

## **LICENSING COMMITTEE**

**Venue: Town Hall, Rotherham      Date: Tuesday, 23 May 2006**  
**Time: 10.00 a.m.**

### **A G E N D A**

1. To determine if the following matters are to be considered under the categories suggested, in accordance with the Local Government Act 1972.
2. To determine any item which the Chairman is of the opinion should be considered later in the agenda as a matter of urgency.
3. Gambling Act 2006 (report and statement attached) (Pages 1 - 35)

<b>ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS</b>
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<b>1.</b>	<b>Meeting:</b>	<b>Licensing Committee</b>
<b>2.</b>	<b>Date:</b>	<b>23<sup>rd</sup> May, 2006</b>
<b>3.</b>	<b>Title:</b>	<b>Gambling Act 2005</b>
<b>4.</b>	<b>Programme Area:</b>	<b>Neighbourhoods</b>

### 5. Summary

The Gambling Act 2005 requires the Council to prepare and publish a Statement of Licensing Policy before it carries out any function in respect of applications made under the Act. The policy must be determined with a view to promoting the three licensing objectives; preventing gambling from being a source of crime and disorder, being associated with crime and 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.

The Policy is a statement of how the Council intends to exercise the licensing functions imposed upon it by the Act. It may state the Council's general approach to the making of licensing decisions and the regulation of licensable activities. It should provide transparency for all those affected by the licensing regime which means not only applicants for a licence, but also local residents who are able to make representations to the Council in opposition to some applications.

A Statement of Licensing Policy must be prepared and published every three years. During the three year period, the policy must be kept under review and revised as appropriate.

### 6. Recommendation

1. **In order that the consultation process may commence on 1<sup>st</sup> June, 2006, it is recommended that Members approve the draft Statement of Licensing Policy (copy provided), and with not less that the persons/bodies listed in the Gambling Act 2005. In addition, Members are invited to submit any comments on the draft Policy, in writing, during the consultation period.**

## 7. Proposals and Details

Section 349 (3) of the Act requires the licensing authority to consult the following on the licensing policy statement or any subsequent revision:

- In England and Wales, the chief officer of police for the authority's area;
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area; and
- 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 Act.

The list of persons to be consulted when preparing the licensing policy statement is, according to the Gambling Commission, deliberately wide'. This is to enable licensing authorities to undertake a comprehensive consultation exercise with anyone who may be affected by or otherwise have an interest in the licensing policy statement.

The groups who will be engaged are those from the business community, as well as groups representing children and young people, disabled people, faith communities, older people, rural communities and the general public, amongst others.

The methods to be used are the more traditional 'mail shot' as well as internet and intranet exposure, council media services, focus groups, newsletters, meetings, the citizen's panel and direct contact with the general public through a 'stall' in the town centre.

This allows for a 'deeper', more strategic approach to consultation.

The views of all the above should be given appropriate weight when the policy is determined.

A draft Statement of Licensing Policy has been prepared by those Officers with responsibility for compliance with the requirement of the Act. Once the appropriate consultation has taken place the draft document will be finalised.

Officers have prepared the draft statement in accordance with 'The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006' which come into force on 31<sup>st</sup> March, 2006. The Regulations prescribe the form and procedure to be followed in preparing or publishing a statement.

Officers have also followed the Gambling Commission's draft 'Guidance to Licensing Authorities' published December 2005. This document sets out the matters that must be included with the Statement of Licensing Policy. At the time of writing, the finalised document has not been published.

## **Timing**

The first day of the initial three year period is 31<sup>st</sup> January, 2007.

The Statement of Licensing Policy must be approved, published and advertised by 31<sup>st</sup> December, 2006. Final approval by full Council must be given to the Statement of Licensing Policy on 22<sup>nd</sup> November, 2006, at the latest.

This means that there will be a period of just eight months for the Council to commence and complete the consultation (which is for a period of 12 weeks), amend the existing draft policy, if necessary, and obtain approval of the final version from Cabinet and then full Council and publish the Statement.

In addition, it is imperative that the consultation period is not rushed. The reason for this is that Statements of Licensing Policy will be open to applications for judicial review. Such proceedings would prove costly, could require substantial re-wording of the Policy and re-consideration of affected licensing decisions.

## **8. Finance**

Although 'draft' Gambling Commission guidance indicates that 'pump priming' money has been made available through Formula Grant this is not specifically identified within the grant allocation. Consequently a provision was not allocated to the service's 2006/07 budget and as such these costs will be contained within the approved 2006/07 budget. It is envisaged that this will contribute towards the annual efficiency requirements (Gershon).

The fees will be set by centrally by Government, with a formal consultation exercise proposed for 'mid 2006'.

## **9. Risks and Uncertainties**

At the present time, licensing authorities have only received regulations in respect of producing the 'Statement of Licensing Policy'. Full guidance and regulations have not yet been finalised, and as previously mentioned, the fee structure will not be finalised until later in the year. Additionally, the Gambling Commission has only produced 'draft' documents in respect of 'Licence Conditions and Codes of Practice' and 'Guidance to Licensing Authorities'.

Considering this, it might be that final regulations and guidance documents will dictate changes to the 'draft' policy which will need to be reflected in the final version.

The consequences of the 'Statement of Licensing Policy' not being ready in time within the required time scales would be nothing short of disastrous. If the policy was not ready, the effect would be that applications which are quite properly made could not be considered if the policy was not published. This could lead to a host of appeals against the Authority, which could lead to substantial costs being awarded against the Council.

## **10. Policy and Performance Agenda Implications**

The development of an appropriate 'Statement of Licensing Policy' and the successful implementation of the Gambling Act 2005 meets all relevant policy and performance agenda criteria. Specifically the Corporate Objectives of Rotherham Achieving, Alive and Safe, along with the cross-cutting Fairness and Sustainable development themes, apply to this scheme of work.

## **11. Background Papers and Consultation**

Gambling Act 2005  
Department of Culture, Media and Sport (DCMS)  
Gambling Commission – Draft Guidance to Licensing Authorities

**Contact Name** : David Stockdale, Licensing Manager, Ext 3167,  
[david.stockdale@rotherham.gov.uk](mailto:david.stockdale@rotherham.gov.uk)



**STATEMENT OF LICENSING POLICY**

**GAMBLING ACT 2005**

**(DRAFT)**

Licensing Office  
Howard Building  
College Lane  
Rotherham  
S65 1AX

Tel: 01709 823153

ROTHERHAM METROPOLITAN BOROUGH COUNCIL

**LICENSING POLICY**

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## **PART A**

### **1. Preamble**

With a population of around 248,000 people (2001 Census), Rotherham Borough is made up of a diverse and vibrant mix of people, cultures and communities.

The majority of Rotherham (75%) is rural in nature, and the Borough benefits from a wealth of natural and built environments. One of its greatest strength's lies in its central location, with direct access to the M1, M18 and A1, the two universities in Sheffield and excellent rail access via Doncaster and Sheffield.

Rotherham is also home to some of the country's most highly regarded leisure and gambling facility providers. The Council recognises that such businesses are a valued contributor to employment in the Borough.

Part of our aim is to make Rotherham a pleasant, safe and prosperous place in which to live, work, learn and relax.

### **2. Gambling Act 2005**

Gambling Act has introduced a unified regulator for Gambling in Great Britain, the Gambling Commission, and a new regime for commercial gambling (to be conducted by the Commission or by licensing authorities, depending on the matter to be licensed). The Commission and licensing authorities will share between them responsibility for all matters previously regulated by licensing justices.

### **3. Licensing Authority Functions**

Under the Gambling Act 2005, licensing authorities are required to licence premises where gambling activities are taking place (Premises Licences), as well as issue permits, receive temporary notices and deal with associated gambling matters, including enforcement of the Act.

Licensing authorites will not be involved in licensing remote gambling, this will be regulated by the Gambling Commission.

### **4. The Licensing Objectives**

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

- Preventing gambling from being a source of crime and disorder, being associated with crime and 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.

It should be noted that the Gambling Commission has stated:

'The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling'.

The licensing authority interprets "children" as meaning persons aged under 18.

As regards the term "vulnerable persons" it is noted that the Gambling Commission is not seeking to offer a definition but states that "it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gambling beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs."

The licensing authority wish to promote the licensing objectives whilst still encouraging a sustainable entertainment and leisure industry. The Council recognises both the needs of local residents for a safe and healthy environment in which to work and live, and the importance of safe and well run entertainment and leisure facilities in the Borough.

## 5. **Statement of Licensing Policy**

Licensing authorities are required by the Gambling Act 2005 to publish a statement of licensing policy, a set of principles which they propose to apply when exercising their functions under the Act. This statement must be published at least every three years. The statement must be reviewed from 'time to time' and any amendments to the statement cannot be made without prior consultation. The statement must then be re-published.

This document details how the licensing authority will exercise its functions under the Gambling Act 2005. It will guide the Licensing Committee when considering applications in connection with licences for casino premises, bingo premises, betting premises (including tracks), adult gaming centers and family entertainment centers. It will also cover other authorisations such as those for the temporary use of premises, occasional use notices and five different sorts of permit for unlicensed family entertainment centers, prize gaming, gaming machines on alcohol-licensed premises and club gaming and club gaming machines, respectively.

The policy aims to provide guidance to applicants, responsible authorities and interested parties on the general approach to licensing (in relation to gambling) in Rotherham. Although each and every application will be dealt with separately and on its own individual merits, the Council in writing this policy is offering guidance on the wider considerations that will be taken in to account.

The policy is not intended to limit the power or fetter the discretion of the Licensing Committee who will listen to and determine on its own individual merits any application placed before them.

The policy was approved at a meeting of the Full Council on xxxx06 and comes into force on 31 January, 2006.

6. **Administration, Exercise and delegation of functions**

The licensing authority has established a Licensing Committee to administer the wide range of licensing decisions and functions which the Council will be involved in.

The Licensing Committee has delegated certain decisions and functions and established a number of sub committees to deal with them. This will provide an efficient and cost effective service for all parties involved in the licensing function. The licensing authority will ensure that the members of the Licensing Committee are adequately trained to administer the new regime.

The grant of non-contentious applications has been further delegated to officers.

The table at page 31 of this document sets out the agreed delegation of decisions and functions to Licensing Committee, Sub-Committees and Officers.

The agreed delegation of decisions and functions is without prejudice to the ability of officers to refer an application to a sub-committee, or a sub-committee to full committee if considered appropriate in the particular circumstances.

7. **Consultation**

Rotherham Metropolitan Borough Council has carried out a comprehensive consultation process before finalising and publishing this document.

The local authority is committed to consulting with as wide and varied an audience as possible regarding this and any future policies or any amendments in accordance with the Gambling Act 2005.

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

- The Chief of Police for the area;
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area; and

- 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.

A full list of the persons that the Council consulted is attached at Annex 1 (to follow).

The consultation took place between xxxx06 and xxxx06 and lasted a period of (12) weeks. The Revised Code of Practice and the Cabinet Office Guidance on consultations by the public sector were followed.

A summary of the comments made and the consideration given to those comments by the Council is available by request, see section 16 of this document for contact details.

## 8. **Responsible Authorities**

Responsible authorities are public bodies that must be notified of applications and that are entitled to make representations to the licensing authority in relation to applications for, and in relation to, premises licences. All representations made by responsible authorities are likely to be relevant representations if they relate to the licensing objectives.

Section 157 of the Act identifies the bodies that are to be treated as responsible authorities. They are:

The Licensing Authority, c/o Rotherham Metropolitan Borough Council, The Licensing Office, Ground Floor, The Howard Building, College Lane, Rotherham. S65 1AX

The Gambling Commission (address to be inserted)

The Chief Officer of Police, South Yorkshire Police Headquarters, Main Street, Rotherham. S60 1QY

South Yorkshire Fire and Rescue, Dearne District Fire Safety Office, Broadway, Barnsley. S70 6RA

RMBC, Planning, Bailey House, Rawmarsh Road, Rotherham. S60 1TD

An authority which has functions in relation to pollution to the environment or harm to human health (to be confirmed) possibly - RMBC, Home and Environment, Neighbourhood Services, Howard Building, College Lane, Rotherham. S65 1AX

Rotherham Safeguarding Children Board, c/o Operations Manager Protection and Planning, Children and Families Services, Child Protection Unit, 4<sup>th</sup> Floor, Crinoline House, Effingham Square, Rotherham. S65 1AW

HM Revenue and Customs (address to be confirmed)

Any other person prescribed in regulations by the Secretary of State (to be confirmed)

In the case of vessels, the following should also be included:

The Environment Agency

The British Waterways Board

The Secretary of State (the Secretary of State for Transport who acts through the Maritime and Coastguard Agency)

#### 9. **Protection of Children from Harm**

In exercising the licensing authority's 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 following principles have been applied:

- 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 groups etc.

In accordance with the Gambling Commission's draft Guidance for local authorities this authority designates the Rotherham Safeguarding Children Board for this purpose.

The licensing authority considers the Board as being the body that represents those who are responsible for, or interested in, matters relating to the protection of children from harm and recognises that they are competent to advise the licensing authority on such matters. Notice of applications should therefore be forwarded to the Rotherham Safeguarding Children Board as one of the Responsible Authorities.

The various range of premises that will fall to be licensed under the Gambling Act 2005 means that children will visit many of these either as part of a family group or on their own.

Applicants for a licence under this legislation are reminded that they will be required to demonstrate in their operating schedule how they intend to address the issue of child protection.

The steps to be taken to promote the protection of children from harm as an objective will be a matter for each applicant to consider, depending upon the nature of the premises and the licensable activities for which a licence is applied for.

In order to accommodate children in premises where licensable activities take place the licensing authority will assess each individual case on its own merits and impose certain restrictions where these are considered necessary for the prevention of harm to children.

10. **Interested Parties**

Interested parties can make representations about licensing applications, or apply for a review of an existing licence. Section 158 of the Gambling Act 2005 defines interested parties. To accept a representation from an interested party, the licensing authority must take the view that the person:

- Lives sufficiently close to the premises to be likely to be affected by the authorised activities; or
- Has business interests that might be affected by the authorised activities; or
- Represents persons in either of these two groups.

In determining whether a person is an 'interested party' each case will be determined on its own merits. This authority will not apply a rigid rule to decision making.

It will, however, consider the Gambling Commission's draft Guidance to local authorities in respect to:

- The size of the premises;
- The nature of the premises;
- The distance of the premises from the location of the person making the representation;
- The potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment);
- The nature of the complainant. This is not the personal characteristics of the complainant but the interests of the complainant which may be relevant to the distance from the premises. For example, it could be reasonable for an authority to conclude that 'sufficiently close to be likely to be affected' could have a different meaning for (a) a private resident (b) a residential school for children with truanting problems and (c) residential hostel for vulnerable adults;

- The 'catchment' area of the premises (ie. How far people travel to visit); and
- Whether the person making the representation has business interests in that catchment area, that might be affected (it is worth noting, however, that the demand test in the 1963 and 1968 Acts has not been preserved in the 2005 Act).

The Gambling Commission has recommended that the licensing authority states that interested parties 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 have a member who can be classed as one under the terms of the Gambling Act 2005, for example, lives sufficiently close to the premises to be likely to be affected by the authority's activities.

Interested parties can be represented by other persons such as Councillors, MP's etc. Care should be taken when approaching Councillors that they are not part of the Licensing Committee dealing with the licence. If there are any doubts, please refer to the 'Advice' section of this document for licensing contact details.

### 11. **Enforcement**

Once licensed it is vital that premises are operated and maintained in accordance with the Gambling Act 2005, the three licensing objectives and any conditions imposed by the licensing authority. The licensing authority will, therefore, take enforcement action where necessary to ensure this.

The licensing authority will have particular regard to the following principles:

- Proportionality;
- Accountability;
- Consistency;
- Transparency; and
- Focussed and targeted enforcement.

The licensing authority will strive to avoid duplication with other regulatory regimes so far as possible. For example, the range of duties imposed on the self-employed, employers and operators of gambling premises, both in respect of employees and of the general public (for example Health and Safety, Fire Safety, Disability Discrimination Act). Details of other regulatory requirements are, therefore, not included in this policy.

The licensing authority will operate a light touch inspection regime for well managed and well maintained premises.

A risk based inspection programme will be adopted by the licensing authority.

The licensing authority will comply with the necessary enforcement concordats and good practice guides in relation to enforcement, and will develop its enforcement regime in accordance with guidelines and procedures recommended by the Better Regulation Executive (BRE).

The licensing authority is not the enforcement body for the 'Operator' and 'Personal' licences, any issues in relation to such areas should be directed to the Gambling Commission. Concerns about manufacture, supply or repair of gaming machines will not be dealt with by the licensing authority but will be notified to the Gambling Commission.

This authority also understands from LACORS that the Gambling Commission will be responsible for compliance as regards to unlicensed premises.

The Council's enforcement policies and associated agreements are available on request from the licensing office. Please see 'Advice' section of this policy for contact details.

#### 12. **Exchange of Information**

This licensing authority will act in accordance with the provisions of the Gambling Act in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The licensing authority will also have regard to any Guidance issued by the Gambling Commission to Local Authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

Officers of the licensing authority will also comply with the Council's own 'Information Security Policy', and other related policies, procedures and protocols.

#### 13. **Integration Strategies**

The licensing authority in dealing with the Gambling Act 2005, will adopt a multi disciplinary approach to ensure proper integration of local and national strategies to promote the licensing objectives.

This will include working closely with other agencies to ensure proper integration of local Safer Neighbourhood, Crime Prevention, Planning, Transport, Tourism and Cultural Strategies.

#### 14. **Departure from Policy**

The licensing authority may depart from this policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the licensing objectives. In the event of a departure from this policy the licensing authority will give full reasons for the decision to depart.

15. **Declaration**

In producing the final licensing policy statement, this 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 the policy statement.

16. **Advice**

Advice about this policy and general matters with regard to the Gambling Act 2005 can be provided by:

Licensing, RMBC, Licensing Section, Howard Building, College Lane, Rotherham, Telephone 01709 823153, Fax, 823154 or e mail [licensing@rotherham.gov.uk](mailto:licensing@rotherham.gov.uk), or visit our website at [www.rotherham.gov.uk](http://www.rotherham.gov.uk), following the link to 'business>licensing'.

Alternatively, visit Department of Culture, Media and Sport (DCMS) at [www.culture.gov.uk](http://www.culture.gov.uk), following the 'gambling' link.

**PART B**

**PREMISES LICENCES**

1. **General Principles**

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

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.

**Definition of "premises"**

Premises is defined in the Act as "any place". It is for the licensing authority to decide whether different parts of a building can be properly regarded as being separate premises and as the Gambling Commission states in its draft Guidance for local authorities, it "will always be a question of fact in the circumstances." The Gambling Commission does not however consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.

This licensing authority takes particular note of the Gambling Commission's draft Guidance for local authorities which states that in considering applications for multiple licences for a building or those for a specific part of the building to be licensed, "entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area."

This licensing authority will also take note of the Gambling Commission's draft Guidance to local authorities that: "Licensing authorities should pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed)."

### **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 can. As per the Gambling Commission's draft Guidance for local authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this policy statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how the concerns can be overcome.

### **Duplication with other regulatory regimes**

This 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 or building consent, in its consideration of it. This authority will though listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

### **Licensing objectives**

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

#### **(i) Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime**

Under the Crime & Disorder Act 1998 Rotherham Metropolitan Borough Council, as the licensing authority, must have regard to the likely effect of the exercise of its licensing function and do all it can to prevent crime and disorder within Rotherham. In doing so the Council will have regard to the likely impact of licensing and related crime and disorder in the town when considering the location, operation and management of all proposed licence applications.

All applicants will be expected to demonstrate to the satisfaction of the licensing authority in their Operating Schedule how they intend to promote this objective.

It is recommended that applicants seek advice from South Yorkshire Police when addressing this issue as well as taking in to account local planning and transport policies, tourism, cultural and crime prevention strategies. The South Yorkshire

Police website where information relating to crime reduction is available can be found at [www.southyorks.police.uk](http://www.southyorks.police.uk)

The steps to be taken to promote the objective will be a matter for each applicant to consider, depending upon the nature of the premises and the licensable activities for which a licence is sought. These steps will therefore differ from premises to premises.

Examples of measures that the licensing authority may expect applicants to consider and address include:

- Provision and standard of CCTV;
- The use and number of door supervisors registered with the Security Industry Authority, where required;
- Training to be given to staff in crime prevention and drug awareness measures; and
- Measures to be taken to prevent the use / supply of illegal drugs.

The above examples are neither exhaustive nor mandatory.

Conditions may be attached to Premises Licences in order to promote this licensing objective, and will, so far as possible, reflect local crime prevention strategies.

**(ii) Ensuring that gambling is conducted in a fair and open way**

This licensing authority has noted that the Gambling Commission in its draft Guidance for local authorities has stated that “Generally the Commission would not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be a matter for either the management of the gambling business, and therefore subject to the operating licence, or will be in relation to the suitability and actions of an individual and therefore subject to the personal licence. “

This licensing authority also notes, however, that the Gambling Commission states that “in relation to the licensing of tracks the licensing authorities’ role will be different from other premises in that track operators will not necessarily have an operating licence. In those circumstances the premises licence may need to contain conditions to ensure that the environment in which betting takes place is suitable.” This licensing authority understands that there may be further guidance from the Gambling Commission on this issue which it will have regard to, when available.

(iii) **Protecting children and other vulnerable persons from being harmed or exploited by gambling**

This licensing authority has noted the draft Gambling Commission Guidance to local authorities states that “The objective talks of protecting children from being “harmed or exploited by gambling”, but in practice that often means preventing them from taking part in or being in close proximity to gambling...”.

This licensing authority will pay particular attention to any Codes of Practice which the Gambling Commission issues as regards this licensing objective in relation to specific premises such as casinos. It is understood that a Code for casinos must:

- specify steps that the premises licence-holder must take to ensure that children and young persons (that is those under the age of 18) do not enter casino premises, or in the case of the regional casino do not enter the gambling area;
- amongst those specified steps, ensure that each entrance to the casino or gambling area is supervised by at least one person (“the supervisor”) who is responsible for compliance with the code of practice; and
- require that, unless the supervisor is certain that a person seeking admittance is an adult, evidence of age must be required of all those seeking to enter the casino or gambling area.

This licensing authority will consider this licensing objective on a case by case basis. Should a practical definition prove possible in future then this policy statement will be updated with it, by way of a revision.

**Conditions**

Any conditions attached to licences will be proportionate and will be:

- relevant to the need to make the proposed building suitable as a gambling facility;
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects.

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of control measures this licensing authority will consider utilising should there be a perceived need, such as the use of door supervisors, supervision of adult gaming machines, appropriate signage for adult only areas etc.

There are specific comments made in this regard under each of the licence types below.

This licensing authority will also expect the licence applicant to offer his/her own suggestions as to way in which the licensing objectives can be met effectively.

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.

The licensing authority will impose mandatory conditions where required by the Gambling Act 2005.

### **Door supervisors**

The Gambling Commission advises in its draft Guidance for 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. It is noted though that the Gambling Act 2005 has amended the Security Industry Act and that door supervisors at casinos or bingo premises cannot be licensed by the Security Industry Authority. This licensing authority therefore reserves the right to place specific requirements for door supervisors working at casinos or bingo premises. This is in recognition of the nature of the work in terms of searching individuals, dealing with potentially aggressive persons, etc.

Full details about registration with the Security Industry Authority can be found on the Security Industry Authority website at [www.thesia.org.uk](http://www.thesia.org.uk)

### **Disabled people**

Applicants are reminded of the duties imposed by the Disability Discrimination Act 1995. Applicants are expected to obtain their own advice on these duties and may contact the Disability Rights Commission in that regard.

The licensing authority recognises both the importance of proper steps to ensure the safety of people with disabilities at places of entertainment and the need to avoid the imposition of conditions to a licence which would enable an operator to justify the exclusion of persons with disabilities from the premises by reference to such conditions.

### **Promotion of racial equality**

The Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000, places a legal obligation on Rotherham Metropolitan Borough Council to have due regard to the need to eliminate unlawful discrimination; and to promote equality of opportunity and good relations between persons of different racial groups.

The Council has developed a Race Equality Scheme. The Race Equality Scheme makes clear how the Council will meet the Race Relations (Amendment) Act 2000. If you require a copy please contact xxxxx

## **2. Adult Gaming Centres**

This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises. Appropriate licence conditions may cover issues such as:

- Proof of age schemes
- CCTV
- Door supervisors
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours

This list is not exhaustive.

As regards the protection of vulnerable persons, this licensing authority will consider measures such as the use of self-barring schemes, provision of information leaflets / helpline numbers for organisations such as GamCare.

## **3. (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 that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas. Appropriate licence conditions may cover issues such as:

- Proof of age schemes
- CCTV
- Door supervisors
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours

This list is not exhaustive.

As regards the protection of vulnerable persons, this licensing authority will consider measures such as the use of self-barring schemes, provision of information leaflets / helpline numbers for organisations such as GamCare.

This licensing authority will, as per the Gambling Commission's draft guidance, refer to the Commission's website to see any conditions that apply to operator licences covering the way in which the area containing the category C machines should be delineated. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

#### 4. **Casinos**

##### **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.

##### **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 (i.e. the Secretary of State has made such regulations under Section 175 of the Gambling Act 2005) there are likely to be a number of operators which will want to run the casino. In such situations the local authority will run a 'competition' under Schedule 9 of the Gambling Act 2005. This licensing authority will run such a competition in line with any regulations issued under the Gambling Act 2005 by the Secretary of State.

##### **Betting machines**

This licensing authority is aware that, as explained in the Gambling Commission's draft Guidance for local authorities: "Section 181 contains an express power for licensing authorities 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 or to a casino premises licence (where betting is permitted in the casino).

When considering whether to impose a condition to restrict the number of betting machines in particular premises, the licensing authority, amongst other things, should 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 persons.”

### **Credit**

This licensing authority has noted that the Gambling Commission has stated in its Draft Guidance for Local Authorities that “section 177 does not prevent the licensee from permitting the installation of cash dispensers (ATMs) on the premises. Such machines may accept credit cards (and debit cards) and 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, not make any payment in connection with the machines. Guidance on the further conditions that may apply in relation to such machines will be included in the next version of this guidance”

### 5. **Bingo premises**

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

- “Licensing authorities will be able to find information about the restrictions that apply in the codes of practice that will be published on the Commission’s website”;
- “Further guidance will be issued in due course about the particular issues that licensing authorities should take into account in relation to the suitability and layout of bingo premises”.

Once this information is available, this licensing authority will consider its application to premises licences for bingo premises.

### 6. **Betting premises**

#### **Betting machines**

It is noted that the Gambling Commission’s draft Guidance for local authorities states: “Section 181 contains an express power for licensing authorities 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 or to a casino premises licence (where betting is permitted in the casino). When considering whether to impose a condition to restrict the number of betting machines in particular premises, the licensing authority, amongst other things, should 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 persons.”

### **Credit**

It has also been noted that the Draft Gambling Commission Guidance states: “section 177 does not prevent the licensee from permitting the installation of cash dispensers (ATMs) on the premises. Such machines may accept credit cards (and debit cards) and 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, not make any payment in connection with the machines.” It is also understood that the Gambling Commission will be placing restrictions and requirements on Operating Licences for betting premises as regards credit and this licensing authority will consider the guidance when it is available.

### 7. **Tracks**

This licensing authority is aware that the Gambling Commission may provide further specific guidance as regards tracks. We have taken note of the draft Guidance from the Gambling Commission which highlights that tracks are different from other premises in that there may be more than one premises licence in effect and that the track operator may not be required to hold an operator licence as there may be several premises licence holders at the track which will need to hold their own operator licences.

There may be some specific considerations with regard to the protection of children and vulnerable persons from being harmed or exploited by gambling and this authority would expect the premises licence applicants 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, although they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

Appropriate licence conditions may be:

- Proof of age schemes
- CCTV
- Door supervisors
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- The location of gaming machines

This list is not exhaustive.

As regards the protection of vulnerable persons, this licensing authority will consider measures such as the use of self-barring schemes, provision of information leaflets / helpline numbers for organisations such as GamCare.

### **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. The Gambling Commission's draft Guidance will be noted in that it states: "In relation to betting premises away from tracks, the Commission is proposing that licensing authorities should take into account the size of the premises and the ability of staff to monitor the use of the machines by vulnerable people when determining the number of machines permitted. 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 machine. Licensing authorities will want to consider restricting the number and location of betting machines, in the light of the circumstances of each application for a track betting premises licence."

This licensing authority also notes that, "In the Commission's view, it would be preferable for all self-contained premises operated by off-course betting operators on track to be the subject of separate premises licences. This would ensure that there was clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises"

### **Condition on rules being displayed**

The Gambling Commission has advised in its draft Guidance for local authorities that "...licensing authorities should attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office."

### **8. Travelling Fairs**

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

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

It has been noted that the 27-day statutory maximum for the land being used as a fair, is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. 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.

#### 9. **Provisional Statements**

This licensing authority notes the draft Guidance for the Gambling Commission which states that “It is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence” and that “Requiring the building to be complete ensures that the authority can 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 which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant’s circumstances. In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

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

This authority has noted the Gambling Commission’s draft Guidance that “A licensing authority must not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with planning or building law.”

#### 10. **Reviews**

Requests for a review of a premises licence can be made by interested parties or responsible authorities, however, it is for the licensing authority to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below, as well as consideration as to whether the request is frivolous, vexatious, will certainly not cause this authority to wish alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review:

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

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

**PART C**

**PERMITS / TEMPORARY AND OCCASIONAL USE NOTICE**

1. **Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits – Schedule 10 para 7)**

Where a premises does not hold a Premises Licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).

The Gambling Act 2005 states that a licensing authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25. The Gambling Commission's draft Guidance for local authorities also states: "In their three year licensing policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits...., licensing authorities will want to give weight to child protection issues. Further guidance on the information that should be obtained from the applicant and others will be provided in the next version of this guidance." (24.6)

The draft 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. Relevant considerations to take into account would be the applicant's suitability..., such as any convictions that they may have that would make them unsuitably to operate a family entertainment centre.; and the suitability of the premises in relation to their location and issues about disorder." (24.7)

It should be noted that a licensing authority cannot attach conditions to this type of permit and that the "statement of principles" only applies to initial applications and not to renewals (paragraph 18(4)).

**Statement of Principles**

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

This licensing authority has not currently adopted a wider and defined 'Statement of Principles'. Should it decide to do so it will be available from the licensing office, see section 16 of this policy document for contact details. Potential applicants / other interested persons are advised to check with the licensing team as to whether a policy has been adopted.

With regard to renewals of these permits, 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 pursuit of the licensing objectives.

2. **(Alcohol) Licensed premises gaming machine permits – (Schedule 13 Para 4(1))**

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority. The licensing authority can remove the automatic authorisation in respect of any particular premises if:

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

If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and "*such matters as they think relevant.*" This licensing authority considers that "such matters" will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable 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 site 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 of help. As regards the protection of vulnerable persons, an applicant may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

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

It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

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

3. **Prize Gaming Permits – (Statement of Principles on Permits - Schedule 14 Para 8 (3))**

The Gambling Act 2005 states that a Licensing Authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority propose to consider in determining the suitability of the applicant for a permit”.

This licensing authority has not prepared a statement of principles. Should it decide to do so it will include details in a revised version of the policy statement.

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.

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

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

4. **Club Gaming and Club Machines Permits**

Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in forthcoming regulations. A Club Gaming machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).

Draft Gambling Commission Guidance for local authorities states: "Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations." (25.3)

The draft Guidance also makes it clear that "Before granting the permit the authority will need to satisfy itself that the premises meet the requirements of a members' club and may grant the permit if the majority of members are over 18."(25.14)

This Licensing Authority is aware 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 Commission or the police (Gambling Commission's draft Guidance for Local Authorities 25.18)

It should be noted that there is a 'fast-track' procedure available for premises which hold a Club Premises Certificate under the Licensing Act 2003. As the Gambling Commission's draft Guidance for local authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced" and "The grounds on which an application under the process may be refused are:

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

5. **Temporary Use Notices**

There are a number of statutory limits as regards Temporary Use Notices. It is noted that it falls to the licensing authority to decide what constitutes a ‘set of premises’ where Temporary Use Notices are received relating to the same building / site (see Gambling Commission’s draft Guidance for Local Authorities).

6. **Occasional Use Notices**

The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. The licensing authority will though need to consider the definition of a ‘track’ and whether the applicant is permitted to avail him/herself of the notice.

## Recommended delegation of functions

<b>Matter to be dealt with</b>	<b>Full Council</b>	<b>Sub Committee of licensing committee</b>	<b>Officers</b>
Three year licensing policy	<b>x</b>		
Policy not to permit casinos	<b>x</b>		
Fee setting (when appropriate)		<b>x</b>	
Application for premises licences		If a relevant representation made and not withdrawn	If no relevant representation made/representations have been withdrawn
Application to vary a licence		If a relevant representation made and not withdrawn	If no relevant representation made/representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations have been received from the Commission
Application for a provisional statement		If a relevant representation made and not withdrawn	If no relevant representation made/representations have been withdrawn
Review of a premises licence		<b>x</b>	
Applications 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		<b>x</b>	
Applications for other permits			<b>x</b>
Cancellation of licensed gaming machine permits			<b>x</b>
Consideration of temporary use notice			<b>x</b>
Decision to give counter Notice to a temporary use notice		<b>x</b>	