by statutory regulations, for all, or some classes of licence;
- b) Default – to be prescribed in regulations made by the Secretary of State, to be attached to all or some 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 Licensing Authority must be proportionate to the circumstances that they are seeking to address. In particular, this Licensing Authority will ensure that premises licence conditions:

- are relevant to the need to make the proposed building suitable as a gambling facility;
- are directly related to the premises and the type of licence applied for;
- are fairly and reasonably related to the scale and type of premises; and

- are reasonable in all other respects.

Certain conditions are not permitted. These are:

- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which require membership of a particular club or body (the Act specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated); and
- conditions in relation to stakes, fees, winnings or prizes.

## **2.7 Door Supervisors**

It is not a mandatory requirement of the Act to impose a condition relating to door supervision. However, if the Licensing Authority consider it necessary to impose a condition on a premises licence requiring the presence of door supervisors, such persons would normally need to hold a licence from the Security Industry Authority (SIA) in accordance with S178 of the Act.

This Authority will usually make the provision of door supervisors a condition where they are presented with clear evidence that this is a necessary and proportionate response to an existing or likely situation.

This requirement does not apply to door supervisors at licensed casino or bingo premises, which are exempt from the licensing requirements of the Private Security Industry Act 2001. However, the Licensing Authority may impose specific requirements on door supervisors at such premises if considered appropriate in an individual case.

## **3. Premises Licences – Types of Licence**

### **3.1 Adult gaming centres**

Persons operating an adult gaming centre must obtain an operating licence from the Commission and a premises licence from the Licensing Authority.

This will allow the holder of an adult gaming centre premises licence to make available an unlimited number of category C & D machines to their customers, and to make available category B3 or B4 provided the total number of such machines (both types combined) does not exceed 20 per cent of the total number of gaming machines which are available for use on the premises.

No one under the age of 18 is permitted to enter an adult gaming centre.

In considering licence applications for adult gaming centres, weight will be given to the need to protect children and vulnerable persons from harm or being exploited by gambling. Therefore, the Licensing Authority will 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 and machine areas;
- Location of and entry to premises (so as to minimise the opportunities for children to gain access);
- Notices and signage;
- Training for staff on challenging persons suspected of being under-age;
- Specific opening hours;
- Self-barring schemes; and
- Provision of information leaflets and helpline numbers for organisations, e.g. such as GamCare.

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

Please see paragraph 2.6 for information relating to conditions that may be attached to adult gaming centre premises licences.

### **3.2 Licensed family entertainment centres**

Operators of licensed family entertainment centres will require an operating licence from the Gambling Commission, and a premises licence from the Licensing Authority. This will allow the operator to make available category C & D machines to their customers.

Unaccompanied children and young persons will be able to enter licensed family entertainment centres and play on the category D machines. They will not be permitted to play on category C machines.

As family entertainment centres will appeal particularly to children and young persons, weight will be given to child protection issues including safeguarding and child sexual exploitation. Where category C machines are available in licensed family entertainment centres the Licensing Authority 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;
- Despite this, if a person under the age of 18 gains access to the prohibited area, that person will be required to leave the prohibited area immediately.

Applicants are encouraged to consider the steps set out above in order to prevent children and young persons from gaining access to category C machines. In addition to protect children from harm, applicants are encouraged to consider the following:

- Measures and training for staff on awareness of, and identification of, child protection issues (including general safeguarding and child sexual exploitation);
- Measures and training for staff on how to deal with suspected truant school children on the premises.

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

Please see paragraph 2.6 for information relating to conditions that may be attached to family entertainment centres' premises licences.

### **3.3 Tracks**

Tracks are sites (including racecourses and dog tracks) where sporting events take place. Operators of tracks where gambling or betting takes place will require a premises licence from the Licensing Authority, 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 (see paragraph 2.3 above).

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 Licensing Authority will 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.

Generally, children are prohibited from entering the betting or gaming machine areas of tracks (apart from where category D machines are located) by means of a mandatory condition applied pursuant to section 182. However, this does not apply to betting areas on days when dog racing, horse racing or other sporting events (e.g. motor racing) is taking place, or is scheduled to take place. On these days, families will be entitled to attend a track and for children to 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 applicant must ensure that suitable measures are in place to prevent children from entering such areas.

Applicants are encouraged to consider steps similar to those set out at paragraph 3.2 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; and
- Measures and training for staff on how to deal with suspected truant school children on the premises.

The Licensing Authority will apply similar considerations to those set out in paragraph 3.1 (in relation to betting machines made available at off-course betting premises) to betting machines made available at tracks.

The Licensing Authority will attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near to the betting areas, or that other measures are taken to ensure that they are made available to the public, e.g. by printing the rules on the race-card or in leaflets available at the track office.

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

- detailed plans for the track itself and the area that will be used for temporary “on-course” betting facilities (often known as the “betting ring”); and
- in the case of dog tracks and horserace courses, 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.

Please see paragraph 2.6 for information relating to conditions that may be attached to track premises licences.

### **3.4 Casinos**

The Gambling Act 2005 introduced a new regime for casinos, permitting the licensing of a limited number of new large and small casinos, the locations of which were determined by the Government in addition to the existing casinos licensed under previous legislation.

Elmbridge has never had a casino and resolved that this should remain the case at a meeting of the Council held on 6 December 2006.

There is no provision for a casino licence to be applied for, or granted under the current legislation and therefore, no requirement to renew the “no casino resolution”.

### **3.5 Betting Premises**

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 betting premises will require an operating licence from the Gambling Commission and a premises licence from the Licensing Authority.

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.

The Licensing Authority 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 Licensing Authority will take into account the following:

- the size of the premises;
- the number of counter positions available for person-to-person transactions; and
- the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people.

Please see paragraph 2.6 for information relating to conditions that may be attached to betting premises licences.

### **3.6 Bingo**

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

This will allow holders of a bingo premises licence to make an unlimited number of category C & D machines available to their customers, and to make category B3 or B4 available provided the total number of such machines (both types combined) does not exceed 20 per cent of the total number of gaming machines which are available for use on the premises.

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 Licensing Authority 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;
- Despite this, if, a person under the age of 18 gains access to the prohibited area, that person will be required to leave the prohibited area immediately.

Please see paragraph 2.6 for information relating to conditions that may be attached to bingo premises licences.

## **4. Permits**

### **4.1 Unlicensed Family Entertainment Centre gaming machine permits**

Paragraph 4.1 constitutes a Statement of Principles in accordance with paragraph 7 of Schedule 10 of the Act.

Unlicensed family entertainment centres can provide category D machines under a permit by the Licensing Authority. (If category C machines are also provided, the premises become a licensed Family Entertainment Centre requiring an operating licence from the Commission and a premises licence from the Council – see Paragraph 3.2 above.)

The Licensing Authority can grant or refuse an application for a permit, but cannot attach conditions.

In determining an application for a family entertainment centre gaming machine permit, the Licensing Authority will have regard to the licensing objectives and any guidance issued by the Commission.

As unlicensed family entertainment centres will particularly appeal to children and young persons, weight will be given to child protection issues.

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 including safeguarding and child sexual exploitation. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures and training for staff as regards safeguarding generally, child sexual exploitation, suspected truant school children on the premises, measures and training covering how staff should deal with unsupervised very young children being on the premises, or children causing perceived problems on or around the premises.

The Licensing Authority will also expect applicants to demonstrate a full understanding of the maximum stakes and prizes permissible for gambling in unlicensed family entertainment centres; 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.

## 4.2 Prize gaming permits

Paragraph 4.2 constitutes a Statement of Principles in accordance with paragraph 8 of Schedule 14 to the Act.

Prize gaming is defined in section 288 of the Act as gaming where the size of a prize is not dependent on the number of players or the amount of the stakes or the total pot raised. This means that it is gaming where the prizes are determined by the operator in advance of the game.

In determining an application for a prize gaming permit, the Licensing Authority will have regard to the licensing objectives and any guidance issued by the Commission.

As premises with prize gaming permits are more likely to appeal to children and young persons in particular, more weight should be given to child protection issues and relevant considerations are likely to include the suitability of the applicant (i.e. whether 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 Licensing Authority.

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 including safeguarding and child sexual exploitation. The efficiency of such policies and procedures will each be considered on their merits and may include appropriate measures and training for staff as regards safeguarding generally, child sexual exploitation, suspected truant school children on the premises, measures and training covering how staff should deal with unsupervised very young children being on the premises, or children causing perceived problems on or around the premises.

Applicants for prize gaming permits should set out the types of gaming that they are 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.

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

- 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.

### **4.3 Alcohol Licensed premises gaming machine permits**

Premises licensed to sell alcohol for consumption on the premises with a bar at which drinks are sold to customers can automatically have two 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 Licensing Authority, and pay the prescribed fee.

The Licensing Authority can remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the 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 two machines, then the holder of the premises licence may apply for a Licensed Premises Gaming Machine Permit. The Licensing Authority will consider that application having regard to the licensing objectives, any guidance issued by the Commission issued under section 25 of the Act, and any other matters that are considered relevant.

The Licensing Authority will determine what constitutes a relevant consideration on a case-by-case basis, but weight will 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 Licensing Authority 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 Licensing Authority will expect applicants to provide information leaflets and/or helpline numbers for organisations, e.g. GamCare.

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

The holder of a permit must comply with any Code of Practice issued by the Commission about the location and operation of the machines.

## **4.4 Club gaming and club machine permits**

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 Bridge or Whist, which are permitted by regulations. A members’ club must be permanent in nature, not established or conducted as a commercial enterprise, and controlled by its members equally. Examples include working men’s clubs, branches of the Royal British Legion and clubs with political affiliations.

### **4.4.1 Club Gaming Permit**

Members clubs (but not commercial clubs) may apply for a Club Gaming Permit. A Club gaming permit enable the premises to provide gaming machines (three machines of categories B3A, B4, C or D), unlimited stakes equal chance gaming and Poker and prescribed games of chance, which are Pontoon and Chemin de fer. In addition participation fees (up to £20 per person for Bridge or Whist and £3 per person for other gaming) can be charged.

A Bridge or Whist club can hold a Club gaming permit which will allow unlimited stakes Bridge or Whist. In addition participation fees (up to £20 per person) can be charged.

### **4.4.2 Club Machine Permit**

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 (three machines of categories B3A, B4, C or D). In addition, a Club machine permit allows unlimited stakes equal chance gaming, limited stakes and prizes Poker (see paragraph 7.2.2 for details of the equal chance gaming that can take place). In addition participation fees (up to £18 per person for Bridge or Whist, £3 per person for other gaming in a commercial club, and £1 per person for other gaming in a members’ club) can be charged.

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 is therefore 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;
- the applicant has committed an offence under the Act or a breach of a condition of a permit 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 Commission or the Police.

The Licensing Authority will have regard to guidance issued by the Commission and (subject to that guidance), the licensing objectives.

The Licensing Authority can grant or refuse an application for a Club gaming or Club machine permit, but cannot attach any conditions.

## **5. Notices**

### **5.1 Temporary Use Notices (TUN)**

TUN's allow the use of premises for gambling where there is no premises licence but where a person or company holding a relevant operator's licence (which is a non-remote casino operator's licence) wishes to use the premises temporarily for providing facilities for gambling. The gambling can only be by means of equal chance gaming.

It should be noted that the Licensing Authority will make decisions regarding what constitutes the same premises when notices are received regarding the same building or site. Factors that will be taken into account will include occupation, ownership and control of the premises.

There are a number of statutory requirements relating to Temporary Use Notices.

The notice must be given to the Licensing Authority more than 3 months before the proposed event and copy it to specified persons.

If objections are received to a TUN (from the Police, the Commission, HM Revenue & Customs or any other licensing authority in whose area the premises are situated), the Licensing Authority must hold a hearing to consider the representation (unless all the participants agree that a hearing is unnecessary).

If, after a hearing has taken place or been dispensed with, the Licensing Authority considers that the TUN 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 Licensing Authority will apply the principles set out in paragraph 2.1 of this statement to any consideration as to whether to issue a counter-notice.

## **5.2 Occasional Use Notices (OUNs)**

OUNs allow premises (referred to as a “track”) that are not licensed for gambling to permit betting to take place up to eight days in a calendar year. Once given, the notice allows bookmakers (each of whom must have their own operating licence) to use the premises.

The track must be holding a sporting event. The most common use of OUNs is for point to point races, but it can cover any sporting event.

The Licensing Authority has no discretion regarding such notices apart from ensuring that the statutory limit of eight days per year is not exceeded.

## **6. Small Local Society Lotteries**

### **6.1 Small Society Lottery Registrations**

A Small Society Lottery is a lottery that is promoted on behalf of a non-commercial society (such as a charity or similar non-profit making organisation) to raise funds for any of the purposes for which the society or organisation is set up.

Small Society Lotteries do not require a licence but must be registered with the licensing authority in the area where the society's principle premises are situated. An application to register a Small Society Lottery should be on the relevant application form, available from the website given below, and accompanied by any necessary documents and the appropriate fee.

The maximum prize per ticket in either money or monies worth is £25,000.

In determining whether to grant or renew a Small Society Lottery registration, the Licensing Authority will have regard to Guidance to Local Authorities issued by the Commission.

Societies may wish to refer to the relevant section of the Licensing Authority's website [www.elmbridge.gov.uk/licensing](http://www.elmbridge.gov.uk/licensing) for full details on how to register and maintain small society lottery registrations. It also details the steps that promoters have to take to comply with the legislation.

## **7. Exempt Gambling**

The Licensing Authority has no control over Gambling in these circumstances, provided the specific requirements are complied with and any limits on stakes and prizes are observed.

## **7.1 Travelling fairs**

Where facilities for gambling amount to no more than ancillary amusement at the fair category D machines and/or equal chance prize gaming can be provided without any additional permission being required.

This is limited to a maximum of 27 days in a calendar year on particular land regardless of whether the use is by the same or separate fairs.

## **7.2 Non-commercial gaming**

There are two types of non commercial gaming allowed: non commercial prize gaming and non commercial equal chance gaming. Neither of these require any authorisation provided the maximum stakes and prizes are not exceeded. In each case the gaming can be incidental to another activity, or the activity itself. It must be non-commercial which means there must be no private profit or gain. However, the proceeds of such events may benefit an organisation, group or one or more individuals if the activity is organised:

- by, or on behalf of, a charity or for charitable purposes;
- to enable participation in, or support of, sporting, athletic or cultural activities.

### **7.2.1 Non commercial prize gaming**

In this case, the prize should be determined in advance and not be dependent on the number of players or monies staked. The players should be told what the monies are being raised for, and it cannot take place in premises that have a premises licence under the Act (except a track).

This can include casino nights and race nights.

### **7.2.2 Non commercial equal chance gaming**

In this case, the stakes per player cannot exceed £8. In addition, the aggregate value of prizes in all games played at a single event cannot exceed £600 (but if the event is the final one of a series in which all of the players have previously taken part, a higher prize fund of up to £900 is allowed). The players should be told what the monies are being raised for, and it cannot take place in premises that have a premises licence under the Act (except a track).

This can include casino nights and race nights.

## **7.3 Private Gaming**

This covers situations where the public are not admitted to the gaming. This includes residential and domestic premises and workplaces. This can include casino nights and race nights.

### **7.3.1 Domestic gaming**

Non-equal chance gaming can be played in private dwellings on domestic occasions provided no participation charge is made.

### **7.3.2 Residential gaming**

Non-equal chance gaming can be played in hostels or halls of residence provided at least 50% of the participants are residents.

## **7.4 Non commercial and private betting**

This is betting in domestic premises or workplaces. In domestic premises the participants must habitually reside there, and for workers betting the participants must be employed by the same employer.

## **7.5 Incidental non-commercial lottery**

These can take place as an incidental activity at an event which can be either a commercial or non-commercial event. This will include e.g. a raffle at a dinner or a tombola at a garden party. No registration or permission is required provided the following requirements are met.

- Tickets can only be sold on the premises where the event takes place to people present and while the event is taking place;
- No rollovers are allowed;
- The maximum deduction allowed for prizes from the proceeds is £500; and
- The maximum deduction allowed for organising costs from the proceeds is £100.

## **7.6 Exempt gambling in pubs**

Various types of gambling can take place in premises that are licensed under the Licensing Act 2003 to sell alcohol for consumption on the premises and which have a bar at which alcohol is served to customers. Restaurants and hotels which have a bar

at which alcohol can be sold will therefore be permitted to provide gambling, but if no bar is available, no gambling can be provided.

### **7.6.1 Equal chance gaming in pubs**

Equal chance gaming up to specified limits on stakes and prizes can take place on games such as Backgammon, Mah-jong, Rummy, Kalooki, Dominoes, Cribbage, Bingo and Poker.

The following requirements have to be met:

- The maximum stakes and prizes for each type of game must not be exceeded (£5 maximum stake for any game of chance except Poker, Dominoes and Cribbage. For Poker the maximum stake is £5, a daily maximum of £100 in aggregate stakes cannot be exceeded and the maximum prize limit is £100. There are no limits on stakes and prizes for Dominoes or Cribbage);
- The gaming must be supervised by a nominated gaming supervisor and comply with Commission codes of practice;
- No participation fees can be charged and no levy taken from stakes or prizes;
- The games cannot be linked to any other games in other premises; and
- Nobody under 18 years old can take part.

### **7.6.2 Bingo in pubs**

Low-turnover Bingo where the aggregate of stakes and prizes in a 7 day period does not exceed £2000 can take place.

## **7.7 Exempt gambling in Clubs**

There are two types of club for the purposes of the Act: members' clubs (including miners' welfare institutes) and commercial clubs. Generally speaking the club must be established for purposes other than gaming, but there is an exception for bridge or whist clubs. The exempt gaming that can take place differs according to the type of club. If a club has a club gaming permit, additional games and higher stakes and participation fees apply (see paragraph 4.4.1 above)

### **7.7.1 Equal chance gaming in clubs**

Equal chance gaming with no specified limits on stakes and prizes (except for poker) can take place.

The following requirements have to be met:

- Only club members (who have been members for at least 48 hours) or a bona fide guest of a member can participate;
- Except for Poker, there is no maximum stake or prize;
- For poker there is a £10 maximum stake, a daily maximum of £250 in aggregate stakes and a 7 day maximum of £1000 in aggregate stakes cannot be exceeded, and the maximum prize limit is £250;

- The gaming must be supervised by a nominated gaming supervisor and comply with Commission codes of practice;
- A maximum participation fee of £1 can be charged but no levy taken from stakes or prizes (however if the games are bridge or whist, on a day when no other gaming is permitted, participation fees of up to £18 per person can be charged);
- The games cannot be linked to any other games in other premises; and
- Nobody under 18 years old can take part.

### **7.7.2 Bingo in clubs**

Low-turnover bingo where the aggregate of stakes and prizes in a 7 day period does not exceed £2000 can take place in all types of club.

### **7.7.3 Bridge and Whist clubs**

Unlimited stakes Bridge or Whist can be played. In addition, participation fees (up to £18) can be charged.

# Annex 1 – Map of Elmbridge Borough Council Area



## Map of Elmbridge Borough

### KEY

-  Motorway
-  A Roads
-  B Roads
-  Railway
-  Rivers
-  Borough Boundary
-  Town & Village Centres
-  Open Water
-  Railway Stations
-  Visitor Attractions

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## Annex 2 – List of Consultees

Surrey Adult Social Care  
Elmbridge Borough Council  
Civic Centre  
Esher  
KT10 9SD

Head of Legal Services  
Elmbridge Borough Council  
Civic Centre  
High Street  
Esher  
KT10 9SD

British Institute of Innkeeping  
Infor House  
1 Lakeside Road  
Farnborough  
GU14 6XP

Coral Ltd  
New Castle House  
Castle Boulevard  
Nottingham  
NG7 1FT

Borough Inspector  
Surrey Police  
Civic Centre  
High Street  
Esher  
KT10 9SD

Ladbrokes Betting & Gaming Ltd  
Imperial House  
Imperial Drive  
Rayners Lane  
Harrow  
HA2 7JW

Metrobet Limited  
260 Seven Sisters Road  
London  
N4 2HY

William Hill  
Greenside House  
50 Station Road  
Wood Green  
London  
N22 7TP

Talarius Ltd  
Birch House  
Woodlands Business Park  
Milton Keynes  
MK14 6EW

Sandown Park Ltd  
75 High Holborn  
London  
WC1 6LS

Gamcare  
2<sup>nd</sup> Floor  
7-11 St John's Hill  
London  
SW11 1TR

Surrey Fire & Rescue  
Business Fire Safety Team  
Headquarters  
Croydon Road  
Reigate  
RH2 0EJ

Local Planning Authority  
Elmbridge Borough Council  
Civic Centre  
High Street  
Esher  
KT10 9SD

Environmental Health  
Elmbridge Borough Council  
Civic Centre  
High Street  
Esher  
KT10 9SD

Surrey Safeguarding Childrens Services  
Fairmount House  
Bull Hill  
Leatherhead  
KT22 7AH