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*Appendix A*

**SOUTHWARK COUNCIL  
DRAFT STATEMENT OF  
GAMBLING LICENSING  
POLICY  
(OCTOBER 2006)**

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## **PART A - INTRODUCTION**

1. The Gambling Act 2005 received Royal Assent on 7 April 2005. It repealed the Betting, Gaming and Lotteries Act 1963, the Gaming Act 1968 and the Lotteries and Amusement Act 1976 and provided a new regulatory system to govern the provision of all gambling in Great Britain other than the National Lottery and spread betting.
2. The Act has introduced a new unified regulator for gambling in Great Britain, the Gambling Commission. The Commission has taken over from the Gaming Board of Great Britain.
3. The Act comes into effect in 2007. From 2007 the Commission will be responsible for granting operating and personal licences for commercial gambling operators and personnel working in the industry. It will also regulate certain lottery managers and promoters.
4. Also from 2007 licensing authorities take on new responsibilities for licensing gambling premises in their area, as well as undertaking functions in relation to lower stake gaming machines and clubs and miners' welfare institutes.

### **Legal Background to the Southwark Statement of Gambling Licensing Policy**

5. Licensing authorities are required by the Gambling Act 2005 to consult upon and publish a statement of the principles, which they propose to apply when exercising their functions under the act. This statement must be published at least every three years and be reviewed from "time to time". Any amendments must be subject of further consultation.
6. In producing this licensing policy statement, this licensing authority has had regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission, and the responses from those consulted on the policy statement. Regard has also been had to the regulations and codes available at the time that this document was compiled. It should be noted that this statement of principles has been drafted at a time when a number of regulations, operating / personal licence conditions, codes of practice and guidance are not yet published. Should anything in these impact upon the content of this document it will need to be borne in mind and amended at a later stage, bearing in mind resource implications for the authority. All references to the Gambling Commission's Guidance for local authorities refer to the guidance published in April 2006.
7. Southwark Council consulted widely upon this policy between 3 July 2006 and 30 September 2006. A list of those parties with whom the Council

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consulted directly is attached at Appendix A to this document. It should be noted that unsolicited comments were received also.

8. The consultation followed the Revised Code of Practice (which came into effect in April 2004) and the Cabinet Office Guidance on consultations by the public sector. These documents are available via:

<http://www.cabinetoffice.gov.uk/regulation/consultation/code/index.asp>  
<http://www.cabinetoffice.gov.uk/regulation/consultation/documents/pdf/code.pdf>

9. The full list of comments made and the consideration by the Council of those comments is available by request to

The Licensing Manager  
C/O Southwark Environmental Health and Trading Standards  
The Chaplin Centre  
Thurlow Street  
London, SE17 2DG  
Tel contact – The Customer Service Centre on 020 7525 2000 or  
E-mail – [licensing@southwark.gov.uk](mailto:licensing@southwark.gov.uk)

10. This draft policy is to be considered by the full Council Assembly on 6 December 2006 and will be published via our website on 3 January 2007. Copies will be placed in the public libraries of the area as well as being available in the Town Hall.
11. Should you have any comments as regards this policy statement please send them via e-mail or letter to the address given above.

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## PART B - ALL ABOUT SOUTHWARK



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12. Centrally located on the south side of the Thames, immediately opposite the Cities of London and Westminster, the borough of Southwark reflects the complex socio-economic profile of the three metropolitan boroughs from which it was originally formed – Bermondsey, Camberwell and Southwark – many of which remain visible today.
13. Borough and Bankside in the historic north of the borough, is now a vibrant commercial and cultural quarter at the heart of the capital, with new commercial, cultural and retail developments including the Tate Modern and the Greater London Authority headquarters. Previously dominated by manufacturing and docks, adjacent Rotherhithe and Bermondsey have undergone a transformation in the last ten years and over 3,000 new homes of mixed tenure have been built in the area.
14. Peckham, Newington and Camberwell in the centre of the borough are characterized by some of the most deprived communities in the country. This area is significantly more multi-cultural (40%) than the rest of the borough with wide-ranging needs, expectations and potential. One of the most extensive single regeneration budget (SRB) projects in the country has recently come to an end in Peckham resulting in huge changes to the physical and social structure of the area.
15. Dulwich in the south is, by contrast, for the most part affluent with a few pockets of deprivation. Dulwich Village and three large private schools are at its centre. It retains a characteristically quiet, suburban atmosphere and is home to a large number of professionals who commute to central London. The key challenges for Dulwich have been conservation and the environment.
16. Today Southwark is London's fastest growing tourist quarter and a thriving business location. Attractions include the Clink Museum, as well as the Globe Theatre and Borough market. There is a vibrant arts scene together with a growing reputation for innovative architecture and quality urban design. Peckham Library won the Stirling Prize for architecture in 2000 and the borough was awarded the RIBA / CAGE London Local Authority of the Year Award in 2002 for design excellence.
17. Businesses based in the borough include the Pearsons Group, which produces the Financial Times and the Daily Express, Lloyds TSB Bank, PricewaterhouseCoopers and KPMG. There is also a flourishing small business sector. In the last few years more than 15,000 jobs have been attracted to the borough. More than 40% of Southwark is covered by a current or planned regeneration area. Over the next ten years between 2 to 3 billion will be invested in the borough, including the Elephant and Castle, Canada Water and Bermondsey Spa.
18. Southwark has a population 251,300 (ONS mid-year 2002), which is relatively young (five years younger than England as a whole), with one in 5 of the population being under 15.

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19. Southwark's population demonstrates a rich ethnic and cultural diversity, with around one-third (90,600) of the population from black or ethnic minority community. This is set to rise to 38% by 2011. More than 100 languages are spoken in our schools and 43% of pupils speak English as an additional language.

### **Leading Southwark**

20. Southwark is made up of 21 wards, with 63 councilors, three from each ward. These councilors sit on the council assembly, which is the "sovereign" body of the council. The assembly is chaired by the Mayor of Southwark and is responsible for approving the budget and policy framework. Currently the council has no overall political control. The Liberal Democrats and Labour both have 28 with Conservative 6 and Green 1.

21. The council operates a leader / executive model. The executive is headed by the leader and deputy leader, with a further eight members holding portfolios of

- Housing management
- Children's services and education
- Citizenship, equalities and communities
- Community safety
- Culture, leisure and sport
- Environment
- Health and adult care
- Regeneration

22. The executive is responsible for leading the community planning and consultation process, drafting the budget and policy framework, and taking most decisions on resources and priorities. Scrutiny operates with one overview committee and six sub-committees, with cross-party representation. An independent member chairs the standards committee.

23. Eight ward based community councils were established in April 2003 to take local decisions in key areas that have a direct impact on the local community

### **Licensing & gambling**

24. At the time of the implementation of this Act, Southwark has no casinos nor betting tracks. A number of bingo halls, betting offices and arcades are established in the borough. This authority recognises that gambling is a legitimate leisure facility enjoyed by many. However, this authority also recognises concerns that if not promoted responsibly gambling can be



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associated with crime and disorder and raise issues around the protection of children and vulnerable people. Through this policy, this authority intends to work with responsible operators but ensure that adequate necessary protections are in place for the broader Southwark community.

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## **PART C – PURPOSE AND SCOPE OF THE POLICY**

### **Purpose of the policy**

#### **25. This policy has four main objectives**

- **To reinforce to elected members on the licensing committee, the boundaries and power of the local authority and provide the parameters under which these licence decisions are made**
- **To inform licence applicants of the parameters under which this authority will make licence decisions and how a licensed premises is likely to be able to operate within an area**
- **To inform residents and businesses of the parameters under which licence decisions will be made and how their needs will be addressed**
- **To support licensing decisions that may be challenged in a court of law**

### **Scope of the policy**

26. This policy covers matters arising from the range of functions and duties falling to the licensing authority under the act.

27. 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*** in respect of casino premises; bingo premises; betting premises, including tracks; adult gaming centres; and family entertainment centres.
- Issue ***Provisional Statements***
- Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing ***Club Gaming Permits and / or Club Machine Permits***
- Issue ***Club Machine Permits to Commercial Clubs***
- Grant permits for the use of certain lower stake gaming machines at ***unlicensed Family Entertainment Centres***
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or fewer gaming machines
- Issue ***Licensed Premises Gaming Machine Permits*** for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required
- Register ***small society lotteries*** below prescribed thresholds

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- Issue ***Prize Gaming Permits***
- Receive and Endorse ***Temporary Use Notices***
- Receive ***Occasional Use Notices***
- Provide information to the Gambling Commission regarding details of licences issued (see section on 'information exchange')
- Maintain registers of the permits and licences that are issued under these functions

28. It should be noted that local licensing authorities will not be involved in licensing remote gambling at all. This will fall to the Gambling Commission via Operator Licences.

### **The Licensing Objectives**

29. In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The aim of the policy is to secure the three fundamental licensing objectives, which 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.**

30. It should be noted that the Gambling Commission has stated: "The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling".

### **Definitions**

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

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

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## **General information**

32. The licensing authority is aware that, as per Section 153 of the Act, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it

- 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

33. However, the authority may depart from this policy, if the individual circumstances of any case merit such a decision, in the interests of promoting the licensing objectives. Where such a decision is taken, full reasons for the departure from the policy will be given.

34. While this statement sets out the Council's general approach to the making of licensing decisions, nothing in this statement overrides 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.

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<p><b>PART D – ADMINISTRATION, EXERCISE AND DELEGATION OF FUNCTION</b></p>
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35. This document does not set out to deal with the circumstances under which any one of the available licences or consents may be required, nor does it attempt to set out the applications process.
36. Instead a range of separate guidance documents is available from the Southwark Licensing Service. These include
- a) “Guidance to Premises Licences”
  - b) “Guidance to Club Gaming Permits & Club Machine Permits;
  - c) “Guidance to Unlicensed Family Entertainment Centres”
  - d) “Guidance to Licensed Premises Gaming Machine Permits”
  - e) “Guidance to Small Society Lotteries”
  - f) “Guidance to Prize Gaming Permits”
  - g) “Guidance to Temporary Use Notices and Occasional Use Notices”
  - h) “Guidance to Hearing of Representations and Licence Reviews” and
  - i) “Guidance to Fees and Charges”.

### **Applications – General**

37. Applications for any of the variety of licences and consents available from this Council must be made on the form prescribed in regulations laid down by the Secretary of State. Applications shall not be progressed until the form has been completed in full and this, together the relevant fee, and all other required information has been received by the licensing authority. Applications will be progressed in accordance with the Act. Prospective applicants should refer to the relevant guidance document for further information.

### **Provision of scale plans**

38. Applicants should note that this Council requires that current scale plans be submitted with all new applications for premises licences and for any application for a variation of a premises licence. Plans must be submitted in scale 1:100 unless otherwise agreed by this authority in writing. Plans need not be professionally drawn but must include all required detail. The information to be included in the plans is to be set out in secondary regulations and dealt with in the separate guidance produced by this authority.

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## **Responsible Authorities**

39. 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 Southwark
  - The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group etc
40. In accordance with the Gambling Commission's draft Guidance for local authorities this authority intends to designate the Southwark Local Safeguarding Children Board for this purpose.
41. At the time of writing of this document it is also anticipated that further regulations will direct the designation of a separate body to advise the authority about the protection of vulnerable people. Appropriate steps will be taken to designate such a body once these are received.
42. The other responsible authorities are:
- The Southwark licensing authority
  - The Gambling Commission
  - The Southwark chief officer of police
  - The Southwark fire and rescue authority
  - The local planning authority
  - Southwark Environmental Health Service
  - HM Revenue and Customs
43. The contact details of all the Responsible Bodies under the Gambling Act 2005 are provided at Appendix B to this document and are available via the Council's website at [www.southwark.gov.uk/businesscentre/licensing](http://www.southwark.gov.uk/businesscentre/licensing)

## **Interested parties**

44. Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:
45. ***"A person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the application is made, the person-***
- a) Lives sufficiently close to the premises to be likely to be affected by the authorised activities,***

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***b) Has business interests that might be affected by the authorised activities, or***

***c) Represents persons who satisfy paragraph (a) or (b)”***

46. The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. There are five guiding principles to the Authority’s approach:

- (i) This authority will not apply a rigid rule to its decision-making;
- (ii) It will consider the examples of considerations provided in the Gambling Commission’s Guidance for local authorities;
- (iii) It will consider the Gambling Commission’s Guidance that “has business interests” should be given the widest possible interpretation and include partnerships, faith groups and medical practices;
- (iv) Although the Gambling Commission has recommended in its Guidance that the licensing authority states that interested parties will include trade associations and trade unions, and residents’ and tenants’ association, it is understood that the Gambling Commission has subsequently stated that this is a mistake in its Guidance which will be rectified and noted on its website. However, this authority has decided that it will do so as long as the body concerned has a member who can be classed as one under the terms of the Gambling Act 2005 e.g. lives sufficiently close to the premises to be likely to be affected by the activities being applied for;
- (v) Interested parties can be persons who are democratically elected such as Councillors and MP’s. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, community councils likely to be affected, will be considered interested parties. Other than these persons, however, this authority will generally require written evidence that a person / body (e.g. an advocate / relative) ‘represents’ someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A proforma authorisation form is available on the licensing web site or upon request from the licensing office.

47. If individuals wish to approach Councillors to ask them to represent their views then care should be taken that the Councillors are not part of the Licensing Sub-Committee dealing with the licence application. If there are any doubts then please contact the licensing department (*see contact details provided at the end of this document*).

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48. The licensing authority recognises that the phrase “sufficiently close to be likely to be affected” could have a different meaning for, for instance, a private resident, a residential school for children with problems; and a residential school for vulnerable adults and will therefore deal with each representation on its own merits.
49. The licensing authority will take into account the following factors when interpreting “sufficiently close”.
- Size of the premises
  - Nature of the premises
  - Distance of the premises from the location of the person making the representation
  - Potential impact of the premises, i.e. number of customers, routes likely to be taken by those visiting the establishment
  - Circumstances of the complainant
50. This list is not exhaustive.
51. The Licensing authority will take into account the following factors when determining whether an individual is a person with business interests that might be affected.
- Size of the premises;
  - The “catchment” area of the premises (i.e. how far people travel to visit);
  - Whether the person making the representation has business interests in that catchment area that might be affected
  - Whether or not the representation is purely based on “competition” as the licensing authority does not consider this to be a relevant matter.
52. This list also is not exhaustive.

### **Consultation arrangements**

53. This authority considers it important that the local community is fully aware of local licensing applications being made within its area. Requirements for applicants for premises licences by way of a public notice displayed at the application premises and in the local press are laid down under statute. No applications for licences will be progressed by this council unless all public consultation requirements are met in full. Checks will be made to ensure that notices at application premises are displayed, so as to be clearly seen by passers by and maintained in position for the length of the consultation period.
54. As an additional aide to community awareness the licensing service has established a public register at [www.southwark.gov.uk/businesscentre/licensing](http://www.southwark.gov.uk/businesscentre/licensing) upon which detail of all



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current licence applications under consideration (alongside detail of currently licensed premises) will be maintained. It is open to any person who wishes to be kept abreast of latest applications to subscribe to “licensing alerts”, by which e-mail notifications will be sent to those who have registered when a new licence application is made within the relevant ward. Furthermore, the licensing service will ensure that local ward councillors are informed of all new applications in their area.

### **Representations**

55. It is open to any “responsible authority” or “interested party”, to lodge representations in respect of an application for a premises licence during the set consultation period. A representation would only be “relevant” if it relates to one or more of the licensing objectives, or raises issues under the policy statement, or under the Commission’s guidance or codes of practice.
56. The Gambling Commission’s Guidance for local authorities advises that “moral objections to gambling are not a valid reason to reject applications for premises licences” (except as regards any ‘no casino resolution’ see section on Casinos) and also that unmet demand is not a criterion for a licensing authority.
57. It is also for the licensing authority to determine on its merits whether any representation by an interested party is “frivolous” or “vexatious”.
58. When considering whether any representation made to it is “frivolous” or “vexatious” the Authority will consider matters such as
  - Who is making the representation, and whether there is a history of making representations that are not relevant
  - Whether it raises a “relevant” issue” or
  - Whether it raises issues specifically to do with the premises that are the subject of the application.
59. Representations must be received in writing at the licensing service office by the last date for representations. Representations must be signed, dated, provide the grounds of representation in full and include the name and address of the person / body making the representation.
60. Where representations are being made by a trade association, trade union, residents’ and tenants’ association, or similar, information must be provided on the membership that live sufficiently close to the premises to be classed as interested parties.
61. Further information, including an outline of the process that is followed at public hearings, can be found in the separate document “Guidance to the Hearing of Representations and Licence Reviews”.

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## **Licence reviews**

62. Section 200 of the act provides that the licensing authority may initiate a review in relation to a particular class of premises licence, or in relation to a specific premises if the authority has reason to suspect the premises has been used in contravention of its licence conditions..
63. Section 187 of the act provides that an application for a review of a premises licence may also be made by any responsible authority or by any interested party. The application must be made in the manner prescribed under regulations set down by the secretary of state.
64. An application for a review of a premises licence may be rejected if the application is deemed to be irrelevant, frivolous or vexatious, or if the grounds for the review will certainly not cause the authority to revoke or suspend a licence or to remove, amend or attach conditions on the premises licence.
65. Further information, including an outline of the process that is followed at review hearings, can be found in the separate document "Guidance to the Hearing of Representations and Licence Reviews".

## **Determinations**

66. Section 154 of the act provides that all decisions relating to premises licences are delegated to the licensing committee of the authority that has been established under section 6 of the Licensing Act 2003 except
- A resolution not to issue casino licences
  - Functions in relation to the three year licensing policy
  - Setting fees
67. Decisions that are delegated to a licensing committee may be further delegated to a sub-committee of the licensing committee. The Council's Licensing Committee is established with provision for sub-committees of three members to be drawn from the overall pool of the main committee membership.
68. The Council intends to establish a speedy, efficient and cost-effective system and thereby where the Act carries a presumption of grant for non-contentious applications, these matters will be delegated to officers. All such matters will be reported for information and comment only to the next full licensing committee meeting.
69. Where matters are subject of representations, in recognition of the fact that the best solutions are normally ones that all parties concerned can sign up to and in order to attempt to save the time and costs associated with holding a public hearing, this council will normally attempt to reach a

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negotiated conclusion through our conciliation process up to 24 hours before a hearing takes place. Where this is not possible the application and representations to it will be considered, as arranged, by the sub-committee.

70. Table 1 sets out proposals for the delegation of decisions and functions to licensing committee, sub-committees and officers. This form of delegation is without prejudice to the council's right to redirect an application as appropriate in the circumstances of any particular case.

**Table 1 – Delegation of decisions and functions**

<b>Matter to be dealt with</b>	<b>Full Council</b>	<b>Sub-Committee of Licensing Committee</b>	<b>Officers</b>
Final approval of three year policy	X		
Policy not to permit casinos	X		
Fee setting (when appropriate)	X		
Application for premises licence		Where representations have been received and not withdrawn	Where representations received or representations withdrawn
Application for a variation to a premises licence		Where representations have been received and not withdrawn	Where representations received or representations withdrawn
Application for a transfer of a premises licence		Where representations have been received from the Commission	Where representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where representations received or representations withdrawn
Review of a premises licence		X	
Application for a club gaming / club machine permit		Where objections have been made (and not withdrawn)	Where no objections have been made / objections have not been withdrawn.
Cancellation of a club gaming / club machine permit		X	
Applications for			X

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other permits			
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

### **Exchange of Information**

71. Licensing authorities are required to include in their policy statement 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.
72. The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The licensing authority will also have regard to any Guidance issued by the Gambling Commission to Local Authorities on this matter when it is published, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.
73. Should any protocols be established as regards information exchange with other bodies then they will be made available.

### **Enforcement**

74. 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.
75. This licensing authority's principles are that it will be guided by the Gambling Commission's Guidance for local authorities and will endeavour to be:

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- **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
  - **Targeted:** regulation should be focused on the problem, and minimise side effects
76. These principles are consistent with principles contained within the council's environmental health and trading standards service enforcement policy and with the Better Regulation Unit's Enforcement Concordat, to which this council is a signatory. All enforcement actions will be in accordance with this enforcement policy. A copy of the document is available upon request.
77. As per the Gambling Commission's Guidance for local authorities this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.
78. This licensing authority will also, as recommended by the Gambling Commission's Guidance for local authorities, adopt a risk-based inspection programme. Whilst the Gambling Commission's Guidance suggests that the criteria to be utilised in this respect are included in this statement, this has not been possible. At the time of writing the Gambling Commission has not published its risk criteria, nor are regulations such as mandatory / default conditions published, nor Codes of Practice. LACORS is working with the Gambling Commission to produce a risk model for premises licences and this authority will consider that model once it is made available.
79. The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 will be to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for the 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.
80. In exercising its enforcement role, the licensing authority will work in close partnership with the community, the police and all other responsible authorities and relevant agencies.

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## **PART E – PREMISES LICENCES**

81. This section considers the licensing objectives and some of the matters that this licensing authority may consider when determining applications. It also considers this authorities approach to the setting of conditions on premises licences. This section should be read in conjunction with the separate “Guidance to Premises Licences” issued by this Council.
82. When considering matters in this section, the authority will have regard to any guidance or codes of practice issued by the Secretary of State and / or the Gambling Commission which may relate to a specific premises or category of premises.
83. In the interests of good practice, this licensing authority will expect applicants to offer their own measures to meet the licensing objectives based on risk-assessments. However, advice may be obtained from any of the responsible bodies when preparing a licence application.
84. This section sets out some of the expectations of the authority and the responsible bodies.
85. The authority will, however, always treat each case on its own individual merits.

### **General principles**

86. Premises licences will be subject to the permissions / restrictions set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which will be 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.
87. This licensing authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:
  - 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

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### **Definition of “premises”**

88. Premises are defined in the Act as “any place”. A single premises cannot have multiple premises licences allowing different types of gambling at different times. However, a single building can 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. Whether different parts of a building can properly be regarded as being different premises will always be a question of fact in the circumstances. However, the Gambling Commission does not consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.
89. This licensing authority takes particular note of the Gambling Commission’s Guidance for local authorities which states that
- Licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware that entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not ‘drift’ into a gambling area.
  - Licensing authorities should pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). Clearly, there will be specific issues that authorities should consider before granting such applications, for example whether children can gain access; compatibility of the two establishments; and ability to comply with the requirements of the Act. But, in addition, an overriding consideration should be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act.
90. It should also be noted that an applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed. The Gambling Commission has advised that reference to “the premises” are to the premises in which gambling may now take place. Thus a licence to use a premises for gambling will only be issued in relation to premises that are ready to be used for gambling. This authority agrees with the Gambling Commission that it is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence. The Gambling Commission emphasises that requiring the building to be complete is necessary to ensure that the authority and other responsible authorities with inspection rights can inspect the premises fully.

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## **Location**

91. As per the Gambling Commission's Guidance for local authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.
92. In pursuit of these objectives, when determining applications for premises licences, this authority will have regard to the location of the premises. The authority will give special consideration in relation to the proximity of premises to
- **Local schools, youth clubs, shops, parks, leisure and recreational establishments and any other similar premises directed at, or primarily used by children or families**
  - **Places where vulnerable people are housed or treated, including clinics, recovery centres, outpatients clinics and homes**
  - **Residential areas where there is a high concentration of children and young people or vulnerable people**
  - **Areas where there is a high level of organised crime**
  - **Places of worship, community facilities or public buildings**
  - **Areas where there is considered to be an over concentration of similar existing licensed operations**
93. This list is not exhaustive and, as stated, each case will be considered upon its own merits. If an applicant can show how they can overcome licensing objective concerns this must be taken into account.
94. Although this authority recognises that nuisance is not one of the three stated licensing objectives and that the guidance to the Act states that disorder is intended to mean activity that is more serious than nuisance, this authority will receive information from the Council's environmental health noise team on nuisance issues as being relevant to matters of location of premises.

## **Duplication with other regimes**

95. This authority will seek to avoid any duplication with other statutory / regulatory systems where possible, including **planning**.
96. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it.
97. However, applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. Licensing applications should not be a re-run of



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the planning application and should not cut-across decisions taken by the local authority planning committee or following appeals against decisions taken by that committee. Similarly, the granting by the licensing committee of any variation of a licence which involves a material alteration to a building would not relieve of the need to apply for planning permission or building control where appropriate.

98. Thereby while the licensing authority is conscious that there is no legal basis for a licensing authority to refuse a licence application solely because it does not have planning permission, it would not be consistent for the authority to give a licence for an activity when it has refused planning permission for the same activity to take place. In such cases the council would expect the applicant to address the reasons why planning permission had not been granted and provide compelling reasons as to why licensing consent should be. Even so, there may be circumstances when as a condition of planning permission, a terminal hour has been set for the use of the premises for commercial purposes which carries different hours to the licensing hours. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.
99. This authority will listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.
100. Borough-wide and area based planning guidance exists through the **Southwark Plan** and supplementary planning guidance. Where relevant representations are made on applications, the Licensing Authority will have regard to the appropriate relevant guidance.
101. The **Disability Discrimination Act 1995** introduced measures to tackle discrimination encountered by disabled people in the areas of employment, access to goods, facilities and services and the management, buying or renting of land or property. For service providers, such as licensees
  - **Since December 1996 it has been unlawful to treat disabled people less favourably than other people for a reason related to their disability**
  - **Since October 1999 they have had to make reasonable adjustments for disabled people, such as providing extra help or making changes to the way they provide their services**
  - **Since 2004 they have had to make reasonable adjustments to the physical features of their premises to overcome physical barriers to access.**

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102. Issues of access for people with disabilities do not fall under the three licensing objectives. However, the **Disability Discrimination Act 2005** came into effect in December 2005 and placed a duty on public bodies to actively promote disability equality. This authority expects that responsible licensees will comply with the requirements of the **Disability Discrimination Act 1995**. As such the licensing service will work closely with the Southwark Disablement Association (SDA) to ensure that disabled people are not treated less favourably than other people for a reason related to their disability. We will directly notify the SDA of all licence applications received and will support the SDA and licensees in improving the provision of services. The SDA will provide advice to any licensee on reasonable adjustments – contact details are provided in Appendix A. Alternatively, information provided on the web site [www.directenquiries.com](http://www.directenquiries.com) by the nationwide access register in conjunction with RADAR (the Royal Association of Disability and Rehabilitation) may be helpful.

### **Conditions Generally**

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

- Relevant to the need to make the proposed building suitable as a gambling facility
- Directly related to the premises and the type of licence applied for
- Fairly and reasonably related to the scale and type of premises: and
- Reasonable in all other respects.

104. Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a perceived need. There are specific comments made in this regard under the licensing objectives and some of the licence types below. This licensing authority will also expect the licence applicant to offer his/her own suggestions as to ways in which the licensing objectives can be met effectively.

105. Where this authority proposes to attach a condition to a licence, other than either a mandatory or default condition, a hearing will be held unless all parties concerned consider it unnecessary.

106. This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specific area of the track. As per the Gambling Commission's Guidance, this licensing authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from the gambling areas where they are not permitted to enter.

107. It is noted that there are conditions which the licensing authority cannot attach to premises licences. These are:

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- 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 provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated) and
- Conditions in relation to stakes, fees, winning or prizes

### **The Licensing Objectives**

108. Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission's Guidance to local authorities and some comments are made below.

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

109. The Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. It will maintain rigorous licensing procedures that aim to prevent criminals from providing facilities for gambling, or being associated with gambling.

110. Where representations are received to premises licence applications under the crime and disorder objective, this authority will give appropriate consideration to the location of the premises (see separate section above) and to issues such as

- The configuration, design and layout of the premises, paying particular attention to steps taken to "design out" crime
- Security arrangements within the premises, including whether CCTV is installed and, if so, the standard of the CCTV and the positioning of cash registers
- Training provided to staff around crime prevention measures
- The level of staffing provided at the premises, including whether door supervisors are employed
- The arrangements in place to conduct age verification checks
- Steps taken to redress the recurrence of any historical crime and disorder issues
- The likelihood of any violence, public disorder or policing problems if the licence is granted.

111. The above list is not exhaustive.

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112. Where it is considered necessary for the promotion of the crime and disorder objective, this authority will impose appropriate conditions.

113. The licensing authority is aware of the distinction between disorder and nuisance. In delineating the two, it will consider factors such as whether police assistance was required and how threatening the behaviour was to those who witnessed it.

### **Objective 2 - Ensuring that gambling is conducted in a fair and open way**

114. This licensing authority has noted that the Gambling Commission has stated that it would generally not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way, as this will be addressed via operating and personal licences

115. However, in relation to the licensing of tracks the licensing authorities role will be different from other premises in that track operators will not necessarily have an operating licence. In those circumstances, the premises licence may need to contain conditions to ensure that the environment in which betting takes place is suitable.

### **Objective 3 - Protecting children and other vulnerable persons from being harmed or exploited by gambling**

116. This licensing authority has noted the Gambling Commission Guidance to local authorities states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). This licensing authority will therefore consider, as suggested in the Gambling Commission Guidance, whether specific measures are required at particular premises, with regard to this licensing objective.

#### **a) Preventing children from taking part in gambling**

117. In particular it is noted that while under the act children (defined in the act as under 16s) and young persons (16 – 17s) may take part in private and non-commercial betting and gaming the act contains the following restrictions on the circumstances in which they may participate in gambling or be on premises where gambling is taking place,

- Casinos cannot admit anyone under 18 and regional casinos will not be allowed to permit under 18s into the gambling area
- Betting shops cannot admit anyone under 18
- Bingo clubs may admit those under 18 but must have policies to ensure they do not gamble, except on category D machines
- Adult entertainment centres cannot admit those under 18

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- Family entertainment centres and premises with liquor licences (eg pubs) can admit under 18s, but they must not play category C machines which are restricted to those over 18
- Clubs with a club premises certificate can admit under 18s, but they must have policies to ensure those under 18 do not play machines other than category D machines
- Horse and dog tracks can admit under 18s, and they may have access to gambling areas on race days only. Tracks will be required to have policies to ensure that under 18s do not participate in gambling other than on category D machines.

118. Accordingly, this authority will wish to ensure that these restrictions are complied with.

119. This licensing authority will expect applicants to offer their own measures to ensure compliance, however, there are a range of measures and controls that this authority and the other responsible authorities would recommend that consideration is given to.

- The use of proof of age schemes
- The installation of CCTV systems with the maintenance of a 31 day library of recordings
- The supervision of entrances to the premises and / or machine areas
- The physical separation of areas
- Full consideration as to the location of entrances
- The provision of suitable notices / signage
- Setting of specific opening hours

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

121. At the time of writing of this document this authority is aware of the content of the draft Gambling Commission proposals regarding licence conditions in respect of personal, operating and premises licences and of the content of the Secretary of State's draft Gambling Act 2005 (Premises Licences and Provisional Statements) Regulations 2007. As such, it is understood that there is a stated intention to require operators, by way of a standard condition of the operating licence granted by the Commission, to have and put into effect documented policies and procedures to prevent underage gambling and monitor the effectiveness of these. It is also understood that good practice is to be set out within a published code of practice. These draft regulations, however, do not require an operator to inform the licensing authority and other responsible authorities of these policies and procedures when applying for the premises licence. This would be a concern, particularly if compliance with the code is not made a standard operating licence condition.

122. In order that this authority and the other responsible authorities are, therefore, able to make a proper informed judgement as to the suitability of

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these policies and procedures, this authority will require copies of the documentation to be submitted to the appropriate authorities for consideration as part of the application for any new, varied or transferred premises licence. These will be considered upon their individual merits. Where concerns are raised through the representation system then consideration will be given to whether additional relevant conditions are necessary.

123. In considering this matter, this licensing authority will make itself aware of the Codes of Practice, which the Gambling Commission issues as regards this licensing objective, in relation to specific premises such as casinos.

124. As assistance to prospective licence holders the minimum expectations of this authority and the responsible bodies in relation to proof of age are given in table 2 below with issues shown as being, in our view, essential or desirable.

**Table 2**

Essential	That notices shall be displayed informing customers and staff that under 18s will not be admitted to the premises or will not be permitted to take part in gambling activities (as applicable) and that age identification will be required
Essential	That a proof of age compliance scheme shall be established and maintained. The scheme shall require the production of evidence of age (comprising any PASS accredited card or passport or driving licence) from any person appearing to staff to be under the age of 18 and who is attempting to enter the premises or, where admission of under 18s is permitted, who is attempting to take part in gambling. Evidence of this scheme (in the form of documented procedures) shall be made available for inspection by authorised officers.
Desirable	That a “Challenge 21” or “Think 21” proof of age compliance scheme shall be established and maintained. The scheme shall require the production of evidence of age (comprising any PASS accredited card or passport or driving licence) from any person appearing to staff to be under the age of 21 and who is attempting to enter the premises or, where admission of under 18s is permitted, who is attempting to take part in gambling. “Think 21” or “Challenge 21” notices shall be displayed informing customers and staff that admission to the premises will not be given to anyone appearing to be under 21 unless they can prove they are 18 or over. Evidence of this scheme (in the form of documented procedures) shall be made available for inspection by authorised officers.
Essential	That all staff shall be trained in the premises proof of age

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	compliance scheme and records of such training shall be retained on the premises and made available for inspection by authorised officers.
Essential	That an incident log shall be maintained and details of all age related refusals recorded. This book shall be reviewed monthly by the nominated responsible member of staff and any actions taken recorded in the book and signed off by that member of staff. This log shall be retained on the premises and made available for inspection by authorised officers.
Desirable	That, if a CCTV recording system is installed inside the premises, it shall be so arranged as to monitor each entrance and exit and the gaming areas. A library of recordings taken by the system shall be maintained for 31 days and made available to authorised officers upon request.

125. This authority will ensure that where category C or above machines are on offer in premises to which children are admitted:

- All such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance; and
- Only adults are admitted to the area where the machines are located; and
- Access to the area where machines are located is supervised; or
- The areas where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- At the entrance to and inside any such areas there are prominent displayed notices indicating that access to the area is prohibited to persons under 18

126. These considerations, together with the supervision of entrances, will apply to premises including buildings where multiple premises licences are applicable,

### **b) Restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children**

127. The Gambling Act 2005 removes virtually all of the existing statutory restrictions on the advertising of lawful gambling conducted in Great Britain. Responsibility for the advertising by gambling operators will be shared by the Secretary of State, the Commission, and the advertising regulatory bodies. We note the Commission's intention, as stated in the draft document on operating licence conditions, that consistent codes of practice being developed on advertising content, covering both broadcast and non-broadcast advertising, are likely to require advertisers;

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- Not to encourage irresponsible or excessive gambling;
- Not to seek to harm or exploit children, the young, or other vulnerable persons;
- Not to direct advertisements at those under 18; and
- Only to feature in their advertisements people who are, and seem to be, over 25

128. Should compliance with the code become a standard condition of the operating licence granted by the Commission this authority may accept that further conditions on this matter should not normally be necessary, but all issues of non-compliance with the code would be rigorously investigated and reported to the relevant authorities.

### **c) Protection of vulnerable people**

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

130. This authority considers that for the purposes of protecting vulnerable people it is important that each licensee should recognise their social responsibility.

131. Returning to the Commission’s draft document dealing with proposed operating licence conditions we note at the time of writing of this document that there is a proposal to place a standard condition on operating licences which require operators to put into effect policies and procedures which promote socially responsible gambling. Again a code of practice is proposed which state that “operators’ policies and procedures for socially responsible gambling must include but not be confined to:

- How they will contribute to research into the prevention and treatment of problem gambling;
- How they will contribute to public education on the risks of gambling and how to gamble safely; and
- How they will contribute to the identification of and treatment of problem gamblers

132. Again, these draft regulations, however, do not require an operator to inform the licensing authority and other responsible authorities of these policies and procedures when applying for the premises licence. This



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would be a concern, particularly if compliance with the code is not made a standard operating licence condition.

133. In order that this authority and the other responsible authorities are, therefore, able to make a proper informed judgement as to the suitability of these policies and procedures, this authority will require copies of the documentation to be submitted to the appropriate authorities for consideration as part of the application for any new, varied or transferred premises licence. These will be considered upon their individual merits. If concerns are raised through the representation system then consideration will be given to additional relevant conditions.

134. This authority and the other responsible authorities would expect that consideration is given to

- The introduction of self-exclusion schemes
- Making information publically available about organisations that can provide advice and support, both in relation to gambling itself and to debt, for example for gambling addiction GamCare, Gamblers Anonymous, and the Gordon House Association; and for debt counselling Southwark trading Standards' Money Advice Service, Blackfriars Advice service and National Debtline.

### **Door Supervisors**

135. The Gambling Commission advises in its Guidance for local authorities that licensing authorities may consider whether there is a need for door supervisors in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime.

136. Where operators or this licensing authority may decide that supervision of entrances / machines is appropriate for particular cases it will need to be decided whether these need to be SIA licensed or not. It will not be automatically assumed they need to be.

### **Adult Gaming Centres**

137. This 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, for example, that under 18 year olds do not have access to the premises (see information provided under section relating to the third licensing objective). This licensing authority may consider measures to meet the licensing objectives.

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138. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

### **(Licensed) Family Entertainment Centres**

139. This 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, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas (see information provided under section relating to the third licensing objective).

140. Given that this category of premises is one to which children may properly have access, operators should also consider measures / training for staff on how to deal with suspected truant school children upon the premises.

141. This licensing authority will, as per the Gambling Commission's Guidance, refer to the Commission's website to see any conditions that apply to operator licences covering the way in which the area containing the category C machines should be delineated. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

### **Casinos**

#### **a) No Casinos resolution**

142. This 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 taken by the full Council Assembly.

143. It should be recognised, however, that this authority has not sought to be considered by the Secretary of State within the process for the geographical distribution of casino premises licences under section 175 of the Act.

#### **b) Licence considerations / conditions**

144. The Gambling Commission has stated that "further guidance will be issued in due course about the particular issues that licensing authorities should take into account in relation to the suitability and layout of casinos premises" (Gambling Commission Guidance for local authorities – 17.30). This guidance will be considered by this licensing authority when it is made available.

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### **c) Betting machines**

145. This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number / nature / circumstances of betting machines an operator wants to offer.

### **Bingo premises**

146. This licensing authority notes that the Gambling Commission's Guidance states:

*"18.4 – It is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted, licensing authorities should note the advice given in the section of this policy relating to the third licensing objective."*

147. This licensing authority is also aware that the Gambling Commission has stated that it is going to issue further guidance about the particular issues that licensing authorities should take into account in relation to the suitability and layout of bingo premises. This guidance will be considered by this licensing authority once it is made available.

### **Betting premises**

148. This 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, for example, that under 18 year olds do not have access to the premises (see information provided under section relating to the third licensing objective).

149. This authority will therefore expect applicant's to offer their own measures to meet the licensing objectives. Advice is given elsewhere in this section.

150. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

151. This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of

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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 or by vulnerable people, when considering the number / nature / circumstances of betting machines an operator wants to offer.

### **Tracks**

152. This authority notes that the definition of “track” covers not just a horse racecourse or dog track, but also any other premises on any part of which a race or other sporting event takes place or is intended to take place. This means that land that has a number of uses, one of which fulfils the definition of track, can qualify for the occasional use notices provision. Land used temporarily as a track can qualify, provided races or sporting events take place or will take place there. The track need not be a permanent fixture.

153. 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. This licensing authority will especially consider 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.

154. This authority will therefore expect the premises licence applicants to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when 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.

155. This authority may consider measures to meet the licensing objectives. Advice is given elsewhere in this section.

### **a) Gaming machines**

156. Further guidance from the Gambling Commission is awaited as regards where such machines may be located on tracks and any special considerations that should apply in relation, for example, to supervision of the machines and preventing children from playing them. This licensing authority notes the Commission’s Guidance that licensing authorities therefore need to consider the location of gaming machines at tracks, and applications for track premises licences will need to demonstrate that, where the applicant holds a pool betting operating licence and is going to use his entitlement to four gaming machines, these machines are located in areas from which children are excluded. Children and young persons are not prohibited from playing category D gaming machines on a track.

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### **b) Betting machines**

157. This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of machines by children and young persons or by vulnerable people, when considering the number / nature / circumstances of betting machines an operator wants to offer. It will also take note of the Gambling Commission's suggestion that licensing authorities will want to consider restricting the number and location of such machines in respect of applications for track betting licences.

### **c) Condition on rules being displayed**

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

### **d) Applications and plans**

159. This licensing authority awaits regulations setting-out any specific requirements for applications for premises licences and will take these into consideration when published.

160. In order to understand the application fully this authority will require the applicant to provide information such as detailed plans for the racetrack 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 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. The authority may require such other information it deems necessary to properly consider the application.

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

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### **Travelling Fairs**

162. This authority will firstly consider whether the application falls within the statutory definition of a travelling fair. This authority will then decide whether, where category D machines and / or equal chance prize gaming without a permit is to be made available, whether the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

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

### **Provisional Statements**

164. This licensing authority notes the Guidance for the Gambling Commission which states that “It is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence” and that “Requiring the building to be complete ensures that the authority can inspect it fully”.

165. In terms of representations about premises licence applications, following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into 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:

- a) Which could not have been raised by objectors at the provisional licence stage; or
- b) Which in the authority’s opinion reflect a change in the operator’s circumstances.

166. This authority has noted the Gambling Commission’s Guidance that “A licensing authority should not take into account irrelevant matters.

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### **PART F – PERMITS / TEMPORARY & OCCASIONAL USE NOTICES**

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

167. 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).
168. 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. The Gambling Commission's Guidance for local authorities also states "in their three year licensing policy statement, licensing authorities may include a statement of principles they propose to apply when exercising their functions in considering applications for permits ..., licensing authorities will want to give weight to child protection issues." (24.6)
169. Guidance also states "... An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application."
170. This licensing authority has prepared a statement of principles which is that each applicant will be expected to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits.
171. Copies of these policies and procedures must be submitted with any application for a permit. Applicants are advised that the minimum expectations of the local safeguarding children board are that policies and procedures will demonstrate
- a) **How employees or contracted agencies will be made aware of the company's / organisation's policy / statement on keeping children safe from harm;**
  - b) **That recruitment processes for staff who may have to deal direct with children under the age of 18 seek to ensure, as best the company / organisation can, that the appointed applicant has not been known to have harmed children;**

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- c) That there will be clear expectations on staff with regard to their personal conduct in direct relations with children under 18 and guidance on what is appropriate in dealing with specific situations which may arise;
- d) That there are systems in place and that staff are aware of them for dealing with possible abuse or violence to children from other users of the licensed facility;
- e) That there are clear and accessible complaints systems for children to report if they have been harmed and that there are clear whistle-blowing procedures for staff who may have concerns about the welfare of children on the premises; and
- f) That all duty managers or staff in charge of the premises are aware of how to refer any concerns about the welfare of children to the local police, education authority or social services as necessary.

172. Policies and procedures may also include appropriate 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.

173. This licensing authority will also expect, as per Gambling Commission Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that staff are trained to have a full understating of the maximum stakes and prizes; and that the applicant has no relevant convictions (as set out in Schedule 7 of the Act); and.

### **(Alcohol) Licensed premises gaming machine permits – (Schedule 13 Para 4(1))**

174. 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. In such cases the premises licence holder under the Licensing Act 2003 merely needs to notify the licensing authority and pay the relevant 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 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



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175. If a premises wishes to have more than 2 machines, then an application must be made 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.*” This licensing authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines.

176. Measures which will satisfy the authority may include

- **That adult machines are located within a bar or segregated area to which under 18s are not admitted; and**
- **That procedures are in place to ensure that under 18s are not admitted (see advice in Part E of this policy); or**
- **That adult machines are situated in full sight of the bar staff, or other staff who will monitor that the machines are not being used by those under 18; and**
- **That procedures are in place that will ensure that under 18s are not able to play upon the machines (see advice in Part E of this policy).**
- **Additionally, notices and signage may also be of help in both circumstances**

177. As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare (see paragraph 134 above).

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

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

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

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### **Prize Gaming Permits – (Statement of Principles on Permits - Schedule 14 Para 8 (3))**

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

182. This licensing authority has prepared a Statement of Principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that 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**

183. In making its decision on an application for this permit the licensing authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission Guidance.

184. It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but that the licensing authority cannot attach conditions. The conditions in the Act are:

- **The limits on participation fees, as set out in regulations, must be complied with;**
- **All chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and 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.**

### **Club Gaming and Club Machines Permits**

185. Members Clubs and Miners' Welfare Institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines permit. The Club Gaming 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 forthcoming regulations. A Club Gaming machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).

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186. Gambling Commission Guidance for local authorities states: “Members clubs must have at least 25 members and be established and conducted “wholly or mainly” for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968. A members’ club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men’s clubs, branches of Royal British Legion and clubs with political affiliations.”

187. The Commission Guidance also notes that “licensing authorities may only refuse an application on the grounds that:

(a) The applicant does not fulfil the requirements for a members’ or commercial club or miners’ welfare institute and therefore is not entitled to receive the type of permit for which it has applied;

(b) The applicant’s premises are used wholly or mainly by children and/or young persons;

(c) An offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;

(d) A permit held by the applicant has been cancelled in the previous ten years; or

(e) An objection has been lodged by the Commission or the police

188. There is also a ‘fast-track’ procedure available for premises which hold a Club Premises Certificate under the Licensing Act 2003 (schedule 12 paragraph 10). As the Gambling Commission’s Guidance for local authorities states: “Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced” and “The grounds on which an application under the process may be refused are:

(a) That the club is established primarily for gaming, other than gaming prescribed under schedule 12;

(b) That in addition to the prescribed gaming, the applicant provides facilities for other gaming; or

(c) That a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.”

### **Temporary Use Notices**

189. There are a number of statutory limits as regards Temporary Use Notices. Gambling Commission Guidance is noted that “The meaning of “premises” in part 8 of the Act is discussed in part 7 of this guidance. As with “premises”, the definition of “a set or premises” will be a question of fact in the particular circumstances of each notice that is given. In the Act “premises” is defined as “any place”. In considering whether a place falls within the definition of “a set of premises”, licensing authorities will need to look at, amongst other things, the ownership / occupation and control of

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the premises. This is a new permission and licensing authorities should be ready to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.”

### **Occasional Use Notices**

190. This notice allows for betting on a track without the need for a premises licence on 8 days or less in a calendar year. 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.

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### **PART G – SMALL SOCIETY LOTTERIES**

191. Under the Act, a lottery is unlawful unless it runs with an operating licence or is an exempt lottery. The licensing authority will register and administer small societies lotteries (as defined). Promoting or facilitating a lottery will fall within 2 categories.

- Licensed lotteries (requiring an operating licence from the Gambling Commission); and
- Exempt lotteries (including small society lotteries registered by the licensing authority)

192. Exempt lotteries are lotteries permitted to run without a licence from the Gambling Commission and these are:

- Small society lotteries;
- Incidental non-commercial lotteries;
- Private lotteries;
- Private society lotteries;
- Work lotteries;
- Residents' lotteries;
- Customer lotteries;

193. Societies may organise lotteries if they are licensed by the Gambling Commission or fall within the exempt category. The licensing authority recommends those seeking to run lotteries take their own legal advice on which type of lottery category they fall within. Guidance notes on small society lotteries, limits placed on them and information setting out financial limits will be made available on the council's web-site or by contacting the licensing service (see contact details at the end of this document).

194. Applicants for registration of a small society lottery must apply to the licensing authority in the area in which their principal office is located. Where the licensing authority believes that the society's principal office is situated in another area, it will inform the society as soon as possible and where possible, will inform the other licensing authority.

195. Lotteries will be regulated through a licensing and registration scheme; conditions imposed on licences by the Gambling Commission; codes of practice and any guidance issued by the Gambling Commission. In exercising its functions with regard to small society and exempt lotteries, the licensing authority will have due regard to the Gambling Commission's Guidance.

196. The licensing authority will keep a public register of all applications and will provide information to the Gambling Commission on all lotteries registered by the licensing authority. As soon as the entry on the register is completed, the licensing authority will notify the applicant of his

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registration. In addition, the licensing authority will make available for inspection by the public the financial statements or returns submitted by societies in the proceeding 18 months and will monitor the cumulative totals for each society to ensure the annual monetary limit is not breached. If there is any doubt, the licensing authority will notify the Gambling Commission in writing, copying this to the society concerned. The licensing authority will accept return information either manually but preferably electronically by emailing [licensing@southwark.gov.uk](mailto:licensing@southwark.gov.uk)

197. The licensing authority will refuse applications for registration if in the previous five years, either an operating licence held by the applicant for registration has been revoked or an application for an operating licence made by the applicant has been refused. Where the licensing authority is uncertain as to whether or not an application has been refused, it will contact the Gambling Commission to seek advice.

198. The licensing authority may refuse an application for registration if in their opinion:

- The applicant is not a commercial society;
- A person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence; or
- Information provided in or with the application for registration is false or misleading.

199. The licensing authority will ask applicants to set out the purposes for which the society is established and will ask the society to declare that they represent a bona fide non-commercial society and have no relevant convictions. The licensing authority may also seek further information from the society.

200. Where the licensing authority intends to refuse registration of a society, it will give the society an opportunity to make representations and will inform the society of the reasons why it is minded to refuse registration, and supply evidence on which it has reached that preliminary conclusion.

201. The licensing authority may revoke the registered status of a society if it thinks that it would have had to, or would be entitled to, refuse an application for registration if it were being made at that time. However, no revocation will take place unless the society has been given the opportunity to make representations. The licensing authority will inform the society of the reasons why it is minded to revoke the registration and will provide an outline of the evidence on which it has reached that preliminary conclusion.

202. Where a society employs an external lottery manager, it will need to satisfy itself that the manager hold an operator's licence issued by the Gambling Commission, and the licensing authority will expect this to be verified by the society.

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## **PART H - CONTACT DETAILS**

### **Southwark Licensing Service**

You can contact the Licensing Service in a number of ways

By post or in person by appointment during office hours

Southwark Licensing Service  
C/O Environmental Health and Trading Standards  
The Chaplin Centre  
Thurlow Street  
London, SE17 2DG

By telephone: (Via the Customer Contact Centre 24/7) 020 7525 5000

By e-mail: [licensing@southwark.gov.uk](mailto:licensing@southwark.gov.uk)

By visiting our web site at [www.southwark.gov.uk/businesscentre/licensing](http://www.southwark.gov.uk/businesscentre/licensing)

### **Other responsible authorities**

#### ***The Gambling Commission***

Victoria Square House  
Victoria Square  
Birmingham, B2 4BP

#### ***Commissioner of Police for the Metropolis***

The Police Licensing Office  
Walworth Road Police Station  
12 – 28 Manor Place  
London  
SE17 3RL  
Tel: 020 7232 6210

#### ***The London Fire and Emergency Planning Authority***

South East Area Office  
London Fire and Emergency Planning Authority  
Queens Road  
London  
SE14 5JN  
Tel: 020 7587 4975

#### ***The Council's Building & Development Control Services (including Planning)***

Chiltern House  
Portland Street

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London  
SE17 2ES  
Tel: 020 7525 2000

***The Environmental Health Noise Team***  
Southwark Environmental Health & Trading Standards  
The Chaplin Centre  
Thurlow Street  
London  
SE17 2DG  
Tel: 020 7525 2000

***The Local Safeguarding Children Board***  
Southwark Social Services  
Mabel Goldwin House  
49 Grange Walk  
London  
SE1 3DY  
Tel: 020 7525 3297

***HM Customs & Revenue***  
*Detail to be provided for final copy*

***Please note that in the case of applications made in respect of vessels a different set of responsible authorities apply. Please contact the Licensing Service for information.***

### **OTHER AGENCIES**

***Southwark Disablement Association***  
Patrick Horan  
Access Officer & Chair  
Southwark Disablement Association  
2 Bradenham Close  
London  
SE17 2QB  
Tel: 020 7701 1391



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## **Appendix A – Consultation**

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 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

In preparing this Statement of Gambling Licensing Policy this authority

- a) Placed public notices in the local media and on the Council's web site advertising the opportunity to comment on the draft policy;
- b) Wrote directly to all known potential licence applicants;
- c) Wrote directly to all known tenants and residents organisations;
- d) Wrote directly to all known gambling business representatives;
- e) Wrote directly to all known community representative and other interest groups;
- f) Wrote directly to all ward councillors;
- g) Raised the policy at each community council; raised the policy at each local Action Team; and
- h) Arranged a number of public and other meetings.

Detail of the written submissions received and analysis of those submissions can be obtained from the Licensing Service.