Advice on gaming in clubs and premises with an alcohol licence: Gambling Act 2005

March 2016
1 Introduction

1.1 This is an updated version of the advice note issued by the Gambling Commission (the Commission) in September 2008. It does not constitute guidance under section 25 of the Gambling Act 2005 (the Act).

1.2 It is an offence to provide facilities for gambling without the relevant operating licence and premises licence unless the activity is subject to an exception. Part 12 of the Act provides that, in clubs and premises with an alcohol licence, certain gaming (including poker) is exempt, subject to stakes and prizes limitations or, if appropriate permissions are held, then there can be unlimited stakes and prizes.

1.3 Gaming of the type usually provided in clubs and premises with an alcohol licence is subject to specific conditions and codes of practice. These are designed to protect both the players and those providing the gaming facilities and ensure that gaming remains ancillary to the main purpose of the pub or club. While the principles are the same for both pubs and clubs, there are different provisions for each sector. The law in this area is complex and each case must be judged according to its facts.

1.4 A summary of the gaming entitlements is set out in the attached Appendix.

2 Defining clubs, miners’ welfare institutes and premises with an alcohol licence

2.1 The Act creates a separate regime for gaming in clubs from that in other relevant premises with an alcohol licence. It defines two types of clubs for the purposes of gaming: members’ clubs (including miners’ welfare institutes) and commercial clubs. This is an important distinction in respect of the gaming that may take place.

Members’ club

2.2 A members’ club is a club that is not established as a commercial enterprise and is conducted for the benefit of its members. Examples include working men’s clubs, branches of the Royal British Legion and clubs with political affiliations.

2.3 The statutory definition of a members’ club requires that: it must be established and conducted wholly or mainly for purposes other than the provision of facilities for gaming; the club satisfies the conditions attached to a club gaming permit; and they are not commercial clubs that would then be offering gambling illegally.

2.4 The Act prescribes that 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 restricted to bridge and whist. Members’ clubs must be permanent in nature, but there is no need for a club to provide alcohol.

2.5 Should a club wish to offer poker as their main activity or on a commercial basis they must have a casino operating licence and premises licence.

2.6 Members’ clubs may apply to their licensing authority for club gaming permits and club machine permits. Further information regarding members’ clubs can be found in the quick guide, Members’ club or commercial club?
Miners’ welfare institute

2.7 Miners’ welfare institutes are associations established for recreational or social purposes. They are managed by representatives of miners or use premises regulated by a charitable trust which has received funds from one of a number of mining organisations.

2.8 Miners’ welfare institutes may also apply for club gaming permits and club machine permits.

Commercial club

2.9 A commercial club is a club established for commercial gain, whether or not they are actually making a commercial gain. Examples include commercial snooker clubs, clubs established as private companies and clubs established for personal profit. There are established tests to determine a club’s status but, if in doubt, legal advice should be sought.

2.10 Commercial clubs may only apply for club machine permits. Further information regarding commercial clubs can be found in the quick guide Members’ club or commercial club?

Premises with an alcohol licence

2.11 Premises with an alcohol licence (or alcohol-licensed premises) are premises where there is an ‘on-premises alcohol licence’ (in England and Wales) or a premises licence under the Licensing (Scotland) Act (in Scotland) – provided that (in the case of Scotland) it is not a licence authorising the sale of alcohol for consumption off the premises only – and that the premises has a bar at which alcohol is served without a requirement that alcohol is served only with food. This means that any hotel, restaurant or pub that has a bar can offer gambling under Part 12 of the Act, but hotels and restaurants that serve alcohol only with food cannot.

2.12 Gaming and the use of gaming machines is only permitted on alcohol-licensed premises during the hours that the premises licence allows the sale of alcohol. Premises which are not clubs, but sell alcohol, cannot apply for club gaming permits or club machine permits.

3 Permitted and exempt gaming in members’ clubs, commercial clubs, miners’ welfare institutes and premises with an alcohol licence

3.1 The Act creates two types of equal chance gaming permitted in members’ clubs, commercial clubs, miners’ welfare institutes and alcohol-licensed premises. These are permitted gaming and exempt gaming.

Permitted gaming

3.2 Permitted gaming is equal chance gaming and two bankers’ games, pontoon and chemin de fer, permissible through the grant of a club gaming permit. A club gaming permit can only be granted to a members’ club (including a miners’ welfare institute). A club gaming permit cannot be granted to a commercial club or other alcohol-licensed premises.

3.3 Other than in the case of clubs established to provide the prescribed games of bridge and whist, clubs seeking club gaming permits must be established ‘wholly or mainly’ for purposes other than gaming. When a club gaming permit is granted there are no limits on the stakes and prizes associated with permitted gaming. See the Appendix for a list of the allowed stakes and prizes.

Exempt gaming

3.4 Exempt gaming is generally permissible in any members’ club, commercial club, miners’ welfare institute or alcohol-licensed premises. Such gaming must be equal chance gaming and be ancillary to the purposes of the club. This provision is automatically available to all such premises, but is subject to statutory stakes and prize limits determined by the Secretary of State.
Equal chance gaming is gaming that does not involve staking against a bank and the chances of winning are equally favourable to all participants. It includes games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.

The Secretary of State has set both daily and weekly prize limits for exempt gaming. Different, higher stakes and prizes are allowed for exempt gaming in clubs than in alcohol-licensed premises. These are set out in the Appendix at the end of this paper.

Exempt gaming should be supervised by a nominated gaming supervisor and comply with the Commission's Code of practice on equal chance gaming in clubs and premises with an alcohol licence, issued under section 24 of the Act.

In addition, a fee cannot be levied for participation in the equal chance gaming offered by alcohol-licensed premises under the exempt gaming rules. A compulsory charge, such as charging for a meal, may constitute a participation fee, depending on the particular circumstances. However, clubs may charge a participation fee. The amount they may charge is as prescribed in regulations.

In order to qualify as exempt gaming, clubs and alcohol-licensed premises may not charge a rake on games (a commission or fee deducted from the prize fund), or levy or deduct an amount from stakes or winnings.

Poker

Poker is a particularly popular game in pubs and clubs. Poker is a card game, which involves elements of both chance and skill and is therefore classified as a game of chance under the Act. There are many variations on the game of poker. Only equal chance poker, where players compete against each other on equal terms, may be played in pubs and clubs under the exempt gaming provisions.

In most forms of equal chance poker, players bet or stake progressively into a communal pot or kitty, with the player holding the best hand at the end of the game winning the accumulated stakes in the pot.

Permits

Club gaming permits

Club gaming permits authorise establishments to provide gaming machines, equal chance gaming (without having to abide by the stake and prize limits which would apply to exempt gaming in the absence of a permit) and games of chance as prescribed in regulations, namely pontoon and chemin de fer. These permits are only issued to members’ clubs and miners’ welfare institutes, who must comply with the Commission’s Code of practice on equal chance gaming in clubs and premises with an alcohol licence.

Where a members’ club or miners welfare institute has gaming machines they are also required to comply with the Code of practice for gaming machines in clubs and premises with an alcohol licence which has been issued by the Commission on the location and operation of machines.

2 Section 6(2) of the Act
Club machine permits

4.3 Club machine permits may be issued to members’ clubs, commercial clubs or miners’ welfare institutes. Club machine permits are subject to the same conditions as club gaming permits but have some differences. These are; set limits on stakes and prizes in poker and unequal chance gaming is not allowed.

4.4 Holders of club machine permits are required to comply with the Code of practice for gaming machines in clubs and premises with an alcohol licence, which has been issued by the Commission on the location and operation of machines.

4.5 Before granting club gaming permits or club machine permits, licensing authorities are required to satisfy themselves that the club is not wholly or mainly devoted to gaming (other than bridge and whist). It will not be sufficient for a club simply to offer other sports and activities with a view to meeting the requirement. Where the majority of the clubs activities is gaming (for example, poker), gaming will be considered the main activity of the club. Those clubs which hold club permits and then conduct themselves in such a way that gaming (for example, poker) is their main activity, will lose their entitlement to a permit, may be in breach of the Act and may render themselves liable to prosecution, unless the gaming offered is exempt gaming.

4.6 A club with a club gaming permit or club machine permit may have up to a maximum of three gaming machines of categories B4, C or D on their premises. Non-commercial members’ clubs and miners’ welfare institutes may also have a category B3A as one of their machines, but may not exceed three gaming machines in total.

4.7 Alcohol-licensed premises have an automatic entitlement to two category C or D gaming machines and may apply for more machines to their licensing authority. No conditions are applied to gaming machine permits but all operators offering gaming machines should abide by the Commission’s Code of practice for gaming machines in clubs and premises with an alcohol licence. Further information regarding gaming machines in alcohol-licensed premises can be found in the quick guide Gaming machines in pubs.

5 Gambling Commission codes of practice

5.1 The Commission has issued a Code of practice for equal chance gaming in clubs and premises with an alcohol licence, which can be found on the Commission’s website.

5.2 The code of practice is issued under section 24 of the Act and requires owners/licensees to adopt good practice measures for the provision of gaming in general and poker in particular. The code also sets out the stakes and prizes limits and the limits on participation fees (as applicable) laid out in regulations.

5.3 Additionally, the Commission’s Code of practice for gaming machines in clubs and premises with an alcohol licence can be found on the Commission’s website. This code includes sections relating to:
- the location and operation of machines, which are a requirement of the permits
- access to gambling by children and young persons, which sets out best practice guidance for permit-holders
- complaints and disputes and the best practice approach to handling them.
6 Poker leagues and tournaments

6.1 Gaming is only covered by the Act if it is played for prizes of money or money's worth. In recent years a number of poker tournaments and leagues have been established in alcohol-licensed premises based on playing for points. In some leagues the organisers offer 'prizes' at the end of a series of weekly games for the players with the most points.

6.2 It is likely that the association of a prize with a monetary value with a game or series of games constitutes gaming, certainly by the latter stages of the competition. If the eventual prize is worth more than the maximum prize set out in regulations then it could be unlawful gaming. For example, if a tournament simply involves a series of straightforward 'knockout' qualifying rounds, culminating in a 'final' game, then the winner's prize in the final - whether it comprises the stakes laid in that game, a separate prize provided by the organiser, or a combination of the two - must not exceed £100. The regulations set a limit of £100 on a prize that may be won in any game of poker. In a knockout tournament, the overall prize is clearly referable to a single game (the 'final') and is therefore won in a game of poker and subject to the prize limit. The stake and prize limits must also be applied to each game in the tournament.

6.3 In other leagues the prize competed for is the opportunity to play in 'invitational cash tournaments'. Notwithstanding that these 'prizes' may be of an uncertain value, and are likely to be held in mainstream gaming venues under regulated conditions, usually a casino, the Act prohibits gaming in alcohol-licensed premises being linked to gaming in any other premises. Players competing across premises for a 'prize' are likely to be engaged in linked gaming, which is unlawful. Consequently, organisers should not host events where players are competing against players in other premises for a prize.

6.4 In some types of tournaments there will be no single 'final' game in which it can be said with certainty that the player won the overall prize. In such circumstances, the Commission’s view is that one should look to the individual games played by the overall winner and ensure that the overall prize does not cause any of those individual games to exceed the maximum £100 prize limit per game and the maximum stake of £100 per day. Examples of tournament types follow.

**Example 1**
The overall winner wins the pot in each game and wins an overall prize based on points
If the tournament winner played three games in the whole tournament, and his winnings (from the pot) in each of these games were £100, £70 and £60 respectively, each game would fall under the £100 prize limit. This would leave £0 from the first game, £30 from the second game and £40 from the third game, which could be put towards the winner's overall tournament prize. In these circumstances, the tournament prize could be up to £70 (£0 + £30 + £40). Thus where the pot in individual games is under £100, the tournament winner’s overall prize must not exceed the aggregate of the shortfall in each of the games he plays.

**Example 2**
The overall winner is only awarded points in each game and wins an overall prize based on points
Assuming that the tournament winner plays three games in the whole tournament, if there is no individual prize in any of the three games, the overall prize can be up to £300 (£100 for each game the winner has played). If, on the other hand, the winner played in only two games, then his overall prize may not exceed £200, and so on. Please note that the relevant number of games is the games in which the winning player participated, and not only the games that they won.

6.5 Organisers of such competitions will therefore need to work out the total value of any overall prize with reference to the number of games to be played by the overall winner and the total pot (if any) in each game.

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While ‘non-cash’ poker for points leagues can provide harmless and legal entertainment, those promoting such leagues should be aware of the Commission’s Code of practice on equal chance gaming in clubs and premises with an alcohol licence, and take steps to prevent individual stakes limits being exceeded through side bets or illegal activity such as agreements to ‘settle’ games outside the gaming area. Where illegal activity is detected, licensing authorities should consider the removal of the alcohol-licensed premises’ exemption, which allows poker and other exempt gaming to be played.

Example 3
The overall winner is only awarded points in each game and wins an overall prize such as the opportunity to participate in a major poker tournament, casino vouchers, holidays etc. In these circumstances, tournament organisers must ensure that the statutory limits for poker in alcohol-licensed premises and clubs are complied with. In particular, they must carefully consider the value of the prizes offered for games leading up to the tournament final (including money's worth or non-monetary prizes such as holidays, cars, casino vouchers, or buy-ins or seats at the final). In addition, organisers should take into account that should players compete across premises for an overall prize, they are likely to be engaged in linked gaming, which is not permitted.

Example 4
Free or donated prizes are awarded to players in addition to the maximum prize pools for poker in clubs and alcohol licensed premises. The Act refers to money or money's worth in respect of prizes. This would include free or donated prizes which have an intrinsic value. Any prizes offered in addition to the prize pool must remain within the limits for prizes in games of poker in clubs and alcohol licensed premises. The prize limit is £250 per game in a club and £100 per game in a pub. Therefore, for example, if the prize pool available for a particular game is £80, then any non-monetary prizes must not have a value exceeding £20.

Example 5
Poker is offered in a members’ club or miners’ welfare institute with a club gaming permit. Members’ clubs or miners’ welfare institutes with club gaming permits may offer poker with unlimited stakes and prizes, but the only persons who may participate in such gaming are club members and their genuine guests. In this regard, the club must be able to demonstrate that it has a genuine and legitimate club membership scheme. Clubs must also ensure that the statutory limits on participation fees are not exceeded. The limit for bridge and whist is £20 and for other gaming is £3. In addition, there is a limit of a maximum of £2,000 per week in stakes and prizes for bingo in a members’ club or welfare institute. If it is the intention of the club or institute to exceed these limits, it will be necessary for them to apply for an operating licence. It should be noted, however, that the bingo will still be subject to the rules for exempt gaming (see paragraphs 3.4 to 3.9), and bingo must not become a predominant commercial activity of the club or institute.

What constitutes ‘money’s worth’?

Money’s worth relates to the realistic value of the prize offered. It includes emoluments, vouchers, goods or other items which have a value.

A prize such as a ‘goody bag’ would be considered money’s worth and is, therefore, subject to the statutory limits for exempt gaming. Donated prizes would also be considered money’s worth. This would include prizes such as the buy-ins at major poker tournaments or the opportunity to participate in poker tournaments at venues such as Monte Carlo, especially as this type of prize is likely to include the cost of the airfare and accommodation.
7  **Bridge and whist**

7.1 If bridge or whist clubs have a club gaming permit, they may not offer any other gaming besides bridge and whist. If they do not have a permit, they may provide exempt gaming as set out in the paragraphs above. If they wish to offer other non-exempt gaming they will require a Commission casino or bingo operating licence and any relevant personal licences.

8  **Bingo**

8.1 Bingo is a class of equal chance gaming permitted on alcohol-licensed premises, and in members’ clubs, commercial clubs, miners’ welfare institutes, under the allowances for exempt gaming in Part 12 of the Act. There are regulations setting controls on this form of gaming, to ensure that it remains a low stakes and prizes activity.

8.2 In addition, rules are laid down in the Act about the playing of bingo specifically in alcohol-licensed premises, clubs and miners’ welfare institutes. Where the level of bingo played in these premises reaches a certain threshold, it will no longer be authorised by these rules and a bingo operating licence will have to be obtained from the Commission for future bingo games. Even in this circumstance, bingo can still only be offered under the rules for exempt gaming.

8.3 Under the Act, members’ clubs, commercial clubs, miners’ welfare institutes and alcohol-licensed premises can offer bingo provided that:

- no sums are deducted from sums staked and won, so there is no ‘rake’ from the prize pot
- no participation fee is charged in respect of bingo games in alcohol-licensed premises
- there is a maximum stake of £5 per person per game for bingo in alcohol-licensed premises
- a maximum participation fee of £1 per person per day is charged in respect of bingo games where no club gaming permit or club machine permit is in place
- a maximum participation fee of £3 per person per day is charged for members’ clubs and miners’ welfare institutes with a club gaming permit
- a maximum participation fee of £3 per person per day is charged for commercial clubs with a club machine permit
- a maximum participation fee of £1 per person per day is charged for members’ clubs and miners’ welfare institutes with a club machine permit
- bingo games are held on the premises
- bingo games are not linked with games held on other premises
- the total stakes or prizes for bingo games played in any seven day period does not exceed the £2,000 threshold more than once in 12 months.

8.4 The threshold is reached if the bingo played during any seven-day period exceeds £2,000 (either in money taken or prizes awarded) once in a year, referred to as ‘high turnover bingo’. There is a legal duty on the licensee or club to inform the Commission if they offer high turnover bingo in any seven day period. This allows the Commission to monitor the bingo activity on the premises, and discuss with the relevant licensee or club the point at which a bingo operating licence may be needed. A ‘high turnover period’ begins with the first day of the seven day period in which the threshold was exceeded and lasts for a year. If a second period of high turnover bingo occurs within that year, a bingo operating licence will be required.

8.5 Where bingo is played in a members club under a bingo operating licence no premises licence will be required. It should be noted, however, that the bingo will still be subject to the restrictions which apply to exempt gaming (see paragraphs 3.4 to 3.9), and bingo must not become a predominant commercial activity on these premises. Where a premises licence is also granted by the local licensing authority, these restrictions are removed.

8.6 To help clubs and institutes to comply with the full range of statutory requirements for gaming, the Commission has developed the [Code of practice for equal chance gaming in clubs and premises with an alcohol licence](#), available on the Commission’s website.
9  Charity events

9.1 Organisations that wish to provide casino games or equal chance gaming (such as poker or bingo) for charitable or other non-commercial purposes (for example, to raise funds for a club or society) may do so under the non-commercial gaming provisions in Part 14 of the Act.

9.2 Non-commercial gaming is gaming that takes place at an event where none of the proceeds from the event itself are used for private gain. For these purposes, the proceeds of an event constitute the sums raised by its organisers (including sums raised by way of entrance or participation fees, sponsorship, commission from traders, or otherwise) minus the costs reasonably incurred in organising the event. However, sums raised by other persons will not form part of the proceeds of the event and so may be appropriated for private gain. An example would be refreshments provided at the event by an independent third party.

9.3 The Act lays down different rules depending on whether the non-commercial gaming is prize gaming or equal chance gaming. In both instances, however, the players participating in the gaming must be told what ‘good cause’ is to benefit from the profits from the gaming.

Non-commercial prize gaming

9.4 Prize gaming occurs if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. Normally the prizes will be determined by the operator before play commences.

9.5 In non-commercial prize gaming, there are no statutory limits on stakes, prizes, participation fees or other charges. In addition, no licence, permit or other form of permission is required to operate this kind of gaming, provided that the statutory conditions are complied with. Further details can be found in the document Advice on non-commercial and private gaming and betting.

Non-commercial equal chance gaming

9.6 Equal chance gaming is gaming where the chances are equally favourable to all participants and players are not competing against a bank\(^5\). This includes games such as poker or bingo. In non-commercial equal chance gaming, the charitable funds are usually raised through an entrance fee, participation fee, or through other payments related to the gaming.

9.7 Further details can be found in the document Advice on non-commercial and private gaming and betting.

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\(^5\) Section 8 of the Act.
10 Private gaming

10.1 Private gaming can take place anywhere to which the public do not have access, for example, a work place. Domestic and residential gaming are two subsets where non-equal chance gaming is allowed:

- Domestic gaming is permitted without the need for permissions if:
  - it takes place in a private dwelling
  - it is on a domestic occasion
  - no charge or levy is made for playing.

- Residential gaming is permitted when:
  - it takes place in a hall of residence or hostel not administered in the course of a trade or business
  - more than 50% of the participants are residents.

10.2 Private gaming can potentially take place on commercial premises in circumstances where a members’ club hires a room in, for example, a pub or hotel for a private function where equal chance gaming only is played. However, organisers would need to be careful to ensure that the arrangements put in place to make sure that the particular area of the pub, hotel or other venue in which the gaming takes place is not, on the occasion of the private function, a place to which the public have access and that those participating are not selected by a process which means that, in fact, they are members of the public rather than members of the club. The law in this area is complex and organisers are advised to seek their own legal advice before organising events of this nature.

10.3 In particular, it should be noted that it is a condition of private gaming that no charge (by whatever name called) is made for participation and Schedule 15 to the Act makes it clear that a deduction from or levy on sums staked or won by participants in gaming is a charge for participation in the gaming. It is irrelevant whether the charge is expressed to be voluntary or compulsorily, particularly if customers are prevented from playing if they do not make the “voluntary” donation, or there is strong peer pressure to make the donation.

10.4 Additionally, a person does not stop being a member of the public merely because they have agreed to become a member of a club. For example, where a member of the public applies for membership of a club in order to be admitted to a private gaming event, he remains a member of the public in circumstances where the whole purpose of membership is to get members of the public to participate in the private gaming event. In this case, there is likely to be insufficient segregation or selection to cause an applicant to cease to be a member of the public, and to acquire a different status as a member of a club on signing a membership application form and paying a membership fee. Also, merely because there is a formal scheme of club membership which requires admission to the event to be obtained in advance of the event, does not mean that those who obtain such membership and admission are no longer members of the public.

10.5 This means that people joining a club to attend and take part in a “private” event are likely to remain members of the public, particularly if “club membership” is acquired only a short time before, and in order to attend, the event. “Membership” status cannot be abused in order to circumvent the law in this way.

11 Prohibited gaming

11.1 No Banker’s games may be played either in commercial clubs or alcohol-licensed premises or in members’ clubs/miners' welfare institutes unless they have a club gaming permit. With a permit, the two Banker’s games of pontoon and chemin de fer may be played. Otherwise, games such as blackjack, roulette and any others which involve staking against the holder of the bank are unlawful on such premises.
12 Advertising

12.1 The Gambling (Licensing and Advertising) Act 2014 amended the Act so that, from 1 November 2014, gambling operators that provide facilities for remote gambling or advertise to consumers in Great Britain require a licence issued by the Commission.

12.2 Many poker websites promote other online gambling websites, usually by the provision of a hyperlink to that website. A hyperlink has been deemed to constitute advertising as it brings facilities for advertising to the attention of the person who clicks on the link.

12.3 It is not an offence to advertise non-remote gambling that takes place overseas. For example, a prize in equal chance gaming in pubs and clubs could include entry into a poker tournament, subject to meeting the applicable prize limits.

Gambling Commission March 2016

For further information or to register your interest in the Commission please visit our website at: www.gamblingcommission.gov.uk

Copies of this document are available in alternative formats on request.

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ADV 16/01
### Appendix: Summary of gaming entitlements for clubs and premises with an alcohol licence

<table>
<thead>
<tr>
<th>Equal chance gaming</th>
<th>Members’ club, commercial club or MW institute without a club gaming permit</th>
<th>Members’ club or commercial club with club machine permit</th>
<th>Members’ club or MW institute with club gaming permit</th>
<th>Clubs established to provide facilities for gaming of a prescribed kind (currently bridge or whist clubs)</th>
<th>Pubs and other alcohol-licensed premises</th>
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#### Limits on stakes

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#### Limits on prizes

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#### Maximum participation fees (per person per day)

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#### Bankers or unequal chance gaming

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#### Limits on bingo**

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<th>Maximum of £2,000 per week in stakes or prizes.</th>
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* On a day when no other facilities for gaming are provided.

** If more than the maximum, then an operating licence will be required.