



## **LICENSING COMMITTEE**

Thursday 7 June 2012 at 6.30 pm

Council Chamber, Ryedale House, Malton

### **Agenda**

**1 Emergency Evacuation Procedure**

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

**2 Apologies for absence**

**3 Minutes on the Meeting Held on 24 November 2011**

(Pages 1 - 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.

### **PART 'A' ITEMS - MATTERS TO BE DEALT WITH UNDER DELEGATED POWERS OR MATTERS DETERMINED BY COMMITTEE**

**6 Appointment of Chairman and Vice Chairman of the Committee**

- 7 **The Gambling Act 2005 - Draft Statement of Principles** (Pages 5 - 40)
- 8 **Changes to the Licensing Act 2003** (Pages 41 - 46)
- 9 **Any other business that the Chairman decides is urgent.**

## Licensing Committee

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Held at Council Chamber, Ryedale House, Malton  
on Thursday 24 November 2011

### Present

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Councillors Mrs Cowling, Mrs Frank, Hope, Mrs Sanderson, Hicks, Mrs Goodrick, Mrs Denniss, Andrews, Richardson and Walker.

### In Attendance

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Fiona Brown, Phil Long, Julian Rudd, Beckie Bennett and Nicki Lishman

### Minutes

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8        **Emergency Evacuation Procedure**

9        **Apologies for absence**

Apologies for absence were received from Councillors Fraser and Clark.

10       **Minutes of the Meeting Held on 2 June 2011**

The minutes of the meeting held on 2 June 2011 were presented.

**Resolved**

That the minutes of the meeting held on 2 June 2011 be approved and signed by the Chairman as a correct record.

11       **Urgent Business**

The Chairman reported that there were no items of urgent business to be considered.

12       **Declarations of Interest**

No declarations of interest were received.

13       **Gambling Act 2005 - Setting of Fees**

The Head of Environment submitted a report (previously circulated) that sought Member approval for the setting of fees under the provisions of the Gambling Act 2005.

The report was accompanied by an Annex, which detailed the proposed fees.

**Resolved**

That Members approve the fees recommended in Annex B of the report.

14 **Hackney Carriage Fares 2012/13**

The Head of Environment submitted a report (previously circulated), which recommended an increase in the Hackney Carriage table of fares in 2012/13.

The Hackney Carriage fares were subject to annual review with representatives of the taxi licensing trade and all agreed that fares should increase in 2012/13. There had been no increase in fares since April 2008

**Resolved**

That Members approve the following changes in Hackney Carriage fares:

- Flagfall distance to change from 0.8 mile to 0.5 mile
- Subsequent distance to change from 1/17<sup>th</sup> mile to 1/18<sup>th</sup> mile
- Call out charge to increase from £10 to £12 and then to reflect multiplier in tariff bands i.e. 1.2 for tariff 2 and 1.5 for tariff 3.

15 **Consultation on Proposals to Examine the Deregulation of Schedule One of the Licensing Act 2003 - Regulated Entertainment**

The Head of Environment submitted a report (previously circulated) that presented the Government's consultation proposals on the examination of deregulation of Schedule One of the Licensing Act 2003 and sought Members' agreed response to those proposals.

**Resolved**

That the response to the consultation "Regulated Entertainment: A Consultation proposal to examine the deregulation of Schedule One of the Licensing Act 2003", as contained in Annex 1 of the report be approved.

16 **The Police Reform and Social Responsibility Act 2011**

The Head of Environment submitted a report (previously circulated) that updated Members on the progress of The Police Reform and Social Responsibility Bill, which had now become an Act.

**Resolved**

That the content of the report be noted.

17 **Any other business that the Chairman decides is urgent.**

There were no items of urgent business.

**The meeting closed at 8.55 p.m.**

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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>7 JUNE 2012</b>
<b>REPORT OF THE:</b>	<b>HEAD OF ENVIRONMENT, STREETSCENE, FACILITIES PHIL LONG</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:
- (l) 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 20 September 2012.

### **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 2012. The draft Statement has been 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.

## **5.0 POLICY CONTEXT AND CONSULTATION**

- 5.1 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 is identified in the Health and Environment Service Delivery Plan 2012/13.
- 5.2 Section 349(3) of the Act requires that the Licensing Authority consult the following on the Statement of Principles (or any subsequent provision):
- 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.
- 5.3 Any written consultation should follow best practice as set out by the Cabinet Office 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
- 5.4 Proposed Consultation period:- 11 June to 3 September 2012.

## **REPORT**

### **6.0 REPORT DETAILS**

- 6.1 Section 349 of the Gambling Act 2005 requires that all licensing authorities prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Licensing 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 and revised by an authority at any time.
- 6.2 The existing Statement of Principles has been kept under review since coming into force on 31 January 2010 and no revision has been deemed necessary to date. However, the Statement will require revising during 2012 in order for it to take effect from 31 January 2013 (when a new three year cycle will commence).
- 6.3 The service has produced a draft Statement of Principles, a copy of which is available at Annex B. This Statement 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.
- 6.4 Members should note that there has been no significant changes to either regulations issued by the Secretary of State or guidance issued by the Gambling Commission in the intervening 3 year period that materially affects the current Statement of Principles and for that reason the Statement of Principles will remain unchanged for the years 2013-2016.



6.5 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 2012. 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.

## **7.0 IMPLICATIONS**

7.1 The following implications have been identified:

a) Financial

The Statement of Principles has been produced in house and the consultation will be undertaken using existing staffing resources.

b) Legal

The Statement of Principles must be reviewed before the end of its second three year period and is classed as high priority. Failure to review the Statement of Principles, seek approval by full Council and publish it before the 31<sup>st</sup> January 2013 could leave the Council subject to judicial review and have serious financial implication

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.

**Phil Long**  
**Head of Environment, Streetscene and Facilities**

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### **Background Papers:**

Gambling Commission Guidance to Licensing Authorities, 3<sup>rd</sup> Edition, May 2009

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



## RISK MATRIX- The Gambling Act 2005 – Draft Statement of Principles

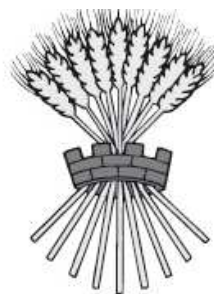
Issue/Risk	Consequences if allowed to happen	Likelihood	Impact	Mitigation	Mitigated Likelihood	Mitigated Impact
Failure to review or consult on a Statement of Principles and any subsequent costs	Council failing to comply with its statutory duty and would also leave the Council open to legal challenge	<b>4</b>	<b>D</b>	Undertake consultation of draft Statement of Principles, review by Licensing Committee with a view to adoption by Council by the end of 2012	<b>1</b>	<b>A</b>

Score	Likelihood	Score	Impact
1	Very Low	A	Low
2	Not Likely	B	Minor
3	Likely	C	Medium
4	Very Likely	D	Major
5	Almost Certain	E	Disaster

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**ANNEX B**

RYEDALE  
DISTRICT  
COUNCIL



## **Gambling Act 2005**

### **DRAFT STATEMENT OF PRINCIPLES**

**JUNE 2012**

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*This Statement of Principles was approved by Ryedale District Council on the 2<sup>nd</sup> of July 2012.*

*All references to the guidance refer to the Gambling Commission's Guidance to Licensing Authorities, 3<sup>rd</sup> Edition, published May 2009.*

## 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”.

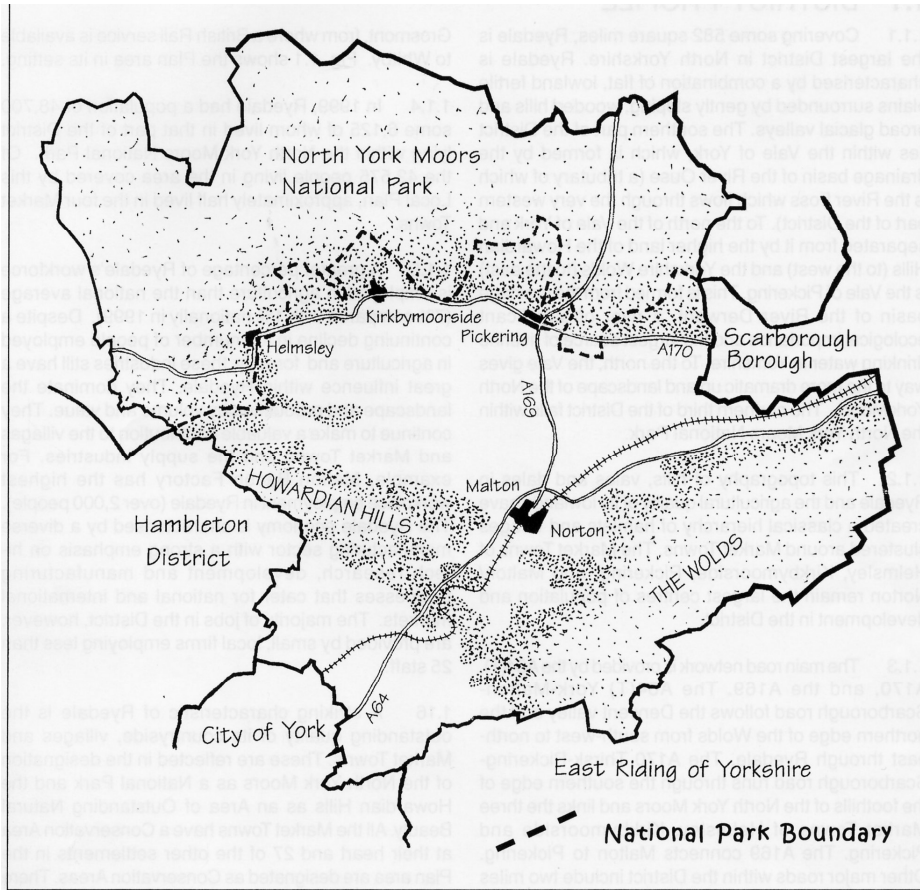
This licensing authority is aware that, as per Section 153, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it is:

- 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 53,600 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. The major settlements in Ryedale are detailed in the map over





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 **11 June 2012 and 3 September 2012** and we followed the HM Government Code of Practice on Consultation (published July 2008), which is available at:

<http://www.berr.gov.uk/files/file47158.pdf>

The full list of comments made and the consideration by the Council of those comments is available by request to: **The Licensing Team, Health and Environment, PO Box 67, Ryedale House, Old Malton Road, Malton, North Yorkshire, YO17 7ZG, Tel 01653 600666, E mail [licensing@ryedale.gov.uk](mailto:licensing@ryedale.gov.uk).**

This Statement of Principles was approved at a meeting of the Full Council on the ?<sup>th</sup> of ?????????? 2012 and was published on Ryedale District Councils website on the ?<sup>st</sup> of ?????????? 2012. 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, Health and Environment**

**Address:-PO Box 67, Ryedale House, Old Malton Road, Malton, North Yorkshire, YO17 7ZG**

**E-mail:-[licensing@ryedale.gov.uk](mailto: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.

### **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, Racecourse Lane, 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 8.11 to 8.19. Note though that decisions on premises licences and temporary use notices must be “in accordance” with Gambling Commission Guidance (Section 153). It will also consider the Gambling Commission's Guidance that “has business interests” should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

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 represent 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 4).

## **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.

As per the Gambling Commission's Guidance to licensing authorities this licensing authority will 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.

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 4*).

## **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.

## **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

It is appreciated that as per the Gambling Commission's Guidance to Licensing Authorities "moral objections to gambling are not a valid reason to reject applications for premises

licences" (except as regards any 'no casino resolution' - see section on Casinos below ) and also that unmet demand is not a criterion for a licensing authority.

**(ii) Definition of “premises”**

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

The Gambling Commission states in the third edition of its Guidance to Licensing Authorities that: “In most cases the expectation is that a single building / plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the 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.

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

- The third licensing objective seeks to protect children from being harmed 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 also gives a list of factors which the licensing authority should be aware of, which may include:

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

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

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

#### **7.25:**

##### **Casinos**

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

##### **Adult Gaming Centre**

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

##### **Betting Shops**

- Access must be from a street (as per paragraph 7.23 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 states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

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

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

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

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

More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.59-7.66 of the Guidance.

### **(iv) Location**

This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. As per the Gambling Commission’s Guidance to Licensing Authorities, 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. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how the concerns can be overcome.

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

**The Gambling Commission Guidance to Licensing Authorities states:**

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

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

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



the premises licence. Section 210 of the 2005 Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.

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

This licensing authority seeks to avoid any duplication with other statutory / regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning 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 to licensing authorities and some comments are made below.

**Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** - This licensing authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this 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 states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. 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 that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). This licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, 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.

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

As regards the term “vulnerable persons” it is noted that the Gambling Commission does not seek to offer a definition but states that “it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gambling beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.” This licensing authority will consider this licensing objective on a case by case basis.

**Conditions-** Any conditions attached to licences will be proportionate and will be:

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

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a perceived need, such as the use of 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. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.

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

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

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

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

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

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

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

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.

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.

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

#### **4. Casinos**

*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 paragraph 9, bearing in mind the mandatory conditions listed in paragraph 17 of the Guidance, and the Licence Conditions and Codes of Practice published by the Gambling Commission.

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

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

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

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

This authority also notes the Guidance at paragraph 18.8 regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate all category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

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**

*Betting machines* - This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the

machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

## 7. Tracks

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

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.

*Betting machines* - This licensing authority will, as per Part 6 of the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator proposes to offer.

**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 20.28).

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 20.29).

Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises (See Guidance to Licensing Authorities, paragraph 20.31).

In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the premises boundaries do not need to be defined (See Guidance to Licensing Authorities, paragraph 20.32).

This authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the “five times rule” (commonly known as betting rings) must be indicated on the plan. (See Guidance to Licensing Authorities, paragraph 20.33).

## **8 Travelling Fairs**

This licensing authority is responsible for deciding whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met

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

It is noted that the 27-day statutory maximum for the land being used as a fair applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

## **9. Provisional Statements**

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.

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. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:

- they concern matters which could not have been addressed at the provisional statement stage, or
- they reflect a change in the applicant's circumstances.

In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- which could not have been raised by objectors at the provisional statement stage;
- which in the authority's opinion reflect a change in the operator's circumstances; or
- where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

## **10. Reviews**

Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the licensing authority to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below;

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

The request for the review will also be subject to the consideration by the authority as to whether the request is frivolous, vexatious, or whether it will certainly not cause this authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

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

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, the options open to the licensing authority are:-

- (a) add, remove or amend a licence condition imposed by the licensing authority;
- (b) exclude a default condition imposed by the Secretary of State or Scottish Ministers (e.g. opening hours) or remove or amend such an exclusion;
- (c) suspend the premises licence for a period not exceeding three months; and
- (d) revoke the premises licence.

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.

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.

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

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

## **PART C**

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

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

Where a premise 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 25. The Gambling Commission's Guidance to licensing authorities also states: "In their three year licensing policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits, licensing authorities will want to give weight to child protection issues (24.6).

Guidance also states: "An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief



officer of police has been consulted on the application". Licensing authorities 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.

This licensing authority can remove the automatic authorisation in respect of any particular premises if;

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with)
- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises

**Permit: 3 or more machines-** If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and "*such matters as they think relevant.*"

This licensing authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy 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 that 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 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 (3 machines of categories B, C or D).

Gambling Commission Guidance for licensing authorities states: "Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulations and these cover bridge and whist clubs, which 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 working men's clubs, branches of Royal British Legion and clubs with political affiliations."

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

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

There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). As the Gambling Commission's Guidance to licensing authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced."

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

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

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**

Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing

facilities for gambling. Premises that might be suitable for Temporary Use Notices, according to the Gambling Commission, would include hotels, conference centres and sporting venues.

The licensing authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.

The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this Statement the relevant regulations (SI no 3157; The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.

There are a number of statutory limits as regards Temporary Use Notices. The meaning of “premises” in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities. As with “premises”, the definition of “a set of premises” will be a question of fact in the particular circumstances of each notice that is given. In the Act “premises” is defined as including “any place”. In considering whether a place falls within the definition of “a set of premises”, the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.

This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission’s Guidance to Licensing Authorities.

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

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.

## Annex A

### List of Consultees

Chief Executive The Gambling Commission Victoria Square House Victoria Square Birmingham B2 4BP	Chief Inspector Community Safety NorthYorkshirePolice Headquarters Newby Wiske Northallerton North Yorkshire DL7 9HA	Inspector Andrew Everett, Malton Police Station Malton
P.S. M. France Licensing Officer North Yorkshire Police	Station Manager Malton Fire Station Sheepfoot Hill Malton N. Yorks YO17 0EB	Gary Housden Development Control Ryedale District Council
Director of Planning North York Moors National Park Authority The Old Vicarage Bondgate Helmsley York YO62 5BP	Mrs Ailish Lilley Environmental Protection Section Ryedale District Council	Mr Robert Robinson Health & Safety Ryedale District Council
Operations Manager Health & Safety Executive Marshall Mill Marshall Street Leeds LS11 9YJ	Corporate Director, Children and Young Peoples Service, North Yorkshire County Council County Hall Racecourse Lane Northallerton DL7 8AE	H M Revenue & CustomsHMF National Registration Unit Hou (Betting & Gambling) Portcullis House 21 India Street Glasgow G2 4PZ
Gamblers Anonymous PO Box 88 London SW10 0EU	Gamcare 2/3 Baden Place Crosby Row London SE1 1YN	Mrs L MacLeod-Miller C/o BACTA Kings Cross House 211 Kings Cross Road London Wc1X 9DN

Chief Executive  
The British Gambling Association  
38 Grosvenor Gardens  
London  
SW1W 0OB

The Chairman  
British Greyhound Racing Board  
32 Old Burlington Street  
London  
W15 3AT

The Chief Executive  
The Jockey Club  
151 Shaftesbury Avenue  
London  
WC2H 8AL

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

Gamestec Ltd  
Low Lane  
Horsforth  
Leeds  
LS18 4ER

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

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

William Hill, Bookmakers  
16 Market Place  
Pickering  
YO18

William Hill, Bookmakers  
6 – 8 Yorkersgate  
Malton  
North Yorkshire

William Hill, Bookmakers  
15 Newgate  
Malton  
North Yorkshire

Mr K J Magson  
Bookmaker  
1 Crown Square  
Kirkbymoorside  
YO62 6AY

Kirkbymoorside Golf Club Ltd  
Manor Vale  
Kirkbymoorside  
York  
YO62 6EG

Federation of Licensed Victuallers  
Associations  
126 Bradford Road  
Brighouse  
West Yorkshire  
HD6 4AU

Malton Conservative Club  
32 Market Place  
Malton  
YO17 7LX

Kirkbymoorside & District  
Royal British Legion Club  
Adela Shaw Site  
Kirkbymoorside  
York  
YO62 6JE

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

Gail Snowden  
Safer Ryedale  
Ryedale District Council

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

Jos Holmes  
Economy and Community Services  
Manager  
Ryedale District Council

Miss Anne Mackintosh LLB  
MP  
House of Commons,  
London  
SW1A DAA

Mrs H Shaffer  
Area Housing Manager  
Yorkshire Housing Assoc  
Leat House  
Norton  
YO17 7XU

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

Dawcar Limited  
Bridge Road  
47/55 Bridge Street  
Walsall  
WS1 1JQ

Association of British Bookmakers  
Ltd  
Regency House  
1-4 Warwick Street  
London  
W1B 5LT

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

Janet Waggott  
Chief Executive  
Ryedale District Council

Mr Darren Coyne  
Flamingoland Ltd  
Kirby Misperton  
Malton  
North Yorkshire  
YO17 6UX

Mr C. Lord  
Housing Services Manager  
Yorkshire Housing Association,  
Innovation Close,  
Heslington,  
York.  
YO10 5ZF

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 /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	Where no representations received/representations	



		received and not withdrawn	have been withdrawn	
Review of premises licence		X		
Application for club gaming/club machine permits		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn	
Cancellation of club gaming/club machine permits		X		
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 to whether a representation is frivolous, vexatious or repetitive				X
Representative of Licensing Authority who will be responsible for				X

making representations as the Responsible Authority on licence applications				
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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<b>PART A:</b>	<b>MATTERS DEALT WITH UNDER DELEGATED POWERS</b>
<b>REPORT TO:</b>	<b>LICENSING COMMITTEE</b>
<b>DATE:</b>	<b>7 JUNE 2012</b>
<b>REPORT OF THE:</b>	<b>HEAD OF ENVIRONMENT, STREETSCENE, FACILITIES PHIL LONG</b>
<b>TITLE OF REPORT:</b>	<b>CHANGES TO THE LICENSING ACT 2003</b>
<b>WARDS AFFECTED:</b>	<b>ALL</b>

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## **EXECUTIVE SUMMARY**

### **1.0 PURPOSE OF REPORT**

- 1.1 To advise Members of recent changes in legislation, including the Live Music Act and the passing of the Police Reform and Social Responsibility Act 2011 and the changes that this will bring in relation to the Licensing Act 2003.

### **2.0 RECOMMENDATIONS**

- 2.1 It is recommended that:

- (i) That Members note the contents of the report
- (ii) The Health and Environment Manager and in his absence the Principal Environmental Health Officer be designated as the officer acting for the responsible authority.

### **3.0 REASON FOR RECOMMENDATION(S)**

- 3.1 To keep Members informed regarding the changes in legislation and the implications on the Licensing Act 2003

### **4.0 SIGNIFICANT RISKS**

- 4.1 There are no significant risks in receiving this report. Officers have ensured that arrangements are in place to administer the new requirements of the Police Reform and Social Responsibility Act 2011 and have updated local guidance material for applicants. Following publication of guidance relating to the Live Music Act similar arrangements will be undertaken.

## **5.0 POLICY CONTEXT AND CONSULTATION**

- 5.1 Ryedale District Council's Licensing Policy together with changes in national legislation has informed this report. In summer 2010 the Home office launched a public consultation entitled "Rebalancing the Licensing Act 2003". Following this consultation the Home Office included a number of their proposed reforms in the Police Reform and Social Responsibility Act. The Live Music Act is as a result of a Private Members Bill with Government support.

## **REPORT**

### **6.0 REPORT DETAILS**

- 6.1 The Department for Culture, Media and Sport (DCMS) have advised that the Live Music Act (the Act), which was a Private Members Bill with Government support received Royal assent on 23 March 2012. Once the Live Music Act comes into effect, it will remove the licensing requirements for:
- Amplified live music between 8am and 11pm before audiences of no more than 200 people on premises authorised to sell alcohol for consumption on the premises;
  - Amplified live music between 8am and 11pm before audiences of no more than 200 people in workplaces not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment); and
  - Unamplified music between 8am and 11pm in all venues.
- 6.2 Where a premises continues to operate licensable activities (such as the sale of alcohol), any conditions relating to the activities above will be suspended unless they have been added following a licence review. It would also be possible to reinstate or impose conditions about live music following a review of a premises licence or club premises certificate relating to premises authorised to supply alcohol for consumption on the premises.
- 6.3 The Live Music Act will also remove licensing requirements for the provision of entertainment facilities. In addition, it will widen the licensing exemption for live music integral to a performance of morris dancing or dancing of a similar type, so that the exemption applies to live or recorded music instead of unamplified live music.
- 6.4 The Minister advises that he intends to commence the Live Music Act in line with the usual requirements and conventions, which includes consulting on and issuing guidance under section 182 of the Licensing Act 2003 and adhering to the common commencement dates for new regulations. It is expected the changes will come into force on 1 October this year.
- 6.5 In recognition of the Queen's Diamond Jubilee as a time of national celebration, a licensing hours order came into force on 16 March. The Order allows licensed premises in England and Wales to stay open between 11pm on Friday 1 June and 1am on Saturday 2 June, and between 11pm on Saturday 2 June and 1am on Sunday 3 June for:
- the sale or supply of alcohol for consumption on the premises;
  - regulated entertainment; and
  - late night refreshment where alcohol is also sold or supplied for consumption on the premises.

The Order will not apply to businesses that do not have the relevant authorisation on their licence. Those businesses without the relevant authorisation will need to apply (if appropriate) for a temporary event notice.

6.6 The Minister has confirmed that there are no plans to introduce extensions to licensing hours for the Olympics and Paralympic Games. It is likely that there will be an increase in Temporary Event Notices and licence variations, which will be processed in the usual way.

6.7 A report was submitted to this Committee on 24 November 2011, outlining the proposed changes and implications of the Police Reform and Social Responsibility Act 2011. The report advised that the principal elements of the Act may be brought into force in October 2012 and in any event it was believed that changes would not be implemented until after the Olympic Games, however subsequently the majority of measures came into force on 25 April 2012, except those that require complex secondary legislation, including: early morning alcohol restriction orders (EMROs), the late night levy and locally set fees. It is anticipated these measures will be introduced in October 2012 or April 2013. The measures introduced on 25 April include:

- doubling the fine for persistent underage sales to £20,000
- giving licensing authorities greater powers and flexibility by making them responsible authorities
- making Primary Care Trusts (or their successors) responsible authorities
- lowering the evidential threshold on licensing authorities
- suspension of premises licences due to non-payment of annual fees
- scrapping the “vicinity test”
- reforming the system of Temporary Event Notices (TENs)
- changing the frequency for publication of Licensing Policy Statements from 3 to 5 years
- adding various offences to the list of relevant offences
- a requirement for the Secretary of State to review the effect of the amendments five years after their commencement.

6.8 As a consequence to the changes in legislation new statutory guidance was issued in April 2012, under the provisions of section 182 of the Licensing Act 2003. One of the new provisions of the legislation is that Licensing authorities are included in the list of responsible authorities in their own right. Responsible authorities under the 2003 Act are automatically notified of all new applications and can make representations. Licensing authorities are not expected to act as responsible authorities on behalf of other parties, although there are occasions where the authority may decide to do so. It is reasonable to expect that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other responsible authority. The 2003 act enables licensing authorities to act as responsible authorities as a means of early intervention; they may do so where they consider it appropriate without having to wait for representations from other responsible authorities. In cases where a licensing authority is also acting as responsible authority in relation to the same process( as in the case of Ryedale District Council), it is important to achieve a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest. In these cases, licensing authorities should allocate the different responsibilities to different licensing officers or other officers within the local authority to ensure a proper separation of responsibilities. The officer advising the licensing committee (i.e. the authority acting in its capacity as the licensing authority) must be a different individual to the officer who is acting for the responsible

authority. The statutory guidance recognises for smaller licensing authorities, where such a separation of responsibilities is difficult, however it is proposed that in order to maintain such a separation of responsibilities that the Licensing Officer continues to represent the licensing authority and the new role of acting as a responsible officer be designated to the Health and Environment Manager or in his absence the Principal Environmental Health Officer.

## **7.0 IMPLICATIONS**

7.1 The following implications have been identified:

- a) Financial  
The issue of localised fees has not yet been introduced and will be subject to consultation at a later date.
- b) Legal  
The issue of division of responsibilities has been addressed within this report and its recommendations
- c) Other (Equalities, Staffing, Planning, Health & Safety, Environmental, Crime & Disorder)  
Due to the exemptions introduced for live music, it is likely that noise complaints originating from licensed premises is likely to rise. The Licensing act 2003 will no longer be able to be used to control such activities and more work will fall on the environmental health officers who will have to rely on nuisance legislation.

**Phil Long**  
**Head of Environment, Streetscene and Facilities**

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**E-Mail Address:** [steve.richmond@ryedale.gov.uk](mailto:steve.richmond@ryedale.gov.uk)

### **Background Papers:**

*Amended guidance issued under section 182 of the Licensing Act 2003.* Home Office. April 2012

### **Background Papers are available for inspection at:**

Ryedale House, Malton or  
<http://www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol/guidance-section-182-licensing?view=Binary>

## RISK MATRIX – CHANGES TO THE LICENSING ACT 2003

Issue/Risk	Consequences if allowed to happen	Likelihood	Impact	Mitigation	Mitigated Likelihood	Mitigated Impact
Risk of non compliance with legislation introduced by the Police Reform and Social Responsibility Act 2011	Council failing to comply with its statutory duty and would also leave the Council open to legal challenge	<b>4</b>	<b>D</b>	Ensured systems are in place for the new changes to the Licensing Act 2003 and ensure separation of officers acting as the licensing authority and the responsible authority.	<b>1</b>	<b>A</b>

Score	Likelihood	Score	Impact
1	Very Low	A	Low
2	Not Likely	B	Minor
3	Likely	C	Medium
4	Very Likely	D	Major
5	Almost Certain	E	Disaster

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