
GAMBLING ACT 2005 STATEMENT OF PRINCIPLES

Responsible Cabinet Member - Councillor Bill Dixon
Neighbourhood Services Portfolio

Responsible Director - Paul Wildsmith, Director of Corporate Services

SUMMARY REPORT

Purpose of the Report

1. To present to Members the final draft of the Council's revised Gambling Policy document, which is due to be published, in accordance with statutory requirements, in January 2010.

Summary

2. This report provides information for Members in relation to the three yearly statutory revision of the Council's Gambling Policy produced in accordance with the Gambling Act 2005. The policy has predominantly remained unchanged except for the provision of additional information.

Recommendation

3. It is recommended that the revised policy as detailed in **Appendix 1** to the attached report be approved.

Reasons

4. To comply with the statutory requirement placed on the Council to produce and publish a policy in respect of its functions under the Gambling Act 2005.

Paul Wildsmith
Director of Corporate Services

Background Papers

The Gambling Act 2005
The Gambling Commission Guidance to Local Authorities 3rd edition, May 2009
The Council's original Statement of Principles 2007

Appendix

The proposed revised Statement of Principles

Pam Ross: Extension 2647

S17 Crime and Disorder	The Council, in partnership with the Police, has a role to play in the prevention of the premise it licenses being a source of crime and in respect of disorder caused as a result of gambling
Health and Wellbeing	The Council's main responsibility under the 2005 Act is to protect children and other vulnerable persons from physical and psychological harm that may be caused by gambling
Sustainability	There are no issues which this report needs to address
Diversity	There are no issues which this report needs to address
Wards Affected	The proposals affect all wards
Groups Affected	The proposals affect all communities
Budget and Policy Framework	This report does not represent a change to Council policy
Key Decision	The proposals do not represent a key decision
Urgent Decision	This report does not represent an urgent decision
One Darlington: Perfectly Placed	There are no issues which this report needs to address
Efficiency	This is new, additional work which has been undertaken within the constraints of the licensing budget without additional resources

MAIN REPORT

Background

5. The Gambling Act 2005 gives responsibility to the Gambling Commission (formerly the Gaming Board) for the issue of Operating Licences in respect of businesses offering gambling and also for the issue of Personal Licences for those employed in the business of gambling eg croupiers, betting shop and bingo hall managers etc. Local Authorities are now responsible for the licensing of premises used for gambling eg betting shops and bingo halls etc and the issue of permits for gaming and small society lotteries.
6. The 2005 Act requires all Local Authorities to prepare, consult on and publish a Gambling Policy. This Policy is a “living document” which must be reviewed at least every three years (notice of intention to publish the document must also be placed in a local newspaper at least two weeks prior to publication). To avoid confusion with Local Authority Licensing Policies the Local Authorities Co-ordinators of Regulatory Services (LACORS) has recommended that the Gambling Policy be referred to as the “Statement of Principles”. This document sets out the matters the Council will be considering when dealing with applications for Premises Licences and various permits. The Policy comprises sections of the legislation, parts of the Gambling Commission guidance and some general information on how the Council will deal with applications and enforce the new legislation. The first policy was approved by Members at their meeting of Council on 23 November 2006 and was duly published on 3 January 2007 to take effect on 31 January 2007. The Policy is therefore due to be revised.

Information and Analysis

7. The Gambling Act 2005 has three licensing objectives as follows:
 - (a) Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
 - (b) Ensuring gambling is conducted in a fair and open way.
 - (c) Protecting children and other vulnerable persons from being harmed or exploited by gambling.
8. The Gambling Commission plays a leading role in relation to the first objective and determines the suitability of businesses and persons involved in the gambling industry by virtue of the Operating and Personal licences. The Local Authority is not able, therefore, to grant a Premises Licence until an Operating Licence has been granted by the Gambling Commission. The Gambling Commission also addresses the second objective and the only role for the Local Authority in relation to this objective will be when dealing with the track-betting environment. The final objective impacts on Local Authorities and consideration may be given to, amongst other things locality, supervision of premises, separation of adult gaming areas and promotion of gambling support organisations.
9. Most functions of the Gambling Act 2005 have been delegated to the Committee established by the Council to deal with the Licensing Act 2003 in accordance with national guidance. The approval of the Council’s policy in respect of the Gambling Act 2005 is however one of the few functions that, by statute, must be dealt with by Council.

10. The Council currently licences 28 premises for the provision of gambling (ie Betting Shops, Bingo Halls and Amusement Arcades) and issues 84 gaming permits and 70 small society lottery permits. Unlike parts of the Licensing Act 2003, the Gambling Act 2005 does not provide Local Authorities with wide discretion. The 2005 Act requires Local Authorities to follow the Guidance and Codes of Practice issued by the Gambling Commission and also the Council's own policy statement.

Changes to the Policy

11. The policy has predominantly remained unchanged except for the provision of additional information in respect of the following:
 - (a) Primary Use: following updated information from the Gambling Commission clarification has been provided in respect of the requirement to ensure that the primary gambling activity is provided on the premises (see page 16). Bingo premises for example must offer bingo and the gaming machines that are permitted by virtue of the bingo premises licence should be ancillary to the provision of bingo.
 - (b) Division of Premises: following challenges in Court and updated information from the Gambling Commission clarification has been provided in respect of what the Council will deem to be acceptable by way of barriers, eg the general requirement for floor to ceiling barriers, to avoid artificial sub division of a premise (see page 17). This has been particularly addressed to ensure that premises are not configured to enable them to deliberately circumvent the limitations on gaming such as high pay out machines.
 - (c) Small Society Lotteries: information that was not available when the Policy was first produced has now been included in the policy document (see page 33).

Consultation

12. A widespread consultation exercise has been undertaken over a 12 week period, which included the Responsible Authorities, the gaming industry, the leisure industry and organisations dealing with problems arising from gambling. The draft policy has also been made available on the Council's website. The period for consultation ended on 9 October 2009. No responses were received in respect of the revised document.



DARLINGTON BOROUGH COUNCIL

STATEMENT OF PRINCIPLES

in relation to

THE GAMBLING ACT 2005

Approved by Council XXXX November 2009

**Published xxxx December 2009
Effective from 03 January 2010**

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THE GAMBLING ACT 2005

INTRODUCTION AND DECLARATION

The Gambling Act 2005 (“The 2005 Act”) has provided for a new regime for regulating gambling and betting which 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 the provision of gambling and betting.

Darlington Borough Council (“The Council”) along with other Local Licensing Authorities, is required, under the 2005 Act, to licence premises where gambling is to take place. The Council is also required to licence certain other activities (such as registering small society lotteries). This document sets out how we intend to approach this task.

Licensing Authorities are required by Section 349 of the 2005 Act to publish a Statement of Principles which they propose to apply when exercising their functions in accordance with the legislation. This statement must be published at least every three years. It is a “living” document that must be regularly reviewed. If any part of the document is amended, further consultation and re-publication is required.

Darlington Borough Council consulted widely in relation to this statement before finalising its content. Full details of that consultation are detailed at **Appendix C** to this document.

DECLARATION: In producing the Final Statement, Darlington Borough Council’s Licensing Authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the Guidance issued by the Gambling Commission and any responses from those consulted on this statement.

This Statement of Principles was approved at a meeting of the Council on **XXXXXX**. It was then published via Darlington Borough Council’s Website on **XXXXXX**. Copies have been placed in public libraries in the Borough as well as being available in the Town Hall. The Statement of Principles became effective from **03 January 2010**.

It should be noted that this Policy Statement does 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.

All references to the Gambling Commission Guidance in this document refer to the 3rd edition of the Guidance, May 2009.

PART A

1. THE LICENSING OBJECTIVES

In exercising most of its functions under the Gambling Act 2005, the Council's Licensing Authority must have regard to the licensing objectives as set out in Section 1 of the 2005 Act. These 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.

NB The Gambling Commission, in its Guidance has stated (5.2): "*The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling*".

In accordance with Section 153 of the 2005 Act, this Licensing Authority will generally aim to permit the use of premises for gambling as long as such use is considered to be:

- In accordance with any relevant Codes of Practice issued by the Gambling Commission.
- In accordance with any Guidance issued by the Gambling Commission.
- Reasonably consistent with the licensing objectives.
- In accordance with this Statement of Principles.

This Licensing Authority particularly notes the Gambling Commission's Guidance (5.27) to local authorities that:

"Licensing Authorities should be aware that other considerations such as moral or ethical objections are not a valid reason to reject applications for premises licenses. This is because such objections do not relate to the licensing objectives. An Authority's decision cannot be based on dislike of gambling, or a general notion that it is undesirable to allow gambling premises in an area (with the exception of the casino resolution powers)".

2. THE BOROUGH OF DARLINGTON

The Borough of Darlington is a compact area with a clear identity. It comprises the town of Darlington and its surrounding rural area, covering a total area of 19,745 hectares. The River Tees and North Yorkshire lie to the south, the Teesside conurbation to the east, County Durham to the north and to the west. There are excellent communication links with a principal station on the East Coast rail mainline, the A1 (M) Motorway and Durham Tees Valley International Airport within its boundaries.

Darlington is a medium sized town, with an employed workforce of approximately 40,000, where most of the population lives in the urban area. There are around 2,800 businesses, most of which are now in the service sector. The town centre is of sub-regional importance for shopping and services and the town is also an important employment centre. Generally Darlington is an economy of small, owner-managed businesses that co-exist with branch factories, offices and shops. Service sector employment is expected to continue to dominate the local economy with further strong growth in tourism and miscellaneous services, full and part-time employment.

There are no areas within the Borough that are currently considered to be particularly suitable or unsuitable for the provision of gaming facilities. Potential operators should, however, refer to the District Plan on our website at <http://www.darlington.gov.uk> for details about the Local Planning Authority's approach to granting planning permission for developments where such activities may take place.

3. AUTHORISED ACTIVITIES

'Gambling' is defined in the 2005 Act as either gaming, 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 that relies wholly on chance.

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.

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.

4. LICENCES UNDER THE 2005 ACT

The 2005 Act provides for three categories of licence as follows:

- Operating licences
- Personal licences
- Premises licences

The Council is responsible for the issue of Premises licenses. The Gambling Commission is responsible for the issue of Operating and Personal licenses.

5. THE GAMBLING COMMISSION

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 manner in which gambling is carried out, the effects of gambling and the regulation of gambling generally.

The Commission has issued guidance in accordance with Section 25 of the 2005 Act about the manner in which Licensing Authorities exercise their licensing functions under the Act and in particular, the principles to be applied.

The Commission also issues Codes of Practice under Section 24 about the way in which facilities for gambling is provided, which may include provisions about the advertising of gambling facilities. The Gambling Commission can be contacted at:

Gambling Commission
Victoria Square House
Victoria Square
BIRMINGHAM
B2 4BP

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

6. THE COUNCIL'S FUNCTIONS

The Council, in its capacity as a Licensing Authority, is responsible for:

- The issue of Premises Licences in respect of premises where gambling activities are to take place.
- The issue of Provisional Statements.
- The issue of Club Gaming Permits and/or Club Machine Permits to members' clubs and miners' welfare institutes.
- The issue of Club Machine Permits to commercial clubs.
- The issue of Permits to Unlicensed Family Entertainment Centres for the use of certain lower stake gaming machines.
- The issue and regulation of gaming and gaming machines in alcohol licensed premises.
- The registration of Small Society Lotteries.
- The issue of Prize Gaming Permits.
- The receipt and endorsement of Temporary Use Notices.
- The receipt of Occasional Use Notices.
- The provision of information to the Gambling Commission about licenses issued (see section 13 on information exchange).
- The keeping of registers of the permits and licences issued under these functions.
- The exercise of its powers of compliance and enforcement under the 2005 Act in partnership with the Gambling Commission and other relevant responsible authorities.

NB The National Lottery is regulated by the National Lottery Commission. Remote Gambling is dealt with by the Gambling Commission and Spread Betting is regulated by the Financial Services Authority.

7. GENERAL STATEMENT OF PRINCIPLES

The Council recognises that a wide variety of premises will require a licence or a permit. These include casinos, betting shops, bingo halls, pubs, clubs and amusement arcades.

In carrying out its licensing functions the Council will have regard to any guidance issued by the Gambling Commission.

The Council will not seek to use the 2005 Act to resolve matters more readily dealt with under other legislation.

To ensure the licensing objectives are met, the Council has established a close working relationship with the Police, the Gambling Commission and where appropriate, other Responsible Authorities.

Where children, young persons and other vulnerable people are allowed access to premises where gambling takes place, the Council may take whatever steps are considered necessary to either limit access generally or introduce measures to prevent underage gambling where it believes it is right to do so for the prevention of their physical, moral or psychological harm, especially where we receive representations to that effect.

Applicants seeking Premises Licenses are encouraged to propose any prohibitions or restrictions of their own in circumstances where it is felt that the presence of children would be undesirable or inappropriate.

The overriding principle, however, is that all applications and the circumstances prevailing at each premises will be considered on their own individual merits. When applying these principles this Licensing Authority will, in the light of relevant representations, consider whether exceptions should be made in any particular case.

8. PREVENTING GAMBLING FROM BEING A SOURCE OF CRIME AND DISORDER

The Gambling Commission plays a leading role in preventing gambling from being a source of crime and will maintain rigorous licensing procedures that aim to prevent criminals from providing facilities for gambling.

Anyone applying to the Council for a Premises Licence will have to hold an Operating Licence from the Commission before a Premises licence can be issued. The Council, therefore, will not generally be involved in determining the suitability of an applicant but where concerns about a person's suitability arise the Council will bring those concerns to the attention of the Commission.

If an application for a licence or permit is received in relation to premises which are in an area noted for particular problems with organised crime, the Council will, in consultation with the Police and other relevant authorities, consider whether specific controls need to be applied to prevent those premises from being a source of crime.

Powers already exist in relation to anti-social behaviour legislation and licensing legislation to deal with measures designed to prevent nuisance, whether it arises as a result of noise from a building or from general disturbance once people have left a building. The Council does not, therefore, intend to use the 2005 Act to deal with general nuisance issues e.g. parking problems, which can easily be dealt with using other powers.

Issues of disorder can only be dealt with under the 2005 Act if the disorder amounts to activity which is more serious and disruptive than mere nuisance ***and it can be shown that gambling is the source of that disorder.*** A disturbance might be serious enough to constitute disorder if Police assistance was required to deal with it. Another factor which could be taken into account is how threatening the behaviour was to those who could see or hear it and whether those people live sufficiently close to be affected or has business interests that might be affected.

NB When making decisions in this regard this Licensing Authority will give due weight to any comments made by the Police.

9. ENSURING GAMBLING IS CONDUCTED IN A FAIR AND OPEN WAY

The Gambling Commission does not expect Local Authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will either be a matter for the management of the gambling business or will relate to the suitability and actions of an individual. Both issues will be addressed by the Commission through the operating and personal licensing regime. The Independent Betting Arbitration Service (IBAS) is an organisation that can assist businesses in relation to this matter.

As betting track operators do not need an Operating Licence from the Commission the Council may, in certain circumstances, require conditions relating to the suitability of the environment in which betting takes place.

10. PROTECTING CHILDREN AND OTHER VULNERABLE PEOPLE FROM GAMBLING

Apart from one or two limited exceptions, the intention of the 2005 Act is that children and young persons should not be allowed to gamble and should, therefore, be prevented from entering gambling premises which are 'adult-only' environments.

In practice, steps will generally be taken to prevent children from taking part in, or being in close proximity to, gambling especially with regard to premises situated in areas where there may be a high rate of reported truancy. There may also be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children. In relation to Casinos only, the Gambling Commission has issued a Code of Practice about access to Casino premises for children and young persons.

When considering whether to grant a Premises Licence or Permit the Council will consider whether any measures are necessary to protect children, including the supervision of entrances, the segregation of gambling from areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises, such as pubs, clubs, betting tracks etc.

In seeking to protect vulnerable people the Council will include people who gamble more than they want to, people who gamble beyond their means, and people who may not be able to make informed or balanced decisions about gambling, perhaps due to a mental impairment, alcohol or drugs. Applicants may find organisations such as GamCare a useful source of information and advisory material, leaflets, etc.

Children (defined in the 2005 Act as under 16s) and young persons (16-17s) may take part in private and non-commercial betting and gaming but the 2005 Act contains a number of restrictions on the circumstances in which they may participate in gambling or be on premises where gambling is taking place. An adult is defined as 18 years of age and over. In summary:

- Betting shops cannot admit anyone under 18 years of age.
- Bingo clubs may admit those under 18 years of age but must have policies to ensure they do not gamble, except on category D* machines.
- Adult Entertainment Centres cannot admit those under 18 years of age.
- Family Entertainment Centres and premises with an alcohol premises licence (such as pubs) can admit under-18s, but they may not play category C** machines which are restricted to those over 18 years of age.
- Clubs with a Club Premises Certificate can admit under-18s, but they must have policies to ensure those under 18 years of age do not play machines other than category D machines.
- Tracks will be required to have policies to ensure that under 18s do not participate in gambling other than on category D machines.

The Council will always treat each case on its own individual merits and when considering whether specific measures are required to protect children and other vulnerable people will balance those considerations against its function of permitting premises to be used for gambling.

This Council will consider very carefully whether applications for gambling premises located very close to a school or a centre for gambling addicts should be granted. Each application will, however, be considered on its own merits and will depend to a large extent on the type of gambling to be offered and whether the applicant can properly address the licensing objectives.

* Category D Machines – stakes 10p - £1, maximum prizes - £5 - £50)

** Category C Machines – stakes £1, maximum prize £70

NB: Category B machines: - stakes £1 - £100, maximum prizes - £250 - £4000
Information correct as from June 2009

11. RESPONSIBLE AUTHORITIES

These are generally public bodies that must be notified of all applications and who are entitled to make representations to the Council if they are relevant to the licensing objectives.

Section 157 of the 2005 Act defines those authorities as:

- The Gambling Commission
- The Police
- The Fire Service
- The Local Planning Authority
- Environmental Health
- The Local Safeguarding Children's Board***
- HM Revenue and Customs
- A Licensing Authority in whose area the premises are situated (that is, the Council itself and also any adjoining Council where premises straddle the boundaries between the two).

**** The Licensing Authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the 2005 Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. These principles are:*

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

In accordance with the Gambling Commission's Guidance for Local Authorities this Council designates Darlington Borough Council's Safeguarding Children's Board for this purpose.

Any concerns expressed by any Responsible Authority in relation to their own functions cannot be taken into account unless they are relevant to the application itself and the licensing objectives. In this regard the Council will not generally take into account representations that are deemed to be irrelevant, such as:

- There are too many gambling premises in the locality (because need for gambling facilities cannot be taken into account).
- The premises are likely to be a fire risk (because public safety is not a licensing objective and can be dealt with under existing legislation).
- The location of the premises is likely to lead to traffic congestion (because this does not relate to the licensing objectives).

- The premises will cause crowds to congregate in one area causing noise and nuisance (because other powers are generally available to deal with these issues). It should be noted that, unlike the Licensing Act 2003, the Gambling Act 2005 does not include as a specific licensing objective the prevention of public nuisance. Any nuisance associated with gambling premises should be tackled under other relevant laws).

Each representation will, however, be considered on its own individual merits.

The contact details of all the Responsible Authorities under the Gambling Act 2005 are reproduced at **Appendix B** and are also available via the Council's website at <http://www.darlington.gov.uk/resident/legalservices/licensing>

12. INTERESTED PARTIES

Interested Parties can make representations about licence applications, or apply for a review of an existing licence. An Interested Party is someone who:

- Lives sufficiently close to the premises to be likely to be affected by the authorised activities.
- Has business interests that might be affected by the authorised activities.
- Represents persons in either category (a) or (b) above.

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.

In accordance with the Gambling Commission's Guidance to Licensing Authorities when considering if someone lives sufficiently close to the premises, the Licensing Authority will take into account, among other things:

- The size and nature of the premises.
- The distance of the premises from the person making the representation.
- The potential impact of the premises.
- The circumstances of the person(s) making the representation.

In determining whether a person has a business interest which could be affected, the Licensing Authority will take into account, among other things:

- The size of the premises.
- The "catchment" area of the premises.
- Whether the person making the representation has business interests in the catchment area that may be affected.

Each case will be decided upon its merits. This Authority will not apply a rigid rule to its decision-making. In the case of doubt, the benefit will be given to the party making the representation until the contrary can be shown.

Interested Parties can include trade associations and residents'/tenants' associations, providing that they can show they represent someone who would be classed as an Interested Party in their own right. Councillors and MPs may also be Interested Parties. Elected councillors may represent Interested Parties, providing they do not also sit on the Licensing Sub-Committee determining the application in question.

If an existing gaming business makes a representation that it is going to be affected by another gaming business wishing to start up in the area, the Licensing Authority would not consider this to be a relevant representation (unless there is other evidence) as it does not relate to any of the 3 licensing objectives and instead relates to demand or competition. Trade representations which are specific to the 3 licensing objectives will however be considered.

The Council may receive representations which it considers to be frivolous or vexatious. A vexatious representation is generally one that is repetitive, without foundation or made for some other reason such as malice. A frivolous representation is generally one that is lacking in seriousness, or is unrelated to either the licensing objectives, the Guidance issued by the Gambling Commission or this Statement of Principles. Decisions on whether representations are frivolous or vexatious will generally be a matter of fact, given the circumstances of the representation. In deciding whether or not a representation is frivolous or vexatious the Licensing Authority will normally consider:

- Who is making the representation and whether there is a history of making representations that are not relevant.
- Whether the representation raises a relevant issue or not.
- Whether the representation is specific to the premises that are the subject of the application.

Any such decision will be made objectively and not on the basis of any political judgment. Where a representation is rejected the person making the representation will be given a written reason and a report will be made to the licensing sub-committee determining the application (if appropriate), indicating the general grounds of the representation and the reason it was rejected.

Representations should be made:

- In writing (preferably in duplicate, unless submitted electronically).
- In black ink on single sides of A4 paper.
- Indicate the name and address of the person or organisation making the representation.
- Indicate the premises to which the representation relates.
- Indicate the proximity of the premises to the person making the representation. A sketch map or plan may be helpful to show this.
- Clearly set out the reasons for making the representation.

Where relevant representations have been received and are not withdrawn the Licensing Authority will hold a hearing to determine an application.

13. EXCHANGE OF INFORMATION

Licensing Authorities are required to include in this statement the principles to be applied by the authority in exercising its functions in accordance with:

- Sections 29 and 30 of the 2005 Act in respect of the exchange of information between it and the Gambling Commission.
- Section 350 of the 2005 Act in respect to the exchange of information between it and the other persons listed in Schedule 6 to the 2005 Act.

The principle that this Licensing Authority will apply 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. This Licensing Authority will also have regard to any Guidance issued by the Gambling Commission to Local Authorities on this matter as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

In accordance with the Gambling Commission's guidance we shall share information with:

- A Constable or Police force
- An Enforcement Officer
- A Licensing Authority
- Her Majesty's Revenue and Customs
- The Gambling Appeal Tribunal
- The Secretary of State

Details of applications and representations which are referred to a Licensing Sub-Committee for determination will be detailed in reports that are made publicly available in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000. Personal details of people making representations will be disclosed to applicants and only be withheld from publication where we are asked to do so on the grounds of personal safety.

14 REGISTERS

Section 156 of the 2005 Act requires licensing authorities to maintain a register of the premises licences that it has issued. This register must be made available, at any reasonable time, to the public who may request copies of the entries. Details of how to access the register can be found on the Council's website at: <http://www.darlington.gov.uk/licensing>

15 FEES

Information regarding the fees to be charged, including the level of fees, for applications for premises licences and other permissions under the Act is available to the public at the Council's website as detailed above.

16. ENFORCEMENT

Licensing authorities are required to include in this Statement the principles to be applied by the authority in exercising the functions under Part 15 of the 2005 Act in respect of:

- The inspection of premises.
- The powers under Section 346 of the 2005 Act to institute criminal proceedings in respect of the offences specified.

The principles that we will apply are that we will be guided by the Gambling Commission's Guidance for local authorities and we will endeavour to be:

- Proportionate - we will only intervene when necessary, remedies will be appropriate to the risk posed, and costs identified and minimised.
- Accountable - our decisions will be justifiable, and be subject to public scrutiny.
- Consistent - rules and standards will be joined up and implemented fairly.
- Transparent and Open - licence conditions will be kept simple and user friendly.
- Targeted - our regulation will be focused on the problem, and minimise side effects.

We will avoid duplication with other regulatory regimes so far as is possible.

We will also adopt a risk-based inspection programme to premises and will consider any risk models produced in conjunction with the Gambling Commission. This Licensing Authority's enforcement protocol is available from the Licensing Team or on the Council's website at: <http://www.darlington.gov.uk/licensing>

The main enforcement and compliance role for this Licensing Authority in terms of the Gambling Act 2005 will be to ensure compliance with the requirements of the Premises Licences and other permissions that we authorise. We will also keep ourselves informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities. We will continue to work closely with our colleagues in Durham Police.

The Gambling Commission will be the enforcement body for the Operator and Personal Licences.

Please note that concerns about the manufacture, supply or repair of gaming machines will not be dealt with by the Licensing Authority but will be notified to the Gambling Commission.

17 HUMAN RIGHTS

The Secretary of State has certified that the 2005 Act is compatible with the European Convention on Human Rights. When we consider an application or take any enforcement action under the 2005 Act we are aware that we are subject to the Human Rights Act and in particular:

- Article 1, Protocol 1 – peaceful enjoyment of possessions. A licence is considered a possession in law and people should not be deprived of their possessions except in the public interest
- Article 6 – right to a fair hearing
- Article 8 – respect for private and family life. In particular, removal or restriction of a licence may affect a person's private life
- Article 10 – right to freedom of expression.

PREMISES LICENCES

1. INTRODUCTION

Premises Licences are subject to the requirements set out in the Gambling Act 2005 and regulations, as well as any specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing Authorities are able to exclude default conditions and also attach others where they believe it to be appropriate. The grant of a Premises licence must be reasonably consistent with the licensing objectives.

This Licensing Authority is aware that we should aim to permit the use of premises for gambling in so far as we think 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.
- In accordance with the authority's statement of licensing policy.

1.1. DEFINITION OF "PREMISES"

Premises are defined in the 2005 Act as "any place". Different Premises Licences cannot apply in respect of a single premise at different times. It is possible, however, for a single building to be subject to more than one premises licence provided they are for different parts of a building and those different parts can be reasonably regarded as being different premises. Whether different parts of a building can properly **BE** regarded as being separate premises will always be a question of fact. The Gambling Commission does not, however, consider that areas of a building that are artificially or temporarily separate can be properly regarded as separate premises.

1.2 PRIMARY GAMBLING ACTIVITY

By distinguishing between the different types of premises the 2005 Act makes it clear that the primary gambling activity of the premises should be that described, eg in a bingo premises, the primary activity should be bingo, with gaming machines as an ancillary offer on the premises. This principle also applies to existing casino licences and betting premises licences.

Subject to the gaming machine entitlements which various types of licence bring with them (and except in the case of tracks), the 2005 Act does not permit premises to be licensed for more than one activity.

1.3 DIVISION OF PREMISES AND ACCESS BETWEEN PREMISES

This Licensing Authority takes particular note of the Gambling Commission's Guidance to local authorities as follows:

Paragraph 7.13

“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.”

Paragraph 7.14

The crux of the matter is whether the proposed premises are genuinely separate premises that merit their own licence with, for example, the machine entitlements that brings and are not an artificially created part of what is readily identifiable as a single premises

Paragraph 7.17

“Licensing authorities should pay particular care in considering applications for multiple licenses for a building and those relating to a discrete part of a building used for other (non gambling) purposes. In particular..... entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not ‘drift’ into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit. Customers should be able to participate in the activity named on the premises licence.”

Paragraph 7.18

“In determining whether two or more proposed premises are truly separate, the licensing authority should be aware of factors which could assist them in making their decision. Depending on all the circumstances of the case, these may include:

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

Paragraph 7.21

“...Licensing authorities will need to consider whether the effect of any division is to create a machine shed-type environment with very large banks of machines, which is not the intention of the access conditions, or whether it creates a public environment with gambling facilities being made available. Licensing authorities should, in particular, remember that where they have concerns about the use of premises for gambling, these may be addressed through licence conditions.”

When considering subdivision of premises this Licensing Authority will generally require full floor to ceiling, solid subdivision. Moveable barriers and barriers less than 2.2 metres high will generally not be acceptable.

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

Casinos

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

Adult Gaming Centre

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

Betting Shops

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

Tracks

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

Bingo Premises

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

Family Entertainment Centre

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

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

1.4 LOCATION

This Council is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. The 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.

We will seek to avoid any duplication with other statutory/regulatory systems where possible, including Planning. We will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in our consideration of it. We will, however, listen to, and consider carefully, any concerns about conditions that are not able to be met by licensees due to planning restrictions, should such a situation arise.

Under Section 210 of the 2005 Act a Licensing Authority is not entitled to have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with the law relating to planning or building. This Licensing Authority will, however, consider relevant representations from the Local Planning Authority about the effect of the grant of a Premises Licence on an existing planning permission where this relates to the licensing objectives, a Commission Code of Practice, or this Statement of Principles.

1.5 CONDITIONS

Any conditions attached to a licence 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.
- Reasonable in all other respects.

Decisions upon individual conditions will be made on a case-by-case basis, although there will be a number of measures this Licensing Authority will consider using should there be a perceived need, such as 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 Premises Licence applicant to offer their own suggestions as to ways in which the licensing objectives can be met effectively.

We will consider specific measures that may be required for buildings that 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.

We will also require that where Category C machines or above are on offer in premises to which children are admitted that:

- All such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance.
- Only adults are admitted to the area where these machines are located.
- Access to the area where the machines are located is supervised.
- The area where these machines are located is arranged so that the staff or the licence holder can observe it.
- 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 the age of 18 years.

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

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

It is noted that there are certain conditions that we cannot attach to Premises Licences as follows:

- Any condition on the Premises Licence that 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 2005 Act specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated).
- Conditions in relation to stakes, fees, winning or prizes.

1.6 DOOR SUPERVISORS

The Gambling Commission advises in its Guidance to Local Authorities that Licensing Authorities may consider whether there is a need for door supervisors in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime. We note, however, that door supervisors at casinos or bingo premises cannot be licensed by the Security Industry Authority.

1.7 CREDIT/ATMS

Section 177 of the 2005 Act requires, in relation to Casino and Bingo Premises Licences, that a condition be placed on the licence prohibiting the provision of credit in connection with gambling authorised by the licence or any involvement with such provision.

Section 177 does not, however, prevent the licensee from permitting the installation of cash dispensers (ATMs) on the premises. Such machines may accept credit cards (and debit cards) providing the arrangement is subject to a requirement that the licensee has no other commercial connection in relation to gambling (aside from the agreement to site the machines) with the service-provider and does not profit from the arrangement, nor make any payment in connection with the machines.

2. PROVISIONAL STATEMENTS

An applicant cannot obtain a Full Premises Licence until the premises in which it is proposed to offer gambling are constructed. The Gambling Commission has advised that reference to “the premises” is to premises in which gambling may **now** take place. A licence to use premises for gambling will, therefore, only be issued in relation to premises that are **ready** to be used for gambling. This Licensing Authority agrees with the Gambling Commission that it is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence and that by requiring the building to be complete it ensures that we can, if necessary, inspect it fully. In terms of representations about Premises Licence applications, following the grant of a Provisional Statement, no further representations from relevant authorities or interested parties can be taken into account unless they concern matters that could not have been addressed at the provisional statement stage, or they reflect a change in the applicant’s circumstances. In addition, we may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- That could not have been raised by objectors at the provisional licence stage.
- That, in our opinion, reflects a change in the operator’s circumstances.

3. ADULT GAMING CENTRES

This Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises. Applicants will be expected to offer their own measures to meet the licensing objectives and appropriate measures/licence conditions may include such issues as:

- Proof of age schemes
- CCTV
- Self exclusion schemes
- Supervision of entrances/machine areas
- Physical separation of areas
- Provision of information leaflets/help-line numbers for organisations such as GamCare

4. (LICENSED) FAMILY ENTERTAINMENT CENTRES

This Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas. Applicants will be expected to offer their own measures to meet the licensing objectives and appropriate measures/licence conditions may include issues such as:

- Supervision of entrances and/or machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets/help-line numbers etc for organisations such as GamCare
- Measures/training for staff on how to deal with suspected truant school children on the premises

NB The lists indicted on this page are neither mandatory, nor exhaustive. They are merely indicative of example measures.

This Licensing Authority will, in accordance with the Gambling Commission's Guidance, refer to the Commission's website to see any conditions that apply to Operating Licences covering the way in which the area containing the category C machines should be delineated. We will also make ourselves aware of any mandatory or default conditions on these Premises Licences.

5. CASINOS

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

We are aware that where a Licensing Authority is enabled to grant a Premises Licence for a new style casino (i.e. The Secretary of State has made such regulations under Section 175 of the 2005 Act) there are likely to be a number of operators which will want to run the Casino. In such situations the relevant Local Authorities will hold a "competition" under Schedule 9 of the Gambling Act 2005. Such competition is to be in line with any Regulations/Codes of Practice issued under the 2005 Act.

6. BINGO PREMISES

Bingo is a class of equal chance gaming and will be permitted in alcohol licensed premises and in clubs provided it remains below a certain threshold, otherwise it will be subject to a Bingo Operating Licence which will have to be obtained from the Gambling Commission. The holder of a Bingo Operating Licence will be able to provide any type of bingo game including cash and prize bingo. Commercial bingo halls will require a Bingo Premises Licence from the Council. Amusement arcades providing prize bingo will require a Prize Gaming Permit from the Council.

In each of the above cases it is important that where children are allowed to enter premises licensed for bingo, in whatever form, they are not allowed to participate in any bingo game/gambling other than on category D machines. When considering applications of this type we will, therefore, take into account, among other things, the location of the games or machines, access to those areas, general supervision of the premises and the display of appropriate notices.

Where category C or above machines are available in premises to which children are admitted, we will seek to ensure that:

- All such machines are located in an area of the premises separated from the remainder of the premises by a physical barrier that 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 the machines are located is arranged so that staff of the operator or the licence holder can observe it.
- At the entrance to, and inside any such area, there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

We will also consider any guidance issued by the Gambling Commission about particular issues to be taken into account by Licensing Authorities in relation to suitability and layout.

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 to £2000, 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 Licenses.

This Licensing Authority notes the change in legislation in 2009 to permit up to 8 Category B machines on licensed Bingo Premises

7. BETTING PREMISES

Anyone wishing to operate a betting office will require a Betting Premises Licence from the Council. Betting premises will be able to provide a limited number of gaming machines and some betting machines.

This Licensing Authority will, in accordance with 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 machines by children and young persons (it is an offence for those under 18 years of age to bet) or by vulnerable people when considering the number/nature/circumstances of betting machines an operator wishes to offer. Each application will, however, be considered on its own individual merits.

8. TRACKS

Section 353 of the Act defines a track as a horse racecourse, greyhound track or other premises on any part of which a race or other sporting event takes place or is intended to take place. Examples of tracks include:

- a horse racecourse (referred to in this Guidance as 'racecourses')
- a greyhound track
- a point-to-point horserace meeting
- football, cricket and rugby grounds
- an athletics stadium
- a golf course
- venues hosting darts, bowls, or snooker tournaments
- a premises staging boxing matches
- a section of river hosting a fishing competition
- a motor racing event.

Only one Premises Licence can be issued for any particular premises at any time unless the premise is a 'track'. A track is a site where races or other sporting events take place. Tracks may be subject to more than one Premises Licence, provided each licence relates to a specified area of the track.

In accordance with the Gambling Commission's Guidance this Licensing Authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

We will, therefore, expect applicants for Premises Licences to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. We note 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. Applicants will be expected to offer their own measures to meet the licensing objectives and appropriate measures/licence conditions may cover such issues as:

- Proof of age schemes
- CCTV
- Supervision of entrances/machine areas
- Physical separation of areas
- Notices/signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets/helpline numbers for organisations such as GamCare.

This list is neither mandatory, nor exhaustive. It is merely indicative of example measures.

8.1 GAMING MACHINES ON TRACKS

The 2005 Act permits track owners holding both a track premises licence *and* a pool betting operating licence up to four gaming machines within categories B2 to D on the track. If a track qualifies for an alcohol licence they will be automatically entitled to two gaming machines of category C or D. by notifying the Licensing Authority and paying the relevant fee. Therefore if a track premises licence holder has both an alcohol licence and a pool betting operating licence, then they will be entitled to a total of six gaming machines.

8.2 BETTING MACHINES ON TRACKS

Bet receipt terminals may be installed on tracks. There is no restriction on the number that may be in use but operators must supervise such terminals to prevent them being used by those under 18 years of age.

We will, in accordance with the Gambling Commission's guidance, take into account the size of the premises, the ability of staff to monitor the use of machines by children and young persons (it is an offence for those under 18 years of age to bet) or by vulnerable people when considering the number/nature/circumstances of betting machines an operator wishes to offer. We will also take into account the Gambling Commission's suggestion that Licensing Authorities will want to consider restricting the number and location of such machines in respect of applications for track betting premises licences. Each application will, however, be considered on its own individual merits.

8.3 CONDITION ON RULES BEING DISPLAYED

In line with guidance from the Gambling Commission we will attach a condition to Track Premises Licence requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. Examples of how this may be achieved may include rules being printed in the race card or made available in leaflet form from the track office.

9. TRAVELLING FAIRS

Where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the Licensing Authority must decide whether the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met. We will also consider whether the applicant falls within the statutory definition of a travelling fair.

10. REVIEW OF PREMISES LICENCES

Interested Parties or Responsible Authorities can make requests for a review of a Premises Licence; 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 (as well as consideration as to whether the request is frivolous, vexatious, will definitely not cause this Licensing Authority to wish to alter/revoke/suspend the licence or whether it is substantially the same as previous representations or requests for review), i.e. that it is:

- In accordance with any relevant code of practice issued by the Gambling Commission.
- In accordance with any relevant guidance issued by the Gambling Commission.
- Reasonably consistent with the licensing objectives.
- In accordance with this Authority's statement of licensing policy.

Licensing Authority officers may be involved in the initial investigations of complaints leading to a review, or may try informal mediation or dispute resolution before a full review is conducted. Unlike the Licensing Act 2003, the Licensing Authority may review Premises Licenses in its own right on the basis of any reason it thinks is appropriate.

Once a valid application for a review has been received by us, 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.

We must carry out the review as soon as possible after the 28 day period for making representations has passed. The purpose of the review will be to determine whether we should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:-

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

In determining what action, if any, should be taken following a review, we must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

The licensing authority itself may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

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

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

NB The Gambling Commission will be a Responsible Authority in Premises Licence reviews.

PERMITS/TEMPORARY AND OCCASIONAL USE NOTICE

1. UNLICENSED FAMILY ENTERTAINMENT CENTRE (FEC) GAMING MACHINE PERMITS

Where a premise does not hold a Premises Licence but an applicant wishes to provide gaming machines, (s)he may apply to the Licensing Authority for an FEC permit. It should be noted that in accordance with Section 238 of the 2005 Act the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.

The 2005 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. In preparing that 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 of the 2005 Act.

An FEC Gaming Machine 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. No conditions can be imposed upon the grant of this type of permit. We will, therefore, wish to be satisfied, among other things, that the applicant has a full understanding of the maximum stakes and prizes of the gambling that is permitted in unlicensed FECs; has no relevant convictions (as detailed in Schedule 7 to the 2005 Act); and that all staff employed on the premises are provided with proper training in relation to stakes and prizes.

1.1 STATEMENT OF PRINCIPLES

Applicants will be expected 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 in relation to suspected truant school children on the premises/dealing with unsupervised very young children being on the premises, or children causing perceived problems on or around the premises. Applicants will be expected to demonstrate, among other things:

- 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).
- That staff are trained to have a full understanding of the maximum stakes and prizes.
- An awareness of local school holiday times and how to identify the local education office should truants be identified.

Evidence of compliance with the Code of Practice for FECs issued by the British Amusement Catering Trade Association (BACTA) may be accepted as evidence that (apart from the criteria relating to criminal convictions) the applicant has met the above requirements. Full details of the statement of principles and requirements for applicants, including any requirement to submit plans etc may be obtained from the Licensing Section.

A Licensing Authority may refuse an application for renewal of a permit only on the grounds that an Authorised Local Authority Officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with the pursuit of the licensing objectives.

2. (ALCOHOL) LICENSED PREMISES GAMING MACHINE PERMITS

There is provision in the 2005 Act for premises licensed to sell alcohol for consumption on the premises, to automatically have two gaming machines, of categories C and/or D. The premises merely need to notify the Licensing Authority. Under section 284 of the 2005 Act a licensing authority can remove the automatic authorisation in respect of any particular premises if:

- Provision of the machines is not reasonably consistent with the pursuit of the licensing objectives.
- Gaming has taken place on the premises that breaches a condition of Section 282 of the 2005 Act (i.e. that written notice has been provided to the Licensing Authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with).
- The premises are mainly used for gaming.
- An offence under the 2005 Act has been committed on the premises.

Should it be necessary to issue a Section 284 order, the licence-holder will be given at least twenty-one days notice of the intention to make the order, and consider any representations which might be made. We will hold a hearing if the licensee requests.

If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon:

- The licensing objectives
- Any Guidance issued by the Gambling Commission under Section 25 of the 2005 Act
- “Such matters as they think relevant”

2.1 STATEMENT OF PRINCIPLES

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 being harmed or being exploited by gambling and we will expect the applicant to satisfy us that there will be sufficient measures to ensure that children/young people under 18 years of age do not have access to the adult-only gaming machines. We will take into account whether access by children to the premises under the Licensing Act 2003 is restricted or not.

Measures which will satisfy us that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff that will monitor that the machines are not being used by those under 18 years of age. Notices and signage may also be help. With regard to the protection of vulnerable persons applicants may wish to consider the provision of information leaflets/helpline numbers for such organisations as GamCare.

A plan will be required as part of the application indicating where and what type of gambling machines are to be provided. This plan may take the form of an amendment to the plan attached to the Premises Licence issued under the Licensing Act 2003.

We recognise that some alcohol-licensed premises may apply for a Premises Licence for their non-alcohol licensed areas. It is likely that any such application would need to be made and dealt with as an Adult Gaming Centre Premises Licence.

A Licensing Authority can decide to grant an application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached. The holder of a permit must, however, comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

3. PRIZE GAMING PERMITS

Prize gaming may be provided in bingo premises as a consequence of the 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. Travelling fairs may provide prize gaming without a permit, as long as 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.

3.1 STATEMENT OF PRINCIPLES

The Gambling Act 2005 states that a Licensing Authority may prepare a Statement of Principles which they propose to apply in exercising their functions which may, in particular, specify matters that the Licensing Authority propose to consider in determining the suitability of the applicant for a permit.

This Licensing Authority 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 we will expect the applicant to satisfy us that there will be sufficient measures to ensure that under 18 year olds do not have access to unequal chances prize gaming. We will take into account whether access by children to the premises under the Licensing Act 2003 is restricted or not.

This Licensing Authority considers that the applicant should set out the types of gaming that (s)he is intending to offer and that the applicant should be able to demonstrate that they understand the limits to stakes and prizes that are set out in the Regulations and that the gaming offered is within the law. Full details of our statement of principles and requirements for applicants may be obtained from the Licensing Section.

3.2 CONDITIONS

It should be noted that there are conditions in the Gambling Act 2005 with which the permit holder must comply, but that the Licensing Authority cannot attach conditions. The conditions in the 2005 Act are that:

- 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).
- Participation in the gaming must not entitle the player to take part in any other gambling.

In making its decision on an application for this type of permit a Licensing Authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

Applications may only be made by people who occupy or plan to occupy the premises, are aged 18 or over (if an individual), and no Premises Licence or Club Gaming Permit issued under the 2005 Act may be in force. A plan must accompany applications indicating where and what type of prize gaming is to be provided.

4. CLUB GAMING AND CLUB MACHINES PERMITS

Members' clubs (but not commercial clubs) may apply for a Club Gaming Permit or a Club Gaming Machines Permit. The Club Gaming Permit allows the premises to provide:

- Up to three machines of categories B, C or D
- Equal chance gaming
- Games of chance as set out in regulations

A Club Gaming Machine Permit will enable the premises to provide up to three machines of categories B, C or D.

This Licensing Authority will wish to be satisfied that applicants for these permits meet the statutory criteria for Members' clubs contained in Sections 266 and 267 of the 2005 Act. Members Clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless gaming is permitted by separate regulations. It is anticipated that this will cover Bridge and Whist Clubs and this will replicate the position under the Gaming Act 1968. A Members' Club must be permanent in nature, not established to make commercial profit and be controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations.

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

- The applicant does not fulfil the requirements for a members 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 2005 Act or a breach of permit has been committed by the applicant while providing gaming facilities.
- A permit held by the applicant has been cancelled in the previous 10 years.
- An objection has been lodged by the Commission or the Police.

Clubs, which hold a Club Premises Certificate under the Licensing Act 2003, are entitled to benefit from a fast-track application procedure. Under this procedure there is no opportunity for objections to be made by the Commission or the Police and the grounds upon which a Licensing Authority can refuse a permit are reduced. Grounds for refusal are:

- That the club is established primarily for gaming other than gaming prescribed under Schedule 12 of the 2005 Act.
- That in addition to the prescribed gaming, the applicant provides facilities for other gaming.
- That a Club Gaming Permit or Club Machine Permit issued to the applicant in the last 10 years has been cancelled.

There are statutory conditions on Club Gaming Permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a Code of Practice about the location and operation of gaming machines.

5 SMALL SOCIETY LOTTERIES

5.1 Society Lotteries must be registered with the Council. A 'Society' is an organisation on whose behalf a lottery is to be promoted, which is:

- non-commercial
- is established and conducted for charitable purposes; or
- for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity; or
- for any other non-commercial purpose other than that of private gain.

A Society cannot be established for the sole purpose of facilitating lotteries – it must have some other purpose.

5.2 The total value of tickets for sale per single lottery must be £20,000 or less, or the aggregate value of tickets to be put on sale for all lotteries in a calendar year must not exceed £250,000. If the Society plans to exceed either of these values they may need to be licensed with the Gambling Commission to operate large lotteries instead.

5.3 The requirements for a small society lottery include the following:

- At least 20% of the proceeds must be for purposes of the society
- No single prize may be worth more than £25,000
- Every ticket in the lottery must cost the same
- The society must take payment for the ticket fee before entry into the draw is allowed
- Lottery tickets may only be sold by persons over the age of 16 to persons over the age of 16

5.4 The society must send returns to the licensing authority after each lottery held. This information must include:

- The date on which tickets were available for sale
- The date of the draw
- The value of prizes, including any donated prizes
- The total proceeds of the lottery
- The amounts deducted by the promoter in providing prizes,
- The amounts deducted by the promoter in respect of costs incurred in organising the lottery
- The amount given to the purpose for which the society is conducted (this must be at least 20% of the proceeds)
- Details of any expenses incurred in connection with the lottery that were not paid for from the proceeds and from where they were paid.

5.5 Returns must be sent to the Council no later than three months after the date of the lottery draw. They must be signed by two members of the society, who must be aged eighteen or older, are appointed for the purpose in writing by the society or, if it has one, its governing body, and be accompanied by a copy of their letter or letters of appointment.

5.6 Further information about applying for a small society lottery can be found on the Council's website at: <http://www.darlington.gov.uk/licensing>

6. TEMPORARY USE NOTICES

Temporary Use Notices (TUNs) allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a temporary use notice include hotels, conference centres and sporting venues. A TUN may only be granted to a person or company holding a relevant operating licence.

TUNs may only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single overall winner but not where any person participating in the gaming does so by means of a gaming machine. Examples of equal chance gaming include backgammon, mah-jong, rummy, dominoes, cribbage, bingo and poker.

A set of premises may not be the subject of a TUN for more than 21 days in a period of 12 months but more than one TUN may be provided in respect of a set of premises during a 12 month period provided that the aggregate of the periods do not exceed 21 days etc. For further information on what constitutes "Premises" please refer to section B 1 of this document

A TUN must be lodged with the licensing authority not less than three months and one day before the day on which the gambling event will begin and must be copied to:

- The Gambling Commission
- The Police
- HM Revenue and Customs
- If applicable, any other licensing authority in whose area the premises are situated.

It must contain the following information:

- The type of gaming to be carried on
- The premises where it will take place
- The dates and times the gaming will take place
- Any periods during the previous 12 months that a temporary use notice has had effect for the same premises
- The date on which the notice is given
- The nature of the event itself.

Although this Licensing Authority will aim to permit gambling under a TUN we may object to a notice particularly where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, or where the notice does not appear to comply with the Gambling Commission's code or Guidance or this Policy document or the 3 licensing objectives.

7. OCCASIONAL USE NOTICES

Occasional Use Notices (OUNs) can be used in respect of the acceptance of bets on a track. A Licensing Authority has very little discretion as regards these notices aside from ensuring that the statutory limit is not exceeded (currently 8 days in a calendar year but this can be amended by the Secretary of State). This Licensing Authority will consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

Scheme of Delegation for Gambling Act 2005 Functions

Matter to be dealt with	Full Council	Licensing Committee (Sub Committees)	Officers
Final approval of 3 year licensing policy	X		
Policy not to permit casinos	X		
Fee setting (when appropriate)	X		
Application for Premises Licence		Where representations have been made and not withdrawn	Where no representations received/representations have been withdrawn
Application for a Variation to a Licence		Where representations have been made and not withdrawn	Where no representations received/representations have been withdrawn
Application for a Transfer of a Licence		Where representations have been made and not withdrawn	Where no representations received/representations have been withdrawn
Application for a Provisional Statement		Where representations have been made and not withdrawn	Where no representations received/representations have been withdrawn
Review of a Premises Licence		X	
Application for Club Gaming/Club Machine Permits		Where objections have been made (and not withdrawn)	Where no objections made/objections have been withdrawn
Cancellation of Club Gaming/Club Machine Permits		X	
Applications for other Permits			X
Cancellation of Licensed Premises Gaming Machine Permits			X
Consideration of Temporary Use Notice			X
Decision to give a Counter Notice to a Temporary Use Notice		X	

NB: *All delegations except first 3 will be determined by Sub Committees of the Licensing Committee established under section 6 of the Licensing Act 2003 in accordance with Section 154 of The Gambling Act 2005*

DETAILS OF RESPONSIBLE AUTHORITIES

- 1 THE GAMBLING COMMISSION**
Victoria Square House, Victoria Square, BIRMINGHAM B2 4BP
- 2. POLICE**
Chief Officer of Police, Police HQ, St Cuthbert's Way, DARLINGTON DL15LB
- 3. FIRE AUTHORITY**
Fire Safety Officer, Fire Brigade HQ, Framwellgate Moor, DURHAM DH1 5JR
- 4. PLANNING**
Planning Services Manager, Darlington Borough Council, Town Hall, DARLINGTON, DL1 5QT
- 5. ENVIRONMENTAL HEALTH**
Environmental Health Manager, Darlington Borough Council, Town Hall
DARLINGTON, DL1 5QT
- 6. LOCAL SAFEGUARDING CHILDREN'S BOARD**
Assistant Director of Children's Services, Town Hall, DARLINGTON, DL1 5QT
- 7. HM REVENUE & CUSTOMS**
Greenock Accounting Centre, Custom House, Custom House Quay,
GREENOCK PA15 1EQ
- 8. THE LICENSING AUTHORITY**
Assistant Director Public Protection, Darlington Borough Council. Town Hall,
DARLINGTON DL1 5QT

LIST OF CONSULTEES

Our consultation took place between **17 July 2009** and **09 October 2009** and we followed the Code of Practice and the Cabinet Office Guidance on consultations by the public sector. The Gambling Act 2005 requires that the following parties are consulted by Licensing Authorities:

- The Chief Officer of Police.
- One or more persons who appear to the authority represent the interests of persons carrying on gambling businesses in the authority's area.
- One or more persons who appear to the authority represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.

This Authority has consulted the following persons/organisations:

- (a) Durham Constabulary
- (b) The Fire Service
- (c) Environmental Health Manager, Darlington Borough Council
- (d) Planning Manager, Darlington Borough Council
- (e) The Safeguarding Children Board, Darlington Borough Council
- (f) Legal Services, Darlington Borough Council
- (g) Adult Services, Darlington Borough Council
- (h) HM Customs & Excise
- (i) The Gambling Commission
- (j) Ladbrokes Ltd
- (k) William Hill (North Eastern) Ltd
- (l) Coral Racing Ltd
- (m) Page Bet
- (n) Top Ten Bingo Ltd
- (o) Gala Group
- (g) The Noble Organisation
- (h) Luxury Leisure
- (i) Leisure Promotions Ltd
- (j) Serendipity Enterprises Ltd
- (k) The Mason Organisation
- (l) British Amusement Catering Trade Association (BACTA)
- (m) British Casinos Association (BCA)
- (n) The Bingo Association
- (o) The Industry Betting Arbitration Service (IBAS)
- (p) Responsibility in Gambling Trust (RIGT)
- (q) North East Council on Addictions (NECA) Darlington
- (r) Business in Sport and Leisure
- (s) British Beer and Pub Association
- (t) Association of British Bookmakers (ABB)
- (u) Gamcare
- (v) All Darlington Borough Council Ward Councillors
- (w) The Licensing Act 2003 Committee
- (x) Clubs with club premises certificates under the Licensing Act 2003

- (y) Salvation Army
(z) The various pub companies:
Absolute Leisure
Admiral Taverns (780) Ltd
Barracuda Pubs & Bars Co Ltd
Dukedom Ltd
Enterprise Inns PLC
Heritage Pub Trading Co Ltd
Hogan's Leisure (Darlington) Ltd
Local Heroes Pub Co Ltd
Mitchells & Butlers
New Century Inns Ltd
Punch Tavern Ltd
Spirit Group Ltd
JD Wetherspoons
Wessex Taverns
Wolverhampton & Dudley Breweries
Yates Group Ltd

- (aa) Firms of licensing Solicitors:
Clark Willis
Fraser Brown
Freemans
John Gaunt
Mincoffs
Popleston Allen

- (bb) All Tees Valley Licensing Authorities

If English is not your first language and you would like more information about this document, or if you require information in large print or Braille or tape, please contact (01325) 388351.

اگر آپ کو یہ کتابچہ انگریزی کے علاوہ کسی دوسری زبان میں درکار ہو تو برائے مہربانی ٹیلیفون نمبر 01325 388351 پر فون کر کے حوالہ نمبر بتائیں۔

ਜੇ ਇਹ ਪਰਚਾ ਤੁਹਾਨੂੰ ਅੰਗਰੇਜ਼ੀ ਤੋਂ ਬਿਨਾਂ ਕਿਸੇ ਹੋਰ ਭਾਸ਼ਾ ਵਿਚ ਚਾਹੀਦਾ ਹੈ, ਤਾਂ ਕਿਰਪਾ ਕਰਕੇ ਸਾਨੂੰ ਨੰਬਰ 01325 388351 'ਤੇ ਫੋਨ ਕਰੋ ਅਤੇ ਰੈਫਰੈਂਸ (ਹਵਾਲਾ) ਨੰਬਰ ਦੱਸੋ।

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