

**GAMBLING ACT 2005
STATEMENT OF PRINCIPLES
2022-2025**

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PART A: GENERAL

I. INTRODUCTION- PROFILE

This Statement is published in accordance with the requirement set out in the Gambling Act 2005 requiring the Licensing Authority to prepare and publish a Statement of Principles which they propose to apply when exercising their functions. The statement must be published at least every three years and this Statement will come into effect on the 31 January 2022. The Statement must also be reviewed from 'time to time' and any amended parts re-consulted upon. The revised Statement must then be re-published.

- I.1 The East Riding of Yorkshire Council (the Council) is a unitary authority and the Licensing Authority under the Gambling Act 2005. The Council area has a population of 341,173 and covers 956 sq miles. The Council area is mainly rural with several key towns including, Beverley, Bridlington, Goole and Withernsea located in the area. The environment of the area particularly on the east coast provides the basis for a successful tourist economy.
- I.2 The Licensing Authority recognises the importance of gaming and betting for local commercial business and their customers but also its potential impact on the community. The Licensing Authority will strike a balance when considering all matters under the Act including the impact on and benefits to local business, residents, and the entertainment sector.
- I.3 In adopting the policy, the Licensing Authority seeks to address the needs of residents to ensure a safe and healthy environment in which to live and work, together with safe and well run entertainment premises that will benefit the local economy.
- I.4 The Gambling Act 2005 seeks to strengthen consumer protection and modernise historic gambling legislation which is now outdated. The authority

notes that the Government instigated a national review of the Act in December 2020, and a white paper outlining the findings and any proposed changes is due to be published by the end of 2021.

1.5 The Gambling Act requires that the following parties are consulted by Licensing Authorities:

- The Chief Officer of Humberside Police
- One or more persons who appear to the authority 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 including East Riding of Yorkshire Safeguarding (adult and children Boards) and the Council's Public Health department.

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

1.6 **Local risks**

1.6.1 **Local Risk Assessments.**

The Gambling Commission (the Commission) introduced new provisions in its social responsibility code within the Licence Conditions and Codes of Practice (LCCP), which require gambling operators to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. These policies will include consideration and controls in place to mitigate potential risk of harm to children and vulnerable persons, including people with gambling dependencies and must be specific for each premises.

- I.6.2 The introduction of new provisions in the social responsibility code within the LCCP encourages licensing authorities, the Commission and the industry to work in partnership to address local issues and concerns. This movement towards increased partnership working is something that East Riding of Yorkshire Licensing Authority has been doing for several years. We recognise that a risk-based approach to regulation enables the authority to prioritise resources where they are most needed and can be most effective in working with and supporting business.
- I.6.3 The risk based approach provides a better understanding of, and enables a proportionate response, to risk. This approach includes looking at future risks and thinking about risks in a probabilistic way. Risk is not necessarily related to an event that has happened. Risk is related to the probability of an event happening and the likely impact of that event. In this case it is the risk of the impact on the gambling licensing objectives.
- I.6.4 This licensing authority has developed guidance to assist gambling operators in undertaking and preparing their local (premises) risk assessments. This guidance, which is published as a separate document on the Council's website, provides a framework for the local risk assessment process that will provide a uniform approach across all non-remote gambling sectors. This will benefit the Council as Licensing Authority under the Gambling Act 2005 (the Act), as well as responsible authorities and interested parties when considering new and variation applications.
- I.6.5 The local risk assessments will also enable this licensing authority to establish a more stepped approach to its compliance inspection regime.
- I.6.6 Operators must undertake a review of those assessments when certain triggers are met. These triggers, along with this licensing authority's views on what would instigate either a new assessment or the review of an existing one will be detailed within the guidance document.
- I.6.7 This licensing authority considers that these local risk assessments are a key component of the overall assessment and management of the local risks. This licensing authority will assist operators in this process by providing specific information on its concerns surrounding gambling within the East Riding of Yorkshire and the impact that premises can have on the licensing objectives. This will be contained within its Statement of Licensing Principles (Gambling Policy) as detailed below.
- I.6.8 This local risk assessment process is not the same as other forms of risk assessment undertaken by gambling operators, such as Health and Safety at Work, Fire Safety and Food Hygiene, etc.

1.6.9 These local risk assessments are specific to the **potential harm** that gambling premises can have on one or more of the licensing objectives under the Act. They are specific to the premises, the local area and the local community.

DECLARATION

1.7 In producing the licensing policy statement the Licensing Authority declares that it has had regard to:

- Regulations issued by the Secretary of State
- the three licensing objectives of the Gambling Act 2005,
- the guidance to local authorities issued by the Gambling Commission, and
- any responses from those consulted on the policy statement.

2. THE GAMBLING LICENSING OBJECTIVES

2.1 In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in Section 1 of the Act. The licensing objectives are:

- ***Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime,***
- ***Ensuring that gambling is conducted in a fair and open way***
- ***Protecting children and other vulnerable persons from being harmed or exploited by gambling.***

2.2 It should be noted that the Gambling Commission has stated: **‘The requirement in relation to children are explicitly to protect them from being harmed or exploited by gambling’**

2.3 The Licensing Authority is aware that 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 is:

- in accordance with any relevant codes of practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives (subject to the above)
- In accordance with the authority's statement of licensing principles

The 'aim to permit' framework provides wide scope for licensing authorities to impose conditions on a premises licence, reject, review or revoke premises licences where there is an inherent conflict with the relevant codes of practice, relevant guidance issued by the Commission, the licensing objectives or the licensing authorities own policy statement.

3. RESPONSIBLE AUTHORITIES

3.1 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 that is competent to advise the authority about the protection of children from harm.

3.2 The principles are:

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

- 3.3 In accordance with this suggestion in the Gambling Commissions Guidance for local authorities this authority designates the Director of Children, Families and Schools for this purpose as this body meets the principles as shown in 4.2 of the policy.
- 3.4 The contact details for all Responsible Bodies under the Gambling Act 2005 are available via the Council's website at: www.eastriding.gov.uk or on request from the Licensing Team.
- 3.5 The Licensing Authority is a Responsible Authority under the Act and can make representation as well as call review of licences granted. To ensure transparency and the responsibility for calling a review will only be made following agreement with the relevant Head of Service or Group Manager.
- 3.6 The Licensing Authority will notify all Responsible Authorities and residents of applications by posting this information on the public applications page which can be accessed on the councils website www.eastriding.gov.uk The Licensing Authority recognises the Secretary of State shall specify a particular body as being the Responsible Authority in relation to vulnerable adults.

4. INTERESTED PARTIES

- 4.1 Interested parties can make representations about licence applications or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as persons who:
- lives sufficiently close to the premises to be likely to be affected by the authorised activities,
 - has business interests that might be affected by the authorised activities, or
 - represents persons who satisfy paragraph (a) or (b)

- 4.2 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.
- 4.3 The principles are: **Each case will be determined on its own 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 local authorities. 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.
- 4.4 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 if the councillor/MP represents the ward likely to be affected. Other than these persons, this authority will generally require written evidence that a person/body 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.
- 4.5 If individuals wish to approach councillors to ask them to represent their view then care should be taken that the councillors are not part of the Licensing Act 2003 Sub- Committee dealing with the licence application.

5. EXCHANGE OF INFORMATION

- 5.1 The Licensing Authority will work closely with the Gambling Commission, Humberside Police and with Responsible Authorities where there is a need to exchange information on specific premises.
- 5.2 A protocol for the sharing of such information will be established in order to target agreed problem and high-risk premises that require greater attention while providing a lighter touch in respect of well run, low risk premises. This protocol will be kept under review and the Licensing Authority will endeavour maintain contact with the Gambling Commission, and meet at other times as mutually agreed to deal with urgent matters and share operational information.
- 5.3 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 2018 will not be contravened. The Licensing Authority will also have regard to any Guidance issued by the Gambling Commission to local authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005. There may however be some information held by the Licensing Authority which cannot be shared with the Gambling Commission, where this is the case the reason for this will be explained to the Commission.
- 5.4 The commission holds a lot of information that can also be shared with the Licensing Authority to support their role in administering and enforcement the principles of the act. The Authority notes and acknowledges the Gambling Commission pledge to work in partnership with the licensing authority as a collective approach to achieve the best possible outcomes.

6. INSPECTION AND COMPLIANCE/ENFORCEMENT

The main enforcement and compliance role for this licensing authority in terms of the Act will be to ensure compliance with the premise's licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for operating and personal licences. The Commission will also deal with any concerns about manufacture, supply, or repair of gaming machines.

- 6.1 The Licensing Authority shall aim to protect and enhance the safety of people who live in, work in, or visit the East Riding of Yorkshire through the application and compliance of licensing legislation and the promotion of the Licensing Objectives.
- 6.2 'Regulators' under the Gambling Act 2005 refers specifically to officers of the Licensing Authority, Gambling Commission and Humberside Police with specific enforcement and inspection responsibilities under the Gambling Act 2005.
- 6.3 Licensing Authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising its 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.
- 6.4 This Licensing Authority's principles follow the Statutory Code of Practice for Regulator's in that: It will be guided by the Gambling Commission's Guidance for local authorities and it will endeavour to be:

Proportionate: regulators should only intervene when it is necessary, remedies should be appropriate to the threat or risk posed, and costs identified and minimised.

Accountable: regulators must be able to justify their 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 focussed on the problem and minimise side effects.

6.5 The Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible when carrying out inspection, enforcement, or compliance activity.

6.6 In relation to inspections, the 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
- The principles set out in this statement of principles
- Previous compliance history of premises

6.7 High risk premises are those premises that have a history of complaints and/or non-compliance and require greater attention with low risk premises needing only a lighter touch so that resources can effectively concentrate on problem premises and unlicensed activity.

6.8 The main enforcement and compliance role for this Licensing Authority in terms of the Gambling Act 2005 is carried out by the Council's Licensing Team and is to ensure compliance with the Premises Licences and other permissions, which it authorises.

- 6.9 The enforcement of licensing law and the inspection of licensed premises will be agreed through joint working procedures and protocols, which reflect the need for more effective deployment of police, fire and local authority staff commonly engaged in licensing enforcement. These procedures and protocols will provide for the targeting of resources towards high-risk premises and activities that require greater attention, while providing a lighter touch in respect of low risk premises that are well operated.
- 6.10 The Licensing Authority will investigate all complaints against premises licensed by the Licensing Authority under the Act. Where appropriate, complainants are advised in the first instance to raise the complaint directly with the licensee or business concerned. Where there is a valid complaint the Licensing Authority will seek to find a solution through informal means wherever possible.
- 6.11 Where it is considered appropriate the Licensing Authority will pass any complaint on for investigation by another statutory agency under whose enforcement responsibility the complaint falls.
- 6.12 Bearing in mind the principles of transparency, this Licensing Authority's enforcement/compliance protocols/written agreements are available upon request to the licensing team.
- 6.13 Any decision to instigate legal proceedings will consider the Licensing enforcement policy which incorporates the Regulatory Reform Compliance Code. In addition, the Licensing Authority shall adopt a positive and proactive approach towards ensuring compliance by
- Helping and encouraging licence/permit holders understand and meet their regulatory requirements more easily; and

- Responding proportionately to regulatory breaches

6.14 The Licensing Authority has implemented a Gaming Accreditation Awards Scheme with the gaming industry to raise standards on licensed premises, reduce burdens by promoting co regulation and encouraging compliance with legislation and conditions.

7. LICENSING AUTHORITY FUNCTIONS

7.1 Licensing Authorities are required under the Act to:

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

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

8. ADMINISTRATION, EXERCISE AND DELEGATION OF FUNCTIONS

8.1 The Licensing Authority will be involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them. Decisions on all licensing matters under the Gambling Act 2005 will be taken in accordance with an approved Scheme of Delegation underlying this scheme are the principles of timely, efficient and cost-effective decision-making.

8.2 The Act itself creates a presumption that all applications will be determined and granted by an officer of the Licensing Authority where there are no relevant representations or objections.

8.3 This form of delegation is without prejudice to officers referring an application to a Sub-Committee, or a Sub-Committee to Full Committee, if considered appropriate in the circumstances of any case.

8.4 Where a function is delegated to an officer, that officer will be responsible for liaising with the applicant, interested parties and the responsible authorities to ensure that the application fulfils the required principles

- 8.5 Where objections or relevant representations are made the Licensing Manager or an officer authorised to act on their behalf, will if appropriate mediate between the applicant, interested parties and the responsible authorities to seek agreement and to overcome the objections/relevant representations without the matter going before a licensing sub-committee for determination.
- 8.6 The Licensing Authority has established a Licensing Act 2003 Committee, comprising 10 elected members to administer its licensing functions. The principal function of the Licensing Act 2003 Committee will be to advise the Licensing Authority on a Statement of Principles for the purposes of the Gambling Act 2005 and its subsequent review and to approve a scheme of delegation for the exercise of the licensing functions.
- 8.7 A Licensing Sub-Committee comprising three elected members will determine applications which are subject to relevant representations or objections and which have not been resolved by officers through mediation.
- 8.8 All applications, which need determination by a Licensing Act 2003 Sub-Committee, will be heard in public although decisions will be made in private in the presence of the Committee clerk and legal advisor.
- 8.9 An application may be heard in the absence of the applicant or interested parties where the required notice of the date on which the application is to be heard has been given. The Licensing Act 2003 Sub-Committee will give reasons for the decision to proceed in the absence of any party.
- 8.10 A Licensing Act 2003 Sub-Committee may determine that it is appropriate to attach individual conditions to a licence, in circumstances where;

- there are regulatory concerns of an exceptional nature,
 - there are specific risks or problems associated with a particular locality, or specific premises or class of premises.
- 8.11 Any such individual conditions will be proportionate to the activity to be controlled, directly related to the premises and type of licence applied for and will only be imposed in the interests of the licensing objectives.
- 8.12 The Sub-Committee's decision will be accompanied by clear, cogent reasons for the decision, having due regard to the Act, Guidance, Codes of Practice and Statement of Principles. The Licensing Act 2003 Sub-Committee will announce the decision in public.
- 8.13 A summary of the decision will be posted on the Licensing Authority's web site as soon as reasonably possible after the meeting. This will form part of the Licensing Authority's statutory licensing register. This register will be available from the Licensing Authority's website at www.eastriding.gov.uk.
- 8.14 A Licensing Act 2003 Sub-Committee will also hear any requests by a responsible authority or an interested party to review a Premises Licence because of issues arising, which contravene any of the three licensing objectives.
- 8.15 The Licensing Act 2003 Committee will receive reports from the Director of Planning and Economic Regeneration where appropriate based on the needs of the local tourist economy to ensure that these are reflected in their considerations. The Licensing Act 2003 Committee will also be apprised of the local employment situation and the need for investment and employment where appropriate.

9. COMMITTEE, OFFICER DELEGATION OF FUNCTIONS

- 9.1 The Licensing authority is involved in a wide range of licensing decisions and functions and has established the Licensing Act 2003 Committee to administer them.

The Licensing Act 2003 Committee is made up of members and a sub-committee of three from the main Committee sits to determine licensing hearings where representations have been made. Ward Councillors will not sit on a sub-committee involving an application in their ward.

Where a Councillor who is a member of the Licensing Act 2003 Committee is making or has made representations regarding a licence on behalf of an interested party , in the interests of good governance they will disqualify themselves from any involvement in the decision making process affecting the licence in question.

Decisions as to whether representations are irrelevant, frivolous or vexatious will be made by Council officers, who will make the decisions on whether representations or applications for licence reviews should be referred to the Licensing Act 2003 Committee or sub-committee. Where a representation is rejected the person making that representation will be given written reasons as to why that is the case. There is no right of appeal against a determination that representations are not admissible other than judicial review.

The table at Appendix I sets out the agreed delegation of decisions and functions in relation to licensing matters

10. Appeals

- 10.1 Where an applicant is aggrieved with any condition or the decision, there is a right of appeal. This appeal must be lodged within a period of 21 days from the

day on which the applicant was notified by the Licensing Authority of the decision and must be made to the Chief Executive to the Justices.

10.2 All appeals must be made to the Magistrates' Court where the premises are situated.

10.3 On determining an Appeal the Court may: -

- Dismiss the appeal
- Substitute the decision appealed against with any other decision which could have been made by the Licensing Authority
- Remit the case to the Licensing Authority to dispose of the appeal in accordance with the direction of the court
- Make an order for costs

In the case of permits other than prize gaming permits: -

- As above plus;
- Restore the permit.

10.4 When considering an appeal the Magistrates' Court will have regard to the Act, the Licensing Authority's Statement of Principles for the Gambling Act 2005 and the Gambling Commission Guidance issued under section 25 of that Act.

The Act provides for no further appeal against the determination of the Magistrates' Courts.

11. Links with Other Policies, Objectives and Guidance

11.1 The Licensing Authority will secure the proper integration of this Statement with local crime prevention, anti-social behaviour, children and Vulnerable adults

safeguarding boards away from licensed premises, planning, transport, tourism and cultural strategies by having regard to the existing policies and guidance documents. Liaison and consultation will also take place with Humberside Police.

PART B- PREMISES LICENCES; CONSIDERATION OF APPLICATIONS

BI. General Principles

BI.1 Premises licences are subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities can exclude default conditions and attach others, where it is believed to be appropriate.

BI.2 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 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 (subject to the above), and
- in accordance with the authority's statement of licensing policy (subject to the above).

BI.3 Where children, young persons and other vulnerable people are allowed access to premises where gambling takes place, the Licensing Authority may take whatever steps are considered necessary to either limit access generally or

introduce measures to prevent under-age gambling where it believes it is necessary to achieve the licensing objectives

- BI.4 Applicants are encouraged to propose any prohibitions or restrictions of their own in circumstances where it is felt that the presence of children would be undesirable or inappropriate. Applicants are also encouraged to demonstrate responsible recruitment of staff in key areas and carry out basic criminal record bureau checks in appropriate circumstances.
- BI.5 It is appreciated that as per the Gambling Commission's Guidance for local authorities '**moral and ethical**' objections to gambling are not a valid reason to reject applications for premises licences and also that **unmet demand** is not a criterion for a Licensing Authority to consider.
- .
- BI.6 **Definition of "premises"** - Premises is defined in the Act as "**any place**". Section 152 therefore prevents more than one premise 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 pleasure parks, leisure complexes, piers, tracks or shopping malls to obtain discrete premises licences where appropriate safeguards are in place.
- BI.7 However this authority will pay particular attention if there are issues about subdivisions of a single building or plot to ensure that the mandatory conditions relating to access between premises are observed.
- BI.8 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 and consider whether entry can be made directly into the premises from the street. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the Licensing Officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises.”

BI.9 This Licensing Authority has particular regard to the Gambling Commission’s Guidance for local 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. 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 must be separate and identifiable so that the separation of different premises is not compromised and that people do not “drift” into a gambling area. In this context it must 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 licensable activity named on the premises licence

BI.10 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 factors in making its decision, depending on all the individual circumstances of the case including its main concern around the impact on the licensing objectives of granting an application.

BI.11 Part 7 of the Gambling Commission's Guidance to Local Authorities contains further guidance on this issue, which this authority will also consider in its decision-making.

*Where licences have already been granted or issued under the Gambling Act 2005 to premises either during the transitional period or before the issuing of the recent amended Guidance from the Gambling Commission and agreements were reached in good faith then the Licensing Authority will honour the decisions made at that time and the agreements in place in relation to the individual licences and permits issued. **If these premises undermine the licensing objectives in any way then the matter may be re considered by the Licensing Authority.***

BI.12 ***If a variation application is made in respect of these premises in the future then the Licensing Authority will consider whether the change will impact***

on the licensing objectives before considering whether to grant the application.

Premises “ready for gambling”

BI.13 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 applicant does not yet have a right to occupy the premises, then an application for a provisional statement should be made instead.**

BI.14 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.

BI.15 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.

BI.16 Location

This Licensing Authority is aware that demand issues cannot be considered regarding 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 for local 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.

BI.17 Duplication with other regulatory regimes

This 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 regulations approval, in its consideration of it. It will though listen to, and consider carefully, any concerns about conditions, which cannot 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 consider whether those buildings have to comply with the necessary planning or buildings consents unless the matter is relevant to the licensing objectives. Fire or health and safety risks will not be considered, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

BI.18 Licensing objectives

Premises licences granted must be reasonably consistent with the licensing objectives. Regarding these objectives, this Licensing Authority has considered the Gambling Commission's Guidance to local authorities and some comments are made below.

BI.19 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 in liaison with Humberside Police 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 such as whether police assistance was required and how threatening the behaviour was to those who could see it, to make that distinction.

BI.20 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 (betting on a sporting event) which is explained in more detail in the 'tracks' section below).

BI.21 Protecting children and other vulnerable adult persons from being harmed or exploited by gambling -

This Licensing Authority has noted the

Gambling Commission's Guidance for local authorities states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The Licensing Authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether 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.

- BI.22 This Licensing Authority is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises. As regards the term “**vulnerable persons**” it is noted that the Gambling Commission does not seek to offer a definition but states that “**it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.**”

The Licensing Authority will consider this licensing objective on a case-by-case basis.

- BI.23 **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.

BI.24 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 using should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This Licensing Authority will also expect the licence applicant to offer his/her own suggestions as to ways in which the licensing objectives can be met effectively.

BI.25 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.

BI.26 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.

BI.27 These considerations will apply to premises including buildings where multiple premises licences are applicable.

BI.28 This Licensing Authority is aware that Tracks (betting on sporting events such as horse racing, greyhound track, point to point, darts/boxing event venues) 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.

BI.29 **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 condition on 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.

BI.30 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 ensure that under 18 year olds do not have access to the premises.

This Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives, however appropriate measures could include:

- Proof of age schemes i.e Challenge 21/25
- CCTV
- Door supervisors where necessary
- Supervision of entrances /machine areas
- Physical separation of areas
- Location of entry
- Notices and Signage
- Self-exclusion schemes
- Provision of information leaflets/helpline numbers for organisations such as GamCare
- Appropriate recruitment and training in terms of protection of children and vulnerable adults.

This list is neither mandatory nor exclusive but is indicative of practical measures, which could be provided.

BI.31 Family Entertainment Centres

There are two classes of Family Entertainment Centres. Licensed FEC's provide Category C and D machines and require a Premises Licence. Unlicensed FEC's provide Category D machines only and are regulated through FEC Gaming Machine Permits.

Licensed FEC's

Children and young persons may enter Licensed FEC's but are not permitted to play category C machines. The 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 ensure that under 18 year olds do not have access to the adult only gaming machine areas. This Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives, however appropriate measures could include:

- Proof and age schemes
- CCTV specifically sited where the adult machines are likely to be situated.
- Controlled supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices/ Signage
- Self-exclusion schemes
- Display of Gambling Helpline stickers
- Provision of information leaflets/ helpline numbers for support organisations

- Appropriate recruitment and training in terms of the protection of children and vulnerable adults

This list is neither mandatory nor exclusive but is indicative of practical measures, which could be provided.

BI.32 With regard to vulnerable persons, the Licensing Authority will consider measures such as the use of self-barring schemes, provision of information leaflets/help line numbers for organizations such as GamCare as appropriate measures.

BI.33 With regard to segregation of category C machines in licensed FEC's, there is a requirement that there must be clear segregation between the two types of machine so that children do not have access to Category C machines and the Licensing Authority will take into account any guidance issued by the Gambling Commission in the light of any regulations made by the Secretary of State.

BI.34 Unlicensed Family Entertainment Centre gaming machine permits

Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the Licensing Authority for a permit. It should be noted that the applicant must satisfy the Licensing Authority that the premises will be used as an unlicensed Family Entertainment Centre by **wholly or mainly used for making gaming machines available for use** (Section 238) and if the chief officer of police has been consulted on the application.

Further information on UFEC's is detailed at Part C – Permits

BI.35 Casinos

The Gambling Act 2005 establishes a new system for the regulation of all gambling in Great Britain other than the National Lottery and spread betting.

The Act provides for three different types of casino: regional, large and small and for different premises licences for each type. Section 175 prescribes limits on the number of such licences

The Council 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 the Council decide in the future to pass such a resolution, it will update this Statement with details of that resolution. Full Council will make any such decision.

Furthermore this Council is aware that where, as the Licensing Authority, it is enabled to grant a premises licence for a new style casino there are likely to be a number of operators who will want to run the casino. In such situations the Council, as the Licensing Authority, will run a 'competition' under Schedule 9 of the Gambling Act 2005. The Council as Licensing Authority will run such a competition in line with any regulations and codes of practice issued under the Gambling Act 2005 as well as following the procedure set out in Section 17 of the Guidance.

BI.36 Bingo premises

This Licensing Authority notes that the Gambling Commission's Guidance states:

'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 18.5 regarding the unusual circumstances in which the splitting of pre-existing

premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate eight category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.'

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.

BI.37 **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.

BI.38 **Tracks**

Tracks are betting facilities on a sporting event and include

- A horse racecourse
- A greyhound track
- A point-to-point horserace meeting
- Football, cricket and rugby grounds
- An athletics stadium
- A golf course

- Venues hosting darts, bowls, or snooker tournaments
- A premises staging boxing matches
- A section of river hosting a fishing competition and
- A motor racing event

BI.39 This Licensing Authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to the specific area of the track. This Licensing Authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable adult 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.

BI.40 This Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives and consider that appropriate measures could normally include:

- Proof and age scheme
- CCTV
- Supervision of entrances / machines areas

- Physical separation
- Location of entry
- Notices / signage
- Self – exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.
- Appropriate recruitment and training for staff in terms of the protection of children and vulnerable adults including safeguarding training.

This list is not mandatory, nor exclusive, and is merely indicative of measures applicants may offer to meet the licensing objectives

BI.41 *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 in areas from which children are excluded.

BI.42 *Betting machines* - This Licensing Authority will, as per 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.

BI.43 *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.

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.

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.

This Authority will need to be satisfied that the plan provides sufficient information to enable the application to be assessed.

BI.44 Travelling Fairs

Travelling fairs may provide an unlimited number of category D gaming machines if 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, like those typically played in arcades and pubs are not permitted. Fairground operators must source their machines from a Commission licensed supplier and employees working with the gaming machines must be at least 18 years old.

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.

BI.45 Provisional Statements

Developers may wish to apply to this authority for provisional statements before entering 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 to apply for a provisional statement.

S204 of the Gambling Act provides for a person to make an application to the Licensing Authority for a provisional statement in respect of premises that he or she:

- expects to be constructed;
- expects to be altered; or
- expects to acquire a right to occupy.

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 deciding.

BI.46 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 based on whether the request for the review raises issue as to whether the operation of the premises 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 licensing policy

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 because 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

BI. 47 Appeals

There is a right of appeal both for applicants and those who have made relevant representations or applied for a review. This appeal must be lodged at the Magistrates' Court within a period of 21 days from the day on which the applicant was notified of the decision and must be accompanied by the fee payable to the court.

In accordance with good practice we will give clear and comprehensive reasons in relation to all decisions we make. These reasons will address the extent to which the decision has been made regarding the Licensing Policy and the Gambling Commission's Guidance and the reasons will be submitted to all parties concerned.

BI.48 Complaints

All complaints in the first instance should be addressed to Licensing Team by email to: licensing@eastriding.gov.uk or in writing to Licensing Team, County Hall, Cross Street, Beverley HU17 9BA.

PART C: PERMITS / TEMPORARY & OCCASIONAL USE NOTICE

CI. Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits – Schedule 10 paragraph 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 25.

The Gambling Commission's Guidance for local 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)

The 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. The Licensing Authority may 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 verified by standard CRB check);
- 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 for permits:

This Licensing Authority will expect the applicant to show that there **are policies and procedures in place to protect children from harm and exploitation**. 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 with regard to **suspected truant or missing school children** on the premises, measures / training covering how staff would deal with **unsupervised children or young persons** being on the premises or **children causing perceived problems on or 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 following a standard CRB check (those that are set out in Schedule 7 of the Act); and that
- staff have been fully trained to have a full understanding of the maximum stakes and prizes.

- Attach a plan of the premises to show the boundary of the premises as well as location of the machines, in a **scale 1:100** or as agreed in advance with the Licensing Authority

2. (Alcohol) Licensed premises gaming machine permits – (Schedule 13 Paragraph 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**. The Licensing Authority can **remove the automatic authorisation** in respect of any 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 licensed premises gaming machines **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 adult persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being **in sight of the bar, or in the sight of staff** who will monitor that the machines are not being used by those under 18. **Notices and signage may also be helpful.** As regards the protection of vulnerable adult persons these 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 most likely need to be dealt with as an Adult Gaming Centre premises licence.** It should be noted that the Licensing Authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. **Conditions (other than these) cannot be attached.**

It should also be noted that the holder of a permit must **comply with any Code of Practice** issued by the Gambling Commission about the location and operation of the machines.

3. Prize Gaming Permits –

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 13 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**. The Club Gaming Permit will enable the premises to provide gaming machines (**total of 3 machines of either categories B3, 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 (**total of 3 machines in either categories B3, C or D**).

Members Clubs, Miners Welfare Institutes and Commercial Clubs may apply for **Clubs Gaming machines permits**. Gambling Commission Guidance states: "Members clubs must have at **least 25 members** and be established and conducted "**wholly or mainly**" for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulations and these cover **bridge and whist clubs**, which replicates the position under the Gambling Act 1968. A members' club must be **permanent in nature, not established to make commercial profit, and controlled by its members equally**. Examples include working men's clubs, branches of

Royal British Legion and clubs with political affiliations.” 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 (Gambling Commission’s Guidance for Local Authorities 25.26)

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 for local authorities states: “Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced” and “The grounds on which an application under the process may be refused are:

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

There are statutory conditions on club gaming machine permits that **no child uses a category B3/4 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.

Commercial clubs cannot have category B3 machines on the premises except for Lottery machines category B3A

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 a Temporary Use Notice, 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 or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments**.

There are several 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 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 (OUN)

This Notice allows the use of land as a track for a sporting event, in addition to a recognised track, for eight days or less in a calendar year by **licensed betting operators** where the events on which betting takes place is of a temporary, infrequent nature. Such OUNs may apply to agricultural land used for point-to-point races or local events such as the "Kiplingcotes Derby".

The Licensing Authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This Licensing Authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice and that no more than 8 OUN's are issued in one calendar year in respect of any venue.

The OUN must:-

- be served either by the person who is in charge of the administration of the event or the occupier of the track;
- specify the date of the event; and
- specify the location of the track or land to be used.

The Act provides for no minimum time period before the event by which an occasional notice must be served on a Licensing Authority. It is recommended however to ensure that time periods are not exceeded that **notice is served on the Licensing Authority at least 20 working days before the event date.**

The track or land specified for use in the OUN may be subject to eight OUNs in any calendar year.

In the event that the figure is exceeded, a Counter Notice will be served upon the administrator of the event and owner of the track or relevant land informing them that if bets are taken during the event an offence will be committed under Section 37 of the Act.

Part D: Lotteries

- D1. A Small Society Lottery is a prize draw or raffle promoted on behalf of a non commercial society for the purposes of fund raising. It is known as an "exempt lottery", which means that it does not need a licence from the Gambling Commission.
- D2. Exempt lotteries include: a) Small Society Lotteries b) Incidental Non-Commercial Lotteries c) Private Lotteries: • Private Society Lottery • Work Lottery • Residents' Lottery d) Customer Lotteries
- D3. A society is non-commercial if it is established and conducted: a) for charitable purposes b) for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity: or c) for any other non-commercial purpose other than a private gain

- D4. A lottery is small if the total value of tickets put on sale in a single lottery is £20,000 or less and the total value of the tickets put on sale in a calendar year is £250,000 or less. Where tickets for a single lottery exceed £20,000 or the total value of tickets in a year exceeds £250,000 a lottery is a Large Society Lottery and a licence will be required from the Gambling Commission.
- D5. In exercising our functions regarding small society and exempt lotteries, we will have due regard to the Gambling Commission's Guidance.
- D6. Applicants for lottery registrations must apply to the licensing authority in the area where their principal office is located. Where we believe that the Society's principal office is situated in another area we will inform the Society as soon as possible and where possible, will inform the other licensing authority.
- D7 Applicants will be required to set out the purposes for which the Society is established and to declare that they represent a bona fide non-commercial society and have no relevant convictions. Where required further information from the Society may be requested.
- D8 We will keep a public register of all applications and will provide information to the Gambling Commission on all registered lotteries.
- D9 We may refuse an application for registration if in our opinion:
- a) The applicant is not a non-commercial society;
 - b) A person who will or may relate to the promotion of the lottery has been convicted of a relevant offence.

c) Information provided in or with the application for registration is false or misleading.

d) if in the previous five years, either an operating licence held by the applicant for registration has been revoked, or an application for an operating licence made by the applicant for registration has been refused.

D10 Where applications are refused the society will be informed of the reasons for refusal and given the opportunity to make representations.

D11 We may also revoke the registered status of a society if we believe it would have been necessary to refuse an application for registration if it were being made at that time. However, no revocations will take place unless the Society has been informed of the reasons for revocation and given the opportunity to make representations.

APPENDIX I

Matter to be dealt with	Full Council	Licensing Act 2003 Committee	Licensing Act 2003 Sub Committee	Officer delegation – Director of Communities and Environment
Final approval of three-year policy	X			
Policy not to permit casinos	X			
Fee setting				X

when appropriate				
Application for Premises Licence			Where representation is made and not withdrawn, or it is proposed to attach a condition under section 169(1) (a) of the Gambling Act 2005 or to exclude a condition under section 169 (1) (b) of that Act.	Where no representation is received or has been withdrawn
Application for a provisional statement			Where representation is made and not withdrawn or it is proposed to attach a condition under section 169(1) (a) of the Gambling Act 2005 or to exclude a condition under section 169(1) (b) of that Act.	Where no representation is received or has been withdrawn

Application for a variation to a Premises licence			Where representation is made and not withdrawn or it is proposed to attach a condition under section 169(1) (a) of the Gambling Act 2005 or to exclude a condition under section 169 (1) (b) of that Act.	Where no representation is received or has been withdrawn
Application for a transfer of a Premises licence.			Where representation is made by the Gambling Commission or it is proposed to attach a condition under section 169(1) (a) of the Gambling Act 2005 or to exclude a condition under section 169 (1) (b) of that Act.	Where no representation is made by the Gambling Commission
Application for			If representation	Where no representation

the reinstatement of a lapsed licence			is made	is made
Application to review a premises licence			X	
Decision on whether a review request is irrelevant, frivolous vexatious etc				All cases
Decision to review when initiated by the Licensing Authority				All cases
Consideration of a temporary use notice.			If an objection is made and not withdrawn	Where no objection is made or objections have been withdrawn
Decision to give a counter notice to a Temporary use notice			X	
Application for a Club gaming/ club machine			Where objections have been made and not	Where no objection is made or objections have been withdrawn.

permits			withdrawn	
Cancellation of a Club gaming/ club machine permits			X	
Application for other permits.				X
Cancellation of licensed premises gaming machine permits				X
Application for registration of a small society lottery.				X
Refusal of an application to register as a small society lottery			Where it has been identified, following a hearing, that the grounds detailed in paragraphs 47 or 48 of Schedule II of the Gambling Act 2005 apply	
Revocation of a registration as a small			Where it has been identified that grounds exist	

society lottery			which would have resulted in a refusal to register if the application were made anew.	
To make an order under section 284 of the Gambling Act 2005 removing the exemption of either the right to provide equal chance gaming in 'on sale' alcohol licensed premises or the entitlement to provide two gaming machines in 'on sale' alcohol licensed premises				X
Removal of automatic			Where it has been determined	X

entitlement of 2 gaming machines in alcohol premises			that (i)allowing the exemption would not be reasonably consistent with the licensing objectives (ii)where gaming has taken place on a premises in breach of a condition of either Section 279 or Section 282 (iii)Where the premises are mainly used for gaming (iv)Where an offence has been committed under the Act on the premises	
More than 2 gaming machines in alcohol licensed premises				X

Revocation of Premises licence and gaming machine permits where annual fee not paid.				X
Policy Changes				X Minor changes only in consultation with the relevant portfolio holder

THIS SCHEME OF DELEGATION IS WITHOUT PREJUDICE TO OFFICERS REFERRING AN APPLICATION TO A SUB-COMMITTEE OR FULL COMMITTEE IF CONSIDERED APPROPRIATE IN THE CIRCUMSTANCES OF ANY PARTICULAR CASE.