

## THE GAMBLING ACT 2005 – ADOPTION OF A THREE YEAR LICENSING POLICY

### LICENSING COMMITTEE

**CHAIRMAN:** Councillor Peter Tyson.

**LEAD OFFICER:** Martin Jepson, Head of Legal and Democratic Services

**REPORT AUTHOR:** Marlene Jewell, Senior Legal Services Officer.

**Summary:** This report requests Council to endorse the decision of the Licensing Committee made on the 27<sup>th</sup> October 2009 and to approve the adoption of a Licensing Policy, made under the Gambling Act 2005, and containing the required statement of principles under Section 349 of that Act, and to the delegation of functions under that Act.

<b>Recommendation:</b>	That (a) the draft Licensing Policy as annexed and made under Section 349 of the Gambling Act 2005 (and being a statement of principles that the Council as licensing authority proposes to apply in exercising their functions under the said Act) be approved; (b) that the delegation of functions to Council, the Executive, the Licensing Committee, Licensing Sub-Committees and the Head of Legal and Democratic Services as set out in Appendix 4 to the Policy referred to in (a) be approved; and (c) that the Policy referred to in (a) be published in accordance with statutory requirements.
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## 1. INTRODUCTION

- 1.1 The Gambling Act 2005 (“the Act”) received the Royal Assent on 7<sup>th</sup> April, 2005 and came into force fully on the 1<sup>st</sup> September, 2007.
- 1.2 The Act has three clear licensing objectives:
  - 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; and
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 1.3 Responsibility for the administration of the Act is shared between district councils who are the licensing authorities and the Gambling Commission which together regulates all commercial gambling in Great Britain except for spread betting (regulated by the Financial Services Authority) and the National Lottery (regulated by the National Lottery Commission). The Gambling Commission is responsible for the issue of operators and personal licences and the

licensing authority is responsible for licensing gambling premises and the issue of permits to authorise other gambling facilities in their licensing area.

## **2. STATEMENT OF LICENSING POLICY**

- 2.1 By section 349 of the Act, the Council must, in respect of each three year period, prepare and publish a licensing policy which is a statement of principles that it proposes to apply in exercising its functions under the Act (“the Policy”). Before determining the Policy various people must be consulted. The Guidance issued by the Gambling Commission and separate Regulations specify what the Policy should contain. A copy of the Council’s draft Policy is attached as Appendix 1 to this report. The Policy includes, as its Appendix 4, a scheme of delegation for dealing with licensing matters.
- 2.2 The principles within the Policy were prepared by the Cumbria Licensing Forum and then issued by all six district councils in Cumbria as it was considered that a unified approach would allow some consistency to be achieved within the County. The Policy has been the subject of extensive consultation. A summary of the responses to the consultation is contained in Appendix 2. The Policy was approved by the Council’s Licensing Committee on the 27<sup>th</sup> October.
- 2.3 The Policy must, by law, be adopted by the Council by the 2<sup>nd</sup> January 2010 and then published. Publication takes place by public notice, placing on the Council’s web site and placing it on deposit for public inspection. This is the Council’s second policy - the first was adopted by Council on the 12<sup>th</sup> December, 2006 for the period 2007 – 2009.

## **3. RECOMMENDATION**

- 3.1 That the draft Policy as annexed and the delegations set out therein be approved.

### **List of Appendices**

Appendix 1 – Proposed Licensing Policy.

Appendix 2 – Responses to consultation.

**List of Background Documents:** Gambling Commission Guidance; and Responses to consultation.

### **CHECKLIST FOR DEALING WITH KEY ISSUES**

Please confirm against the issue if the key issues below have been addressed . This can be by either a short narrative or quoting the paragraph number in the report in which it has been covered.

Impact on Crime and Disorder	This is one of the licensing objectives and taken into account in determining applications.
Impact on Sustainability	Not applicable.
Impact on Rural Proofing	Not applicable.
Health and Safety Implications	Not directly addressed by the policy. Owners of business premises must comply with separate healthy and safety legislation.

Project and Risk Management	Not applicable.
Impact on Equality and Diversity Issues	Separate equality and diversity assessment exists in respect of addressing equality and diversity issues when processing applications. That assessment has been reviewed in the light of the proposed revised policy and no new issues have been found.
Children and Young Persons Implications	This is one of the licensing objectives and taken into account in determining applications.
Human Rights Act Implications	The procedures in dealing with applications take into account HRA requirements.
Monitoring Officer Comments	The Policy is in accordance with legislation and has been the subject of extensive consultation.
Section 151 Officer Comments	No comment to add with respect to the draft licensing policy. Fee income from licensing is determined by Statutory Instrument.

Please say if this report will require the making of a Key Decision    YES



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

## **Gambling Act 2005**

The Copeland Centre  
Catherine Street  
Whitehaven  
Cumbria  
CA28 7SJ

Copeland Borough Council has completed this document. If you would like a copy of it in Cantonese/Hindi/Urdu/Polish please could you contact us by calling 01946 598517 or 598520 or email us at [info@copeland.gov.uk](mailto:info@copeland.gov.uk)

# Statement of Licensing Policy

## Gambling Act 2005

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*This Statement of Gambling Policy was approved by \*\*\* Council on \*\*\*.*

*All references to the “Guidance” refers to the Gambling Commission's Guidance to Local Authorities published in May 2009.*

# Preface

Under the Gambling Act 2005, a new regime for regulating gambling and betting was introduced throughout the United Kingdom from 1 September 2007. Apart from the National Lottery and spread betting, gambling and betting is regulated by the Gambling Commission, whose duties include licensing the operators and individuals involved in providing gambling and betting facilities.

Copeland Borough Council has 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.



# Part A

## 1. The Licensing Objectives

- 1.1 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
- 1.2 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”.
- 1.3 This licensing authority is aware that, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks 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

- 1.4 ‘Gambling’ is defined in the Act as either gambling, 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.

- 1.5 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.
- 1.6 Non-commercial gaming and betting (where no parts of the proceeds are for private gain) may be subject to certain exemptions. Further advice should be sought from the Council's Licensing Team where appropriate.

**2. Introduction**

Copeland Borough 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 70,400 and comprises 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 renowned Lake District National Park with the highest mountain (Scafell Pike) and the deepest Lake (Wastwater) both being the heart of the Council's area.

The towns of Whitehaven, Cleator Moor, Egremont and Millom are within the Council's area.

The population profile is illustrated below;

Years of Age	0 to 14	15 to 74	75 and over
Total	11,600	53,300	5,500

- 2.1 A map of the Council's area is included at Appendix 5.
- 2.2 Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they proposed to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from "time to time" and any amended parts re-consulted upon. The statement must be then re-published.
- 2.3 Copeland Borough Council consulted widely upon this statement before finalising and publishing. A list of those persons this authority consulted is provided at Appendix 1.
- 2.4 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.

2.7 Our consultation took place between 9<sup>th</sup> July, 2009 and 9<sup>th</sup> October, 2009 and we followed the HM Government Code of Practice on Consultation (published July 2008) which is available at: <http://www.berr.gov.uk/file47158.pdf>

2.8 The full list of comments made and the consideration by the Council of those comments is available by request to the person named below.

2.9 The policy was approved at a meeting of the Full Council on . It was published on our website on and advertised in a local newspaper. Copies have been placed in the public libraries of the area as well as being available in the Council Offices.

2.10 Should you have any queries regarding this policy statement please send them via e-mail or letter to the following contact:

Name: Martin Jepson, Head of Legal & Democratic Services

Address: Copeland Borough Council, The Copeland Centre, Catherine Street, Whitehaven, Cumbria, CA28 7SJ

E-mail: [licensing@copeland.gov.uk](mailto:licensing@copeland.gov.uk) Tel: 01946 598517 or 598520

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

### **3. Declaration**

3.1 In producing the final statement, this licensing authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the Guidance to the Licensing Authorities issued by the Gambling Commission, and any responses from those consulted on the statement.

## **4. Responsible Authorities**

- 4.1 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body 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.
- 4.2 In accordance with the suggestion in the Gambling Commission's Guidance to local authorities, this authority has consulted with both the Cumbria Safeguarding Children Board and Cumbria County Council Children's Services. This Authority considers that Cumbria County Council Children's Services is best able to fulfil the role of advising the Authority about the protection of children from harm for the purposes of Section 157(h) of the Act.
- 4.3 The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the Council's website at: [www.copeland.gov.uk](http://www.copeland.gov.uk) and are listed at Appendix 2

## **5. Interested Parties**

- 5.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as 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)”
- 5.2 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party.

- 5.3 This authority 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 Paragraphs 8.11 to 8.18.
- 5.4 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.
- 5.5 The Gambling Commission has recommended that the licensing authority states that interested parties may include trade associations and trade unions, and residents' and tenants' associations. This authority 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 Gambling Act 2005 i.e. lives sufficiently close to the premises to be likely to be affected by the activities being applied for and/or has business interests that might be affected by the activities being applied for.
- 5.6 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, this authority 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.
- 5.7 If individuals wish to approach Councillors 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. If there are any doubts then please contact the Council's Licensing Department.

## **6. Exchange of Information**

- 6.1 Licensing Authorities are required to include in their statements the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.
- 6.2 The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The licensing authority will also have regard to any Guidance issued by the Gambling Commission on this matter,

as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

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

## **7. Enforcement**

- 7.1 Licensing authorities are required by regulations under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers in the Act to institute criminal proceedings in respect of the offences specified.

- 7.2 This licensing authority'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.

- 7.3 As per the Gambling Commission's Guidance to Licensing Authorities, this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

- 7.4 This licensing authority has adopted and implemented a risk-based inspection programme, based on;

- The licensing objectives
- Relevant codes of practice
- Guidance issued by the Gambling Commission, in particular at Part 36
- The principles set out in this statement of licensing policy

- 7.5 The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission 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 are not dealt with by the licensing authority but should be notified to the Gambling Commission.
- 7.6 This licensing authority also keeps itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.
- 7.7 Bearing in mind the principle of transparency, this licensing authority's enforcement protocol is available upon request to the licensing department. Our risk based inspection is also available upon request.

## **8. Licensing Authority Functions**

### **8.1 Licensing Authorities are required under the Act to:**

- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences
- Issue Provisional Statements
- Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue Club Machine Permits to Commercial Clubs
- Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where 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.

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



8.2 The Council has adopted the scheme of delegation of functions as set out in Appendix 4 to this policy. This accords with Gambling Commission Guidance.

### **The Gambling Commission**

8.3 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

8.4 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.

8.5 The Commission has also issued 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

8.6 The Gambling Commission can be contacted at:

Gambling Commission  
Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP

Website: [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)  
Email: [info@gamblingcommission.gov.uk](mailto:info@gamblingcommission.gov.uk)

# Part B

## Premises Licences

### 9. General Principles

- 9.1 Premises licences are 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 licensing authority is able to exclude default conditions and also attach others, where it is believed to be appropriate.
- 9.2 This licensing authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:
- 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.
- 9.3 This authority 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 on Casinos below) and also acknowledges that unmet demand is not a criterion for a licensing authority to consider.
- 9.4 **Definition of “premises”** – In the Act, premises is defined as including “any place”. Section 152 therefore prevents more than one premises license applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.
- 9.5 The Gambling Commission states in the third edition of its Guidance to Licensing Authorities that: “In most cases the expectation is that a single building/plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be

regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises.”

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

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gaming where they are prohibited from participating.
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so the separation of different premises is not compromised and people do not ‘drift’ into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers should be able to participate in the activities named on the premises licence.

The Guidance also gives a list of factors which the licensing authority should be aware of, which may include:

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

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

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

7.25:

### **Casinos**

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

### **Adult Gaming Centre**

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

### **Betting Shops**

- Access must be from a street (as per para 7.23 of the Guidance) or from another premises with a betting premises licence. No direct access from a betting shop to another premises used for the rental, sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and there could not, for example, be a betting shop at the back of a café as the whole area would need to be licensed.

### **Tracks**

- No customer should be able to access the premises directly from:
  - a casino
  - an adult gaming centre

### **Bingo Premises**

- No customer must be able to access the premise directly from:
  - a casino
  - an adult gaming centre
  - a betting premises, other than a track

### **Family Entertainment Centre**

- No customer must be able to access the premises directly from:
  - a casino
  - an adult gaming centre
  - a betting premises, other than a track

Part 7 of the Gambling Commission's Guidance to Licensing Authorities contains further guidance on this issue, which this authority will also take into account in its decision-making.

- 9.8 **Premises “ready for gambling”** – The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alteration required before the premises are brought into use.
- 9.9 If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.
- 9.10 In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process:-
- First, whether the premises ought to be permitted to be used for gambling
  - Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.
- 9.11 Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.
- 9.12 **Location** - This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. As per the Gambling Commission’s Guidance to Licensing Authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.
- 9.13 **Planning** – The Gambling Commission Guidance to Local Authorities states:

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

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

7.66 – When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence. Section 210 of the Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice any action that may be appropriate under law relating to planning or building.

- 9.14 ***Duplication with other regulatory regimes*** - This licensing authority will seek to avoid any duplication with other statutory/regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning 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.

When dealing with a premises licence application for finished buildings, this authority will not take into account whether those buildings have to comply with the necessary planning or building consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

### **Licensing Objectives**

- 9.15 Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission's Guidance to local authorities and some comments are made below.
- 9.16 **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** - This licensing authority is aware that the Gambling Commission 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 this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance and will consider factors 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 Gambling Act provisions.
- 9.17 **Ensuring that gambling is conducted in a fair and open way** - This licensing authority has noted that the Gambling Commission states that it generally does not expect licensing

authorities to 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 at Paragraph 15.

- 9.18 **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 licensing authority 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.

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

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

### **Conditions**

- 9.20 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.

- 9.21 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a perceived need, such as the use of door supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This licensing authority will also expect the licence applicant to offer his/her own suggestions as to the way in which the licensing objectives can be met effectively.

- 9.22 This licensing authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.

9.23 This authority will also ensure that where category C (for information about the different categories of machine, please see Appendix 3) 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.

9.24 This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance this licensing authority will consider the impact upon the 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.

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

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



- 9.26 Door Supervisors** – The Gambling Commission advises in its Guidance to Licensing Authorities that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a premises licence to this effect.
- 9.27 Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether these need to be SIA licensed or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different premises vary (as per Guidance, Part 33).
- 9.28 It should be noted that the above paragraphs relate to door supervisors only in relation to premises licences granted under the Gambling Act 2005. 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.

## **10. Adult Gaming Centres**

- 10.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.
- 10.2 This licensing authority 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 – this should be of sufficient quality that it will be of use in evidence
  - Supervision of entrances/machine areas
  - Physical separation of areas
  - Location of entry
  - Notices/signage
  - Specific opening hours
  - Self-exclusion schemes – these are schemes whereby individuals who acknowledge they have a gambling problem ask to be barred from certain premises.

- Provision of information leaflets/helpline numbers for organisations such as GamCare.

10.3 This list is not mandatory, nor exhaustive, and is merely indicative of example measures which applicants can consider implementing.

## **11. (Licensed) Family Entertainment Centres**

11.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

11.2 This licensing authority 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 – this should be of sufficient quality that it will be of use in evidence
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- Self-exclusion schemes– these are schemes whereby individuals who acknowledge they have a gambling problem ask to be barred from certain premises
- 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

11.3 This list is not mandatory, nor exhaustive, and is merely indicative of example measures which applicants can consider implementing.

11.4 This licensing authority 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. This licensing authority will also make itself aware of and impose any mandatory or default conditions on these premises licences.

## **12. Casinos**

- 12.1 *No Casinos resolution* - This licensing authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should this licensing authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution. Any such decision will be made by the Full Council.
- 12.2 *Casinos and competitive bidding* - This licensing authority 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 Gambling Act 2005) there are likely to be a number of operators who will want to run the casino. In such situations the local authority will run a 'competition' under Schedule 9 of the Gambling Act 2005. This licensing authority will run such a competition in line with the Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008, as well as following the procedure set out in Part 17 of the Guidance.
- 12.3 *Licence considerations/conditions* – This licensing authority will attach conditions to casino premises licences according to the principles set out in the Gambling Commission's Guidance at paragraph 9, bearing in mind the mandatory conditions listed in paragraph 17 of the Guidance, and the Licence Conditions and Codes of Practice published by the Gambling Commission.
- 12.4 *Betting machines* - This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

## **13. Bingo Premises**

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

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

- 13.2 This authority also notes the Guidance at para. 18.8 regarding the unusual circumstances in which the splitting of pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.
- 13.3 Children and young people are allowed into bingo premises; however they are not permitted to participate in bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.
- 13.4 Amusement arcades providing prize bingo will require a prize gaming permit from the Council.

### **Members' Clubs and Commercial Clubs**

- 13.5 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.

## **14. Betting Premises**

- 14.1 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.
- 14.2 Betting premises will be able to provide a limited number of gaming machines and some betting machines.
- 14.3 *Betting machines* - This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

## **15. Tracks**

- 15.1 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.

- 15.2 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.
- 15.3 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.
- 15.4 This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission’s Guidance, this licensing authority will especially consider the impact upon the third licensing objective (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.
- 15.5 This authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.
- 15.6 This licensing authority 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– this should be of sufficient quality that it will be of use in evidence
  - Supervision of entrances/machine areas
  - Physical separation of areas
  - Location of entry
  - Notices/signage
  - Specific opening hours

- Self-exclusion schemes– these are schemes whereby individuals who acknowledge they have a gambling problem ask to be barred from certain premises.
- Provision of information leaflets/helpline numbers for organisations such as GamCare

15.7 This list is not mandatory, nor exhaustive, and is merely indicative of example measures which applicants can consider implementing.

15.8 *Gaming machines*.- Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.

15.9 *Betting machines* - Licensing authorities have a power under the Gambling Act 2005 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.

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

15.10 *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.

15.11 *Applications and plans* – The Act (s51) requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity (See Guidance, para 20.28).

15.12 Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations (see Guidance, para 20.29).

- 15.13 Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such circumstances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises (See Guidance, para 20.31)
- 15.14 In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined (See Guidance, para 20.32).
- 15.15 This authority appreciates it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on the track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the [plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the “five times rule” (commonly known as betting rings) must be indicated on the plan (See Guidance, para 20.33).

## **16. Travelling Fairs**

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

16.2 The licensing authority 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 that calendar year.

16.3 It is 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. This licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

## 17. Provisional Statements

- 17.1 Developers may wish to apply to this authority for provisional statement before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.
- 17.2 S204 of the Act provides for a person to make application to the licensing authority for a provisional statement in respect of premises that he or she:
- Expects to be constructed;
  - Expects to be altered; or
  - Expects to acquire a right to occupy.
- 17.3 The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.
- 17.4 In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.
- 17.5 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from responsible authorities or interested parties can be taken into account unless they:
- concern matters which could not have been raised by objectors at the provisional licence stage; or
  - reflect a change in the operator's circumstances.
- 17.6 In addition the licensing authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:
- Which could not have been raised by objectors at the provisional statement stage;
  - Which in the authority's opinion reflect a change in the operator's circumstances; or
  - Where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.



## 18. Reviews

- 18.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities, however, it is for the licensing authority to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below:
- in accordance with any relevant code of practice issued by the Gambling Commission;
  - in accordance with any relevant guidance issued by the Gambling Commission;
  - reasonably consistent with the licensing objectives; and
  - in accordance with this authority's statement of licensing policy.
- 18.2 The request for a review will also be subject to the consideration by the licensing authority as to whether the request is frivolous, vexatious, or whether it will certainly not cause this authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.
- 18.3 Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.
- 18.4 The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.
- 18.5 The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:
- Add, remove or amend a licence condition imposed by the licensing authority;
  - Exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
  - Suspend the premises licence for a period not exceeding three months; and
  - Revoke the premises licence.
- 18.6 In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in s153 of the Act, as well as any relevant representations.
- 18.7 In particular, the licensing authority may also initiate a review of the premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

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

- The licence holder;
- The applicant for review (if any);
- The Gambling Commission;
- Any person who made representations;
- The chief officer of police or Chief Constable;
- Her Majesty's Commissioners for Revenues and Customs.

## Part C

# Permits/Temporary & Occasional Use Notice

- 19. Unlicensed Family Entertainment Centre Gaming Machine Permits (Statement of Principles on Permits - Schedule 10 paragraph 7)**
- 19.1 Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (s238 of the Act).
- 19.2 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. The Gambling Commission's Guidance also states "In their three year licensing policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits ....., licensing authorities will want to give weight to child protection issues" (para, 24.6).
- 19.3 Guidance also states: "... An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the Chief Officer of Police has been consulted on the application....Licensing authorities might wish to consider asking applications 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. (para. 24.7)"
- 19.4 It should be noted that a licensing authority cannot attach conditions to this type of permit.
- 19.5 This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures/training for staff as regards suspected truant school children

on the premises, measures/training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on/around the premises.

- 19.6 This licensing authority will also expect, as per Gambling Commission Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (Sched. 7 of the Act) and that staff are trained to have a full understanding of the maximum stakes and prizes.

## **20. (Alcohol) Licensed Premises Gaming Machine Permits - (Schedule 13 paragraph 4(1))**

- 20.1 *Automatic entitlement: up to 2 machines* - There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The operator of the premises merely needs to notify the licensing authority and pay the prescribed fee. The licensing authority can remove the automatic authorisation in respect of any particular premises if:

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

- 20.2 *Permit: 3 or more machines* - 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 and code of practice issued by the Gambling Commission issued under Section 24 and 25 of the Gambling Act 2005, and “*such matters as they think relevant.*”

- 20.3 This licensing authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be a 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.

- 20.4 This licensing authority recognises that some operators of 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.
- 20.5 The licensing authority may 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.
- 20.6 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.
- 21. Prize Gaming Permits - (Principles on Permits - Schedule 14 paragraph 8 (3))**
- 21.1 The Gambling Act 2005 states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority proposes to consider in determining the suitability of the applicant for a permit”.
- 21.2 This licensing authority has prepared a statement of principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should demonstrate:
- That they understand the limits to stakes and prizes that are set out in Regulations;
  - That the gaming offered is within the law;
  - Clear policies that outline the steps to be taken to protect children from harm.
- 21.3 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.
- 21.4 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 (Sched. 14 para. 8(3) of the Act).

21.5 It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but that the licensing authority cannot attach conditions. The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

## **22. Club Gaming and Club Machines Permits**

22.1 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 (3 machines of categories B, C or D), equal chance gaming and games of chance. A Club Gaming Machine Permit will enable the premises to provide gaming machines (up to 3 machines of categories B, C or D).

22.2 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. The Secretary of State has made regulations and these cover bridge and whist, which replicates 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".

22.3 The Guidance also states that licensing authorities may only refuse an application on the grounds that:

- 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;
- the applicant's premises are used wholly or mainly by children and/or young persons;
- an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- a permit held by the applicant has been cancelled in the previous ten years; or
- an objection has been lodged by the Gambling Commission or the police.

- 22.4 There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Sched. 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".
- 22.5 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.

### **23. Temporary Use Notices**

- 23.1 Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Event Notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.
- 23.2 The licensing authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non remote casino operating licence.
- 23.3 The Secretary of State has power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this statement the relevant regulations (The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that temporary Use Notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.
- 23.4 There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Guidance. 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.

23.5 This licensing authority 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, as recommended in the Guidance.

## **24. Occasional Use Notices**

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



# Appendix 1 – List of Consultees

Age Concern, Old Customs House, West Strand, Whitehaven, CA28 7LR  
Association of British Bookmakers, Norris House, 4 Norris Street, London

BACTA, Alders House, 133 Aldersgate Street, London

The Betting Shop, 151 Main Street, Frizington

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

British Association of Leisure Parks, Piers & Attractions Ltd, BALPPA House, 57-61 Newington Causeway, London

British Beer & Pub Association, Market Towers, 1 Nine Elms Lane, London, SW8 5NQ

British Casino Association, 38 Grosvenor Gardens, London, SW1W 0BE

British Greyhound Owners Association, 95 Grosvenor Avenue, Carshalton, SM5 3EN

British Holiday and Home Parks Assoc, 6 Pullman Court, Great Western Road, Gloucester, G4 3ND

British Institute of Innkeeping, Wessex House, 80 Park Street, Camberley, Surrey, GU15 3PT

Business in Sport & Leisure, 17a Chartfield Avenue, Putney, London, SW15 6DX

Carlisle Community Law Centre, 8 Spencer Street, Carlisle

Chas Kendall, 5 Cavendish Street, Barrow in Furness

Citizens Advice Bureau, Tangier Buildings, Gregg's Lane (Off Tangier St), Whitehaven

Citizens Advice Bureau, Town Council Offices, The square, Cleator Moor

Citizens Advice Bureau, Advice Buildings, 2 St Georges Road, Millom

Copeland/Allerdale Community Safety, The Oval Centre, Salterbeck, Workington

Copeland Borough Council – All Members

Copeland Borough Council - Chief Executive and all Directors

Copeland Borough Council - Parish Councils

Copeland Borough Council - Website

Cumberland Newspapers, Dalston Road, Carlisle

Cumbria Association of Local Councils, Penrith Library, St Andrews Churchyard, Penrith

Cumbria Constabulary, The Chief Officers of Police, Carleton Hall, Penrith

Cumbria Constabulary, Workington Police Station, Hall Brow, Workington,

Cumbria County Council – Adult Social Care and Children's Services Directorate, Somerset House, Duke Street, Whitehaven

Cumbria County Council – Safeguarding & Review, New Oxford Street, Workington

Cumbria Alcohol & Drugs Advisory Service, 17a West Tower Street, Carlisle  
Cumbria Fire and Rescue Service, Station Road, Cockermouth

Cumbria Fire and Rescue Service, A Division Headquarters, 1-2 Frances Croft, Workington

Cumbria Health & Safety Liaison Group, c/o Emma Brass, Eden District Council

Cumbria Local Safeguarding Children Board, 5 Portland Square, Carlisle

Cumbria Tourist Board, Staveley, Kendal

Cumbria Volunteer Bureau, 27 Spencer Street, Carlisle, CA1 1BE

Done Brothers T/A Betfred, Spectrum, 56-58 Benson Road, Birchwood, Warrington

Egremont Area Business Network, 18 Harpouir Place, Thornhill, Egremont  
Eurobet UK, Eurobet House, 10-24 Church Street, West Working, Surrey. GU21 6HT  
European Entertainment, The Park, Oaksey, Malmersbury, Wiltshire, SN16 9SD

Furness General Hospital, Dalton Lane, Barrow in Furness

Gala Coral Group, New Castle House, Castle Boulevard, Nottingham, NG7 1FT  
The Gambling Commission, Victoria Square House, Victoria Square, Birmingham  
Gamcare, 7-11 St John's Hill, London  
Gamestec Leisure Limited, Low Lane, Horsforth, Leeds, LS18 4ER  
Girlguiding UK, Commonwealth Headquarters, 17-19 Buckingham Palace Road, London

Health & Safety Executive, 2 Victoria Place, Carlisle  
HM Customs & Excise, Portcullis House, 21 India Street, Glasgow  
Holders of Premises Licence (Gambling Act 2005)  
Holders of Premises Licence (Licensing Act 2003)  
Hound Trailing Association Ltd, Ash Cottage, Blencow, Penrith

Ladbrokes PLC, Imperial House, Imperial Drive, Rayners Lane, Harrow  
Lakes College, Lillyhall Industrial Estate, Lillyhall, Workington, CA14 4JR  
Lake District National Park Authority, Murley Moss, Oxenholme Road, Kendal  
Luxury Leisure, 362C Dukesway, Team Valley, Gateshead, Tyne & Wear  
Librarian, Daniel Hay Library, Lowther Street, Whitehacen, CA28 7QZ  
Librarian, Kells Library, High Road, Whitehaven, CA28 9PQ  
Librarian, Hensingham Library, Richmond Hill Road, Whitehaven, CA28 8SU  
Librarian, Mirehouse Library, Meadow Road, Whitehaven, CA28 8ER  
Librarian, Cleator Moor Library, Market Square, Cleator Moor, CA25 5AP  
Librarian, St Bees Library, 3 Main Street, St Bees, CA27 0AA  
Librarian, Distington Library, Community Centre, Distington, Workington, CA14 5TE  
Librarian, Charles Edmund Library, Wyndham School, Egremont, CA22 2DH  
Librarian, Seascale Library, Gosforth Road, Seascale, CA20 1PN  
Librarian, Millom Library, St Georges Road, Millom, LA18 4DD

NSPCC, 7 Chatsworth Square, Carlisle  
North Cumbria Acute NHS Hospitals Trust, West Cumberland Hospital, Hensingham Road,  
Whitehaven

Places of Worship in Copelands area  
Popleston Allen, Licensing Solicitors, 37 Stoney Street, The Lace Market, Nottingham, NG1 1LS  
Pub Watch Scheme, Police HQ, Workington Police Station, Hall Brow, Workington, CA14 4AP  
Racecourse Association Ltd, Winkfield Road, Ascot, Berkshire, SL5 7HX

The Scout Association, Gilwell Park, Chingford, London  
Security Industry Authority, PO Box 1293, Liverpool  
Solicitors in Copeland's area

West Cumbria CDRP, The Minto Centre, Salterbeck, Workington  
Whitehaven Chamber of Trade, Burtons, King Street, Whitehaven  
William Hill Ltd, Greenside House, 50 Station Road, Wood Green, London  
Winning Post, Meadow Road, Mirehouse, Whitehaven

## **Appendix 2 - Useful addresses**

### **Licensing Authority – Copeland Borough Council**

**Application forms and other enquiries should be sent to:**

Mr. M. Jepson  
Head of Legal & Democratic Services  
Copeland Borough Council  
The Copeland Centre  
Catherine Street  
Whitehaven  
Cumbria. CA28 7SJ

Tel: 01946 598515  
Email: [licensing@copeland.gov.uk](mailto:licensing@copeland.gov.uk)

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### **Responsible Authorities:**

**Notice of the application should be sent to the under-mentioned responsible authorities, clearly marking the envelope ‘Gambling Act application’:**

Environmental Health Manager  
Copeland Borough Council  
The Copeland Centre  
Catherine Street  
Whitehaven  
Cumbria. CA28 7SJ

Tel: 01946 598339

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Development Services Manager  
Copeland Borough Council  
The Copeland Centre  
Catherine Street  
Whitehaven  
Cumbria. CA28 7SJ

Tel: 01946 598416

**OR**

The Lake District National Park Authority  
Murley Moss  
Oxenholme Road  
Kendal  
Cumbria. LA9 7RL

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Cumbria Constabulary  
Workington Police Headquarters  
Hall Brow  
Workington  
Cumbria. CA14 4AP

Tel: 0845 3300247

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The Divisional Officer  
Cumbria Fire Service  
A Division Headquarters  
1-2 Frances Court  
Workington  
Cumbria. CA14 4DR

Tel: 01900 602543

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Senior Management Secretary  
Safeguarding and Review  
Social Services  
New Oxford Street  
Workington  
Cumbria. CA14 2LW

Tel: 01900 325365

Email: [SafeguardingAndReview@cumbriacc.gov.uk](mailto:SafeguardingAndReview@cumbriacc.gov.uk)

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Gambling Commission  
Victoria Square House  
Victoria Square  
Birmingham

B2 4BP

Email: [info@gamblingcommission.gov.uk](mailto:info@gamblingcommission.gov.uk)

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Health and Safety Executive  
2 Victoria Place  
Carlisle  
Cumbria. CA1 1ER

Tel: 01228 539321

(where the HSE is the enforcing authority for health & safety matters in the premises)

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HM Revenues & Customs  
National Registration Unit (Betting & Gaming)  
Portcullis House  
21 India Street  
Glasgow. G2 4PZ

## Other Useful Addresses

British Beer and Pub Association  
Market Towers  
1 Nine Elms Lane  
London  
SW8 5NQ

Tel: 0207 627 9191  
Email: [web@beerandpub.com](mailto:web@beerandpub.com)  
Web: [www.beerandpub.com](http://www.beerandpub.com)

British Institute of Innkeeping  
Wessex House  
80 Park Street  
Camberley  
Surrey GU15 3PT

Tel: 01276 684 449  
Email: [reception@bii.org](mailto:reception@bii.org)  
Web: [www.bii.org](http://www.bii.org)

Disability Rights Commission Helpline  
Freepost MID01264  
Stratford Upon Avon  
CV37 9BR

Tel: 08457 622 633  
Web: [www.drc-gb.org](http://www.drc-gb.org)

Equity  
Guild house  
Upper Martins Lane  
London  
WC2H 9EG

Tel: 0207 379 6000  
Email: [info@equity.org.uk](mailto:info@equity.org.uk)  
Web: [www.equity.org.uk](http://www.equity.org.uk)

Gamcare  
2/3 Baden Place  
Crosby Row  
London SE1 1YW

Tel: 020 7378 5200  
Helpline: 0845 6000 133  
Email: [info@gamcare.org.uk](mailto:info@gamcare.org.uk)  
Web: [gamcare.org.uk](http://gamcare.org.uk)

Gamblers Anonymous  
PO Box 5382  
London W1A 6SA

Money Advice Trust  
Bridge House  
181 Queen Victoria Street  
London EC4V 4DZ

Web: [www.moneyadvicetrust.org/home.html](http://www.moneyadvicetrust.org/home.html)

Consumer Credit Counselling Service  
Wade House  
Merrion Centre  
Leeds LS2 8NG

Web: [www.cccs.co.uk](http://www.cccs.co.uk)



## Appendix 3 - Categories of Gaming Machines

Category of Machine	Maximum Stake	Maximum Prize
A	Unlimited	Unlimited
B1	£2	£4,000
B2	£100 (in multiples of £10)	£500
B3A	£1	£500
B3	£1	£500
B4	£1	£250
C	£1	£70
D – non-money prize (other than a crane grab machine)	30p	£8
D – non-money prize (crane grab machine)	£1	£50
D – (money prize)	10p	£5
D – combined money and non-money prize (other than a coin pusher or penny falls machine)	10p	£8 (of which no more than £5 may be a money prize)
D – combined money and non-money prize (coin pusher or penny falls machine)	10p	£15 (of which no more than £8 may be a money prize)

	<b>Machine Category</b>						
Premises Type	A	B1	B2	B3	B4	C	D
Large casino (machine/table ration of 5-1 up to maximum)		Maximum of 150 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine/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 (except B3A machines), within the total limit of 80 (subject to machine/table ratio)					
Pre-2005 Act casinos (no machine/table ratio)		Maximum of 20 machines categories B to D (except B3A machines), or any number of 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 8 machines in category B3 or B4		No limit on category C or D machines	
Adult gaming centres				Maximum of 4 machines in category B3 or B4		No limit on category 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 B3A or 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 of category C-D machines as specified on permit	
Travelling fair							No limit on category D machines
	<b>A</b>	<b>B1</b>	<b>B2</b>	<b>B3</b>	<b>B4</b>	<b>C</b>	<b>D</b>

- It should be noted that members' clubs and miners' welfare institutes are entitled to site a total of three machines in categories B3A to D, but only one B3A machine can be sited as part of this entitlement. Commercial clubs are entitled to a total of three machines in categories B4 to D.

## Appendix 4 – Scheme of Delegation

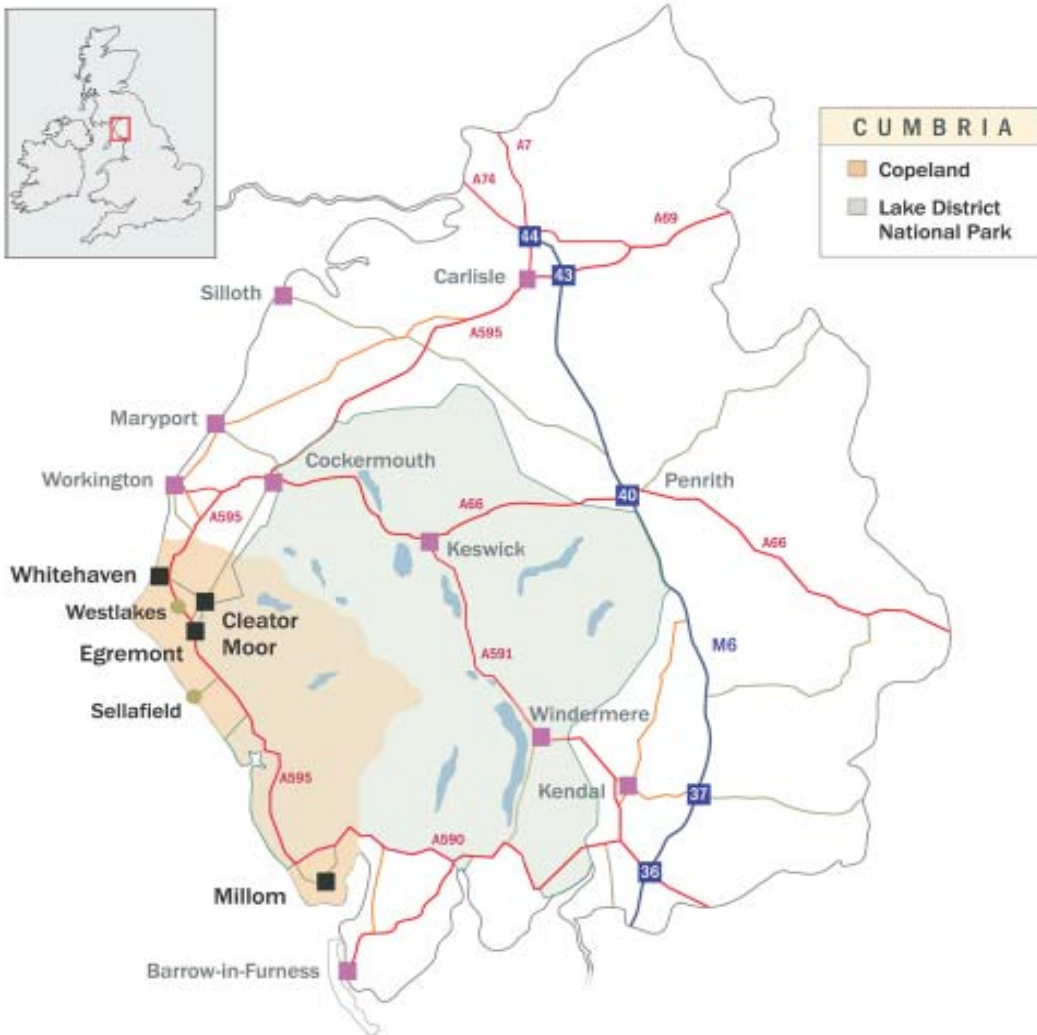
Matter to be dealt with	Full Council	Executive	Licensing Committee	Sub-committee of Licensing Committee	Officers
Final approval of three year licensing policy	X				
Policy not to permit casinos	X				
Fee setting (when appropriate)		X			
Application for premises licences				Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn (Head of Legal and Democratic Services)
Application for a variation to a licence				Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn (Head of Legal and Democratic Services)
Application for a transfer of a licence				Where representations have been received from the Commission	Where no representations received from the Commission (Head of Legal and Democratic Services)
Application for a provisional statement				Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn (Head of Legal and Democratic Services)
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(Head of Legal and Democratic Services)
Cancellation of club gaming/club machine permits				X	
Applications for other permits					X (Head of Legal and Democratic Services)
Cancellation of licensed premises gaming machine permits					X (Head of Legal and Democratic Services)
Consideration of temporary use notice					X (Head of Legal and Democratic Services)
Decision to give a counter notice to a temporary use notice				X	

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

# APPENDIX 5

## COPELAND LOCATION MAP



**GAMBLING ACT 2005 – REVIEW OF STATEMENT OF LICENSING POLICY  
SUMMARY OF PROPOSED AMENDMENTS TO EXISTING POLICY**

**RESPONSES FOLLOWING CONSULTATION – OCTOBER 2009**

Doc. No.	Respondent	Proposed Amendment	Recommendation
1	British Beer & Pub Assoc	<ul style="list-style-type: none"> <li>a) Welcomes adoption of LACORS template</li> <li>b) Comments re children u/18 using AWP's</li> <li>c) Include the fact that there is no reason why additional gaming machines should not be permitted as long as GC Code of Practice is adhered to</li> <li>d) Include application for machine permits</li> </ul>	<ul style="list-style-type: none"> <li>a) Noted/no action necessary</li> <li>b) Noted/no action necessary</li> <li>c) Amend para.20.2 to include that officers have delegated power to grant up to 4 machines, applications for 5 or more will be considered by a licensing sub-committee on their own merit. Amend Appendix 4 – Delegation of Functions.</li> <li>d) Already included at para 20.</li> </ul>
2	Cumbria Fire & Rescue Service	<ul style="list-style-type: none"> <li>a) Outline responsibility of licence holder with regard to fire safety</li> </ul>	<ul style="list-style-type: none"> <li>a) Do not include. GC Guidance 6.4 states there should be a firm commitment to avoid duplication with other regulatory regimes, this include H&amp;S at work and fire safety</li> </ul>

3	Chas Kendall (Turf acct)	Concern over the injustice in licence fee structure (Directed at Barrow)	Not an issue for the policy. No action.
4	Girlguiding UK	No useful comments to make but the care being taken to safeguard children is welcomed	Noted/no action necessary
5	Egremont Town Council	Nothing in draft policy that raises concerns or needs clarification	Noted/no action necessary
6	Distington Parish Council	No comments against or in favour of draft policy	Noted/no action necessary
7	Racecourse Association	No venues in Copelands area therefore will not be responding to draft policy	Noted/no action necessary