



STATEMENT OF PRINCIPLES

GAMBLING POLICY 2013 - 2016

DRAFT

**KIRKLEES COUNCIL
THE GAMBLING ACT 2005
STATEMENT OF PRINCIPLES 2013 - 2016**

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All references to the guidance of the Gambling Commission to licensing authorities refer to the guidance 3rd edition published in May 2009.

PART A

THE GAMBLING ACT 2005

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".

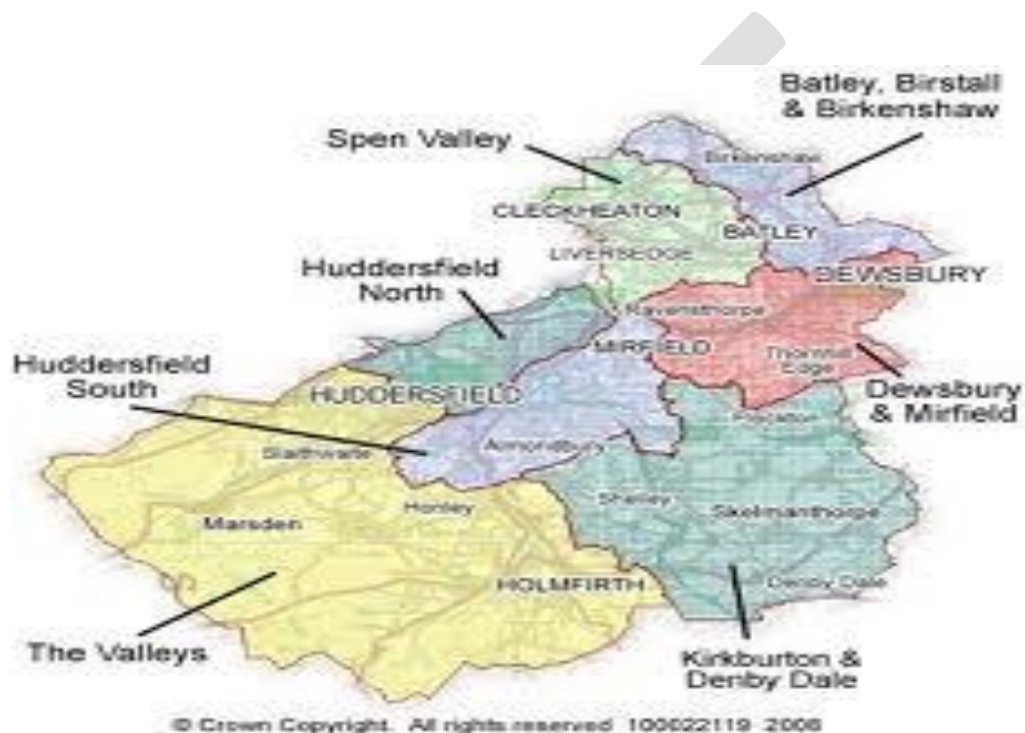
The council is aware that, as per Section 153, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it:

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

2. Introduction

Kirklees Council is situated in West Yorkshire, which contains 5

metropolitan councils in total. The council area has a population of approximately 444,500 making it the largest metropolitan district not based on a city in terms of population. In terms of area it is the third largest, covering 157 square miles. The council area is mainly rural in the south with a central urban area around large towns. The area also comprises of several smaller towns of varying sizes. These areas are shown on the map below.



The people of Kirklees represent many cultures, faiths, languages and races. A wide range of minority groups including Pakistani, Indian, Black Caribbean as well as many other smaller communities make up 16 % of the population.

Kirklees Council has issued a Corporate Plan which outlines the Council's main priorities. The priorities are divided into four themes aimed at bringing about significant improvement in Kirklees by 2014. The themes are to:

- Enhance life chances for young people

- Support older people to be healthier, active and included
- Business growth & jobs
- Provide effective and productive services.

The Gambling Policy aims to promote the licensing objectives within the overall context of the Corporate Plan. .

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 then be re-published.

Kirklees Council consulted widely upon their original statement before finalising and publishing. A list of those persons consulted is provided below.

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:

- **West Yorkshire Police**
- **The Local Safeguarding Children Board**
- **Representatives of local businesses**
- **Local Chambers of Commerce**
- **Town Centre Associations**

- **Residents of Kirklees and their representatives**
 - **Kirklees Federation of Tenants & Residents Association**
 - **Town Councils in the district**
 - **Parish Councils in the district**
 - **Local Members of Parliament**
 - **Ward Councillors**
 - **Area Committees**
 - **Sister Services**
 - **National bodies representing the gambling trade**
 - **National charities concerned with the social impact of gambling**
 - **Representatives of existing license holders**
 - **Yorkshire Forward**
 - **Yorkshire Culture**
 - **West Fire and Rescue**
 - **Community Safety Partnership**
 - **Huddersfield University**
 - **Local financial/debt management agencies**
 - **Holders of Club Premise Certificates**
 - **Holders of Lottery Permits**
 - **Holders of Permits for Amusement Arcades**

Our consultation ended on 28th September 2012

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

Licensing Service

Riverbank Court
Wakefield Road
Huddersfield.

Email: licensing@kirklees.gov.uk

Tel 01484 456868

Fax 01484 223477

3. Declaration

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 license, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

In producing the final statement, the council declares that it has had regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission, and any responses from those consulted on the statement.

4. Responsible Authorities

These are generally public bodies that must be notified of all applications, they are entitled to make representations to the Council which are relevant to the licensing objectives. They have no obligation to respond to applications for premises licences if they wish not to do so.

Section 157(h) of the Act defines them as

- The Gambling commission
- The Police
- The Fire Service
- The Local Safeguarding Children Board
- The local planning authority
- Environmental Health
- HM Revenue and Customs
- The licensing authority (the council)

Each representation will be assessed with regard to the licensing objectives and be taken on its own individual merits.

The council is required by regulations to state the principles it will apply to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:

- the need for the body to be responsible for an area covering the whole of the licensing authority's area;
- and 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 for local authorities, this authority designates the Local Safeguarding Children Board 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.kirklees.gov.uk

5. Interested parties

Interested parties are certain types of people or organisations who have the right to make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:

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

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

The council 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. The council will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance to local authorities. 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.

The Gambling Commission has recommended that the licensing authority states that interested parties include trade associations and trade unions, and residents' and

tenants' associations. However, the council emphasises that it will not generally view these bodies as interested parties unless they have a member who can be classed as an interested person under the terms of the Gambling Act 2005 i.e. lives sufficiently close to the premises to be likely to be affected by the activities being applied for.

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

Licensing Service
Riverbank Court
Wakefield Road
Huddersfield.
HD5 9AA

Email: licensing@kirklees.gov.uk

Tel 01484 456868

Fax 01484 456857

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 with respect to the exchange of information between it and the Gambling Commission, and the functions with respect to the exchange of information between it and the other persons listed in Schedule 6 to

the principle that the council applies is that it will act in accordance with the

provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The licensing authority will also have regard to any Guidance issued by the Gambling Commission to local authorities on this matter when it is published, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

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

7. Enforcement

The council will work closely with responsible authorities in undertaking its enforcement duties under the Gambling Act 2005, be guided by the Gambling Commission's Guidance for local 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.

The council will endeavour to avoid duplication with other regulatory regimes so far as possible.

The council will also, as recommended by the Gambling Commission's Guidance for local authorities, adopt a risk-based inspection programme.

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

This council will also keep itself informed of developments as regards the work of the

Better Regulation Executive in its consideration of the regulatory functions of local authorities.

8. Licensing Authority functions

Licensing Authorities are responsible under the Act for:

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

The council will not be involved in licensing remote gambling at all. This will fall to the Gambling Commission via operating licences.

PART 8

PREMISES LICENCES

1. General Principles

The council will issue premises licences to allow premises to be used for certain types of gambling. The types of premises to which licences will be issued include amusement arcades, bingo halls, bookmakers and casinos.

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

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

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

It is appreciated that as per the Gambling Commission's Guidance for local authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution') and also that unmet demand is not a criterion for a licensing authority.

Definition of "premises"

Premises is defined in the Act as "any place". Different premises licences cannot apply in respect of a single premise at different times. However, it is possible for a single building to be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. Whether different parts of a building can properly be regarded as being separate premises will always be a question of fact in the circumstances.

The council will take particular care in considering applications for multiple licences

for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware that entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area.

The council will pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). Clearly, there will be specific issues that authorities should consider before granting such applications, for example, whether children can gain access; compatibility of the two establishments; and ability to comply with the requirements of the Act. But, in addition an important consideration should be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise may compromise the licensing objectives.

An applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed. The Gambling Commission has advised that references to "the premises" are to the premises in which gambling may now take place. Thus a licence to use premises for gambling will only be issued in relation to premises that are ready to be used for gambling. It is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence. The Gambling Commission emphasises that requiring the building to be complete ensure that the authority can, if necessary, inspect it fully, as can other responsible authorities with inspection rights.

Where premises are not yet built or are about to be altered for the purpose of gambling and ultimately a premises licence will be required, the applicant should first consider making an application for a provisional statement (see section 9).

Location

The council is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. The council will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.

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 potential concerns can be overcome.

Duplication with other regulatory regimes

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

Licensing objectives

Premises licences granted must be consistent with the licensing objectives. With regard to these objectives, the council has considered the Gambling Commission's Guidance to local 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

The Gambling Commission will be taking 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 the council 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. The council 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, so as to make that distinction.

Ensuring that gambling is conducted in a fair and open way

The council has noted that the Gambling Commission has stated that it would generally not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section.

Protecting children and other vulnerable persons from being harmed or exploited by gambling

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

The council will also make itself aware of the Codes of Practice which the Gambling Commission issues as regards this licensing objective, in relation to specific premises such as casinos.

As regards the term "vulnerable persons" it is noted that the Gambling Commission is not seeking 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 council will consider this licensing objective on a case by case basis. Should a practical definition prove possible in future then this policy statement will be updated by way of a revision.

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

The council 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.

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

- 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.

There are conditions which the council 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 for local authorities that licensing authorities may consider whether there is a need for door supervisors in terms of the licensing objective of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime.

Where operators and the council decide that supervision of entrances / machines is appropriate for particular cases, it will need to be decided whether these need to be Security Industry Authority (SIA) licensed or not. It will not be automatically assumed that they need to be.

2. Adult Gaming Centres

The council 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.

The council 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:

The council 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.

The council 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.

The council will 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. The council will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

Changes on the numbers of machines permitted came into force in 2011. Please see appendix one for limits on numbers of machines at the above type of premises.

4. Casinos

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 policy statement with details of that resolution. Any such decision will be made by the full council.

Casinos and competitive bidding

The council is aware that where a licensing authority is empowered to grant a premises licence for a new style casino (i.e. the Secretary of State has made such regulations under Section 175 of the Gambling Act 2005) there are likely to be a number of operators which will want to run the casino. In such situations the local authority will run a 'competition' under Schedule 9 of the Gambling Act 2005. The council will run such a competition in line with any regulations / codes of practice issued under the Gambling Act 2005.

Licence considerations/conditions

The Gambling Commission has stated that "further guidance will be issued in due course about the particular issues that licensing authorities should take into account 17

in relation to the suitability and layout of casino premises". This guidance will be considered by the council when it is made available.

Betting machines

The council will take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of betting 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

The council is aware that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted the council will ensure that:

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

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

6. Betting premises

Betting premises are premises such as bookmakers and betting offices where various types of gambling are authorised to take place. Children and young persons will not be able to enter such premises.

Betting premises will be able to provide a limited number of betting machines. The council will take into account the size of the premises, the number of counter

positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

7. Tracks

Tracks are sites (including racecourses and dog tracks) where races or other sporting events take place. There are currently no tracks within this council area.

Should the need arise the council is aware that such tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. The council 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.

The council 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.

The council 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

The council will consider the location of gaming machines at tracks, and applications for track premises licences will need to demonstrate that, where the applicant holds a pool betting operating licence and is going to use his entitlement to four gaming machines, these machines are located in areas from which children are excluded. Children and young persons are not prohibited from playing category D gaming machines at a track.

The council is aware that the Gambling Commission is preparing guidance as regards where gaming machines may be located at tracks and any special considerations that should apply in relation, for example, to the supervision of the machines and preventing children from playing them.

Betting machines

The council will take into account the size of the premises and the ability of staff to monitor the use of the betting 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. It will also take note of the Gambling Commission's suggestion that licensing authorities will want to consider restricting the number and location of such machines in respect of applications for track betting premises.

Conditions on rules being displayed

In line with guidance from the Gambling Commission the council will consider attaching a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office."

8. Travelling Fairs

Travelling fairs have traditionally been able to provide various low stake gambling without the need for a licence or permit provided that certain conditions are met. This provision continues in a similar fashion in the new Act.

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

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

9. Provisional Statements

A provisional statement application is a process which allows a developer to examine the likelihood of whether a building which has yet to be constructed or altered for the purpose of gambling, would be granted a premises licence when the building work is complete. It is not a licence and merely gives the holder some form of assurance that a premises licence would be granted. Once works are complete a full premises licence would still be required.

In terms of representations about premises licence applications, following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances. In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

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

The council will not take into account irrelevant matters e.g. the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal."

10. Reviews

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

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

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

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

P A R T C

PERMITS/TEMPOARY & OCCASIONAL USE NOTICES

1. Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits)

The term 'unlicensed family entertainment centre' is one defined in the Act and refers to a premises which provides category D gaming machines along with various other amusements such as computer games and penny pushers. The premises is 'unlicensed' in that it does not require a premises licence but does require a permit to be able to provide its category D machines. It should not be confused with a 'licensed family entertainment centre' which does require a premises licence because it contains both category C and D gaming machines.

The Gambling Act 2005 contains a provision for local authorities to prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit. Schedule 10, Para 7 of the Act states, "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."

In accordance with Gambling Commission guidance the council will give weight to child protection issues when considering applications for permits.

The council will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The council will assess these policies and procedures on their merits, however, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised children being on the premises, or children causing problems on or around the premises. The council will also expect applicants to demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs, that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

The council is aware that an application for a permit may only be granted if the chief officer of police has been consulted on the application.

In line with the Act the council cannot attach conditions to this type of permit and the "Statement of principles" only applies to initial applications and not to renewals

2. Gaming machine permits in premises licensed for the sale of alcohol

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 council can remove the automatic authorisation in respect of any particular premises if:

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

If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the council must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and "*such matters as they think relevant.*" The council 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 council 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 council that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.

The council 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.

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)

The council will expect the applicant to set out the types of gaming that he or she is intending to offer and be able to demonstrate:

- that they understand the limits to stakes and prizes that are set out in Regulations;
- and that the gaming offered is within the law.

In making its decision on an application for this permit the council does not need to have regard to the licensing objectives but must have regard to any Gambling

Commission guidance.

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 Clubs 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).

To qualify for club permits 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. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations."

The council may only refuse an application on the grounds that:

- (a) the applicant does not fulfill 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. Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds 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.

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

The Act makes a special reference, in the context of temporary use notices, to a "set of premises" to try and ensure that large premises which cannot reasonably be viewed as separate are not used for more temporary use notices than permitted under the act. The council considers that the determination of what constitutes "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In considering whether a place falls within the definition of a "set of premises", the council will look at, amongst other things, the ownership/occupation and control of the premises. The council will be ready to object to notices where it

appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.

6. Occasional Use Notices for tracks

There is a special provision in the Act which provides that where there is betting on a track on eight days or less in a calendar year, betting may be permitted by an occasional use notice without the need for a full premises licence. Track operators and occupiers need to be aware that the procedure for applying for an occasional use notice is different to that for a temporary use notice.

The council 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. The council will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

APPENDIX 1

Gaming machines on arcade premises

Gaming machines fall into **categories** depending on the maximum stake and prize available. Arcades are allowed to offer a certain number of gaming machines from each category:

	Machine category			
	<u>B3</u>	<u>B4</u>	<u>C</u>	<u>D</u>
Adult gaming centre (AGC)	Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4*			No limit on category C or D machines
Family entertainment centre (FEC) (with premises licence)			No limit on category C or D machines	
Family entertainment centre (FEC) (with permit)			No limit on category D machines	

* AGC premises are entitled to make available a number of category B3/B4 gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises.

Premises in existence before 13 July 2011 are entitled to make available four category B3/B4 gaming machines, or 20% of the total number of gaming machines, whichever is the greater.

AGC premises licences granted on or after 13 July 2011 but before 1 April 2014 are entitled to a maximum of four category B3/B4 gaming machines or 20% of the total number of gaming machines, whichever is the greater; from 1 April 2014 these premises will be entitled to 20% of the total number of gaming machines only.