



# **STATEMENT OF GAMBLING POLICY**

DECEMBER 2009

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## **PART A – THE GAMBLING ACT 2005**

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

- 1.1 Under the Gambling Act 2005 (the Act), the Borough Council of Newcastle-under-Lyme is the licensing authority for Newcastle-under-Lyme and licences premises for gambling activities as well as granting various other gambling permits. In this document unless otherwise stated any references to the Council are to the Borough Council of Newcastle-under-Lyme Licensing Authority
- 1.2 The Council will carry out its functions under the Act with a view to promoting the three licensing objectives set out at Section 1 of the Act. The licensing objectives are:
- Preventing gambling from being a source of crime or disorder, being associated with crime 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.
- 1.3 More information can be found about how the Council will promote the licensing objectives in Parts B and C of this document
- 1.4 The Council will also follow any regulations and statutory guidance issued in accordance with the Act and have regard to any Codes of Practice issued by the national gambling regulator, the Gambling Commission
- 1.5 The Council is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling insofar as it thinks it is:
- 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 Council's Statement of Gambling Policy.

### **2. The Borough of Newcastle-under-Lyme**

- 2.1 The Borough is the largest district in Staffordshire and has a population of 120,000. The majority of the population live in the urban centres of Newcastle-under-Lyme and Kidsgrove which are located in close proximity to the City of Stoke-on-Trent and forms part of the North Staffordshire Conurbation. The areas around the urban centre to the north, south and west are mainly rural comprising mostly Green Belt and Areas of Special Landscape where new development is restricted and population density is low

- 2.2 The Borough has a black and minority ethnic population of just over 2% made up of a number of different groups with no single largest minority community
- 2.3 Over recent years there has been significant growth in entertainment use within Newcastle town centre and Newcastle now has a vibrant night time economy
- 2.4 This Statement of Gambling Policy seeks to promote the licensing objectives within the Borough.

### **3. The Purpose of the Gambling Policy**

- 3.1 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 under the Act. This document fulfils this requirement. Such statement must be published at least every three years. The statement can also be reviewed from time to time and any amendments must be consulted upon. The statement must then be re-published
- 3.2 The Council consulted widely upon this Policy Statement before finalising and publishing it. A list of the consultees is given below:
- Staffordshire Police
  - Staffordshire County Council
  - Representatives of local businesses (including the North Staffordshire Chamber of Trade and the Newcastle Chamber of Trade)
  - Local residents and their representatives
  - Town and Parish Councils in the Borough
  - Local Members of Parliament
  - National bodies representing the gambling trade
  - National charities concerned with the social impact of gambling
  - Representatives of existing licence holders
  - Renew and North Staffs Regeneration Zone
  - Newcastle Community Safety Partnership
  - Keele University
  - Local financial/debt management agencies
  - Department of Community Services, Newcastle Borough Council
  - Department of Regeneration and Planning Services, Newcastle Borough Council
  - Staffordshire County Council Trading Standards
  - Newcastle LSP
  - Aspire Housing
  - North Staffs Race Equality Council
- 3.3 The consultation took place between September and November 2006 and followed the Cabinet Office Code of Practice on consultations published in April 2004. This document is available from the Cabinet Office website at [www.cabinetoffice.gov.uk](http://www.cabinetoffice.gov.uk)
- 3.4 A copy of the consultation report containing a summary of the comments received and the consideration by the Council of those comments is available on request

- 3.5 The Policy was approved at a meeting of the Full Council on 20<sup>th</sup> December 2006 (resolution 563/06).

#### **4. The Licensing Framework**

- 4.1 The Gambling Act 2005 brought about changes to the way that gambling is administered in the United Kingdom. The Gambling Commission is the national gambling regulator and has a lead role in working with Central Government and local authorities to regulate gambling activity
- 4.2 The Gambling Commission issues operators' licences and personal licences. Any operator wishing to provide gambling at certain premises must have applied for the requisite personal licence and operator's licence before they can approach the Council for a premises licence. In this way, the Gambling Commission is able to screen applicants and organisations to ensure they have the correct credentials to operate gambling premises. The Council's role is to ensure premises are suitable for providing gambling in line with the three licensing objectives and any Codes of Practice issued by the Gambling Commission. The Council also issues various permits and notices to regulate smaller scale and/or ad hoc gambling in other locations such as pubs, clubs and hotels
- 4.3 The Council does not licence large society lotteries or remote gambling through websites. These areas fall to the Gambling Commission. The National Lottery is not licensed by the Gambling Act 2005 and continues to be regulated by the National Lottery Commission under the National Lottery Act 1983.

#### **5. Declaration**

- 5.1 This Policy Statement 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
- 5.2 In producing the final Statement of Gambling Policy, the Council declares that it has had regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission and any responses from those consulted on the Policy Statement.

#### **6. Responsible Authorities**

- 6.1 The Act empowers certain agencies to act as responsible authorities so that they can employ their particular area of expertise to help promote the licensing objectives. Responsible authorities are able to make representations about licence applications or apply for a review of an existing licence. Responsible authorities will also offer advice and guidance to applicants
- 6.2 The Council is required by regulations to state the principles it will apply 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;

- The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group etc.

6.3 In accordance with the regulations, the Council designates the Local Safeguarding Children Board for this purpose

6.4 The contact details of all the responsible authorities under the Gambling Act 2005 can be found in our application packs and on the Council's website at [www.newcastle-staffs.gov.uk](http://www.newcastle-staffs.gov.uk).

## **7. Interested Parties**

7.1 Interested parties are certain types of people or organisations that have the right to make representations about licence applications or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as set out below.

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 application 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 paragraphs (a) or (b).

7.2 The Council is required by regulations to state the principles it will apply to determine whether a person is an interested party. The principles are:

- Each case will be decided upon its merits. The Council will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance to Local Authorities. Within this framework, the Council will accept representations made on behalf of residents and tenants' associations
- In order to determine if an interested party lives or has business interests sufficiently close to the premises to be likely to be affected by the gambling activities, the Council will consider factors such as the size of the premises and the nature of the activities taking place.

7.3 The Council will provide more detailed information on the making of representations in a separate guidance note.

## **8. Exchange of Information**

8.1 Licensing authorities are required to include in their Policy Statement the principles to be applied by the Authority with regard to the exchange of

information between it and the Gambling Commission, as well as other persons listed in Schedule 6 to the Act

- 8.2 The principle that the Council 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 Council will also have regard to any guidance issued by the Gambling Commission to local authorities on this matter when it is published, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

## **9. Licensing Authority Functions**

9.1 Licensing authorities are responsible under the Act for:

- Licensing premises where gambling activities are to take place by issuing premises licences
- Issuing provisional statements
- Regulating members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issuing Club Machine Permits to commercial clubs
- Granting permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
- Receiving notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or less gaming machines
- Granting Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises under the Licensing Act 2003, where more than two machines are required
- Registering small society lotteries below prescribed thresholds
- Issuing Prize Gaming Permits
- Receiving and endorsing Temporary Use Notices
- Receiving Occasional Use Notices (for tracks)
- Providing information to the Gambling Commission regarding details of licences issued (see section above on information exchange)
- Maintaining registers of the permits and licences that are issued under these functions

9.2 The Council will not be involved in licensing remote gambling at all. This will fall to the Gambling Commission via operators' licences.



**10. Definition of Children and Young Persons**

In this policy “child” means an individual who is less than 16 years old.

In this policy “young person” means an individual who is not a child but who is less than 18 years old.

## **11. PART B – PROMOTION OF THE LICENSING OBJECTIVES**

### **10. Preventing Gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime**

10.1 The Gambling Commission will take a lead role in keeping gambling crime-free by vetting all applicants for personal and operators' licences. The Council's main role is to try and promote this area with regard to actual premises. So, where an area has known high levels of organised crime the Council will consider carefully whether gambling premises are suitable to be located there (see paragraphs 13.8 and 13.9) and whether conditions may be required such as the provision of door supervision (see paragraph 13.15)

10.2 There is a distinction between disorder and nuisance. In order to make the distinction when incidents of this nature occur, the Council will consider factors such as whether Police assistance was required and how threatening the behaviour was to those who could see it

10.3 Issues of nuisance cannot be addressed by the Gambling Act provisions. However, problems of this nature can be addressed through other legislation as appropriate.

10.4 Examples of the specific steps the Council may take to address this area can be found in the various sections covering specific premises types in Part C of this document and also in Part D which covers permits and notices.

### **11. Ensuring that Gambling is conducted in a fair and open way**

11.1 The Council is aware that except in the case of tracks (see Section 18), generally the Gambling Commission does not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences.

11.2 The Council will however familiarise itself with operator licence conditions and will communicate any concerns to the Gambling Commission about misleading advertising or any absence of required game rules or other information.

11.3 Examples of the specific steps the Council may take to address this area can be found in the various sections covering specific premises types in Part C of this document, and also in Part D which covers permits and notices.

### **12. Protection of Children**

12.1 This licensing 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 Council will therefore consider whether specific measures are required at particular premises with regard to this licensing objective. Appropriate measures may include supervision of entrances/machines, segregation of areas etc.

- 12.2 The Council will pay particular attention to any Codes of Practice which the Gambling Commission issues regarding this licensing objective in relation to specific premises such as casinos
- 12.3 Examples of the specific steps the Council may take to address this area can be found in the various sections covering specific premises types in Part C of this document and also in Part D which covers permits and notices.

***Protection of Vulnerable People***

- 12.4 Regarding the term 'vulnerable persons', the Council is not seeking to offer a definition but will, for regulatory purposes, assume that this group includes people who gamble more than they want to; people who gamble beyond their means and people who may not be able to make informed or balanced decisions about gambling due to mental health needs, learning disability or substance misuse relating to alcohol or drugs. The Council will consider this licensing objective on a case by case basis having regard to any guidance issued by the Gambling Commission. Should a practical definition prove possible in future then this policy statement will be updated with it, by way of a revision
- 12.5 The Council will promote this objective by publishing information on the Council website about the symptoms of problem gambling and the various support organisations which are available to help problem gamblers. These web pages will be prepared in conjunction with these support agencies
- 12.6 The Council will also familiarise itself with operator licence conditions related to this objective which may include a requirement for operators to provide information to their customers on how to gamble responsibly and how to access information about problem gambling. The Council will communicate any concerns to the Gambling Commission about any absence of this required information
- 12.7 Examples of the specific steps the Council may take to address this area can be found in the various sections covering specific premises types in Part C of this document and also in Part D which covers permits and notices.

## **PART C – PREMISES LICENCES**

### **13. Introduction to Premises Licensing**

- 13.1 The Council will issue premises licences to allow those premises to be used for certain types of gambling. For example, premises licences will be issued to amusement arcades, bingo halls, bookmakers and casinos
- 13.2 Premises licences will be subject to the permissions/restrictions set out in the Gambling Act 2005 and regulations as well as specific mandatory and default conditions which will be detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach other conditions, where it is believed to be necessary and proportionate.

#### ***Definition of 'Premises'***

- 13.3 Premises is defined in the Act as 'any place'. Different premises licences cannot apply in respect of a single premises at different times. However, it is possible for a single building to be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. Whether different parts of a building can properly be regarded as being separate premises will always be a question of fact in the circumstances
- 13.4 The Council will 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, the Council will assess entrances and exits from parts of a building covered by one or more licences to satisfy itself that they are separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area
- 13.5 The Council will pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). Issues that the Council will consider before granting such applications include whether children can gain access; compatibility of the two establishments and the ability to comply with the requirements of the Act. In addition, an overriding consideration will be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act
- 13.6 An applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed. The Gambling Commission has advised that references to 'the premises' are to the premises in which gambling may now take place. Thus a licence to use premises for gambling will only be issued by the Council in relation to premises that are ready to be used for gambling. Whether a premises is finished to a degree that it can be considered for a premises licence will always be a question of fact in the circumstances. Requiring a building to be complete ensures that the Council can, if necessary, inspect it fully, as can other responsible authorities with inspection rights
- 13.7 Where a premises is not yet built or is about to be altered for the purpose of providing gambling and ultimately a premises licence will be required, the

applicant should in the first instance consider making an application for a provisional statement (see Section 20).

### ***Location***

13.8 The Council is aware that demand issues (e.g. the likely demand or need for gambling facilities in the area) cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. The Council will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder

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

- The proximity of the premises to schools and vulnerable adult centres
- The proximity of the premises to residential areas where there may be a high concentration of families with children
- The size of the premises and the nature of the activities taking place
- Any levels of organised crime in the area.

Such information may be used to inform the decision the Council makes about whether to grant the licence, to grant the licence with special conditions or to refuse the application

13.10 This policy does not preclude any application being made and each application will be decided on its merits, with the onus being upon the applicant to show how the concerns can be overcome.

### ***Duplication with other regulatory regimes***

13.11 The Council will seek to avoid any duplication with other statutory/regulatory systems where possible, including planning. The Council 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 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.

### ***Conditions***

13.12 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, and/or related to the area where the premises is based
- Fairly and reasonably related to the scale and type of premises and
- Reasonable in all other respects

13.13 Decisions about individual conditions will be made on a case by case basis, although there will be a number of control measures the Council will consider using, such as the use of door supervisors, supervision of adult gaming machines, appropriate signage for adult only areas etc. There are specific comments made in this regard under each of the licence types below. The

Council will also expect the applicant to offer his/her own suggestions as to the way in which the licensing objectives can be met effectively

13.14 There are conditions which the Council cannot attach to premises licences which are:

- Any condition on the premises licence which makes it impossible for the applicant 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, winnings or prizes.

### ***Door supervision***

13.15 The Council will consider whether there is a need for door supervision in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime. It should be noted that the Gambling Act 2005 has amended the Private Security Industry Act 2001 and that door supervisors at casinos or bingo premises are not required to be licensed by the Security Industry Authority. Where door supervisors are required at these premises, it is the operator's responsibility to ensure that any persons employed in this capacity are fit and proper to carry out such duties. Normally door supervisors will only be required in betting offices if there is clear evidence from the history of trading that it is necessary and proportionate. Possible ways to achieve this could be to carry out a criminal records (CRB) check on potential staff and also to ensure that staff members have attended Security Industry recognised training

## **14. Adult Gaming Centres and Licensed Family Entertainment Centres (LFECs)**

14.1 Adult Gaming Centres are a new category of premises introduced by the Act that are most closely related to what are commonly known as adult only amusement arcades, seen in many city centres. Licensed Family Entertainment Centres (LFECs) are those premises which usually provide a range of amusements such as computer games and penny pushers and may have a separate section set aside for adult only gaming machines with higher stakes and prizes.

14.2 Under the Act a premises holding an adult gaming centre licence will be able to make certain numbers of category B, C and D gaming machines available and no-one under 18 will be permitted to enter such premises. LFECs will be able to make available a certain number of category C and D machines where there is clear segregation in place so children do not access the areas where the category C machines are located (see Appendix 1)

- 14.3 The Council will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling in the above premises. The Council will expect applicants to satisfy the Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises or in the case of LFECs to the adult only gaming machine areas
- 14.4 The Council will expect applicants to offer their own measures to meet the licensing objectives. However, appropriate measures/licence conditions may cover issues such as:
- Proof of age schemes (e.g. PASS schemes)
  - The use of Challenge 21 policy
  - The use of 'No ID No Entry' policy
  - To train staff in the law and challenge people as to their age
  - CCTV
  - Door supervision
  - Supervision of machine areas
  - Physical separation of areas
  - Location of entry
  - Notices/signage
  - Specific opening hours
  - The appointment of a single senior named point of contact to assist in compliance.

This list is not mandatory nor exhaustive and is merely indicative of examples

- 14.5 The Council will refer to the Gambling Commission's website to familiarise itself with any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. The Council will also make itself aware of any mandatory or default conditions on these premises licences when they have been published.

## **15. Casinos**

- 15.1 The Gambling Act states that a casino is an arrangement whereby people are given the opportunity to participate in one or more casino games whereby casino games are defined as a game of chance which is not equal chance gaming. This means that casino games offer the chance for multiple participants to take part in a game competing against the house or bank at different odds to their fellow players

- 15.2 The Act introduces three new categories of larger casino –

- One super/regional casino
- Eight large casinos and
- Eight small casinos

These 17 casinos will be sited in various regions around Britain in line with decisions made by the Independent Casino Advisory Panel

### ***Casino Resolution***

- 15.3 With regard to the casinos referred to at paragraph 15.2, each local authority is required to publish information in its Statement of Gambling Policy about how the Authority has taken or will take a decision to pass (or not to pass) a casino resolution. A casino resolution is a judgment made by a local authority about whether it will allow any small, large or the regional casino to be located in its authority area. The Council has passed a resolution that there will be no casinos in the Newcastle-under-Lyme town centre.

### ***Proposal for a Casino***

- 15.4 The Council has not submitted a proposal for a large casino to the Independent Casinos Advisory Panel

### ***Casinos and Competitive Bidding***

- 15.5 Where a local authority area is enabled to grant a premises licence for a new style casino there are likely to be a number of operators who will want to run the casino. In such situations the Council will have regard to Schedule 9 of the Gambling Act 2005

### ***Licence Considerations/Conditions***

- 15.6 The Gambling Commission has indicated that further guidance will be issued in due course about the particular issues that licensing authorities should take into account in relation to the suitability and layout of casino premises. This guidance will be considered by the Council when it is made available

### ***Betting Machines***

- 15.7 The Council is aware that Section 181 of the Act contains an express power for licensing authorities to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a casino premises licence (where betting is permitted in the casino). When considering whether to impose a condition to restrict the number of betting machines in particular premises, the Council, amongst other things, 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.

## **16. Bingo Premises**

- 16.1 There is no official definition for bingo in the Gambling Act 2005. However, from a licensing point of view there will be a new category of premises licence specifically for bingo premises which will be used by traditional commercial bingo halls for both cash and prize bingo. In addition, they will also be able to provide a limited number of gaming machines in line with the provisions of the Act (see Appendix 1)
- 16.2 The Council is aware that it is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than



on category D machines. Where category C or above machines are available in premises to which children are admitted then 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.

16.3 The Council is also aware that the Gambling Commission is to issue further guidance regarding the particular issues that licensing authorities should take into account in relation to the suitability and layout of bingo premises. This guidance will be considered by the Council once it is made available.

## **17. Betting Premises**

17.1 Betting premises are premises such as bookmakers where various types of gambling are authorised to take place. The Act contains a single class of licence for betting premises. However, within this single class there are different types of premises which require licensing such as normal high street bookmakers, bookmakers located in self-contained facilities at racecourses as well as the general betting premises licences that track operators will require

17.2 **Betting machines** – the Council is aware that Section 181 of the Act contains an express power for licensing authorities to restrict the number of betting machines and the nature and circumstances in which they are made available by attaching a licence condition to a betting premises licence. When considering whether to impose a condition to restrict the number of betting machines in particular premises the Council, amongst other things, 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.

## **18. Tracks**

18.1 Tracks are sites where races or other sporting events take place. Betting is a major gambling activity on tracks, both in the form of pool betting (often known as the 'totaliser' or 'tote'), and also general betting, often known as 'fixed odds' betting. Multiple betting outlets are usually located on tracks such as 'on course' betting operators who come on to the track just on race days to provide betting for the races taking place on that track. There can also be 'off course' betting operators who may operate self-contained facilities at the tracks which offer

customers the chance to bet on other events, not just those taking place on the track. All tracks will require an overriding 'general betting premises licence' that the track operator will hold

- 18.2 The Council 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. The Council is also aware that the track operator may not be required to hold an operator licence as there may be several premises licence holders at the track who will need to hold their own operator licences. The Council will consider the impact upon the protection of children 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
- 18.3 Children and young persons will be permitted to enter track areas where facilities for betting are provided on days when racing takes place, although they are still prevented from entering areas where gaming machines (other than Category D machines) are provided
- 18.4 The Council will expect applicants to offer their own measures to meet the licensing objectives. However, appropriate measures/licence conditions may cover issues such as:
- Proof of age schemes (e.g. PASS schemes)
  - The use of Challenge 21 policy
  - The use of 'No ID No Entry' policy
  - To train staff in the law and challenge people as to their age
  - CCTV
  - Door supervision
  - Supervision of machine areas
  - Physical separation of areas
  - Location of entry
  - Notices/signage
  - Specific opening hours
  - The appointment of a single senior named point of contact to assist in compliance.

This list is not mandatory nor exhaustive and is merely indicative of examples.

- 18.5 **Betting machines** – the Council is aware that Section 181 of the Act contains an express power for licensing authorities to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence. When considering whether to impose a condition to restrict the number of betting machines in particular premises, the Council, amongst other things, 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. The Council will also consider the special implications that may arise at a track due to the size of the premises and the possibility that machines may be scattered around the site making it more difficult for the track operator to comply with the law and prevent children from betting on the machines

- 18.6 The Council agrees with the Commission's view that it is preferable for all self-contained premises operated by off-course betting operators on track to be the subject of separate premises licences. This ensures that there is clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises
- 18.7 **Condition on rules being displayed** – the Council will consider any Gambling Commission guidance about the application of conditions regarding rules being displayed. The Council may require the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that the rules are displayed in the race card or made available in leaflet form from the track office.

## **19. Travelling Fairs**

- 19.1 Travelling fairs have traditionally been able to provide various types of low stake gambling without the need for a licence or permit provided that certain conditions are met and this provision continues in similar fashion under the new Act
- 19.2 Travelling fairs have the right to provide an unlimited number of category D gaming machines and/or equal chance prize gaming (without the need for a permit) as long as the gambling amounts to no more than an ancillary amusement at the fair (see Appendix 1)
- 19.3 The Council will consider whether any fairs which take up the above entitlement fall within the statutory definition of a travelling fair
- 19.4 The Council is aware that the 27 day statutory maximum for the land being used as a fair is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. The Council will work with its neighbouring authorities to ensure that land which crosses its boundaries is monitored so that the statutory limits are not exceeded.

## **20. Provisional Statements**

- 20.1 A provisional statement application is a process which allows a developer to examine the likelihood of whether a building which has yet to be constructed or is about to be altered for the purpose of gambling would be granted a premises licence when the building work is complete. A provisional statement is not a licence and merely gives the holder some form of guarantee that a premises licence would be granted so the project can be started. Once works are complete a full premises licence would still be required
- 20.2 In terms of representations about premises licence applications, following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage or they reflect a change in the applicant's circumstances. In addition, the Council may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- a) which could not have been raised by objectors at the provisional licence stage; or
- b) which in the Authority's opinion reflect a change in the operator's circumstances

20.3 When determining a provisional statement application the Council will operate in accordance with the Act and will not have regard to any issues related to planning consent or building regulations, e.g. the likelihood that planning consent will be granted.

## **PART D – PERMITS, TEMPORARY/OCCASIONAL USE NOTICES AND SMALL SOCIETY LOTTERY REGISTRATIONS**

### **Permits, Temporary/Occasional Use Notice**

#### **21. Unlicensed Family Entertainment Centre Gaming Machine Permits (Statement of Principles on Permits)**

- 21.1 The term 'Unlicensed Family Entertainment Centre' is one defined in the Act and refers to a premises which provides category D gaming machines along with various other amusements such as computer games and penny pushers. The premises are 'unlicensed' in that they do not require a premises licence but do require a permit to be able to provide category D machines. It should not be confused with a 'Licensed Family Entertainment Centre' which does require a premises licence because it contains both category C and D gaming machines
- 21.2 The Gambling Act 2005 contains a provision for local authorities to prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit. Schedule 10, paragraph 7 of the Act states: "In preparing this Statement and/or considering applications, it [the Council] 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"
- 21.3 In accordance with Gambling Commission guidance, the Council will give weight to child protection issues when considering applications for permits
- 21.4 The Council 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 Council will assess these policies and procedures on their merits. However, they may include appropriate measures/training for staff regarding suspected truant schoolchildren on the premises, measures/training covering how staff would deal with unsupervised children being on the premises, or children causing problems on or around the premises. The Council will also expect 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), and that staff are trained to have a full understanding of the maximum stakes and prizes
- 21.5 The Council is aware that an application for a permit may only be granted if the Chief Officer of Police has been consulted on the application
- 21.6 In line with the Act the Council cannot attach conditions to this type of permit and the statement of principles only applies to initial applications and not to renewals.

#### **22. Gaming Machine Permits in premises licensed for the sale of alcohol**

- 22.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have two gaming machines of

categories C and/or D. The premises merely need to notify the Council. The Council 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.

22.2 If a premises wishes to have more than two machines, then it needs to apply for a permit and the Council must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission under Section 25 of the Gambling Act 2005, and 'such matters as it thinks relevant'. The Council considers that 'such matters' will be decided on a case by case basis, but generally regard will be had to the need to protect children and vulnerable persons from harm or being exploited by gambling. The Council will also 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

22.3 Measures which may satisfy the Council that there will be no access could include the adult machines being situated in close proximity to the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18 years of age. Notices and signage may also help. Regarding the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare

22.4 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would need to be dealt with under the relevant provisions of the Act

22.5 The Council can decide to grant the application with a smaller number of machines and/or a different category of machines from that applied for. Conditions (other than these) cannot be attached

22.6 The holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine

### **23. Prize Gaming Permits – Statement of Principles on Permits**

23.1 The Council will expect the applicant to set out the types of gaming that he or she is intending to offer and 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.

23.2 In making its decision on an application for prize gaming permits, the Council does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance

23.3 There are conditions in the Gambling Act 2005 with which the permit holder must comply, but the Council 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.

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

24.1 Members' clubs and miners' welfare institutes (but not commercial clubs) may apply for a club gaming permit or a club gaming machines permit. The club gaming permit will enable the premises to provide gaming machines (three machines of categories B, C or D), equal chance gaming and games of chance as set out in forthcoming regulations. A club gaming machine permit will enable the premises to provide gaming machines (three machines of categories B, C or D)

24.2 To qualify for these special club permits, a members' club must have at least 25 members and be established and conducted wholly or mainly for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include workingmen's clubs, branches of the Royal British Legion and clubs with political affiliations

24.3 Before granting the permit, the Council will need to satisfy itself that the premises meet the requirements of a members' club and that the majority of members are over 18 years of age

24.4 The Council 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 they have 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 Gambling Commission or the Police.

24.5 There is also a fast track procedure available for premises which hold a club premises certificate under the Licensing Act 2003. Under the fast track procedure there is no opportunity for objections to be made by the Gambling Commission or the Police, and the grounds upon which the Council can refuse a permit are reduced. The grounds on which an application under the process may be refused are:

- a) that the club is established primarily for gaming
- 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.

## **25. Temporary Use Notices**

25.1 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 useful for a temporary use notice would include hotels, conference centres and sporting venues

25.2 The Act makes a special reference, in the context of temporary use notices, to a 'set of premises' to try and ensure that large premises which cannot reasonably be reviewed as separate are not used for more temporary use notices than permitted under the Act. The Council considers that the determination of what constitutes a 'set of premises' will be a question of fact in the particular circumstances of each notice that is given. In considering whether a place falls within the definition of a 'set of premises', the Council will look at, amongst other things, the ownership/occupation and control of the premises. The Council will be ready to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.



## **26. Occasional Use Notices (for Tracks)**

- 26.1 There is a special provision in the Act which provides that where there is betting on a track on eight days or less in a calendar year, betting may be permitted by an occasional use notice without the need for a full premises licence. Track operators and occupiers need to be aware that the procedure for applying for an occasional use notice is different to that for a temporary use notice
- 26.2 The Council has very little discretion regarding these notices apart from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. The Council will however consider the definition of a 'track' and whether the applicant is entitled to benefit from such notice.

## **27. Small Society Lottery Registrations**

- 27.1 The Act creates two principal classes of lotteries - licensed lotteries and exempt lotteries. Licensed lotteries are large society lotteries and lotteries run for the benefit of local authorities. These will be regulated by the Gambling Commission. Within the class of exempt lotteries, there are four sub classes, one of which is small society lotteries
- 27.2 A small society lottery is a lottery promoted on behalf of a non-commercial society as defined in the Act which also meets specific financial requirements set out in the Act. These may be administered by the Council for small societies who have a principal office in the area and wish to run such a lottery
- 27.3 A lottery is small if the total value of tickets put on sale in a single lottery is £20,000 or less and the aggregate value of the tickets put on sale in a calendar year is £250,000 or less
- 27.4 To be 'non-commercial', a society must be established and conducted:
- For charitable purposes
  - For the purpose of enabling participation in, or supporting, sport, athletics or a cultural activity; or
  - For any other non-commercial purpose other than that of private gain.
- 27.5 The other types of exempt lotteries are 'incidental non-commercial lotteries', 'private lotteries' and 'customer lotteries'
- 27.6 The National Lottery is not licensed by the Gambling Act 2005 and continues to be regulated by the National Lottery Commission under the National Lottery Act 1993.

## **PART E – ENFORCEMENT**

### **28. Enforcement Principles**

28.1 The Council will work closely with the responsible authorities in accordance with a locally established joint enforcement protocol and will aim to promote the licensing objectives by targeting known high risk premises following Government guidance around better regulation

28.2 In carrying out its enforcement duties with regard to the inspection of premises and the powers to institute criminal proceedings in respect of certain offences under the Act, the Council will try 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

**Targeted:**

Regulation should be focused on the problem and minimise side effects

28.3 The Council will endeavour to avoid duplication with other regulatory regimes as far as possible

28.4 The Council will also adopt a risk-based inspection programme in line with Government recommendations around better regulation and the principles of the Hampton Review

28.5 The main enforcement and compliance role for the Council in terms of the Gambling Act 2005 will be to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for the operator and personal licences. Concerns about the manufacture, supply or repair of gaming machines will not be dealt with by the Council but will be notified to the Gambling Commission. In circumstances where the Council believes a premises requires a premises licence for gambling activities and no such licence is in force, the Council will notify the Gambling Commission

28.6 The Council will also keep itself informed of developments regarding the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities

28.7 The Council's enforcement/compliance protocols/written agreements will be available upon request

## **29. Reviews**

29.1 A review is a process defined in the legislation which ultimately leads to a licence being reassessed by the Licensing Committee with the possibility that the licence may be revoked or suspended or that conditions may be amended or new conditions added

29.2 Requests for a review of a premises licence can be made by interested parties or responsible authorities. However, it is for the Council to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is:

- 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 this Authority's Statement of Gambling Policy.

In addition the Council may also reject the application on the grounds that the request is frivolous, vexatious, will not cause the Authority to wish to alter, revoke or suspend the licence, or is substantially the same as previous representations or requests for review

29.3 The Council can also initiate a review of a licence on the basis of any reason which it thinks appropriate.

## APPENDIX 1 – GAMING MACHINES

This Appendix describes the categories of gaming machine as set out in the Act (and in the Regulations) and the number of such machines that may be permitted in each type of gambling premises.

Table 1 below sets out the current proposals for the different categories with the maximum stakes and prizes that will apply. This table will be updated as soon as the proposals are confirmed.

Table 2 shows the maximum number of machines permitted and in the case of casinos the ratios between tables and machines.

**TABLE 1**

<b>Category of Machine</b>	<b>Maximum Stake</b>	<b>Maximum Prize</b>
A	Unlimited	Unlimited
B1	£2	£4,000
B2	£100	£500
B3	£1	£500
B4	£1	£250
C	50p	£25
D	10p or 30p when non-monetary prize	£5 cash or £8 non-monetary prize

**TABLE 2**

Premises type	Machine Category						
	A	B1	B2	B3	B4	C	D
Regional casino (machine/table ratio of 25-1 up to maximum)	Maximum of 150 machines Any combination of machines in categories B to D, within the total limit of 150 (subject to table ratio)						
Large casino (machine/table ratio of 2-1 up to maximum)		Maximum of 150 machines Any combination of machines in categories B to D, within the total limit of 150 (subject to table ratio)					
Small casino (machine/table ratio of 2-1 up to maximum)		Maximum of 80 machines Any combination of machines in categories B to D, within the total limit of 80 (subject to table ratio)					
Pre-2005 Act casinos (no machine/table ratio)		Maximum of 20 machines, categories B to D or C or D machines instead					
Betting premises and tracks operated by pool betting			Maximum of 4 machines, categories B2 to D				
Bingo premises				Maximum of 4 machines in category B3 of B4		No limit C or D machines	
Adult gaming centre				Maximum of 4 machines in category B3 of B4		No limit C or D machines	
Family entertainment centre (with premises licence)						No limit C or D machines	
Family entertainment centre (with permit)							No limit on category D machines
Clubs or miners' welfare institutes with permits					Maximum of 3 machines in categories B4 to D		
Qualifying alcohol licensed premises						1 or 2 machines of category C or D automatic upon notification	
Qualifying alcohol licences premises with gaming machine permit						Number as specified on permit	
Travelling fair							No limit on category D machines
	A	B1	B2	B3	B4	C	D