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Please Contact: Karen Hood  
Extension: 386

13<sup>th</sup> November 2017

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## **LICENSING COMMITTEE**

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Tuesday 21 November 2017 at 6.00 pm  
Council Chamber, Ryedale House, Malton

### **Agenda**

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**1 Emergency Evacuation Procedure**

The Chairman to inform Members of the Public of the emergency evacuation procedure.

**2 Apologies for absence**

**3 Minutes**

(Pages 3 - 4)

**4 Urgent Business**

To receive notice of any urgent business which the Chairman considers should be dealt with at the meeting as a matter of urgency by virtue of Section 100B(4)(b) of the Local Government Act 1972.

**5 Declarations of Interest**

Members to indicate whether they will be declaring any interests under the Code of Conduct.

Members making a declaration of interest at a meeting of a Committee or Council are required to disclose the existence and nature of that interest. This requirement is not discharged by merely declaring a personal interest without further explanation.

**6 THE GAMBLING ACT 2005 - DRAFT STATEMENT OF PRINCIPLES**

(Pages 5 - 40)

**7 Any other business that the Chairman decides is urgent**

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[For 9	Against 0	Abstain 0]
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This item was discussed and agreed before the minutes of the last meeting were approved and signed.

6 **Membership of the Licensing Sub Committee**

**Decision**

That a Licensing Sub Committee be set up comprising of any Members of the Licensing Committee who have undertaken the relevant training. A Licensing refresher session be arranged for all members of the Committee.

[For 9	Against 0	Abstain 0]
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7 **Review of Taxi and Private Hire Policy**

**Decision**

That the updated Taxi and Private Hire Policy (attached at Annex A) be approved.

[For 9	Against 0	Abstain 0]
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8 **Taxi Licensing - Letters of Authority**

**Decision**

That letters of authority, enabling authorised officers to administer the taxi licensing function and carry out enforcement activities in relation to taxis, be issued to those listed in part 2.1 of the Taxi Licensing - Letters of Authority report.

[For 9	Against 0	Abstain 0]
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9 **Any other business that the Chairman decides is urgent.**

There was no urgent business.



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<b>PART A:</b>	<b>MATTERS DEALT WITH UNDER DELEGATED POWERS</b>
<b>REPORT TO:</b>	<b>LICENSING COMMITTEE</b>
<b>DATE:</b>	<b>21 NOVEMBER 2017</b>
<b>REPORT OF THE:</b>	<b>DELIVERY AND FRONTLINE SERVICES LEAD BECKIE BENNETT</b>
<b>TITLE OF REPORT:</b>	<b>THE GAMBLING ACT 2005 – DRAFT STATEMENT OF PRINCIPLES</b>
<b>WARDS AFFECTED:</b>	<b>ALL</b>

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## **EXECUTIVE SUMMARY**

### **1.0 PURPOSE OF REPORT**

- 1.1 The purpose of this report is to inform Members of the requirement to issue and consult on a draft Statement of Principles in relation to the Gambling Act 2005 and seek Members approval to consult on the draft Statement.

### **2.0 RECOMMENDATION**

- 2.1 It is recommended that:

- i. The draft Gambling Act Statement of Principles be subject to formal consultation and following the consultation the Statement of Principles be resubmitted to the Licensing Committee on 8 May 2018.

### **3.0 REASON FOR RECOMMENDATION**

- 3.1 The Council must review its Statement of Principles every three years. The Statement is due for review and must be consulted upon, ratified by the Council and published before the 31 December 2018. The draft Statement of Principles is based on current regulations and guidance and requires Members approval prior to consultation.

### **4.0 SIGNIFICANT RISKS**

- 4.1 Failure to formally review or consult on a Statement of Principles within the timetable required by the Act, Regulations and guidance would mean the Council was not complying with its statutory duty and would also leave the Council open to legal challenge and any subsequent costs.

## REPORT

### 5.0 BACKGROUND AND INTRODUCTION

5.1 Section 349 of the Gambling Act 2005 (“the Act”) requires all licensing authorities to prepare and publish a Statement of Principles that they propose to apply in exercising their functions under the Act during the three year period to which the policy applies. A Statement of Principles will last for a maximum of three years, but can be reviewed by an authority at any time.

5.2 The existing Statement of Principles has been kept under review since coming into force on the 31 January 2016 and no revision has been deemed necessary to date. However, the Statement of Principles will require revising during 2018 in order for it to take effect from the 31 January 2019 (when a new three year cycle will commence).

### 6.0 POLICY CONTEXT

6.1 The Gambling Act 2005 imposes statutory requirements on the local authority as the Licensing Authority. The requirement to produce and consult on a Statement of Principles in relation to the Gambling Act 2005 has been identified.

### 7.0 CONSULTATION

7.1 Section 349(3) of the Act requires that the Licensing Authority consult the following on the Statement of Principles (or any subsequent revision):

- The Chief Officer of Police for the Authority’s area
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority’s area; and
- 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 Act.

7.2 Any written consultation will follow best practice as set out by the Cabinet Office (Consultation Principles November 2013) including allowing 12 weeks for responses to consultation. It is proposed to consult as widely as possible and publish the consultation document on the Council’s website

7.3 Proposed Consultation period: - 15th January 2018 to 9th April 2018.

### 8.0 REPORT DETAILS

8.1 A draft Statement of Principles is detailed in Annex A and is based on the requirements of the Act, the current guidance issued by the Gambling Commission and the template from Local Authority Coordinators of Regulatory Services (now local Government Regulation). This is the local government central body responsible for overseeing local authority regulatory and related services in the UK.

8.2 Members should note that there has been a limited number of changes to both regulations issued by the Secretary of State and guidance issued by the Gambling Commission in the intervening 3 year period, none of which materially affects the content of the current statement of principles. However, in April 2016 the Gambling Commission’s Licence Conditions and Codes of Practice (LCCP) were revised. These

required all existing licensees that provide gambling facilities at their premises, to assess the risks to the licensing objectives and have policies, procedures and control measures to reduce those risks. This has resulted in a minor addition to the current statement of principles to take account of this change. Apart from this and some numerical changes in guidance the current Statement of Principles will remain virtually unchanged for the years 2019-2022.

- 8.3 The regulations stipulate that the Statement of Principles (or any subsequent revision) must be published on the Authority's website and be made available for inspection by the public in the principal office or a public library in the area covered by the Statement. The Statement or revision must be published at least one month before it takes effect. Therefore any Statement will be required to be ratified by Full Council no later than the 31<sup>st</sup> December 2018. Section 154 of the Act provides that functions in relation to the three year Statement of Principles cannot be delegated but must be taken by the whole authority.

## **9.0 IMPLICATIONS**

9.1 The following implications have been identified:

- a) Financial

There are no financial implications.

- b) Legal

There is a legal requirement to consult and approve the Statement of Principles every 3 years.

- c) Other

Ryedale's Statement of Principles is fundamental to the successful operation of the Licensed Gambling System and is a core document Members of a Licensing Sub Committee have regard to when arriving at gambling related decisions. The proposed draft Statement of Principles will be subject to consultation and it is hoped that the final Statement will reflect the balance between the commercial interests of the licensed gambling trade and the communities they serve and impact on.

### **BECKIE BENNETT DELIVERY AND FRONTLINE SERVICES LEAD**

**Author:** Ronnie McClure, Senior Specialist Environment  
**Telephone No:** 01653 600666 ext: 250  
**E-Mail Address:** ronnie.mcclure@ryedale.gov.uk

#### **Background Papers:**

Gambling Commission Guidance to Licensing Authorities, 5th Edition, September 2015(Updated September 2016)

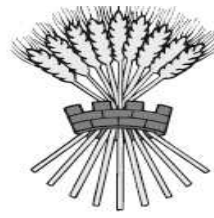
Gambling Act 2005 (Licensing Authority Policy Statement) (England & Wales) Regulations 2006

Notes to accompany LACORS Statement of Principles Template-Gambling Act 2005, May 2009

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RYEDALE  
DISTRICT  
COUNCIL



## **Gambling Act 2005**

### **DRAFT STATEMENT OF PRINCIPLES**

**JANUARY 2018**

# CONTENTS

Item	Page
<b>Part A</b>	
1. The licensing objectives	3
2. Introduction & Local Area Profile	3-5
3. Declaration	6
4. Responsible Authorities	6
5. Interested parties	6
6. Exchange of information	7
7. Enforcement	7
8. Licensing authority functions	8
<b>Part B - Premises licences</b>	
1. General Principles (including local risk assessment)	9-16
2. Adult Gaming Centres	16
3. (Licensed) Family Entertainment Centres	17
4. Casinos	17
5. Bingo	18
6. Betting premises	18
7. Tracks	18
8. Travelling fairs	20
9. Provisional Statements	20
10. Reviews	21
<b>Part C – Permits / Temporary and Occasional Use Notices</b>	
1. Unlicensed Family Entertainment Centre gaming machine permits	23
2. (Alcohol) Licensed premises gaming machine permits	24
3. Prize Gaming Permits	25
4. Club Gaming and Club Machines Permits	26
5. Temporary Use Notices	27
6. Occasional Use Notices	27

*This Statement of Principles was approved by Ryedale District Council on the ??rd of ?????? 2018.*

*All references to the guidance refer to the Gambling Commission`s Guidance to Licensing Authorities, 5th Edition, published September 2015 updated September 2016*

## PART A

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

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

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".

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 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 authority's Statement of Principles

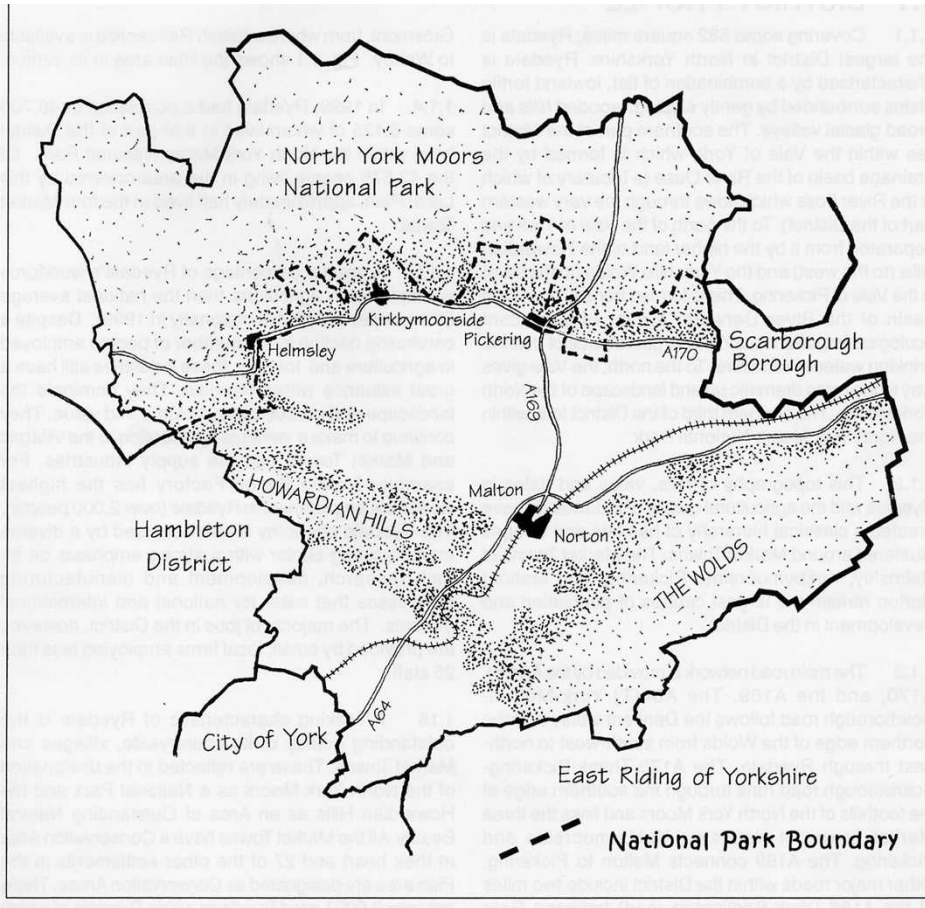
### **2. Introduction**

Ryedale District Council is situated in the County of North Yorkshire, which contains seven District and Borough Councils in total. The Council area has a population of 53,100 making it one of the smaller in the County in terms of population. In terms of area it is one of the larger, covering 575 square miles. The District is mainly rural with several market towns, namely Malton, Norton, Pickering, Kirkbymoorside and Helmsley with numerous villages and hamlets (The major settlements in Ryedale are detailed in the map over).

Agriculture, holiday and tourism industries are major contributors to the economy of the district. The tourist economy brings with it a number of gambling activities, for example Unlicensed Family Entertainment Centre Permits (eg amusement arcades of which we have 5) requiring a permit rather than a premises licence. The market towns of Malton(2), Norton(1) and Pickering(1) have licensed betting shops.

Predominantly, residents are from a white British background with <1% of the district's population coming from an ethnic background. The district also has an older age profile with 41% of the population over 64 years of age.

Overall, the district is relatively well-off and is in the 10% least deprived districts nationally. Despite lower than average wages, the district has a lower rate of claimants for income support. Ryedale has the second lowest crime rate in Britain.



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.

Ryedale District Council consulted widely upon this statement of principles before finalising and publishing. A summary of those consulted is provided below, the full list of those consulted can be found in Annex A.

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

List of persons this authority consulted:

- Local Councillors/responsible authorities( including police)
- Gambling businesses/related businesses
- Housing/residents associations/Parish Councils
- North Yorkshire County Council, Children & Young Persons Service.

Our consultation took place between 15<sup>th</sup> of January and 9<sup>th</sup> of April 2018 and we followed the HM Government Consultation Principles (published November 2013).

The full list of comments made and the consideration by the Council of those comments is available by request to: **The Licensing Team, Ryedale House, Old Malton Road, Malton, North Yorkshire, YO17 7HH, Tel 01653 600666, E mail licensing@ryedale.gov.uk.**

This Statement of Principles was approved at a meeting of the Full Council on the ?? of ?????? 2018 and was published on Ryedale District Councils website on the ?? of ?????? 2018. Copies of this Statement of Principles can be found in the public libraries of the area as well as being available in the Council Offices.

Should you have any comments as regards this Statement of Principles please send them via e-mail or letter to the following contact:

**Name:-The Licensing Team**

**Address:-Ryedale House, Old Malton Road, Malton, North Yorkshire, YO17 7HH**

**E-mail:-licensing@ryedale.gov.uk**

It should be noted that this Statement of 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.

#### LOCAL AREA PROFILE

While it is not currently the intention for this Licensing Authority to identify a local area profile, the Licensing Authority note the guidance offered by the Gambling Commission in sections 6.47 to 6.53 of the 5th edition of its Guidance. In particular, sections 6.48 and 6.50 which states as follows:

6.48 An effective local area profile is likely to take account of a wide range of factors, data and information held by the licensing authority and its partners. An important element of preparing the local area profile will be proactive engagement with responsible authorities as well as other organisations in the area that can give input to "map" local risks in their area. These are likely to include public health, mental health, housing, education, community welfare groups and safety partnerships, and organisations such as Gamcare or equivalent local organisations.

6.50 For example an area might be identified as high risk on the basis that it is located within close proximity to a youth centre, rehabilitation centre or school. The licensing authority might indicate, for example, that they would expect licensees to take appropriate steps to ensure 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 would consider other controls themselves.

This Licensing Authority will therefore expect applicants for premises licences to submit a copy of their local risk assessment as part of their application. This should reflect factors such as the premises' proximity to schools and other sensitive locations, vulnerable persons schemes and other information relevant to the locality and how the applicant intends to mitigate any potential risks.

### **3. Declaration**

In producing the final Statement of Principles, 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 any responses from those consulted on the Statement of Principles.

### **4. Responsible Authorities**

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

In accordance with the suggestion in the Gambling Commission's Guidance to licensing authorities this authority designates Corporate Director, Children and Young Peoples Service, North Yorkshire County Council, County Hall, Northallerton, North Yorkshire, DL7 8AE for this purpose.

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

### **5. Interested parties**

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 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 paragraph (a) or (b)"

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. It will consider the examples of considerations provided in the Gambling Commission's Guidance to licensing authorities at 8.9 to 8.17. Note though that decisions on premises licences and temporary use notices must be "in accordance" with Section 153 of the Gambling Act 2005.

Interested parties can be persons who are democratically elected such as councillors and MP's. 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. A letter from one of these persons, requesting the representation is sufficient.

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 team (see details on page 5).

## **6. Exchange of Information**

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.

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.

Should any protocols be established as regards information exchange with other bodies then they will be made available.

## **7. Enforcement**

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.

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.

This licensing authority will also endeavour to avoid duplication with other regulatory regimes so far as possible.

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 principles

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.

This licensing authority also keeps itself informed of developments as regards the work of the Better Regulation Delivery Office in its consideration of the regulatory functions of local authorities. In particular, with regard to the Regulators Code (April 2014) which provides a regulatory framework that supports compliance and growth while enabling resources to be focused where they are most needed.

Bearing in mind the principle of transparency, this licensing authority's enforcement policy is available upon request to the licensing team (*see details on page 5*).

## **8. Licensing Authority functions**

Licensing Authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing *Premises 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 Machines 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

It should be noted that licensing authorities are not to be involved in licensing remote gambling at all, which is regulated by the Gambling Commission via operating licences.

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## **PART B PREMISES LICENCES: CONSIDERATION OF APPLICATIONS**



## **1. General Principles**

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 it is believed to be appropriate.

### **(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 principles

This licensing authority is aware that previous legislation required the grant of certain gambling permissions should take account of whether there was unfulfilled demand for facilities. This is no longer the case and each application must be considered on its merits without regard to demand (Guidance 6.37-6.38).

### **(ii) Definition of "premises"**

In the Act, "premises" is defined as including "any place". Section 152 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 subdivisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed (7.5).

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 authority. However, the Gambling 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 (7.6-7.7)

This licensing authority takes particular note of the Gambling Commission's Guidance to Licensing Authorities (7.32) which states that: licensing authorities should take particular care in considering applications for multiple premises 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 by gambling. In practice that 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.

The Guidance (7.33) "in determining whether two or more proposed premises are truly separate, the licensing authority should consider factors which could assist them in making their decision, including:

- 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:**

**7.23:**

#### **Casinos**

- The principal access entrance to the premises must be from a street (as defined at 7.21 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 paragraph 7.21 of Guidance to Licensing Authorities) or from another 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 (7.58) 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. This is why the Act allows a potential operator to apply for a provisional statement if construction of the premises is not yet complete, or they need alteration, or he does not have the right to occupy them (Guidance parts 7 & 11).

In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process (7.59):-

- 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.

More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.58-7.65 of the Guidance.

#### **(iv) Location/Local Risk Assessment**

The 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. With regard to these licensing objectives it is this licensing authority's policy, upon receipt of any relevant representation to look at specific location issues which include:

- the possible impact that a gambling premises may have on any sensitive premises that provide services to children or young people or vulnerable people; eg a school, vulnerable adult centre;

- the possible impact a gambling premises may have on a residential area where there is a high concentration of families with children;
- the nature and size of the gambling activities taking place;
- any levels of crime in the area.

The Licensing Authority will need to be satisfied that there is sufficient evidence that the particular location of the premises would be detrimental to the licensing objectives. From 6th April 2016, it is a requirement of the Gambling Commission's Licence Conditions and Code of Practice (LCCP) under Section 10, for licensees to assess the local risks to the licensing objectives posed by the provisions of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In undertaking their risk assessments, they must take into account relevant matters identified in this Statement of Principles

The LCCP states that licensees must review (and update as necessary) their local risk assessments:

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

This Licensing Authority will expect the local risk assessment to consider as a minimum:

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

Local risk assessments should show how vulnerable people, including people with gambling dependencies are protected.

It should be noted that this Statement of Principles does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

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

The Gambling Commission Guidance to Licensing Authorities states:

**7.58** – In determining applications, the licensing authority should not take into consideration matters that are not related to gambling and the licensing objectives. One example would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposals.

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. Nor should fire or health and safety risks be taken into account. Those matters should be dealt with under relevant planning control, building and other regulations, and must 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 or building 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 building consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning controls, 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 (Part 5) 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 role in preventing gambling from being a source of crime. The Gambling Commission's Guidance (5.3) does however envisage that licensing authorities may need to consider the location of premises in the context of this licensing objective. Thus, where an area has known problems with disorder, organised criminal activity etc, this licensing authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. 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 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 (5.11 & 5.12) states that "Generally the Commission would not expect licensing authorities to find themselves dealing with issues of fairness and openness frequently. Fairness and openness is likely to be a matter for either the way specific gambling products are provided and therefore subject to the operating licence, or will be in relation to their suitability and actions of an individual and therefore subject to the personal licence. There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section below.

**Protecting children and other vulnerable persons from being harmed or exploited by gambling** - This licensing authority has noted the Gambling Commission's Guidance (5.13 - 5.18) that " In exercising their powers under S 153, licensing authorities should consider 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" It later states "Supervision also applies to premises that are themselves not age restricted (eg bingo and family entertainment centre premises) but which make gambling products and facilities available." If this licensing authority considers the structure or layout of the 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 (5.15). Such changes might include the positioning of staff or CCTV, the use of floor-walkers and the relocation of the staff counter 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 does, for regulatory purposes, assume that this group includes people who gamble more than they want to; people who gambling beyond their means and people 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-** Any conditions imposed by this licensing authority will be proportionate to the circumstances which they are seeking to address. In particular, this licensing authority will ensure that the premises licence conditions are (9.31):

- 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
- 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 door 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 ways 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. The Gambling Commission states (7.31) "With the exception of bingo clubs, tracks on race-days and licensed FEC's, children will not be permitted to enter licensed gambling premises. Therefore businesses will need to consider carefully how they wish to configure their buildings if they are seeking to develop multi-purpose sites."

Further, the guidance at 7.2 states "Licensing authorities should take particular care in considering applications for multiple premises 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 prevents 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 activity named on the premises licence.

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

Gambling Act 2005 Section 182-access by children and young persons to tracks. This licensing authority is aware (9.17) that Section 182 of the Act applies only to a betting premises licence in respect of tracks. It requires the licensee to ensure that children and young persons are excluded from any area in which facilities for betting are provided and from any area where a gaming machine (other than a category D gaming machine) is situated. The exception to this, for betting areas only, is on race days at dog and horse racing tracks that is on those days when racing occurs or is expected to take place. In those cases, under -18s may have access to betting areas but licensing authorities should note that this exception does not affect the prohibition on betting by children and young persons.

It is also noted (9.32) that there are conditions which the licensing authority cannot attach to premises licences which are:

- s.169(4) prohibits a licensing authority from imposing a condition on a premises licence which makes it impossible to comply with an operating licence condition.
- s.172(10) provides that conditions may not relate to gaming machine categories, numbers, or method of operation.
- s.170 provides that membership of a club or body cannot be required by attaching a condition to a premises licence (the Act specifically removed the membership requirement for casino and bingo clubs and this provision prevents it being reinstated).
- s.171 prevents a licensing authority imposing in relation to stakes, fees, winnings or prizes.

**Door Supervisors-** The Gambling Commission advises in its Guidance to Licensing Authorities (33.1) 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, and is entitled to impose a premises licence condition to this effect.

Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether these need to be SIA licensed or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary (as per the Guidance, Part 33).

## **2. Adult Gaming Centres**

This licensing authority will specifically have 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, for example, ensure that under 18 year olds do not have access to the premises (see guidance part 21)

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:**

This licensing authority will specifically have 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, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas (see guidance Part 22).

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.
- 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.

### **4. Casinos**

*No Casinos resolution* - 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 Statement of Principles with details of that resolution. Any such decision will be made by the Full Council.

*Licence considerations / conditions* – This licensing authority will attach conditions to casino premises licences according to the principles set out in the Gambling Commission's Guidance at Part 9, bearing in mind the mandatory conditions listed in Part 17 of the Guidance, and the Licence Conditions and Codes of Practice published by the Gambling Commission.

Gaming machines - No person under the age of 18 is permitted to enter a casino and operators are required to display notices to this effect at all entrances to a casino. The Social responsibility Code states "licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises in order to prevent underage gambling". Part 17.36 further states "there should be no access to a casino from premises wholly or mainly used by children and young persons". Part 17.55 of guidance lists the key



elements that underpin the approach to controlling where gaming machines may be played in casinos.

## **5. Bingo premises**

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

18.5 Licensing authorities will 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 licences, with the aim of creating separate premises in that area. Essentially providing multiple licensed premises within a single building or site. Before issuing additional bingo premises licences, licensing authorities need to consider whether bingo can be played at each of those new premises.

This authority also notes the Guidance at paragraph 18.9 " In the unusual circumstance that an existing bingo premises covered by one premises licence applies to vary the licence and acquire additional bingo premises licences ( so that the area that was the subject of a single licence will become divided between a number of separate licensed premises) it is not permissible for all of the gaming machines to which each of the licences brings an entitlement to be grouped together within one of the licensed premises.

18.7 Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.

## **6. Betting premises**

Gaming Machines - Section 172(8) of the Act provides that the holder of a betting premises licence may make available for use up to four gaming machines of category B,C or D. Guidance (19.4) states "Children and young persons are not permitted to enter premises with a betting premises licence, although exemptions apply to tracks, as explained in Part 20 guidance, and S.46 and S.47 of the Act set out offences if inviting, causing or permitting a child or young person to gamble, or to enter certain gambling premises. Social Responsibility code 3.2.7(3) in the Licence Conditions and Codes of Practice further states "licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises in order to prevent underage gambling.

## **7. 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 (Part 20), 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.

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

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

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 (Part 20.33 - 20.38)

Betting machines - Betting operators may make available machines that accept bets on live events, such as horseracing, as a substitute for placing bets with a member of staff. These self-service betting terminals are not gaming machines; they merely automate the process that can be conducted in person and therefore are not regulated as gaming machine.

**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, paragraph 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, paragraph 20.44).

In the majority of cases, such as greyhound tracks, racecourses, football stadia and cricket grounds, defining the extent of boundaries may be assisted by reference to existing plans already submitted to obtain other permissions (20.45). These could include the obtaining of a safety certificate under "Safety at Sports Ground" legislation or the historic boundaries under previous legislation such as the approval of tracks under Schedule 3 of the Betting, Gaming and Lotteries Act 1963.

It is sometimes difficult to define the precise location of betting areas on tracks (20.46). 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 that the plans provides sufficient information to enable them to assess an application.

As the plan forms part of the licence document, it also needs to be sufficiently flexible to ensure that a relatively small change in the premises layout would not require an operator to submit an application to vary the track premises licence (20.47). Only a significant change to the track layout would require a licence variation. For example, moving a category C gaming machine from one end of a bar that had been marked on the plan as a gaming machine area to another may not necessitate a full variation to a tracks premises licence, nor would the establishment of a new betting area at a racetrack, as neither of these events have any impact on the purpose of the licence or the conditions attached to it. However, relocating category C machines to

entirely different parts of a track would generally need to be the subject of an application to vary the premises licence.

## **8 Travelling Fairs**

Travelling fairs may provide an unlimited number of category D machines provided that facilities for gambling amount to no more than an ancillary amusement at the fair. They do not require a permit to provide these gaming machines but must comply with legal requirements about how the machine operates. Higher stake category B and C fruit machines are not permitted. Fairground operators must source their machines from a Commission licensed supplier and employees working with gaming machines must be at least 18 years old (30.2 - 30.3).

The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair (30.1).

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 therefore monitor the use of land and maintain a record of its use. 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 (30.5).

## **9. Provisional Statements**

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 (11.2 -11.3).

Section 204 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.

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.

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.

The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired (11.7). 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 (11.8 - 11.9):

- 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 (11.10), 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 representations at the provisional statement stage
- which in the authority's opinion reflect a change in the operator's circumstances
- where the premises has not been constructed in accordance with the plan and information submitted with the provisional statement 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

Section 197 of the Act (see also guidance Part 10) provides that an application for review may be made by a responsible authority or an interested party detailed in Part 8 of this guidance. Such applications must be submitted to the licensing authority in the prescribed form and state the reasons why a review is being requested, together with any supporting information and documents. The regulations also require the applicant to provide written notice of their application to the premises licence holder and to all responsible authorities, within seven days of making their application. Failure to do so will halt the application process until notice is received by all parties.

Section 199 of the Act (Part 10.14 guidance) provides that a licensing authority must grant an application for review, unless it decides to reject the application under section 198 of the Act. By virtue of section 198, an application may, but need not, be rejected if the licensing authority thinks that the grounds on which the review is sought:

- are not relevant to the principles that must be applied by the licensing authority in accordance with section 153 of the Act, namely the licensing objectives, the Commission's codes of practice and this Guidance, or the licensing authority's statement of policy
- are frivolous
- are vexatious
- "will certainly not" cause the licensing authority to revoke or suspend a licence or to remove, amend or attach conditions on the premises licence
- are substantially the same grounds cited in a previous application relating to the same premises
- are substantially the same as representations made at the time the application for a premises licence was considered.

In the case of the last two bullet points mentioned above, the licensing authority shall take into account the period of time that has passed since the previous application or representations were made, in deciding whether this is a reasonable basis for not reviewing the licence. As licensing authorities are required to permit the use of premises for gambling, insofar as it is in accordance with the Section 153 principles (10.16) applications that raise general objections to gambling as an activity, that relate to demand for gambling premises, or raise issues relating to planning, public safety, and traffic congestion are unlikely to be considered an appropriate basis for review, leading to rejection under the first bullet point mentioned above. The decision to grant a review will not amount to pre-judging the outcome of a review.

In relation to particular premises, the licensing authority may review any matter connected with the use made of the premises if (10.7):

- it has reason to suspect that premises licence conditions are not being observed
- the premises is operating outside of the principles set out in the licensing authority's statement of policy
- there is evidence to suggest that compliance with the licensing objectives is at risk
- for any other reason which gives them cause to believe that a review may be appropriate, such as a complaint from a third party

A formal review would normally be at the end of the process of ensuring compliance by the operator(s) which might include an initial investigation by the licensing authority officer, informal mediation or dispute resolution. If concerns are not resolved then, after a formal review, the licensing authority may impose additional conditions or revoke the licence (10.8).

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.

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 (10.19), 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
- (d) revoke the premises licence.

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 (10.21).

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 (10.20).

Once the review has been completed (10.22), the licensing authority must, as soon as possible, notify its decision to:

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

**PART C**  
**Permits / Temporary & Occasional Use Notice**

**1. Unlicensed Family Entertainment Centre (FEC) gaming machine permits (Statement of Principles on Permits – Schedule 10 para 7)**

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).

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 24. The Gambling Commission's Guidance to licensing authorities also states: "In its statement of policy, a licensing authority may include a statement of principles that it proposes to apply when exercising its functions in considering applications for permits. In particular it may want to set out the matters that it will take into account in determining the suitability of the applicant. Given that the premises is likely to appeal particularly to children and young persons, licensing authorities may wish to give weight to matters relating to the protection of children from being harmed or exploited by gambling and to ensure that staff supervision adequately reflects the level of risk to this group. Licensing authorities are also encouraged to also specify in their statement of policy that a plan for the uFEC must be submitted. (24.8).

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" (24.9). Licensing authorities might wish to 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), and
- that staff are trained to have a full understanding of the maximum stakes and prizes. (24.7)

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

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.

Further, applicants will have to provide:-a) a scaled plan of the premises and its location, b) Criminal Records Check (CRB) for staff working on such premises who would specifically

come into contact with children, c) evidence that staff have received relevant training to deal with children/children`s issues and d) evidence of public liability insurance when making this type of application.

## **2. (Alcohol) Licensed premises gaming machine permits – (Schedule 13 Para 4(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 (Part26).

This licensing authority can remove the automatic authorisation in respect of any particular premises (26.6) 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, for example the gaming machines have been made available in a way that does not comply with requirements on the location and operation of gaming machines
- the premises are mainly used for gaming
- an offence under the Gambling Act has been committed on the premises

**Permit: 3 or more machines-** If a premises wishes to have more than 2 machines, then it needs to apply for a permit (licensed premises gaming machine permit). In determining an application, the licensing authority must have regard to the licensing objectives and to Gambling Commission guidance. They may also take account of "any other matters" that are considered relevant to the application. The application does not require notification to the Commission or police before determination, however, licensing authorities are able to specify this as a requirement should they see fit.

This licensing authority considers that "any other 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 this 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 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.

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 applied for, and dealt with as an Adult Gaming Centre premises licence.

It should be noted that this 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 – (Statement of Principles on Permits - Schedule 14 Para 8 (3))**

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 propose to consider in determining the suitability of the applicant for a permit”.

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.

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)).

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**

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 (3 machines of categories B3A, B4, C or D but only one B3A machine can be sited as part of the entitlement), equal chance gaming (without having to abide by the stake and prize limits which would apply to exempt gaming in the absence of a permit) and games of chance as prescribed in regulations, namely pontoon and chemin de fer. This is in addition to the exempt gaming authorisation under Section 269 of the Act. A Club machine permit will enable the premises to provide gaming machines (3 machines of categories B3A, B4, C and D).

The licensing authority has to satisfy itself that the club meets the requirements of the Act to obtain a club gaming permit (25.44). It is suggested that applicants for permits should be asked to supply sufficient information and documents to enable the licensing authority to take account of the matters discussed in parts 25.45, 25.46 & 25.47, at the time they submit their applications to the licensing authority. This authority will consider these matters in order to satisfy itself that the club meets the requirements to obtain a club gaming certificate



The Commission Guidance (25.38) 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.

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 (25.41) 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."

The grounds on which an application under the process may be refused are (25.43):

- (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."

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

It is an offence to provide facilities for gambling unless either the required permissions are in place, or an exemption applies. One such exemption is for the **holder** of an operating licence to notify a Temporary Use Notice (TUN) to the relevant licensing authority. This is not a permanent arrangement, but allows premises such as hotels, conference centres or sporting venues to be used temporarily for providing facilities for gambling. A TUN may also apply to a vessel, whether moored or moving. TUN's are often, but not exclusively, used to run poker tournaments (14.1).

The primary legislation in respect of TUN's can be found at sections 214-234 of the Act and Part 14 of guidance.

Section 218 of the Act refers to a "set of premises" and provides that a set of premises is the subject of a TUN if "any part" of the premises is the subject of a notice. The reference to "a set of premises" prevents one large premises from having a TUN in effect for more than 21 days in a year by giving notification in relation to different parts of the premises and re-setting the clock. The definition of "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, licensing authorities will need to look at, amongst other things, the owner/occupation and control of the premises (14.10 & 14.11)

The licensing authority and other bodies to which the notice is copied should consider whether they wish to give a notice of objection. This licensing authority, in considering whether to do

so, will have regard to the licensing objectives and if this authority consider that the gambling should not take place, or only with modifications, will give a notice of objection to the person who gave the TUN. The notice of objection will be given within 14 days, beginning with the date on which the TUN was given.

#### **6. Occasional Use Notices:**

This 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 15).

## **Annex A List of Consultees**

Chief Executive  
The Gambling Commission  
Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP

Station Manager  
Malton Fire Station  
Sheepfoot Hill  
Malton  
N. Yorks  
YO17 0EB

Sergeant Matthew France  
Licensing Manager  
North Yorkshire Police  
Alcohol Licensing Unit  
Fulford Road  
York  
YO10 4BY

Mr Matthew Pawson  
Health & Safety  
Ryedale District Council

Mr Keith White  
Pollution  
Ryedale District Council

Gary Housden  
Development Control  
Ryedale District Council

Director of Planning  
North York Moors National Park  
Authority  
The Old Vicarage  
Bondgate  
Helmsley  
York  
YO62 5BP

Corporate Director  
Children & Young Peoples  
Service  
North Yorkshire County Council  
Room 122  
County Hall  
Racecourse Lane  
Northallerton  
YO7 8DD

Revenue & CustomsHMRC  
National Registration Unit Ho  
(Betting & Gambling)  
Portcullis House  
21 India Street  
Glasgow  
G2 4PZ

Operations Manager  
Health & Safety Executive  
The Lateral  
8 City Walk  
Leeds  
LS11 9AT

Gamblers Anonymous  
Doncaster CVS  
Intake Wellness Centre  
Doncaster  
DN2 6PL

Gamcare  
2<sup>nd</sup> Floor  
7-11 St Johns Hill  
London  
SW11 1TR

BACTA  
29-30 Ely Place  
London  
EC1N 6TD

GambleAware  
7 Henrietta Street  
London  
WC2E 8PS

The Chairman  
Greyhound Board of Great Britain  
6 New Bridge Street  
London  
EC4V 6AB

The Chief Executive  
The Jockey Club  
75 High Holborn  
London  
WC1V 6LS

Carousel Games Co UK  
Beansheaf Farm  
Malton Road  
Kirbymisperton  
Malton  
YO17 6UE

Gamestec Leisure Ltd  
Unit B10-12  
Wira House  
West Park Ring Road  
Leeds  
LS16 6EB

Leisure Link  
3 The Maltings  
Wetmore Road  
Burton on Trent  
Staffs  
DE14 1SE

William Hill, Bookmakers  
15 Newgate  
Malton  
North Yorkshire

William Hill, Bookmakers  
16 Market Place  
Pickering  
YO18

William Hill, Bookmakers  
6 – 8 Yorkersgate  
Malton  
North Yorkshire

Mr H N Mayne  
The Mayne Bookmaker  
3 Commercial Street  
Norton  
Malton

Malton Railway Mens Sports &  
Social Club  
2 Welham Road  
Norton  
Malton  
YO17 9DH

Bright Steels Social Club  
55 Wood Street  
Norton  
Malton  
YO17 9BA

Pickering & District  
Conservative Club  
40 Market Place  
Pickering  
YO18 7AE

Pickering & District Working Mens  
Club & Institute Ltd  
Southgate  
Pickering  
YO18 8BL

Malton & Norton Golf Club  
Welham Road  
Norton  
Malton  
YO17 9DU

Kirkbymoorside Golf Club Ltd  
Manor Vale  
Kirkbymoorside  
York  
YO62 6EG

North Yorkshire Trading Standards  
FAO Sharon Green  
Unit 4/5 Block B  
Thornfield Business Park  
Standard Way  
Northallerton  
DL6 2XQ

Mr T Bain  
Regional Development Manager  
William Hill Organisation Ltd  
P O Box 170  
Leeds  
LS2 8JF

Mr Kevin Hollinrake MP  
3 Hanover House  
Market Place  
Easingwold  
York  
YO61 3AD

Mrs H Chafer  
Area Housing Manager  
Yorkshire Housing  
Stanley Harrison House  
Norton Road  
Malton  
YO17 9RD

Mr Simon Pullin  
Flamingoland Ltd  
Kirby Misperton  
Malton  
North Yorkshire  
YO17 6UX

Association of British  
Bookmakers Ltd  
Ground Floor  
Warwick House  
25 Buckingham Palace Road  
London  
SW1W 0PP

Mr I Rich  
Yorkshire Housing  
8-9 Oswaldkirk Industrial Estate  
Outgang Lane  
York  
YO19 5UX

The Bingo Association  
Lexham House  
75 High Street  
Dunstable  
Bedfordshire  
LU6 1JF

All 30 Ryedale District Councillors and 98 Parish Councillors were given the opportunity to comment on the draft Statement of Licensing Principles and copies were also placed in libraries.

## ANNEX B

Table of delegation of licensing functions

<b>MATTER TO BE DEALT WITH</b>	<b>FULL COUNCIL</b>	<b>LICENSING COMMITTEE/SUB COMMITTEE</b>	<b>OFFICERS</b>	<b>COUNCIL SOLICITOR</b>
Three year licensing policy	X			
Policy not to permit casinos	X			
Fee setting-when appropriate		X		
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn	
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn	
Application for a transfer of a licence		Where representations have been received from the Gambling Commission	Where no representations received from the Gambling Commission	
Application for provisional statement		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn	
Review of premises licence		X		
Application for club gaming/club machine		Where representations have been received and	Where no representations received/representations have been withdrawn	

permits		not withdrawn		
Cancellation of club gaming/club machine permits		X		
Application for other permits			X	
Cancellation of licensed premises gaming machine permits			X	
Consideration of Temporary Use Notices			X	
Decision to give a counter Notice to a Temporary Use Notice		X		
Determination as to whether a person is an interested party				X
Determination as to whether representations are relevant				X
Determination as whether a representation is frivolous, vexatious or repetitive				X
Representative of Licensing Authority who will be responsible for making representations as the Responsible Authority on licence applications				X

Responsibility for attaching to premises licences Mandatory, Default and Specific Conditions			X	
Representative of Licensing Authority who can initiate a Licence review				X
Representative of Licensing Authority who can reject an application for a Licence review				X

X indicates the lowest level to which decisions can be delegated.

**NB The Council reserves the right to amend this table of delegation**

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