

# Crawley Borough Council

## Report to Overview and Scrutiny Commission 27 June 2016

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### Report to Cabinet 29 June 2016

## Review of Statement of Licensing Policy Gambling Act 2005

Report of the Head of Economic and Environmental Services, **PES/200**

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### **1. Purpose**

- 1.1 To appraise Members of the need to review and revise Crawley Borough Council's Statement of Licensing Policy under the Gambling Act 2005 ("Statement of Licensing Policy").
- 1.2 To request authorisation from Cabinet to conduct the statutory consultation on the proposed revision of the Council's Statement of Licensing Policy (Appendix 1).
- 1.3 To draw Members attention to the following areas of the proposed revised Statement of Licensing Policy (Appendix 1) which have been amended or where additions have been made namely: paragraphs 2.6, 4.1, 4.2, 4.7, 4.8 and 5.0.

### **2. Recommendations**

- 2.1 To the Overview and Scrutiny Commission:

That the Commission consider this report and decide what comments, if any, it wishes to submit to the Cabinet.

- 2.2 To the Cabinet

- 2.2.1 The Cabinet is recommended to:

- a) Approve and grant permission to the Head of Economic and Environmental Services to conduct the statutory consultation process in respect of the proposed revised Statement of Licensing Policy.
- b) Following the consultation process, to meet and to:
  - (i) Consider representation(s), if any; and
  - (ii) Request Full Council to approve and authorise the publishing of the Council's revised Statement of Licensing Policy as pertains to Gambling Act 2005.

### **3. Reasons for the Recommendations**

- 3.1 It is a statutory requirement under the Gambling Act 2005 for a Licensing Authority to prepare a Statement of its Licensing policy every three years. The Council is the Licensing Authority for the borough of Crawley.

### **4. Background**

- 4.1 Section 349 of the Gambling Act 2005 requires a licensing authority, to prepare and publish a statement of the principles that it proposes to apply in exercising its functions under the Gambling Act 2005 in the coming 3 year period.
- 4.2 There is comprehensive Statutory Guidance published by the Gambling Commission which includes guidance in respect of preparing, revising and publishing a Statement of Licensing Policy. Local authorities must have regard to the Statutory Guidance, and officers have had regard to it in preparing the proposed revised Statement of Licensing Policy in Appendix 1.
- 4.3 The Council's existing Statement of Licensing Policy was developed and introduced with the implementation of the Gambling Act 2005 and has remained in force without change, challenge or complaint ever since.
- 4.4 Following publication of the updated Statutory Guidance in September 2015 by the Gambling Commission, the Council must now review its Statement of Licensing Policy for the borough of Crawley taking into account additional matters not included in the original document.
- 4.5 Whilst the current Statutory Guidance remains relatively unchanged in substance, excepting some tidying up to remove certain duplication and improve ease of use, substantive changes are proposed in the following areas:
- I. A new general guidance section at the beginning of the document underpinning the statutory 'aim to permit gambling subject to being reasonably consistent with the licensing objectives' and the benefits of partnership working plus the creation of local area profiles.
  - II. Changes to reflect the coming into force of new arrangements for regulating online gambling. This is not an area the Council regulates being directly undertaken by the Gambling Commission.

### **5. Local Risk Assessments and Local Area Profiles**

- 5.1 The Gambling Commission's 5th Edition of its Statutory Guidance to Licensing Authorities introduced the idea of Local Area Profiles, prepared by the authorities themselves, to assess their local environment as a means of "mapping out" local areas of concern surrounding the licensing objectives under the Gambling Act, and the new requirement for operators of land based casinos, bingo halls, betting shops, AGCs and FECs to prepare a Local Risk Assessment whenever they apply for a new gambling premises licence or a variation to an existing licence, or at such other time as the licensing authority may require.
- 5.2 Whilst it is envisaged that, other than at the time of applications, authorities should only require assessments to be submitted when there has been a significant change in local circumstances or at a particular premises that might affect the mitigation of

local risk, it is possible that the new requirements will transform the landscape surrounding gambling premises licensing.

- 5.3 The requirement on operators, contained in revisions to the Licence Conditions and Codes of Practice, to prepare Local Risk Assessments came into force on 6<sup>th</sup> April 2016. The Licensing Team have therefore prepared a revised Statement of Licensing Policy to take the new measures into account. The Council's proposed revised Statement of Licensing Policy will need to be approved by Full Council.
- 5.4 A Local Area Profile will take account of a wide range of factors, data and information available to local authorities and their partners, such as the police, public health, mental health, housing and education bodies, community welfare groups and safety partnerships and organisations such as Gamcare and local equivalents. They will be aimed at increasing awareness of local risk. An area might be identified as high risk, for example, because of its proximity to a school, youth centre, hostel or rehabilitation centre.
- 5.5 There will be no requirement upon licensing authorities to prepare a Local Area Profile, but the Commission is strongly encouraging authorities along this route and every indication is that the "take up" will be widespread and robust.
- 5.6 The Council has yet not prepared a Local Area Profile, however, officers shall be doing so, and will take into account relevant information including the information about deprivation as set out here:  
  
[http://www.crawley.gov.uk/pub\\_livx/groups/webcontent/documents/report/int010669.pdf](http://www.crawley.gov.uk/pub_livx/groups/webcontent/documents/report/int010669.pdf)
- 5.7 Where an authority does prepare such a Profile, operators will need to take it into account in preparing their own. Therefore, once a Local Area Profile is developed, operators will need to take it into account when preparing their Local Risk Assessments.
- 5.8 Local Risk Assessments will be expected to evaluate the local risks to the licensing objectives presented by the provision of gambling facilities at each individual premises, and set out the policies, procedures and control measures that the operator has in place to mitigate those risks.

## **6. Consultation and Publishing**

- 6.1 Before publishing its Statement of Licensing Policy for any three year period the Council must consult the persons listed in section 349(3) of the Gambling Act 2005 namely:
  - The Chief Officer of Police.
  - One or more persons who appear to the Council to represent the interests of persons carrying on gambling businesses in the borough.
  - One or more persons who appear to the Council to represent persons who are likely to be affected by the exercise of the Council's functions under the Act.
- 6.2 The Statutory Guidance states that the list of persons to be consulted is deliberately wide so as to allow licensing authorities to undertake a comprehensive consultation exercise with anyone who may be affected by or otherwise have an interest in the Statement of Licensing Policy.

- 6.3 It is recommended that as part of the consultation process details of the proposed revised Statement of Licensing Policy, together with an invitation to submit comments, be posted on the Council's website.
- 6.4 A public consultation period of 8 weeks is proposed.
- 6.5 Following the statutory consultation process, the Council must then publish its revised Statement of Licensing Policy and advertise the publication by way of public notice, in accordance with legal requirements. The revised Licensing Policy will come into effect on the date specified in the public notice which must be at least 4 weeks from the date of publication of the revised statement and public notice.

## **7. Legal and Other Considerations**

- 7.1 The Council, as the Licensing Authority has a requirement under section 349 of the Gambling Act 2005 to prepare and publish a statement of principles for gambling.
- 7.2 Section 349(1) requires the Council to prepare and publish a Statement of Principles before each successive period of three years. The final adoption of a revised Licensing Policy following the consultation process would meet this requirement.
- 7.3 An Equality Impact Assessment has not at this stage, been formally undertaken as the report does not concern the implementation of a new policy. The proposed revised Licensing Policy is a revision of our existing policy that was previously adopted by Full Council and continues to be in line with requirements of the Gambling Act and with guidance issued by the Gambling Commission. However, further consideration will be given to the need for an EIA as part of the consultation process.

## **8. Background Information**

- 8.1 Gambling Act 2005
- 8.2 CBC current Statement of Licensing Policy - Gambling Act 2005
- 8.3 Guidance to Licensing Authorities (GLA) 5<sup>th</sup> edition (Sept 15) by the Gambling Commission.

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# **Crawley Borough Council**

## **Proposed revised Statement of Licensing Policy**

**In Regards to**

**The Gambling Act 2005**

**For the period 2016 - 2019**

# Crawley Borough Council

## Gambling Act 2005

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# 1. Statement of Licensing Policy

## 1.1 Licensing Objectives

The Gambling Act 2005 (the Act) requires that the Council carry out its various licensing functions with a view to promoting the following three licensing objectives:

- 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.

## 1.2 Introduction

The Council as licensing authority (LA) for the Borough of Crawley in accordance with section 349 of the Act is required to publish a 'Statement of Licensing Policy' that sets out the policies the Council will generally apply to promote the licensing objectives when making decisions on applications made under the Act. The form of the statement is set out in the Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2007. The Gambling Commission's Guidance to licensing authorities contains further information on the form of the council's policy document.

The Council is responsible for granting premises licenses within the Borough in respect of: -

- ◆ casino premises
- ◆ bingo premises
- ◆ betting premises, including tracks
- ◆ adult gaming centres; and
- ◆ family entertainment centres

Crawley Borough Council is situated in the County of West Sussex, which contains 7 District Councils and 1 County Council in total. The Council area has a population of approx. 109,000 making it the second largest in the County in terms of population. In terms of area it is the second smallest, covering 44.7 square kilometres. A map of the district is contained in Appendix A.

## 1.3 Glossary of Terms

Within this Statement of Policy, the following words and terms are defined as stated:

<b>Licensing Objectives:</b>	As defined in section 1.1 (above).
<b>Council:</b>	Means Crawley Borough Council
<b>District:</b>	Means the area of West Sussex administered by Crawley Borough Council – see map in Appendix A
<b>Licence:</b>	As defined in section 1.4 below.
<b>Applications:</b>	Means applications for Licences or Permits defined in section 1.4 below.
<b>Notifications:</b>	Means notifications of Temporary Use Notices, Occasional Use Notices and licensed premises gaming machine notices.



<b>Act:</b>	Means the Gambling Act 2005
<b>Regulations:</b>	Means Regulations made under the Gambling Act 2005
<b>Premises:</b>	Means any place and includes a vehicle, vessel or moveable structure
<b>Code of Practice:</b>	Means any relevant code of practice under section 24 of the Gambling Act 2005
<b>Mandatory Condition:</b>	Means any specified condition provided by regulations to be attached to a licence
<b>Betting Machines:</b>	These are machines on the shop floor of the betting office through which a customer can place a bet without having to visit the counter, not to be confused with AWP's.
<b>Responsible Authority:</b>	<p>For the purposes of the Gambling Act 2005, the following are responsible authorities in relation to premises:</p> <ul style="list-style-type: none"> <li>• The Licensing Authority (Crawley Borough Council)</li> <li>• The Gambling Commission</li> <li>• Sussex Police</li> <li>• West Sussex Fire &amp; Rescue Service</li> <li>• Head of Planning Services, Development Control, Crawley Borough Council</li> <li>• Head of Environmental Services, Crawley Borough Council</li> <li>• Children's Safeguarding Unit, Social Services, West Sussex County Council (WSSCC)</li> <li>• HM Revenues and Customs</li> </ul>
<b>Interested Party:</b>	<p>For the purposes of the Gambling Act 2005, a person is an interested party in relation to a premises licence if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, the person:</p> <ul style="list-style-type: none"> <li>• Lives sufficiently close to the premises to be likely to be affected by the authorised activities.</li> <li>• Has business interests that might be affected by the authorised activities; this could also include, for example, trade associations, charities, faith groups and medical practices.</li> <li>• Represents persons who satisfy either of the above; for example Residents' and Tenants' Associations.</li> <li>• When considering whether a person is an interested party, each case will be judged on its merits taking into consideration the relevant circumstances, including those contained in the Gambling Commission's Guidance to Local Authorities.</li> </ul>

## 1.4 Types of Licence

This document sets out the policies that the Council will apply when making decisions upon applications or notifications made for:

- Premises Licenses;
- Temporary Use Notices;
- Occasional Use Notices;
- Permits as required under the Act; and
- Registrations as required under the Act.

## 1.5 Licensable Premises and Permits

This policy relates to all those licensable premises, notices, permits and registrations identified as falling within the provisions of the Act, namely: -

Casinos;  
Bingo Premises;  
Betting Premises;  
Tracks;  
Adult Gaming Centres;  
Licensed Family Entertainment Centres;  
Unlicensed Family Entertainment Centres;  
Club Gaming Permits;  
Club Machine Permits;  
Alcohol licensed premises gaming machine permits / notices  
Prize Gaming Permits;  
Occasional Use Notices;  
Temporary Use Notices; and  
Registrations of small society lotteries.

## 1.6 General Principles

Nothing in this 'Statement of Policy' will:

- Undermine the rights of any person to apply under the Act for a variety of permissions and have the application considered on its individual merits; OR
- Override the right of any person to make representations on any application or seek a review of a licence or permit where they are permitted to do so under the Act.

The starting point in determining applications will be to grant the application, without conditions. Conditions will only be considered where they are needed to meet the requirements of the licensing objectives and any conditions applied will not be overly onerous and will be proportionate to the scale of the application and the 'risks' involved. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

All applicants for premises licences will be required to set out how they will promote the Licensing Objectives, as specified in section 1.1 above, and what measures they intend to employ to ensure compliance with them.

When determining an application to grant, variation of a premises licence or whether to review a premises licence, regard will be taken regarding the proximity of the premises to schools, vulnerable adult centres, or to residential areas with a high concentration of families with children. The proximity of premises etc. taken into

consideration will vary depending upon the size and scope of the gambling premises concerned. Each case will, however, be determined on its merits.

Therefore, if an applicant can effectively demonstrate how they might overcome licensing objective concerns, this will be taken into account.

Licensing is about the control of licensed premises, Temporary Use Notices or Occasional Use Notices within the terms of the Act. Conditions may be attached to licences that will cover matters that are within the control of individual licensees.

When considering any conditions to be attached to licences, the Council will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned. The Secretary of State may, by regulation, provide for specific conditions to be attached to a Premises Licence as either “mandatory” or “default” conditions. In determining an application, the Licensing Authority may not have regard to the expected demand for the facilities which it is proposed to provide.

In this respect, the Council recognises that, apart from the licensing function, there are a number of other mechanisms available for addressing issues of unruly behaviour that can occur away from licensed premises, including:

- Planning controls;
- Ongoing measures to create a safe and clean environment in these areas in partnership with local businesses, transport operators and other Council Departments;
- Regular liaison with the Police on law enforcement issues regarding disorder and anti-social behaviour;

The power of the police, other responsible authorities or a local resident or business to seek a review of the licence.

Objectors will be required to relate their objection to one or more of the Licensing Objectives, as specified in section 1.1 above, before the Licensing Authority will be able to consider it.

Where a person, whether or not directly affected by an application or living in the vicinity of a licensable premises under consideration, puts themselves forward as representing the interests of residents in the vicinity, the Licensing Authority will normally ask them to provide evidence that they are acting as representatives of others.

The Council, in undertaking its licensing function, will have due regard to the need to eliminate unlawful discrimination and to promote equality and good relations between persons of different racial groups.

## **1.7 Advisory body for the Protection of Children from Harm**

Crawley Borough Council, as the Licensing Authority, designates the Children’s Safeguarding Unit as the competent authority to provide advice on the protection of children from harm.

The Children’s Safeguarding Unit (formerly the Child Protection Agency) is the West Sussex County Council Social Services’ child protection unit and operates

throughout the county of West Sussex, covering the Borough of Crawley and has the specialist knowledge and expertise to fulfil this role.

## **1.8 Consultees**

This Statement of Licensing Policy is subject to formal consultation with:

- Sussex Police;
- West Sussex Fire & Rescue Service;
- The Children's Safeguarding Unit;
- Crawley Community Safety Partnership;
- Representatives of the holders of the various licences for premises in the Borough who are affected by this policy;
- Persons and businesses likely to be affected by authorised gambling within the Borough (For further information, see Appendix D)

In determining its statement of policy, the licensing authority must give appropriate weight to the views of those it has consulted. In deciding what weight to give, the factors to be taken into account include:

- who is making the representations,
- the nature of their interest and their expertise
- relevance of the factors to the licensing objectives
- how many other people have expressed the same or similar views

## **1.9 Information Exchange**

In fulfilling its functions and obligations under the Gambling Act 2005 the Council will exchange relevant information with other regulatory bodies and will establish protocols in this respect. In exchanging such information the Council will conform to the requirements of the Gambling Act, data protection and freedom of information legislation in accordance with the Council's existing policies.

Contact details of those persons making representations and details of the representations will be made available to applicants to allow for negotiation and, in the event of a hearing being held, will form part of a public document. Anyone making representation or applying for a review of a premises licence should be aware these details will be disclosed.

## **1.10 Declaration**

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

## **2. Legislation, Policies and Strategies**

### **2.1 Licensing Authority Functions**

Licensing Authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licenses.
- Issue Provisional Statements,
- Regulate members clubs who wish to undertake certain gaming activities via issuing Club Gaming Permits and Club Machine Permits,
- Issue Club Machine Permits to Commercial Clubs
- Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres,
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines.
- Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines.
- Register small society lotteries below prescribed thresholds.
- Issue Prize Gaming Permits,
- Receive and Endorse Temporary Use Notices,
- Receive Occasional Use Notices
- Provide information to the Gambling Commission regarding details of licenses issued.
- Maintain registers of the permits and licenses that are issued under those functions.

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

### **2.2 Legislation**

In undertaking its licensing function under the Gambling Act 2005, the Council is also bound by other legislation, including:

- I. Section 17 of the Crime and Disorder Act 1988;
- II. Human Rights Act 1998;
- III. Health and Safety at Work etc. Act 1974;
- IV. Environmental Protection Act 1990;
- V. Anti-Social Behaviour, Crime and Policing Act 2014;
- VI. Equality Act 2010.

However, the policy is not intended to duplicate existing legislation and regulation regimes that already place obligations on employers and operators.

### **2.3 Relationship with Planning Policies**

When determining an application, regard cannot, under the terms of the Act, be given to planning or building control permissions and/or any planning restrictions.

Unmet demand is not a criterion that will be taken into consideration when determining an application for a premises licence under the Gambling Act 2005. The issue of a Provisional Grant of a premises licence is a separate and distinct process to the granting of Planning Permission. Planning and Building Control permissions will have to be sought and approved before any development takes place.

### **2.4 National Strategies**

The Council will also seek to discharge its responsibilities identified by other Government Strategies, so far as they impact on the objectives of the licensing function.

### **2.5 Local Strategies and Policies**

The Council will consider applications with reference to other adopted local policies, including the following:

- I. The Council's Corporate Strategy
- II. Community Safety Strategy
- III. General Enforcement Policy
- IV. Local Area Profiles

### **2.6 Integrating Strategies**

By consulting widely prior to this policy statement being published the Council will endeavour to secure proper integration with local crime prevention, planning, transport, tourism and cultural strategies.

However any evaluation and granting of a premises licence or permit will be in keeping with licensing objectives of the Gambling Act 2005.

The Gambling Commission's Licence Conditions and Code of Practice (LCCP) require operators of gambling premises to undertake a risk assessment taking into consideration their local information. Specific information about localities within the Borough as regards deprivation is provided at;

[http://www.crawley.gov.uk/pub\\_livx/groups/webcontent/documents/report/int010669.pdf](http://www.crawley.gov.uk/pub_livx/groups/webcontent/documents/report/int010669.pdf)

Or national statistics can be found at:-

<https://www.ons.gov.uk/>

The Council recognises that licensing applications should not be seen as a re-run of the planning application process and there will be a clear separation of the planning and licensing regimes to avoid duplication and inefficiency.

In order to avoid duplication with other statutory regimes as far as possible the Council will not attach conditions to a licence unless they are considered necessary for the promotion of the licensing objectives. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

### **3. Decision Making**

#### **3.1 Committee Terms of Reference**

A licensing sub-committee of three ward members will sit to hear applications where representations have been received from interested parties and responsible authorities. Ward councillors will not sit on a sub-committee involving an application within their ward.

The Licensing Committee will also sit to determine general licensing matters that have been delegated to it by the Full Council that are not associated with the Gambling Act 2005.

Where a councillor who is a member of the Licensing Committee is making or has made representations regarding a licence on behalf of an interested party, in the interests of good governance they will disqualify themselves from any involvement in the decision-making process affecting the licence in question.

The licensing sub-committee will also refer to the Licensing Committee any matter it is unable to deal with because of the number of its members who are unable to take part in the consideration or discussion of any matter or vote on any question with respect to it.

The Licensing Committee will refer to the Full Council any matter it is unable to deal with because of the number of its members who are unable to take part in the consideration or discussion of any matter or vote on any question with respect to it.

Every determination of a licensing decision by the Licensing Committee or a licensing sub-committee shall be accompanied with clear reasons for the decision. The decision and the reasons for that decision will be sent to the applicant and those who have made relevant representations as soon as practicable. A summary of the decision shall also be posted on the Council's website as soon as possible after the decision has been confirmed, where it will form part of the statutory licensing register required to be kept by the Council.

The Council's licensing officers will deal with all other licence applications where either no representation have been received, or where representations have been received and it is agreed by the parties that a hearing is not necessary.

Decisions as to whether representations are irrelevant, frivolous or vexatious will be made by Council officers, who will make the decisions on whether representations or applications for licence reviews should be referred to the licensing committee or panels. Where representations are rejected, the person making that representation will be given written reasons as to why that is the case.

### **3.2 Allocation of Decision making Responsibilities**

The Council will be involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them.

Appreciating the need to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process, the Committee has delegated certain decisions and functions and has established a sub-committee to deal with them.

Many of the decisions and functions will be purely administrative in nature and the grant of non-contentious applications, including for example, those licences and permits where no representations have been made, will be delegated to Council officers.

The Table shown at Appendix B sets out the agreed scheme of delegation of decisions and functions to Licensing Committee, sub-committees and officers. This form of delegation is without prejudice to officers referring an application to a sub-committee, or to Full Committee, or Committee to Full Council, if considered appropriate in the circumstances of any particular case.

### **3.3 Licensing Reviews**

The Council will carry out a review of a premises licence where it has received a formal application for review in accordance with the Act that is relevant to one or more of the Licensing Objectives. Representations may be that activities, including the following, are taking place:

- a. Use of licensed premises for the sale and distribution of Class A drugs and the laundering of the proceeds of drugs crimes;
- b. Use of licensed premises for the sale and distribution of illegal firearms;
- c. Use of licensed premises for prostitution or the sale of unlawful pornography;
- d. Use of licensed premises as a base for organised criminal activity;
- e. Use of licensed premises for the organisation of racist, homophobic or sexual abuse or attacks;
- f. Use of licensed premises for the sale of smuggled tobacco or goods;
- g. The use of licensed premises for the sale of stolen goods.
- h. Children and/or vulnerable persons are put at risk

Due consideration will be given to all relevant representations unless they fit the following:

- I. the grounds are frivolous;
- II. the grounds are vexatious;
- III. the grounds are irrelevant;
- IV. the grounds will not cause the Licensing Authority to revoke or suspend a licence or to remove, amend or attach conditions on the Premises Licence;



- V. the grounds are substantially the same as the grounds cited in a previous application relating to the same premises; or
- VI. the grounds are substantially the same as representations made at the time the application for a Premises Licence was considered.

A Premises Licence may also be reviewed by the Licensing Authority on its own volition.

## **4. Local Standards**

### **4.1 Applications**

An application for a premise licence can only be made by a person who either holds an operating licence authorising him to carry out the activity in respect of which a premises licence is sought, OR has made an application for an operating licence which has not been determined.

Applications for the grant, transfer or variation of a premises licence must be accompanied by an assessment that demonstrates how the applicant will promote all the Licensing Objectives in the form of a written Operating Schedule.

### **4.2 Location**

The Council is aware that demand issues (e.g. the likely demand or need for gambling facilities in an area) cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can be.

The Council 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.

When determining an application to grant or vary a premises licence or whether to review a premises licence, regard will be taken as to the proximity of the premises to schools, vulnerable adult centres, or to residential areas with a high concentration of families with children. The proximity of premises etc. taken into consideration will vary depending upon the size and scope of the gambling premises concerned. Each case will, however, be determined on its merits.

With regards to these objectives it is the Council's policy, upon receipt of any relevant representations, to look at specific location issues including:

- the possible impact a gambling premises may have on any premises that provide services to children or young people, i.e. a school, or vulnerable adult centres in the area
- the possible impact a gambling premises may have on residential areas where there may be a high concentration of families with children
- the size of the premises and the nature of the activities taking place
- any levels of organised crime in the area.

The council will need to be satisfied that there is sufficient evidence that the particular location of the premises would be harmful to the licensing objectives.

From 6 April 2016, it is a requirement of the Gambling Commission's Licence Conditions and Codes of Practice (LCCP), under section 10, for licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at their premises and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in this policy.

The LCCP goes on to say licensees must review (and update as necessary) their local risk assessments:

- I. to take account of significant changes in local circumstance, including those identified in this policy;
- II. when there are significant changes at a licensee's premises that may affect their mitigation of local risks;
- III. when applying for a variation of a premises licence; and
- IV. in any case, undertake a local risk assessment when applying for a new premises licence.

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

- whether the premises is in an area subject to high levels of crime and/or disorder
- the demographics of the area in relation to vulnerable groups
- the location of services for children such as schools, playgrounds, toy shops, leisure centres and other areas where children are likely to gather.

In any case the local risk assessment should show how vulnerable people, including people with gambling dependencies, are protected.

Other matters that the assessment may include:

- The training of staff in brief intervention when customers show signs of excessive gambling, the ability of staff to offer brief intervention and how the manning of premises affects this.
- Details as to the location and coverage of working CCTV cameras, and how the system will be monitored.
- The layout of the premises so that staff have an unobstructed view of persons using the premises.
- The number of staff that will be available on the premises at any one time.
- If at any time the number of staff available on the premises is one, confirm the supervisory and monitoring arrangements when that person is absent from the licensed area or distracted from supervising the premises and observing those persons using the premises.

#### **4.3 Assessment of Need**

Unmet demand is not a criterion that will be taken into consideration when determining an application for a premises licence under the Gambling Act 2005.

#### **4.4 Conditions**

Conditions will be applied to licences that are proportionate and appropriate to the business, organisation or individual concerned. The Council will principally draw upon the advice issued by the Gambling Commission and attach conditions relative to the given circumstances of each individual case.

Conditions attached to the premises licences will, so far as possible, reflect local crime prevention strategies. For example, the provision of closed circuit television cameras may be appropriate in certain premises.

#### **4.5 Enforcement**

The Council is a signatory to the Regulators' Code and will follow the principles set out in it. The Regulators Code is based upon the principles of consistency, transparency and proportionality.

The Regulators' Code proposes that a graduated response is taken where offences against legislation are found or where licence conditions have been contravened. An isolated administrative offence such as failing to maintain certain records may be dealt with purely by way of a written warning. More serious offences or repeated offences that have been committed over a period of time may result in referral to the Sub-Committee, the issue of a Formal Caution or a referral for prosecution.

Premises may be subject to a scheme of routine inspection, the frequency of which will be determined by the risks posed by the premises i.e. those premises considered to pose a greater risk will be subject to more frequent inspections than those posing a lower risk.

When determining risk, consideration will be given to:-

- I. the nature of the gambling activities carried out on the premises
- II. the location of the premises in relation to schools etc.
- III. the procedures put in place by the management to meet the licensing objectives

Additional random monitoring visits may be made, at the discretion of the licensing team, where it is considered necessary to meet the needs of the licensing objective or following receipt of complaint. The Borough will be monitored for unlicensed premises.

The Council will seek to work actively with the police in enforcing licensing legislation. It encourages the police to share information about licensees and licensed premises under the Crime and Disorder Act 1998.

The Council recognizes that certain bookmakers have a number of premises within our area. In order to ensure that any compliance issues are recognized and resolved at the earliest stage, operators will be requested to give the Council a single named point of contact, who should be a senior individual, and whom the Council will seek to contact first should any compliance queries or issues arise.

## 4.6 Casinos

There is no resolution to prohibit casinos in the Borough at present. However, the Council reserves its right to review this situation and may at some time in the future, resolve not to permit casinos.

Should the Council choose to make such a resolution, this will be a resolution of Full Council following considered debate and the reasons for making the resolution will be given.

## 4.7 Unlicensed Family Entertainment Centre (uFEC) gaming machine permits

Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to this licensing authority for a permit. UFEC's may offer any number of category D machines only in reliance on a gaming machine permit.

An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used 'wholly or mainly' as an unlicensed Family Entertainment Centre and if the chief officer of police has been consulted on the application. (A permit will not therefore be granted for an entire complex, shopping centre, airport, etc.).

The application for a permit can only be made by a person who occupies or plans to occupy the premises to be used as an uFEC and, if the applicant is an individual, he or she must be aged 18 or over. Applications for a permit cannot be made if a premises licence is in effect for the same premises.

In considering the application, the licensing authority shall have regard to this Statement of Gambling Policy, the relevant guidance issued by the Gambling Commission and may also have regard to the licensing objectives (Schedule 10, paragraph 7 of the Act).

The licensing authority may also consider asking applicants to demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in uFECs
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act)
- that employees are trained to have a full understanding of the maximum stakes and prizes

Relevant considerations to take into account would be the applicant's suitability, such as any convictions that they may have that would make them unsuitable to operate a family entertainment centre; and the suitability of the premises in relation to their location and issues about disorder.

Applications must therefore be completed and submitted on the Council approved application form, accompanied by the following:-

- prescribed fee,
- a satisfactory plan outlining the layout of the proposed authorized premises inclusive of entrance/exit(s), fixed furniture/fittings, location of the various gaming machines and supervisory station(s)).
- Public liability insurance certificate for a minimum cover of £5 million.

- Operating Schedule outlining how the applicant proposes to promote the licensing objectives.
- The applicant (individual or each company director) will provide a recent (within one month of issue) DBS check together with a list of all staff names to be employed at the premises, such a list to be updated following the termination or employment of any new member of staff. A recent (within one month of issue) DBS check will be required for each employee before they take up their relevant post.

Given that the premises is likely to appeal particularly to children and young persons, the Licensing Authority will give considerable weight to matters relating to the protection of children from being harmed or exploited by gambling and to ensure that staff supervision adequately reflects the level of risk to this group.

- A permit shall cease to have effect at the end of the period of ten years beginning with the date specified unless it ceases to have effect before that time in accordance with legislation, or it is renewed.
- A permit shall lapse if the holder ceases to occupy the premises specified.
- A permit shall not take effect if on the date specified the person to whom the permit is issued is not an occupier of the premises as specified.
- A permit shall lapse if the licensing authority notify the holder that the premises are not being used as a family entertainment centre (premises used wholly or mainly for use of gaming machine not above category D as defined in the Act).
- A permit shall lapse if the holder ceases to exist, or goes into liquidation (within the meaning of section 247(2) of the Insolvency Act 1986).
- A permit shall cease to have effect if the holder gives to the licensing authority notice of surrender, and either the permit, or a statement explaining why it is not reasonably practicable to produce the permit.

#### **4.8 Alcohol Licensed premises and gaming machine permits**

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority. 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.

If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the Council 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”.

Where appropriate and depending on the individual circumstances of the premise the Council in general may consider granting a permit for more than 2 machines without the need to hold a hearing.

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. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be of help. As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as Game Care.

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.

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.

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.

Alcohol licensed premises are able to provide some equal chance gaming. Licensees are referred to the advice provided by the Gambling Commission.

#### **4.9 Door Supervisors**

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.

The Council will make a door supervisor requirement if there is clear evidence that the premises cannot be adequately supervised and that supervision is necessary and appropriate.

#### **4.10 Betting Machines**

While the Council has authority as to the number, nature and circumstances of use of betting machines, it will consider limiting the number where there is clear evidence that such machines have been or are likely to be used in breach in the licensing objectives. Where there is such evidence, this authority may consider, when reviewing the licence, the ability of staff to monitor the use of such machines.

## **5.0 Preventing Gambling from being a source of Crime and Disorder**

The Council will, when determining applications, consider whether the grant of a premises licence is likely to result in an increase in crime and disorder.

The Gambling Commission, in its guidance for local authorities, has noted that

***“disorder is intended to mean activity that is more serious and disruptive than mere nuisance. Factors to consider in determining whether a disturbance was serious enough to constitute disorder would include whether police assistance was required and how threatening the behaviour was to those who could see or hear it.”***

This authority agrees with this statement.

Applicants are encouraged to discuss the crime prevention procedures in their premises with the Council and/or the Sussex Police before making a formal application.

In considering licence applications, the Council will particularly take into account the following:

1. The design and layout of the premises;
2. The training given to staff in crime prevention measures appropriate to those premises;
3. Physical security features installed in the premises. This may include matters such as the position of cash registers or the standard of CCTV that is installed;
4. Where premises are subject to age-restrictions, the procedures in place to conduct age verification checks;
5. The likelihood of any violence, public order or policing problem if the licence is granted.

## **6.0 Ensuring Gambling Is Conducted In A Fair And Open Way**

Generally, the Commission would not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be a matter for either the management of the gambling business, and therefore subject to the Operating Licence, or will be in relation to the suitability and actions of an individual and therefore subject to the Personal Licence, both of which are the responsibility of the Gambling Commission.

## **7.0 The Protection of Children and other Vulnerable Persons**

### **7.1 Access to licensed premises**

With limited exceptions, the access of children and young persons to those gambling premises, which are adult only environments, will not be permitted.

The Council will seek to limit the advertising for premises so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children.

The Council will consult with the Local Children Safeguarding Unit and / or Sussex Police on any application that indicates there may be concerns over access for children or vulnerable persons.

The Council will judge the merits of each separate application before deciding whether to impose conditions to protect children on particular categories of premises.

This may include such requirements as:

- I. Supervision of entrances;
- II. Segregation of gambling areas from areas frequented by children;
- III. Supervision of gaming machines in non-adult gambling specific premises.

## **7.2 Vulnerable Persons**

The Council does not seek to prohibit particular groups of adults from gambling in the same way that it seeks to prohibit children but it will assume, for regulatory purposes, that 'vulnerable persons' includes :

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

## **8.0 Complaints against Licensed Premises**

The Council will investigate complaints against licensed premises in relation to matters relating to the licensing objectives for which it has responsibility. In the first instance, complainants are encouraged to raise the complaint directly with the licensee or business concerned to seek a local resolution.

Where an interested party has made valid representations about licensed premises, or a valid application for a licence to be reviewed, the Council may initially recommend a conciliation meeting to address and clarify the issues of concern.

This process will not override the right of any interested party to ask that the licensing committee consider their valid objections, or for any licence holder to decline to participate in a conciliation meeting.

**Due consideration will be given to all relevant representations unless they are considered to be frivolous, vexatious or repetitious.**

## **9.0 Further Information**

Further information about the Gambling Act 2005, this Statement of Licensing Policy and about the application process, including application forms and guidance notes can be obtained from:

The Licensing Team  
Environment & Planning Directorate



Crawley Borough Council  
Town Hall  
The Boulevard  
Crawley  
West Sussex  
RH10 1UZ  
Tel: 01293 438289  
Fax: 01293 438604  
Email: [licensing@crawley.gov.uk](mailto:licensing@crawley.gov.uk)  
Website: [www.crawley.gov.uk](http://www.crawley.gov.uk)

Information is also available from the

Gambling Commission  
Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP

Tel: 0121 230 6500  
Website: [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

# Appendix A

## Borough of Crawley



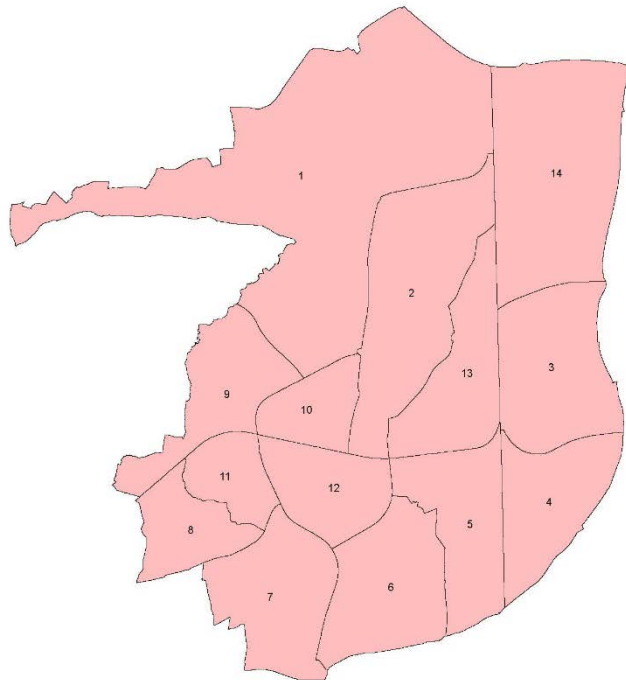
*Shown within West Sussex*

## Geography

Status:	Borough
Region:	South East England
Admin. County:	West Sussex
Area:	44.97 km <sup>2</sup>
Admin. HQ:	Crawley

## Neighbourhoods of Crawley

1. Langley Green
2. Northgate
3. Pound Hill
4. Maidenbower
5. Furnace Green
6. Tilgate
7. Broadfield
8. Bewbush
9. Ifield
10. West Green
11. Gossops Greer
12. Southgate
13. Three Bridges
14. Forge Wood



## Appendix B

### TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

Matter to be dealt with	Full Council	Sub-committee of licensing committee	Officers
Three year licensing policy	X		
Policy not to permit casinos	X		
Fee Setting - when appropriate		(Portfolio holder)	
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence		X	
Application for club gaming /club machine permits		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Cancellation of club gaming/ club machine permits		X	
Applications for other permits			X
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	
Determination as to whether a person is an Interested Party			X
Determination as to whether representations are relevant			X
Determination as whether a representation is frivolous, vexatious or repetitive			X

## Contact Details for Relevant Authorities

<p><b><u>The Licensing Authority</u></b> Premises Licensing Crawley Borough Council Town Hall, The Boulevard Crawley West Sussex, RH10 1UZ</p>	<p><b><u>WSCC Fire &amp; Rescue Service</u></b> (FAO Fire Safety) West Sussex Fire &amp; Rescue Service Business Fire Safety Horsham Fire Station Hurst Road Horsham West Sussex RH12 2DN</p>
<p><b><u>HM Revenue &amp; Customs</u></b> National Registration Unit Portcullis House 21 India Street Glasgow G2 4PZ</p>	<p><b><u>Chief Officer of Police</u></b> Licensing Section Horsham Police Station Hurst Road Horsham West Sussex RH12 2DJ</p>
<p><b><u>Children's Safeguarding Unit</u></b> Room 24 Durban House Durban Road Bognor Regis PO22 9RE</p>	<p><b><u>Gambling Commission</u></b> Victoria Square House Victoria Square Birmingham B2 4BP</p>
<p><b><u>Crawley Borough Council</u></b> (Planning) Crawley Borough Council Town Hall The Boulevard Crawley West Sussex RH10 1UZ</p>	
<p><b><u>Crawley Borough Council</u></b> (Environmental Protection) Crawley Borough Council Town Hall The Boulevard Crawley West Sussex RH10 1UZ</p>	<p><b><u>Crawley Borough Council</u></b> (Health &amp; Safety) Crawley Borough Council Town Hall The Boulevard Crawley West Sussex RH10 1UZ</p>

## Consultees

Elected Members, Crawley Borough Council  
The Gambling Commission  
Sussex Police  
West Sussex Fire & Rescue Service  
Head of Planning Services, Crawley Borough Council  
Children's Safeguarding Unit, West Sussex County Council  
HM Revenues and Customs  
Crawley Local Strategic Partnership  
Representatives of the holders of the various licenses for premises in the Borough who are affected by this policy  
Members of the public who are affected by this policy

Note: This list is not intended to be exclusive. Comments and observations will be welcome from anyone who will be affected by this policy

Mr. APL Baldock  
Environmental Health Manager  
Crawley Borough Council  
Town Hall  
The Boulevard  
Crawley  
West Sussex  
RH10 1UZ