

## Annex 6

### HBC Statement of Principles 2014 guidance:

#### 9. Premises Licences

##### 9.1 Fundamental principles applying to Premises Licences

9.1.1 Premises licences will be subject to the requirements set out in the Gambling Act 2005 and Regulations, as well as specific mandatory and default conditions which 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.

9.1.2 In considering an application for a premises licence no regard will be had as to whether there is unfulfilled demand for the facilities for the premises licence that is sought.

9.1.3 As it does not relate to a licensing objective, moral objections to gambling will not be regarded as a valid reason to reject an application for a premises licence.

9.1.4 In exercising its functions in relation to Premises Licences, the Licensing Authority will aim to permit the use of premises for gambling in so far as the Licensing Authority 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 (subject to the two sub-paragraphs above); and
- in accordance with this Statement (subject to the three sub-paragraphs above).

##### 9.2 Premises Licence – Definition of Premises.

9.2.1 For the purposes of the Act, the term “premises” is defined as including “any place”.

(NB: A premises licence may not be issued in relation to a vehicle, or part of a vehicle)

9.2.2 The Act provides that different premises licences cannot apply in respect of single premises at different times, e.g. premises could not be licensed as a bingo hall on weekdays and a betting shop at weekends.

9.2.3 Whilst premises is defined in the Act as “any place” it is for the Licensing Authority to decide whether different parts of a building can be reasonably regarded as being separate premises. In considering applications for multiple licences for a building or those for a specific part of the building to be licensed the Licensing Authority will take particular note of the following:

- the third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also that they are not permitted to be in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to, or closely observe gambling, where they are prohibited from participating.
- 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. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- customers should be able to participate in the activity named on the premises licence.

### **9.3 Premises Licence - Decision Making**

9.3.1 In making a determination in respect of a Premises Licence, the Licensing Authority cannot have regard to irrelevant matters i.e. those that do not relate to gambling and the Licensing Objectives. Therefore issues relating to whether a planning permission or building regulations may or may not be granted are not relevant to the determination. Section 210 of the 2005 Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.

9.3.2 The Licensing Authority will seek to avoid duplication with other statutory/regulatory systems where possible. It will though, 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.

9.3.3 Whilst each application will be considered on its merits, factors to which the Licensing Authority may in particular have regard when determining an application include:

- proximity of gambling premises to properties regularly frequented by vulnerable persons;
- the suitability of the premises for gambling in the context of the licensing objectives;
- the type of gambling that is proposed at the premises;
- any information provided by the applicant showing how it is proposed to overcome any licensing objective concerns; and
- whether any relevant objections to an application could be addressed by the use of one or more conditions.

9.3.4 In circumstances where the Licensing Authority proposes to attach or reject conditions as part of a decision it will give reasons as required by the Act. Reasons will also be given if the Licensing Authority determines to reject an application.

### **9.4 Premises Licence – Conditions**

9.4.1 **Mandatory Conditions:-** The Act may by regulations provide for a specified condition to be attached to premises licences. Such conditions may:

- a) apply generally, only to premises licences in a specified class or only in specified circumstances.
- b) make different provision for different classes of licence or for different circumstances.

9.4.2 **Default Conditions:-** The Act may also by regulations prescribe for a specified condition to be attached to any premises licence unless excluded by the authority who issue the licence. Such conditions may:

- a) apply generally, only to premises licences in a specified class or only in specified circumstances.
- b) make different provision for different classes of licence or for different circumstances.

9.4.3 Subject to certain legislative exceptions, power is also available to a Licensing Authority to attach further conditions in addition to those identified above. Such conditions may apply in relation to a premises generally or only in relation to a specified part of the premises.

9.4.4 Where a discretion exists, the Licensing Authority will not impose its own Condition on a Premises Licence unless it relates to an issue arising in respect of the gambling proposal.

9.4.5 In exercising a discretion as to whether to impose any further condition, the Licensing Authority will be proportionate to the circumstances being considered.

9.4.6 It is noted that there are conditions the Licensing Authority cannot attach to premises licences, which are:

- any condition on the premises licence which make 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);
- conditions in relation to stakes, fees, winning or prizes.

## **9.5 Premises Licence – reviews**

9.5.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities. However, it is for the licensing authority to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below, as well as consideration as to whether the request is frivolous or vexatious will certainly not cause this authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review:

- 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.

9.5.2 Whilst the Licensing Authority recognises the importance of the right of 'responsible authorities' and 'interested parties' to request reviews of premises licences, the Licensing Authority would expect a reasonable interval between hearings for the same premises, and unless exceptional and compelling circumstances existed, would not hold a repeat hearing within 12 months.

9.5.3 The licensing authority can also initiate a review of a licence on the basis of any reason which it thinks is appropriate.

## **Adult Gaming Centre Premises Licences**

### **9.6 Adult Gaming Centres - General**

9.6.1 An Adult Gaming Centre is a premises for which a Premises Licence is granted to make certain prescribed gaming machines available only to persons aged eighteen years and over.

### **9.7 Adult Gaming Centre Premises Licence – Miscellaneous**

9.7.1 An Adult Gaming Centre Premises Licence can authorise the holder to make available:

For new premises licensed from 14th July 2011 -

- Up to 20% of the total number of gaming machines on the premises may be of category B3 or B4.
- No limit of category C or D machines.

### **9.8 Adult Gaming Centre Premise Licence – decision making**

9.8.1 The Licensing Authority will particularly have regard to the need to protect persons under 18 years of age and other 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 years old do not have access to the premises.

9.8.2 This Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives and appropriate measures may cover issues such as:

- provision of CCTV
- supervision of entrances / gaming machine areas
- physical separation of different areas within the premises
- numbers, locations and wording of signage / notices / rules
- self barring schemes

- specific opening hours
- the location of adult gaming machine
- provision of information leaflets / help line numbers for organisations such as GamCare
- proof of age schemes.

9.8.3 It should be noted that this list is not mandatory, nor exhaustive, and is merely indicative of example measures.