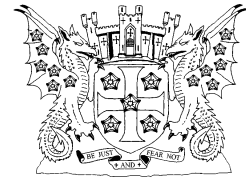


Council



Barrow in Furness
Borough Council



Carlisle City

Cumbria
Local Authorities Licensing Policy
Working Group

**Draft Statement of Licensing Policy
of Copeland Borough Council**

Gambling Act 2005



**Draft Statement of Licensing Policy
Gambling Act 2005**

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This Statement of Licensing Policy has been drafted at a time when a number of regulations, Operating/Personal Licence conditions, Codes of Practice and guidance are not yet published. Should anything in these, when published, impact upon the content of this document that impact will be borne in mind and the policy may be amended at a later stage by the Authority. All references to the Gambling Commission's Guidance for local authorities refer to the Guidance published in April 2006.

Section A: Introduction

1. Preface

- 1.1 Under the Gambling Act 2005, (referred to as “the Act” in this Statement) a new regime for regulating gambling and betting will be introduced throughout the United Kingdom from 1 September 2007. Apart from the National Lottery and spread betting, gambling and betting will be regulated by the Gambling Commission, whose duties include licensing the operators and individuals involved in providing gambling and betting facilities.
- 1.2 Copeland Borough Council (referred to as “the Council” in this Statement) along with other district Councils, have a duty under the Act to licence premises where gambling is to take place and to licence certain other activities (such as registering small society lotteries). This document sets out how we intend to approach this task.
- 1.3 Allerdale Borough Council, Barrow Borough Council, Carlisle City Council, Copeland Borough Council, Eden District Council and South Lakeland District Council have worked in partnership in preparing this statement. The Councils continue to work together to share best practice in an effort to ensure, so far as practicable, consistency of approach across Cumbria.

2. Description of the geographical area of Copeland Borough Council

- 2.1 The Council is situated in the county of Cumbria, which contains six districts, each district having its own district Council. Copeland district has a population of 69,400 and comprises of 284 square miles. It is located in the Western Lake District area of Cumbria which is the most north westerly county in England. It is a region of wonderful physical environment and diverse culture and character. Two-thirds of the Council’s area lies within the world renowned Lake District National Park with the highest mountain (Scafell Pike) and deepest lake (Wastwater) in England both to be found in the heart of the Council’s area.
- 2.2 The towns of Whitehaven, Cleator Moor, Egremont and Millom are within the Council’s area.
- 2.3 A location map showing the Council’s area is shown below:

2. Those persons appearing to represent the interests of persons carrying on gambling businesses in the authority's area:-
 - Cleator Moor Chamber of Trade
 - Egremont Chamber of Trade
 - Whitehaven Chamber of Trade
 - The Association of British Bookmakers Ltd., Regency House, 1-4 Warwick Street, London, W1B 5LT
3. Those persons representing the interests of persons who are likely to be affected by or otherwise have an interest in the Statement:-
 - Cumbria County Council, particularly in its adult social care and childrens services directorates
 - Cumbria Local Safeguarding Children's Board
 - Town and Parish Councils within the Council's area
 - GAMCARE, National Association for Gambling Care
 - Cumbria Alcohol and Drug Advisory Services
 - NHS North West
 - Whitehaven Citizens Advice Bureau
 - Carlisle Community Law Centre
 - The Scout Association
 - The Guide Association
4. In addition to those representing the interests of those who could be affected the following persons were consulted:-
 - Those known to the Council to be exclusively or principally carrying on a gambling business in its area, particularly bookmakers
 - Responsible authorities as defined by section 157 of the Act:
 - The Gambling Commission
 - Cumbria Fire & Rescue Service
 - Copeland Borough Council as Local Planning Authority
 - Copeland Borough Council as Environmental Health Department
 - HM Revenue & Customs

3.2 In addition to direct consultation with the above persons the Council arranged for a

copy of the draft statement to be placed in local libraries for the period of consultation. In addition the draft statement was placed on the Council's web site for the period of the consultation. A letter was also issued to (a) those persons holding a premises licence under the Licensing Act 2003 and (b) local faith groups drawing their attention to the issue of the draft Statement and advising them where a copy can be seen or obtained from.

Section B: General

4. The Licensing Objectives

4.1 In exercising most of their functions under the Gambling Act 2005 ("the Act"), 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

4.2 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".

4.3 The Council 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 fit:

- 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.

Authorised Activities

4.4 'Gambling' is defined in the Act as either betting or taking part in a lottery:

- 'gaming' means playing a game of chance for a prize;
- 'betting' means making or accepting a bet on the outcome of a race, competition, or any other event; the likelihood of anything occurring or not occurring; or whether anything is true or not true;
- a 'lottery' is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance.

- 4.5 Private gaming in private dwellings and on domestic occasions is exempt from licensing or registration providing that no charge is made for participating; only equal chance gaming takes place; and it does not occur in a place to which the public have access. Domestic betting between inhabitants of the same premises or between employees of the same employer is also exempt.
- 4.6 Non-commercial gaming and betting (where no parts of the proceeds are for private gain) may be subject to certain exemptions.
- 4.7 It should be noted that this 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 Act.
- 4.8 For the purposes of this statement, any reference to 'the Act' is to the Gambling Act 2005 and 'the Regulations' means The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006.

5. Declaration

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

6. Designation of body to advise the Council about the protection of children from harm

- 6.1 The Council is required by the Regulations to state the principles it will apply in exercising its powers under section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:
- the need for the body to be responsible for an area covering the whole of the licensing authority's area; and
 - the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.
- 6.2 The Council considers that Cumbria County Council Social Services Department is best able to fulfil the role of advising the Council about the protection of children from harm. It therefore designates Cumbria County Council Social Services Department for the purposes of section 157(b) of the Act.
- 6.3 In accordance with the suggestion in the Gambling Commission's Guidance for local authorities, the Council has consulted with both the Cumbria Local Safeguarding Children's Board and Cumbria County Council. The Council considers that Cumbria County Council best fulfils the function of protecting children from harm (Adult Social Care Directorate and Children's Services Directorate).
- 6.4 The contact details of all the Responsible Authorities under the Act are available via the Council's website at www.copelandbc.gov.uk

7. Interested Parties

- 7.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Act 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 Council 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)”.

7.2 The Council is required by Regulations to state the principles it will apply in exercising its powers under the Act to determine whether a person is an interested party. The principles are set out in the following paragraphs.

7.3 The Council will not apply a rigid rule to its decision making and each case will be decided upon its merits. It will consider the examples of considerations provided in the Gambling Commission’s Guidance for local authorities at 8.14 and 8.15. These are:

7.3.1 The size of the premises;

7.3.2 The nature of the premises;

7.3.3 The catchment area of the premises;

7.3.4 The distance of the premises from the location of the person making the representation;

7.3.5 Whether the person making the representation has business interests in the catchment area that might be affected;

7.3.6 The potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment);

7.3.7 The circumstances of the complainant – not the personal characteristics but the interests of the complainant which may be relevant to the distance from and effects of the premises. For example the authority may conclude that “sufficiently close to be affected” should have different meaning in relation to a private individual to that in relation to a residential hostel for vulnerable adults.

7.4 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.

7.5 The Gambling Commission has recommended that a licensing authority states that interested parties may include trade associations and trade unions, and residents’ and tenants’ associations. The Council will not however generally view these bodies as interested parties unless they represent a member who can be classed as an interested person under the terms of the Act, that is lives sufficiently close to the premises to be likely to be affected by the activities being applied for.

7.6 Interested parties can be persons who are democratically elected such as Councillors and MP’s. No specific evidence of being asked to represent an interested person will be required as long as the Councillor/MP represents the ward

likely to be affected. Likewise, parish councils likely to be affected, will be considered to be interested parties. Other than these however, the Council will generally require written evidence that a person/body (eg 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 likely to be sufficient.

7.7 If individuals wish to approach councillors of the Council to ask them to represent their views then care should be taken that the councillors are not a Member of the Licensing Committee dealing with the licence application so that the danger of a Member of the Committee giving the appearance of bias is reduced. If there are any doubts then please contact the Licensing Department.

8. Exchange of Information

8.1 Licensing authorities are required to include in their statements the principles to be applied by an authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

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

8.3 Should any protocols be established as regards information exchange with other bodies then they will be made available. The Council will normally share the information it holds about licensed premises with the Gambling Commission, the Police and other responsible authorities.

9 Enforcement

9.1 Licensing authorities are required by Regulations to state the principles to be applied by an authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

9.2 The Council's principles are that it will 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.

- 9.3 The Council will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 9.4 The Council will also adopt a risk-based inspection programme. This will be published separately.
- 9.5 The main enforcement and compliance role for the Council in terms of the Act 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.

10. Licensing Authority Functions

10.1 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 one or two 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 there are more than two machines
- Register small society lotteries below prescribed thresholds
- Issue Prize Gaming Permits
- Receive and Endorse Temporary Use Notices
- Receive Occasional Use Notices
- Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
- Maintain registers of the permits and licences that are issued under these functions
- Exercise its powers of compliance and enforcement under the Act, in partnership with the Gambling Commission and other relevant responsible authorities.

The Gambling Commission

10.2 The Gambling Commission regulates gambling in the public interest. It does so by keeping crime out of gambling; by ensuring that gambling is conducted in a fair and open way; and by protecting children and vulnerable people. The Commission

provides independent advice to the Government about the matter in which gambling is carried out, the effects of gambling and the regulations of gambling generally.

- 10.3 The Commission has issued guidance under section 25 of the Act about the manner in which licensing authorities exercise their licensing functions under the Act and, in particular, the principles to be applied.
- 10.4 The Commission will also issue Codes of Practice under section 24 about the way in which facilities for gambling are provided, which may also include provisions about the advertising of gambling facilities.
- 10.5 The Gambling Commission can be contacted at:

Gambling Commission
Victoria Square House
Victoria Square
Birmingham
B2 4BP

Website: www.gamblingcommission.gov.uk
Email: info@gamblingcommission.gov.uk

11. Scheme of Delegation

The Council will adopt the delegation of functions as prescribed in the Gambling Commissions' Guidance which details how decisions will be made within the Council. That Guidance recommended that licensing authorities determine how reviews should be initiated by itself under s200 of the Act. This Scheme of Delegation is shown at Appendix 2 to this Statement and includes provisions for initiating its own review.

Section C: Premises Licences

12. General Principles

- 12.1 Premises licences will be subject to the requirements set out in the Act and regulations, as well as specific mandatory and default conditions which will be detailed in regulations issued by the Secretary of State. The Council is able to exclude default conditions and also attach others, where it is believed to be appropriate.
- 12.2 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.
- 12.3 The Council will not regard moral objections to gambling as a valid reason to reject applications for premises licences (except as regards any 'no casino resolution' - see section 16 on Casinos below) and also acknowledges that unmet demand is not a criterion for a licensing authority to consider.
- 12.4 **Definition of "premises"** - Premises is defined in the Act as "any place". Different premises licences cannot apply in respect of a single premises at different times. However, it is possible for a single building to be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. Whether different parts of a building can properly be regarded as being separate premises will always be a question of fact in the circumstances. However, the Gambling Commission does not consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.
- 12.5 The Council takes particular note of 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. 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.
 - licensing authorities should 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 overriding 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 would, or should, be prohibited under the Act.

- 12.6 It should also be noted that 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 reference 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. The Council agrees with the Gambling Commission that 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 ensures that an authority can, if necessary, inspect it fully, as can other responsible authorities with inspection rights.
- 12.7 **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. Any such policy will 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.
- 12.8 **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.

Licensing Objectives

- 12.9 Premises licences granted must be reasonably 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.
- 12.10 **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** - The Council is aware that 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, if an area should have 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. Issues of nuisance cannot be addressed via the Act's provisions.
- 12.11 **Ensuring that gambling is conducted in a fair and open way** - The Council 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 issued by the Gambling Commission. There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section

below – page 23.

- 12.12 **Protecting children and other vulnerable persons from being harmed or exploited by gambling** - 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.
- 12.13 There is no definition of the term “vulnerable persons” but the Council will assume that this group includes people who gamble more than they want to; people who are gambling beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a learning disability, mental health problems or the effects of alcohol or drugs. The Council will consider this licensing objective on a case by case basis.

Conditions

- 12.14 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.
- 12.15 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 door 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.
- 12.16 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. These matters are in accordance with the Gambling Commission's Guidance.
- 12.17 The Council will also ensure that where category C or above machines are on offer in premises to which children are admitted:
- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
 - only adults are admitted to the area where these machines are located;
 - access to the area where the machines are located is supervised;
 - the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and

- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

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

For information about the different categories of machine please see Appendix 1.

- 12.18 The Council is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. The Council will consider the impact upon the objective to protect children and other 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.
- 12.19 There are conditions which a 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 Act 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.
- 12.20 **Door Supervisors** - The Council may consider whether there is a need for door supervisors in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime. It is noted that door supervisors on duty at casinos or bingo premises are not required by law to be licensed by the Security Industry Authority (SIA). The Council may have specific requirements for door supervisors working at casinos or bingo premises including, where it is considered necessary, a requirement that door supervisors are licensed by the SIA. This is in recognition of the nature of the work in terms of searching individuals, dealing with potentially aggressive persons, etc. There is no evidence that the operation of betting offices has required door supervisors for the protection of the public. The Council will make a door supervision requirement only if there is evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.
- 12.21 For premises other than casinos and bingo premises, operators and licensing authorities may decide that supervision of entrances/machines is appropriate for particular cases but it will need to be decided whether these need to be SIA licensed or not. It will not be automatically assumed that they need to be.
- 12.22 It should be noted that the above paragraphs relate to door supervisors only in relation to premises licences granted under the Act. Where a premises licence has also been granted under the Licensing Act 2003 in relation to the same premises, there may also be conditions on that licence which relate to door supervisors. The premises licence holder should ensure compliance with those conditions.

13. Adult Gaming Centres

13.1 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.

13.2 The Council will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures/licence conditions may cover issues such as:

- Proof of age schemes;
- CCTV;
- Supervision of entrances/machine areas;
- Physical separation of areas;
- Location of entry;
- Notices/signage;
- Specific opening hours;
- Self-barring schemes - These are schemes whereby individuals who acknowledge they have a gambling problem ask to be barred from certain premises; and
- Provision of information leaflets/helpline numbers for organisations such as GamCare.

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

14. (Licensed) Family Entertainment Centres

14.1 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, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

14.2 The Council will expect applicants to offer their own measures to meet the licensing objectives however appropriate. Measures may cover issues 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-barring schemes;

- Provision of information leaflets/helpline numbers for organisations such as GamCare; and
- Measures/training for staff on how to deal with suspected truant school children on the premises.

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

14.4 The Council will refer to the Gambling 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. It will normally impose conditions on granting licences which accord with the above. The Council will also make itself aware of and impose any mandatory or default conditions on these premises licences.

15. Casinos

15.1 *No Casinos resolution* - The Council has not passed a 'no casino' resolution under Section 166 of the Act, 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.

15.2 *Casinos and competitive bidding* - The Council is aware that where a licensing authority area is enabled to grant a premises licence for a new style casino (ie the Secretary of State has made such regulations under Section 175 of the Act) there are likely to be a number of operators which will want to run the casino. In such situations the Council will run a 'competition' under Schedule 9 of the Act. In accordance with any regulations/codes of practice issued under the Act.

15.3 *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 in relation to the suitability and layout of casino premises" (Gambling Commission Guidance for local authorities - 17.30). This guidance will be considered by the Council when it is made available.

15.4 *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.

16. Bingo Premises

16.1 Bingo is a type of equal chance gaming and will be permitted in alcohol licensed premises and in clubs provided it remains below a certain threshold, otherwise it will be subject to a bingo operating licence which will have to be obtained from the Gambling Commission.

16.2 The holder of a bingo operating licence will be able to provide any type of bingo game including cash and prize bingo.

16.3 Commercial bingo halls will require a bingo premises licence from the Council.

16.4 Amusement arcades providing prize bingo will require a prize gaming permit from

the Council.

16.5 The Gambling Commission's Guidance states:

"18.4 - It is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted licensing authorities should ensure that:

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

16.6 The Council is also aware that the Gambling Commission is likely 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. Any such guidance will be considered and applied by the Council once it is available.

Members' Clubs and Commercial Clubs

16.7 Bingo may be provided at clubs and institutes either in accordance with a permit or providing that the limits in Section 275 of the Act are complied with. These restrictions limit the aggregate stake or prizes within any seven days of £2,000, and require the Commission to be notified as soon as is reasonably practicable if that limit is breached. Stakes or prizes above that limit will require a bingo operators' licence and the corresponding personal and premises licences.

17. Betting Premises

17.1 Anyone wishing to operate a betting office will require a betting premises licence from the Council. Children and young persons will not be able to enter premises with a betting premises licence.

17.2 Betting premises will be able to provide a limited number of gaming machines and some betting machines.

17.3 *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. The Council will consider limiting the number of machines where there is evidence that such machines have been or are likely to be used in breach of the licensing objectives.

17.4 Each application will be considered on its own individual merits.

18. Tracks

- 18.1 Only one premises licence can be issued for any particular premises at any time unless the premises is a 'track'. A track is a site where races or other sporting events take place.
- 18.2 Track operators are not required to hold an 'operators licence' granted by the Gambling Commission. Therefore, premises licences for tracks, issued by the Council are likely to contain requirements for premises licence holders about their responsibilities in relation to the proper conduct of betting. Indeed, track operators will have an important role to play, for example in ensuring that betting areas are properly administered and supervised.
- 18.3 Although there will, primarily be a betting premises licence for the track there may be a number of subsidiary licences authorising other gambling activities to take place. Unlike betting offices, a betting premises licence in respect of a track does not give an automatic entitlement to use gaming machines.
- 18.4 The Council is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. The Council will especially consider the impact upon the third licensing objective (ie 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.
- 18.5 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.
- 18.6 The Council will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures may cover issues 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-barring schemes; and
 - Provision of information leaflets/helpline numbers for organisations such as GamCare.
- 18.7 This list is not mandatory, nor exhaustive, and is merely indicative of example measures.
- 18.8 *Gaming machines* - Further guidance from the Gambling Commission is awaited as regards where such machines may be located on tracks and any special considerations that should apply in relation, for example, to supervision of the

machines and preventing children from playing them. 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 on a track.

- 18.9 *Betting machines* - Licensing authorities have a power under the Act to restrict the number of betting machines, their nature and the circumstances in which they are made available, by attaching a licence condition to a betting premises licence.

Similar considerations apply in relation to tracks, where the potential space for such machines may be considerable, bringing with it significant problems in relation to the proliferation of such machines, the ability of track staff to supervise them if they are scattered around the track and the ability of the track operator to comply with the law and prevent children betting on the machines.

The Council notes the Gambling Commission's view that it would be preferable for all self-contained premises operated by off-course betting operators on tracks to be the subject of separate premises licences. This will ensure that there is clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the track premises.

The Council will 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 wants to offer. The Council may wish to consider restricting the number and location of such machines in respect of applications for track betting premises licences. This Council will consider limiting the number of machines where there is evidence that such machines have been or are likely to be used in breach of the licensing objectives.

- 18.10 *Condition on rules being displayed* - A condition will normally be attached to track premises licences requiring the track operator to ensure that the rules relating to tracks which are contained in the Act 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.
- 18.11 *Applications and plans* - The Council awaits regulations setting-out any specific requirements for applications for premises licences but, in accordance with the Gambling Commission's suggestion, and to ensure that a licensing authority gains a proper understanding of what they are being asked to licence, considers that applicants should include detailed plans for the racetrack itself and the area that will be used for temporary "on-course" betting facilities (often known as the "betting ring") and in the case of dog tracks and horse racecourses fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities. It also considers that plans should make clear what is being sought for authorisation under the track betting premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence.
- 18.12 The Council also considers that it is necessary to ensure that there is clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

19. Travelling Fairs

- 19.1 The Council will decide in each individual case 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.
- 19.2 The Council will also consider whether the applicant falls within the statutory definition of a travelling fair. For the purposes of this Act:-
- (a) “fair” means a fair consisting wholly or principally of the provision of amusements; and
 - (b) a fair held on a day in a calendar year is a “travelling fair” if provided:
 - (i) wholly or principally by persons who travel from place to place for the purpose of providing fairs; and
 - (ii) at a place no part of which has been used for the provision of a fair on more than 27 days in a calendar year
- 19.3 The 27-day statutory maximum for the land being used as a fair, is per calendar year, and 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.

20. Provisional Statements

- 20.1 The Council endorses the Guidance from the Gambling Commission which states that “It is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence” and that “Requiring the building to be complete ensures that the authority could, if necessary, inspect it fully”.
- 20.2 In terms of representations about premises licence applications, following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant’s circumstances. In addition, an 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 is in the authority’s opinion reflect a change in the operator’s circumstances.
- 20.3 The Gambling Commission’s Guidance states that “A licensing authority should not take into account irrelevant matters.... One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal”.

21. Reviews

- 21.1 Requests for a review of a premises licence can be made by interested parties or

responsible authorities, however, it is for a licensing authority to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below, as well as consideration as to whether the request is frivolous, vexatious, 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:-

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

- 21.2 Licensing authority officers may be involved in the initial investigation of complaints and may try informal mediation or dispute resolution in an effort to avoid the need for a formal review.
- 21.3 A licensing authority can also initiate a review of a licence on the basis of any reason which it thinks is appropriate. This can extend to a review of a class of licences where it considers particular issues have arisen.
- 21.4 The Gambling Commission will be a responsible authority in relation to a premises licence.

Section D: Permits/Temporary & Occasional Use Notice

22. Unlicensed Family Entertainment Centre Gaming Machine Permits (Statement of Principles on Permits - Schedule 10 paragraph 7)

- 22.1 Where a premises licence is not in force in respect of the use of particular premise but the operator wishes to provide gaming machines, it may apply to a licensing authority for this permit. The applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.
- 22.2 The Act 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.
- 22.3 The Guidance also states at paragraph 24.7 "...An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed Family Entertainment Centre, and if the chief officer of police has been consulted on the application licensing authorities might wish to consider asking applications to demonstrate:
- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed Family Entertainment Centres;
 - 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.
- 22.4 It should be noted that a licensing authority cannot attach conditions to this type of permit.
- 22.5 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 efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures/training for staff as regards suspected truant school children on the premises, measures/training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on/around the premises.
- 22.6 The Council will also expect that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed Family Entertainment Centres; that the applicant has no relevant convictions and that staff are trained to have a full understanding of the maximum stakes and prizes.

23. (Alcohol) Licensed Premises Gaming Machine Permits - (Schedule 13 paragraph 4(1))

- 23.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have one or two gaming machines each of which is

category C and/or D. The operator of the premises merely needs to notify a licensing authority and pay the prescribed fee. A licensing authority can remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the 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 Act has been committed on the premises.

23.2 If the operator of alcohol licensed premises wishes to have more than 2 machines, then an application must be made for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Act, and such other 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 being harmed 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 helpful. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

23.3 The Council recognises that some operators of alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any application will be treated on its own merits.

23.4 The Council may decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions cannot be attached.

23.5 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.

24. Prize Gaming Permits - (Principles on Permits - Schedule 14 paragraph 8)

24.1 Schedule 14 of the Act 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”.

24.2 Prize gaming may be provided in bingo premises as a consequence of their bingo operating licence. Any type of prize gaming may be provided in adult gaming centres and licensed family entertainment centres. Unlicensed family entertainment centres may offer equal chance prize gaming under a gaming machine permit. Prize gaming without a permit may be provided by travelling fairs, providing that none of the gambling facilities at the fair amount to more than an ancillary amusement.

Children and young people may participate in equal chance gaming only.

24.3 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;
- and that the gaming offered is within the law.

24.4 In making its decision on an application for this permit the licensing authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission Guidance.

24.5 However, there are conditions in the Act with which the permit holder must comply; the licensing authority cannot attach additional 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.

25. Club Gaming and Club Machines Permits

25.1 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 (three machines of categories B, C or D), equal chance gaming and games of chance as set-out in forthcoming regulations. A Club Gaming machine permit will enable the premises to provide gaming machines (up to 3 machines of categories B, C or D).

25.2 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. 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".

25.3 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 Gambling Commission or the police.

25.4 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 grounds 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".

25.5 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.

26. Temporary Use Notices

26.1 There are a number of statutory limits as regards temporary use notices. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place". In considering whether a place falls within the definition of "a set of premises", licensing authorities will need to look at, amongst other things, the ownership/occupation and control of the premises. This is a new permission and licensing authorities will normally 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".

27. Occasional Use Notices

27.1 A licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of eight 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 - Categories of Gaming Machines

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

Premises Type	Machine Category						
	A	B1	B2	B3	B4	C	D
Regional casino (machine/table ration of 25-1 up to maximum)	Maximum of 1250 machines Any combination of machines in categories A to D, within the total limit of 1250 (subject to table ratio)						
Large casino (machine/table ration of 5-1 up to maximum)	Maximum of 150 machines Any combination of machines on categories B to D, within the total of 150 (subject to table ratio)						
Small casino (machine/table ration of 2-1 up to maximum)	Maximum of 80 machines Any combination of machines in categories B to D, within the total limit of 80 (subject to table ratio)						
Pre-2005 Act casinos (no machine/table ratio)	Maximum of 20 machines categories B to D or C or D machines instead						
Betting premises and tracks occupied by Pool Betting	Maximum of 4 machines categories B2 to D						
Bingo Premises	Maximum of 4 machines in category B3 or B4 No limit C or D machines						
Adult gaming centres	Maximum of 4 machines in category B3 or B4 No limit C or D machines						
Family entertainment centre (with premises licence)	No limit on category C or D machines						
Family entertainment centre (with permit)	No limit on category D machines						
Clubs or miners' welfare institutes with permits	Maximum of 3 machines in categories B4 to D						

Qualifying alcohol licensed premises						1 or 2 machines of category C or D automatic upon notification	
Qualifying alcohol licensed premises with gaming machine permit						Number as specified on permit	
Travelling fair							No limit on category D machines
	A	B1	B2	B3	B4	C	D

Appendix 2 – Scheme of Delegation

Matter to be dealt with	Full Council	Licensing Committee	Sub-committee of Licensing Committee	Officers
Final approval of three year licensing policy	X			
Policy not to permit casinos	X			
Fee setting (when appropriate)		X		
Application for premises licences			Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a variation to a licence			Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a transfer of a licence			Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement			Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Review of a premises licence at the request of a responsible authority or interested party (section 197)			X	
Review of premises licences of a particular class by the Licensing Authority (section 200(1))		X		
Review of a premises licence by the Licensing Authority (section 200(2))			X	

Initiation of review by a Licensing Authority by submission of report for consideration by the Licensing Committee or a Licensing Sub-Committee				X (Head of Legal & Democratic Services)
Application for club gaming/club machine permits			Where objections have been made (and not withdrawn)	Where no objections made/objections have been withdrawn
Cancellation of club gaming/club machine permits			X	
Applications for other permits				X
Cancellation of licensed premises gaming machine permits				X
Consideration of temporary use notice				X
Decision to give a counter notice to a temporary use notice			X	

X or a statement indicates who the matter is delegated to.