

**North East Derbyshire District Council**

**Council**

**15 February 2016**

**To approve the Council's Draft Revised Statement of Principles made under the Gambling Act 2005 following Consultation**

**Report No MG/11/15-16/JC of Councillor M Gordon, Portfolio Holder with Responsibility for Environment**

This report is public

**Purpose of Report**

- The purpose of this report is for the Council to approve the release of the revised Statement of Principles made under Section 349 of the Gambling Act 2005 following a consultation exercise. The Statement of Principles is attached as **Appendix 1**.

**1 Report Details**

- 1.1 The Council has a legal duty to review its Statement of Licensing Policy every three years.
- 1.2 Before determining the revised Policy, the Council must consult with various parties, as defined in Section 349(3) of the Act. These include the Chief Officer of Police, persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area and persons who appear to the Authority to represent the interest of persons who are likely to be affected by the exercise of the Authority's functions under the Gambling Act 2005.
- 1.3 The Licensing Committee of 4 September 2015 approved a revised draft Statement of Principles which was subsequently forwarded for consultation.
- 1.4 The Council received a number of comments which are attached as **Appendix 2**
- 1.5 On 5 November 2015, the Gambling Commission issued revised guidance to licensing authorities and amendments have been made in the document to reflect the changes in the guidance.
- 1.6 Licensing Committee of 5 January 2016 considered the comments made and resolved to recommend to Council that the revised Statement of principle be adopted.

## **2 Conclusions and Reasons for Recommendation**

This is a statutory duty and the Council must have an approved revised Statement of Principles in place.

## **3 Consultation and Equality Impact**

3.1 A consultation exercise took place between 2 October 2015 and 1 November 2015.

## **4 Alternative Options and Reasons for Rejection**

4.1 None

## **5 Implications**

### **5.1 Finance and Risk Implications**

5.1.1 Judicial Review could be sought against the Policy and this would incur costs in preparing a defence case. Costs may be recovered at the discretion of the Courts. In the event of a successful judicial review, costs would be awarded against the Authority.

### **5.2 Legal implications including Data Protection**

5.2.1 This is a statutory duty and the Council must have an approved revised Statement of Licensing Policy prior to the expiry of the current Policy.

### **5.3 Human Resources Implications**

5.3.1 None.

## **6 Recommendations**

6.1 That the Council adopt the revised Statement of Principles.

## **7 Decision Information**

<b>Is the decision a Key Decision?</b>	No
<b>District Wards Affected</b>	All
<b>Links to Corporate Plan priorities or Policy Framework</b>	Look after the Environment. Reduce fear of crime and anti-social behaviour. Ensure a high standard of local environment.

## 8 Document Information

Appendix No	Title
1	Draft Revised Statement of Licensing Policy made under the Gambling Act 2005
2	Table showing comments received
<b>Background Papers</b>	
Gambling Act 2005	Licensing Section
Explanatory Notes: Gambling Act 2005	Licensing Section
Revised Statement of Principles made under the Gambling Act 2005	Licensing Section
Report Author	Contact Number
John Chambers	Ext. 7216

## **APPENDIX 1**



# **STATEMENT OF PRINCIPLES**

## **Made under the Gambling Act 2005**

This information is available free of charge in electronic, audio, Braille and large print versions and in other languages on request. For assistance in understanding or reading this document, please telephone 01246 217228 or 01246 217216 or e-mail to [licensing@ne-derbyshire.gov.uk](mailto:licensing@ne-derbyshire.gov.uk) or write to Licensing Section, North East Derbyshire District Council, District Council Offices, 2013 Mill Lane, Wingerworth, Chesterfield, Derbyshire, S42 6NG.

# NORTH EAST DERBYSHIRE DISTRICT COUNCIL STATEMENT OF PRINCIPLES

## Made under the Gambling Act 2005

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*This Statement of Licensing Principles was approved by North East Derbyshire District Council on \**

*All references to the Guidance refer to the Gambling Commission's Guidance to Licensing Authorities, 5th Edition, published November 2015.*

## **PART A**

### **1. The Licensing Objectives**

- 1.1 In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
  - Ensuring that gambling is conducted in a fair and open way
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling
- 1.2 It should be noted that the Gambling Commission has stated: “The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”.
- 1.3 This licensing authority is aware that, as per Section 153, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it:
- in accordance with any relevant code of practice issued by the Gambling Commission
  - in accordance with any relevant guidance issued by the Gambling Commission  
Reasonably consistent with the licensing objectives and
  - in accordance with the authority’s statement of licensing policy

### **2. Introduction**

- 2.1 North East Derbyshire District Council is situated in the County of Derbyshire, which contains 8 District Councils in total and one Unitary Authority. The Council area has a population of almost 100,000 making it the fifth largest, in the County in terms of population. In terms of area it is the fifth largest, covering 100 square miles. The Council area is mainly semi rural. These areas are shown in the map below.

The key provided (see page 3) identifies the urban / rural areas. The following areas are also noted as being residential areas / areas of deprivation / regeneration etc.

- 2.2. Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they propose to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from “time to time” and any amended parts re-consulted upon. The statement must be then re-published.



- 2.3 North East Derbyshire District Council consulted widely upon this statement before finalising and publishing. A list of those persons consulted is provided below.
- 2.4 The Gambling Act requires that the following parties are consulted by licensing authorities:
- The Chief Officer of Police;
  - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area;
  - One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.
- 2.5 List of persons this authority consulted:
- Chesterfield Borough Council
  - North East Derbyshire District Council
  - Derbyshire Constabulary
  - BACTA
  - GamCare
  - Responsibility in Gambling Trust
  - British Beer and Pub Association
  - North Derbyshire Chamber of Commerce & Industry
  - Derbyshire County Council
  - Derbyshire County Council, Safeguarding Children team
  - Derbyshire Fire and Rescue Service
  - The British Institute of Innkeeping
  - Trading Standards, Derbyshire County Council
  - MPs and MEPs
  - NEDDC – Joint Executive Director Transformation
  - NEDDC – Chief Executive
  - NEDDC – Joint Executive Director Operators
  - Federation of Licensed Victuallers Associations
  - Association of British Bookmakers
  - Alan Charles, Police and Crime Commissioner
  - National Casino Forum
  - Remote Gambling Association
  - British Horseracing Authority
  - Business in Sport and Leisure
  - North East Derbyshire District Council Members
  - Parish Councils
  - Ladbrokes



Our consultation took place between 2<sup>nd</sup> October 2015 and 1<sup>st</sup> November 2015 and we followed the HM Government Code of Practice on Consultation (published July 2012), which is available at:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/2551180/consultation-principles-oct-2013.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/2551180/consultation-principles-oct-2013.pdf)

The full list of comments made and the consideration by the Council of those comments is available by request to: Licensing Section, North East Derbyshire District Council, District Council Offices, 2013 Mill Lane, Wingerworth, Chesterfield, S42 6NG / via the Council's website at:

[www.ne-derbyshire.gov.uk](http://www.ne-derbyshire.gov.uk)

The policy was approved at a meeting of the Full Council on [X] date and was published via our website on [x date]. Copies were placed in the public libraries of the area as well as being available in the District Council Offices.

- 2.6 Should you have any comments as regards this policy statement please send them via e-mail or letter to the following contact:

Licensing Section, North East Derbyshire District Council, District Council Offices, 2013 Mill Lane, Wingerworth, Chesterfield, S42 6NG Email: [licensing@ne-derbyshire.gov.uk](mailto:licensing@ne-derbyshire.gov.uk).

- 2.7 It should be noted that this statement of licensing principles will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

### **3. Declaration**

- 3.1 The Licensing Authority will, where possible avoid duplication of other regulatory regimes.
- 3.2 In producing the final statement, this licensing authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the Guidance to Licensing Authorities issued by the Gambling Commission, and gave appropriate weight to any responses from those consulted on the statement.
- 3.3 In determining what weight will be given to particular representations, the factors that have been taken into consideration are -
- Who is making the representations (what is their expertise or interest);
  - How many have expressed the same or similar views; and
  - How far representations relate to matters that the licensing authority should be including in its policy statement.

We may only consider matters within the scope of the guidance, Act and Codes of Practice. Even if there is a large response regarding a certain issue, we may be unable to deal with the issue under the Gambling Act. However, the issue may be a matter for other legislation.

The Council will always give reasons for the decisions it has made following consultation.

- 3.4 The Statement of Principles will not override the right of any person to make an application under the Act, as each application will be considered on its merits. Also, the rights of a person to make representations will also not be undermined by the Statement of Principles. However, if a 'no casino' resolution has been passed, any application will not be considered.

#### **4. Responsible Authorities**

- 4.1 Responsible authorities are public bodies that must be notified of all applications and are entitled to make representations to the Council. They also have the power to apply for a review of the premises licence. All representations made by responsible authorities must relate to the 3 licensing objectives.

The Act defines the responsible authorities, which for the purposes of applications made to North East Derbyshire District Council will be:

- The Chief Officer of Derbyshire Constabulary
- Derbyshire Fire & Rescue
- North East Derbyshire District Council's Planning Team
- North East Derbyshire District Council's Environmental Protection Team
- Derbyshire County Council Safeguarding Children Board
- HM Revenue & Customs
- A licensing authority in whose area the premises is situated, and
- Any other person prescribed by regulations by the Secretary of State.

- 4.2 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:

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

In line with the Guidance from the Gambling Commission the Council designates Derbyshire County Council Safeguarding Children Board as being the competent body for this purpose.

- 4.3 The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the Council's website at: [www.ne-derbyshire.gov.uk](http://www.ne-derbyshire.gov.uk)

## **5. Interested parties**

- 5.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:

For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the applications is made, the person -

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- b) has business interests that might be affected by the authorised activities, or
- c) represents persons who satisfy paragraph (a) or (b)".

The licensing authority must consider whether a person is an interested party with regard to particular premises on a case by case basis, judging each on its own merits. However, the authority may have regard to a number of factors eg the size of the premises, the nature of the activities taking place, geographical area that may be affected. This may include -

- residents and tenants associations;
- Trade Unions;
- Partnerships;
- charities; and
- medical practices.

- 5.2 The Council determine whether a person is an interested party on a case by case basis, each case being decided on its own merits. The council will have regard to the Guidance issued by the Gambling Commission when making its decisions.

- 5.3 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. The principles are:

Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making. However, the Council will very carefully consider if an application for a premises in respect of certain gambling premises located very closely to a school or a centre for gambling addiction should be granted in light of the third licensing objective. If an applicant for a premises licence can show how licensing objective concerns can be overcome, that will be taken into consideration. It will also consider the Gambling Commission's

Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

- 5.4 Interested parties can be persons who are democratically elected such as councillors and MPs. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. Written confirmation from one of these persons, requesting the representation is sufficient.
- 5.4 If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the Licensing Section, North East Derbyshire District Council, District Council Offices, 2013 Mill Lane, Wingerworth, Chesterfield, S42 6NG tel:01246 217216 email: [Licensing@ne-derbyshire.gov.uk](mailto:Licensing@ne-derbyshire.gov.uk).

## **6. Exchange of Information**

- 6.1 Licensing authorities are required to include in their statements the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.
- 6.2 The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The licensing authority will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

This authority has established the following information exchange/sharing protocols:

Derbyshire Constabulary

Please contact the Licensing Section, North East Derbyshire District Council, District Council Offices, 2013 Mill Lane, Wingerworth, Chesterfield, S42 6NG tel: 01246 217216 email: [Licensing@ne-derbyshire.gov.uk](mailto:Licensing@ne-derbyshire.gov.uk) for further information on our protocols.

## **7. Enforcement**

7.1 Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

7.2 This licensing authority's principles are that:

It will be guided by the Gambling Commission's Guidance to Licensing Authorities and will endeavour to be:

- Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
- Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
- Consistent: rules and standards must be joined up and implemented fairly;
- Transparent: regulators should be open, and keep regulations simple and user friendly; and
- Targeted: regulation should be focused on the problem, and minimise side effects.

7.3 This licensing authority has adopted and implemented a risk-based inspection programme, based on;

- The licensing objectives
- Relevant codes of practice
- Guidance issued by the Gambling Commission, in particular at Part 36
- The principles set out in this statement of licensing policy

7.4 The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the licensing authority but should be notified to the Gambling Commission.

7.5 This licensing authority also keeps itself informed of developments as regards the work of the Better Regulation Delivery Office and Hampton Principles. This means the Council should aim to be proportionate, accountable,

consistent, transparent and targeted when carrying out its legal duties.

- 7.6 Bearing in mind the principle of transparency, this licensing authority's enforcement/compliance protocols are available upon request to the Licensing Section, North East Derbyshire District Council, District Council Offices, 2013 Mill Lane, Wingerworth, Chesterfield, S42 6NG tel:01246 217216 email [Licensing@ne-derbyshire.gov.uk](mailto:Licensing@ne-derbyshire.gov.uk) Our risk methodology is also available upon request.

## **8. Licensing Authority Functions**

- 8.1 Activities requiring a premises licence or permit include most forms of gambling. Gambling is defined under the Act as either gaming, betting or taking part in a lottery. Therefore:

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

- 8.2 Licensing authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing *Premises Licences*
- Issue *Provisional Statements*
- Regulate *members' clubs* and *miners' welfare institutes* who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue *Club Machine Permits* to *Commercial Clubs*
- Grant permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) 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 licences issued (see section above on 'information exchange')
- Maintain registers of the permits and licences that are issued under these functions

The Local Safeguarding Children Board will be the responsible authority to advise on matters relating to the protection of children from harm and as such will receive notification and be consulted on all applications for new premises licences, club premises certificates and variations.

- 8.3 Although the Gambling Commission will take the lead role in the investigation and potential enforcement of illegal gambling, the Council will work with the Commission, Derbyshire Constabulary and other enforcement agencies when carrying out their duties.

## PART B

### PREMISES LICENCES: CONSIDERATION OF APPLICATIONS

#### 1. General Principles

- 1.1 Premises licences are subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where there is a perceived need or concerns but will only do so where there is clear evidence of a risk to the licensing objectives.

##### (i) Decision-making

This licensing authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the authority's statement of licensing policy.

It is appreciated that as per the Gambling Commission's Guidance to Licensing Authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos - page 15) and also that unmet demand is not a criterion for a licensing authority.

**(ii) Definition of "premises"** - In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

The Gambling Commission states in the fifth edition of its Guidance to Licensing Authorities that: "In most cases the expectation is that a single building / plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are



configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises.”

1.2 This licensing authority takes particular note of the Gambling Commission’s Guidance to Licensing Authorities which states that: licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

- The third licensing objective seeks to protect children from being harmed or exploited by gambling. In practice this means not only preventing them from taking part in gambling, but also preventing them from being 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 to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and 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.

1.3 The Guidance also gives a list of factors which the licensing authority should be aware of, which may include:

- Is a separate registration for business rates in place for the premises.
- Is the premises’ neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?

This authority will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

**The Gambling Commission’s relevant access provisions for each premises type are reproduced below:**

7:25

### **Casinos**

- The principal access entrance to the premises must be from a “street” (as defined at 7.23 of the Guidance)
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons
- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence

### **Adult Gaming Centre**

- No customer must be able to access the premises directly from any other licensed gambling premises

### **Betting Shops**

- Access must be from a “street” (as per para 7.23 Guidance to Licensing Authorities) or from other premises with a betting premises licence
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café - the whole area would have to be licensed.

### **Tracks**

- No customer should be able to access the premises directly from:
  - a casino
  - an adult gaming centre

### **Bingo Premises**

- No customer must be able to access the premise directly from:
  - a casino
  - an adult gaming centre
  - a betting premises, other than a track

### **Family Entertainment Centre**

- No customer must be able to access the premises directly from:
  - a casino
  - an adult gaming centre
  - a betting premises, other than a track

Part 7 of the Gambling Commission's Guidance to Licensing Authorities contains further guidance on this issue, which this authority will also take into account in its decision - making.

### **(iii) Premises “ready for gambling”**

The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.

In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premise, this authority will determine applications on their merits, applying a two stage consideration process:

- First, whether the premises ought to be permitted to be used for gambling
- Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 11.1 – 11.11 of the Guidance.

### **(iv) Location**

This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. This authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. The authority may identify an area as high risk and would expect licensees to take appropriate steps to insure that advertising relating to their premises or relating to events at their premises, is not displayed at a time when children are likely to be near the premises. The licensee would be reasonably expected to have sufficient controls in place to mitigate associated risks in such areas and if not, the licensing authority may consider other controls themselves.

### **(v) Planning:**

The Gambling Commission Guidance to Licensing Authorities states:

7.58 - In determining applications, the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.

This authority will not take into account irrelevant matters as per the above guidance. In addition this authority notes the following excerpt from the Guidance:

7.65 - When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence. 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.

#### **(vi) Duplication with other regulatory regimes**

This licensing authority seeks to avoid any duplication with other statutory / regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. 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.

When dealing with a premises licence application for finished buildings, this authority will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

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

**Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** - This licensing authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling

Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area is noted for particular with problems with disorder, organised criminal activity this authority should think about what, if any, controls might appropriate to prevent those premises being associated with or used to support crime. That might include conditions on the premises licence, such as a requirement for door supervisors. The requirement for conditions might be determined by the operators own risk assessment or a local area profile carried out by the licensing authority. This licensing authority is aware of the distinction between disorder and nuisance and will consider factors (for example whether Police assistance was required and how threatening the behaviour was to those who could see or hear it) so as to make that distinction.

**Ensuring that gambling is conducted in a fair and open way** - This licensing authority has noted that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences.

Track operators will not be required to hold an operator's licence. The premises licence will contain requirements on the licence holder regarding his or her responsibilities to ensure gambling is conducted in a fair and open way within the betting areas.

**Protecting children and other vulnerable persons from being harmed or exploited by gambling** – This licensing authority has noted the Gambling Commission's Guidance that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether staff will be able to adequately supervise the gambling premises, as adequate staffing levels is a factor to consider regarding the prevention of underage gambling. The Gambling Commission expect the operator and the licensing authority to work together to consider how any impediments to the supervision of premises might be most appropriately remedied.

The licensing authority may consider the structure or layout of premises to be an inhibition or potential inhibition to satisfying this licensing objective, the licensee should consider what changes are required to ensure the risk is mitigated. Such changes might include the positioning of staff or CCTV, the use of floor walkers and the relocation of staff counters to enable direct line of sight.

This licensing authority is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.

As regards the term "vulnerable persons" it is noted that the Gambling Commission does not seek to offer a definition but states that "it will for regulatory purposes assume that this group includes people who gamble

more than they want to; people who gamble beyond their means; and who may not be able to make informed or balanced decisions about gambling due to for example, mental health, a learning disability or substance misuse relating to alcohol or drugs.”

This licensing authority will consider this licensing objective on a case by case basis.

### **Conditions**

Mandatory conditions are issued by the Secretary of State and must be imposed on premises licences.

Default conditions may be imposed by the Council or it may choose to exclude them, if deemed to be appropriate.

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

- relevant to the need to make the proposed building suitable as a gambling facility;
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects.

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

This licensing authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.

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

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;

- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

These considerations will apply to premises including buildings where multiple premises licences are applicable.

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

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

- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required, the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated; and
- conditions in relation to stakes, fees, winning or prizes.

**Door Supervisors** - The Gambling Commission advises in its Guidance to Licensing Authorities that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor(s), and is entitled to impose a premises licence to this effect.

## 2. Adult Gaming Centres

2.1 This licensing authority may consider measures to meet the licensing objectives such as:

- Proof of age schemes

- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.

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

### **3. (Licensed) Family Entertainment Centres:**

3.1 This licensing authority may consider measures to meet the licensing objectives such as:

- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare and Gamblers Anonymous
- Measures / training for staff on how to deal with suspected truant school children on the premises

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

3.3 This licensing authority will, as per the Gambling Commission's guidance,



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

#### **4. Casinos**

- 4.1 This licensing authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should this licensing authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution. Any such decision will be made by the Full Council.
- 4.2 Guidance issued by the Gambling Commission regarding particular issues concerning casinos, such as suitability and layout, betting machines, monitoring use of machines by children and young persons, or number, nature and circumstances of betting machines will be considered by the Council when making decisions on casino applications.

#### **5. Bingo premises**

- 5.1 This licensing authority notes that the Gambling Commission's Guidance states:

Licensing authorities need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. An operator may choose to vary their licence to exclude a previously licensed area of that premises, and then apply for a new premises licence or multiple new premises licenses, with the aim of creating separate premises in that area. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.

- 5.2 If children are permitted to enter bingo premises where there are Category C gaming machines or above, the Council will ensure that:

- All such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance
- Only adults are admitted to the area where the machines are located
- Access to the area where the machines are located is supervised
- The area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder, and
- At the entrance to, and inside any such area there are prominently

displayed notices indicating that access to the area is prohibited to persons under 18.

## **6. Betting premises**

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

## **7. Tracks**

- 7.1 Although the Council has no tracks, this licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 7.2 This authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

This licensing authority may consider measures to meet the licensing objectives such as:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes

- Provision of information leaflets / helpline numbers for organisations such as GamCare and Gamblers Anonymous

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

7.3 *Gaming machines* - □ Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.

7.4 *Betting machines* - This licensing authority will, as per Part 20 of the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator proposes to offer.

#### 7.5 **Applications and Plans**

The Gambling Act (s51) requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity. (See Guidance to Licensing Authorities, para 20.43).

Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations. (See Guidance to Licensing Authorities, para 20.44).

Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises.

In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined.

This authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Licensing authorities should satisfy themselves the plan provides sufficient information to enable them to assess an application therefore applications should provide sufficient information that this authority

can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the “five times rule” (commonly known as betting rings) should be indicated on the plan.

## **8. Travelling Fairs**

- 8.1 A travelling fair is defined as one that ‘wholly or principally’ provides amusements.
- 8.2 This licensing authority is responsible for deciding whether, where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 8.3 The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 8.4 It is noted that the 27 day statutory maximum for the land being used as a fair applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

## **9. Provisional Statements**

- 9.1 Developers may wish to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.
- 9.2 S204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:
  - expects to be constructed;
  - expects to be altered; or
  - expects to acquire a right to occupy.
- 9.3 The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.
- 9.4 In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

- 9.5 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:
- they concern matters which could not have been addressed at the provisional statement stage, or
  - they reflect a change in the applicant's circumstances.
- 9.6 In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:
- which could not have been raised by objectors at the provisional statement stage;
  - which in the authority's opinion reflect a change in the operator's circumstances; or
  - where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

## **10. Reviews:**

- 10.1 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;
- 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 principles.
- 10.2 The request for the review will also be subject to the consideration by the authority as to whether the request is frivolous, vexatious, or whether it 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.

10.3 The licensing authority can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.

10.4 Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.

The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.

10.5 The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:-

(a) add, remove or amend a licence condition imposed by the licensing authority;

(b) exclude a default condition imposed by the Secretary of State or Scottish Ministers (e.g. opening hours) or remove or amend such an exclusion;

(c) suspend the premises licence for a period not exceeding three months; and

(d) revoke the premises licence.

10.6 In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

10.7 In particular, the licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

10.8 Once the review has been completed, the licensing authority must, as soon as possible, notify its decision to:

- the licence holder
- the applicant for review (if any)
- the Commission
- any person who made representations
- the chief officer of police or chief constable; and
- Her Majesty's Commissioners for Revenue and Customs

## PART C

### PERMITS/TEMPORARY AND OCCASIONAL USE NOTICE

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

1.1 Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).

1.2 The Gambling Act 2005 states that a licensing authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25. The Gambling Commission's Guidance to Licensing Authorities also states: "licensing authorities may wish to give weight to matters relating to protection of children from being harmed or exploited by gambling and to ensure that staff supervision adequately reflect the level or risk to this group and a plan for the unlicensed family entertainment centre must be submitted with any application. (24.8)"

1.3 Guidance also states: "An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the Chief Officer of Police has been consulted on the application. Licensing authorities may also consider asking applicants to demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- 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 (24.9) and
- how they will address child protection issues

It should be noted that a licensing authority cannot attach conditions to this type of permit.

1.4 Given that the premises will particularly appeal to children and young persons, in considering applications, the Council will give weight to child protection issues.

1.5 Statement of Principles - This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and

procedures will each be considered on their merits, however, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises. This licensing authority will also expect, as per Gambling Commission Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

## **2. (Alcohol) Licensed premises gaming machine permits - (Schedule 13 paragraph 4(1))**

### **2.1 Automatic entitlement: 2 machines**

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.

2.2 The applicant may need to satisfy the Council they may have regard to the need to protect children and vulnerable persons from being harmed or exploited by gambling and have sufficient measures in place to ensure that under 18 year olds do not have access to the adult gaming machines.

2.3 Other possible measures that could be offered by the applicant may include:

- the adult only machines being in sight of the bar, or in the sight of staff who monitor that the machines are not being used by those under 18
- providing notices and signage
- providing of information leaflets or helpline numbers for organisations such



as GamCare or Gamblers Anonymous.

This list is not mandatory, nor exhaustive. It is an example of possible measures.

- 2.4 If premises require a licence for their non-alcohol licensed area they may need to apply for an Adult Gaming Centre premises licence.
- 2.5 The Council can grant the application with a smaller number of gaming machines the applied for, or those of a different category. The Council however, cannot attach any other types of conditions.
- 2.6 The holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the gaming machines.
- 2.7 The Council may cancel a permit if the holder fails to pay the annual fee, unless the failure is a result of an administrative error.

### 2.3 **Permit: 3 or more machines**

If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*”

This licensing authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. 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 GamCare and Gamblers Anonymous.

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.

### **3. Prize Gaming Permits**

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

3.2 This licensing authority has prepared a Statement of Principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:

- that they understand the limits to stakes and prizes that are set out in Regulations;
- that the gaming offered is within the law
- Clear policies that outline the steps to be taken to protect children from harm.

3.4 In making its decision on an application for this permit the licensing authority does not need to (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance (Gambling Act 2005, Schedule 14 paragraph 8(3)).

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

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

### **4. Club Gaming and Club Machines Permits**

4.1 Members Clubs and Miners’ welfare institutes (but not Commercial Clubs)

may apply for a Club Gaming Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in forthcoming regulation.

- 4.2 Members Clubs and Miner's welfare institutes – and also Commercial Clubs – may apply for a Club Gaming Machine Permit. A Club Gaming Machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D). NB Commercial Clubs may not site category B3A gaming machines offering lottery games in their club.

- 4.3 Gambling Commission Guidance states: "Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulation and these cover bridge and whist clubs, which replicates the position under the Gambling Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations."

- A members club will have to satisfy the Council it meets these requirements
- Permanent in nature
- Not established to make commercial profit
- Controlled by its members equally

- 4.4 The Commission Guidance also notes that "licensing authorities may only refuse an application on the grounds that:

- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- (b) the applicant's premises are used wholly or mainly by children and/or young persons;
- (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- (d) a permit held by the applicant has been cancelled in the previous ten years; or
- (e) an objection has been lodged by the Commission or the police.

- 4.5 There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003

(Schedule 12 paragraph 10). As the Gambling Commission's Guidance to Licensing Authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:

- (a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
- (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."

- 4.6 There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

## **5. Temporary Use Notices**

- 5.1 Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Use Notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.
- 5.2 The licensing authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.
- 5.3 The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this Statement the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single winner.
- 5.4 There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place".

In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership / occupation and control of the premises.

- 5.5 Premises are limited to a maximum 21 days of temporary gambling activities per 12 month period, taken as per calendar year, and may be made up of several notices up to the maximum.
- 5.6 The applicant must give the Council at least 3 months and 1 day notice of the activity taking place.
- 5.7 Copies of the notice must be sent by the applicant to:
- the Gambling Commission
  - the Chief Officer of Derbyshire Police
  - HM Revenue and Customs and, if applicable
  - Any other licensing authority in whose are the premises are situated
- 5.8 This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities.
- 6. Occasional Use Notices**
- 6.1 The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

## **PART D**

### **DELEGATIONS**

- 1.1 The Council recognises many of the decisions and functions under the Act are purely administrative in nature. In the interests of speed, efficiency and cost-effectiveness the Council will implement the suggested delegation of functions as outlined in the guidance. These are reproduced in Appendix B.
- 1.2 Where there are no representations being made to an application for the grant of a premises licence or no objections being made to a club gaming or club machine permit or to an activity taking place under a temporary use or occasional use notice, these matters will be dealt with by the licensing officers. This is to ensure applications are dealt with speedily.
- 1.3 The points of contact for any licensing issues or enquiries are; Licensing Section, North East Derbyshire District Council, District Council Offices, 2013 Mill Lane, Wingerworth, Chesterfield, S42 6NG or telephone 01246 217228, or email [licensing@ne-derbyshire.gov.uk](mailto:licensing@ne-derbyshire.gov.uk) . A copy of this Statement of Principles is available at [www.ne-derbyshire.gov.uk](http://www.ne-derbyshire.gov.uk)

The Act and the guidance issued by the Gambling Commission is available at [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

## **APPENDIX 2**

<b>Comment</b>	<b>Licensing Section Response</b>
List of consultees- Alan Charles in no longer a Councillor	Removed the title Cllr from Alan Charles details in the consultees list.
Paragraph 1.1 – the use of the word most is a bit vague and potentially unnecessary. If there are exceptions where these principles do not apply then this should be changed to something like appropriate???	Agree – removed the word most from that paragraph
Paragraph 2.5 list of persons consulted – would it be possible to include a larger number of gambling establishments in the District, rather than just Ladbrokes?	We have consulted with the Association of British Bookmakers (ABB) who are an umbrella body. We consulted with Ladbrokes specifically because they had previously requested that they be included on any such exercises.
Paragraph 5.3 of Part A – There is a statement that "the Council will carefully consider if an application in respect of certain gambling premises located very close to a school or centre for gambling addiction should be granted in light of the third licensing objective. If an applicant for a premises licence can show how licensing objective concerns can be overcome, that will be taken into consideration". This statement needs to be placed into context and should make it clear that the licensing authority will need to consider whether there is clear evidence of a potential risk to the licensing objectives. As far as context is concerned, the licensing statement of principles should recognise that there has been regulation of betting premises in particular for over 50 years and throughout that time, betting premises have been situated in a high footfall or densely populated residential areas. Betting offices are almost always situated in areas where there are children and have often been situated near schools. Despite this, there is minimal evidence of underage persons attempting to use betting offices. Where they do, operators have policies and procedures to ensure that those who are not permitted to bet (or indeed enter the premises) do not do so. The mere proximity of premises to a school is not a reason for rejection of an application and indeed will be covered by the local area risk assessment	Still have concerns regarding betting premises located very closely to a school or centre for gambling addiction. The statement clearly indicates that each case will be decided on its merits and the Council will not adopt a rigid rule-making to its decision making process. Officers suggest that the paragraph is amended to read "if an applicant can show how licensing objective concerns can be overcome, that will be taken into consideration."

that will need to be completed by an operator after 6 April 2016. Furthermore, the paragraph appears contrary to the overriding principle of “aim to permit” with a higher evidential burden appearing to be introduced. We respectfully submit that this paragraph be redrafted.	
Paragraph 1.1 in Part B indicates “licensing authorities are able to exclude default conditions and also attach others where it is believed to be appropriate.” Once again, the statement of principles needs to be clear that conditions will only be imposed where there is clear evidence of a risk to the licensing objectives. The starting point for consideration of any application is that it will be granted subject to the mandatory and default conditions which are usually sufficient to ensure operation that is reasonably consistent with the licensing objectives. It is only where there is clear evidence of a risk to the licensing objectives in a particular case that the licensing authority should consider the imposition of additional conditions to supplement the mandatory and default conditions. Conditions must be imposed only where there is evidence of a risk to the licensing objectives and not where it is “believed to be appropriate” (paragraph 1.1) or where there is “perceived need” or “concerns.”	Add “but will only do so where there is clear evidence of a risk to the licensing objectives.” Also, amend “believed to be appropriate” to “where there is a perceived need or concerns.”
Paragraph 1(iv) deals with location. The final two sentences of this paragraph cause the ABB significant concerns. Any policy that a specific area is an area where gambling premises should not be located may be unlawful. This paragraph appears to implement a cumulative impact type policy as exists within the Licensing Act 2003. Such a policy is contrary to the overriding principles of “aim or permit” contained with S153 Gambling Act 2003. Similarly, the reversal of the burden of proof on the final sentence that requires the applicant to demonstrate why an application should be granted is contrary to that principle. These two sentences should be removed and replaced with the reiteration of the principle simply that each case will be determined in its own merits.	The paragraph makes it clear that any decision will be based on the licensing objectives and not commercial matters. The paragraph addresses a situation where it may be deemed appropriate that no gambling premises should not be located and makes it clear that any such decision would require an amendment to this policy. Any such policy would not prevent an application being made and each application would be decided on its own merits. Suggest amend wording to read “the authority may identify an area as high risk and would expect licensees to take appropriate steps to ensure that advertising relating to their premises or relating to their event at their premises is not displayed at times when children and likely to be near the premises. The licensee would be reasonably expected to have sufficient controls in place to mitigate associated risks in such areas and if not, the Licensing Authority may consider may consider other controls” themselves.
In the section of the draft statement of	Suggest add sentence stating “The Council is aware of



<p>principles that deals with the first licensing objective – preventing gambling from being a source of crime and disorder, being associated with crime or disorder or being used to support crime, we suggest that further details be given with regard to nuisance and disorder. The paragraph should be expanded to make it clear that issues of nuisance are not relevant conditions and that the Gambling Commission has defined disorder as intending to mean an activity that is more serious and disruptive than mere nuisance</p>	<p>the distinction between disorder and nuisance and will consider factors (for example whether Police assistance was required and how threatening the behaviour was to those who could see or hear it) so as to make that distinction.”</p>
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