

LICENSING COMMITTEE

Venue: Town Hall, Rotherham **Date:** Tuesday, 19 September 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 2005 - Statement of Principles (report attached) (Pages 1 - 50)

ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS
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1.	Meeting:	Licensing Committee
2.	Date:	19th September, 2006
3.	Title:	Gambling Act 2005
4.	Programme Area:	Neighbourhoods

5. Summary

The Gambling Act 2005 requires the Council to prepare and publish a Statement of Licensing Principles before it carries out any function in respect of applications made under the Act.

The document is a statement of how the Council intends to exercise the licensing functions imposed upon it by the Act. It states 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.

From 1st June, 2006, to 31st August, 2006, the Council carried out a comprehensive consultation exercise in relation to its draft Statement of Licensing Principles, which must be prepared and published every three years. A number of comments were made by local residents and stakeholders, some of which have been incorporated into the final Policy document, which needs to be approved by full Council on 22nd November, 2006, to meet the statutory deadline imposed by the Government.

6. Recommendation

- 1. THAT THE 'STATEMENT OF LICENSING PRINCIPLES' IN RELATION TO THE GAMBLING ACT 2005 BE NOTED AND SUPPORTED.**

7. Proposals and Details

Guidance and Practice

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

The Gambling Commission's 'Guidance to Licensing Authorities' published April 2006 has also been followed. This document sets out the matters that must be included with the Statement of Licensing Principles.

Consultation

Section 349 (3) of the Act requires the licensing authority to consult the following on the licensing principles statement:

- 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 principles 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.

Corporate guidelines laid down in the 'Consultation and Community Involvement Toolkit' and 'Consultation Planning Protocol' have been followed with direct support from the Corporate Consultation Unit.

A large number of stakeholders (full list of all consultees is attached at Appendix 'A') received a copy of the draft 'Statement of Licensing Principles' for comment. In some cases, it was felt that engaging members of the community through 'focus groups' was more appropriate. The wider community was engaged through the citizen's panel 'Rotherham Reachout 14', a Town Centre (Market Day) stand on 27th June, 2006, a public notice in the Rotherham Advertiser on Friday, 2nd June, 2006, various press releases, and by electronic consultation by way of the Internet and Intranet. Furthermore, all town centre Council reception areas, including the Tourist Information Office, were provided with details about the consultation process.

Consultation Paper

All views of those that replied or engaged in the consultation process to date have been assessed by the Licensing Manager and Licensing Solicitor, and have been given the appropriate weight when determining the final policy document. A 'Schedule of Responses' with comment and response is attached at Appendix 'B' and 'C'. The amendments to the 'Statement of Licensing Principles' are underlined in the attached document at Appendix 'D'. Other public surveys, excluding Rotherham Reachout 14, are currently being assessed as they arrive in and where applicable, the results have been incorporated, or will be incorporated, into the final document.

8. Finance

Although 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. However, the fee regulations are not anticipated until November 2006 at the earliest.

9. Risks and Uncertainties

At the present time, licensing authorities have only received a handful of regulations in respect of administering the Act. Other regulations and guidance are to be 'drip fed' to local authorities throughout the year. At the time of writing, trade associations and groups such as LACORS (Local Authorities Coordinators of Regulatory Services) and the Institute of Licensing are lobbying to delay the implementation of the legislation, or to put back the first appointed day of 31st January, 2007, when it is proposed that applications will begin to be submitted to Licensing Authorities.

The 'Statement of Licensing Principles' must be in place in order that applications can be considered. Failure to have the policy in place could lead to a host of appeals against the Authority, which could lead to substantial costs being awarded against the Council.

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

The first that an application for a gambling premises licence or permit can be submitted is the 31st January 2007 with the Act coming into force on 1st September 2007.

10. Policy and Performance Agenda Implications

The development of an appropriate 'Statement of Licensing Principles' 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 – Guidance to Licensing Authorities

Contact Name : David Stockdale, Licensing Manager, Ext 3167,
david.stockdale@rotherham.gov.uk

APPENDIX A

Consultation List

Gambling Act 2005

Statement of Licensing Principles

Consultation on full policy document

Ambrose Appleby Solicitors
Area Assembly Co-Ordinators
Association of British Bookmakers
Atteys Solicitors
BACTA (British Amusement Catering Trade Association)
Bradford and Son Solicitors
British Casino Association
British Institute of Inn Keeping
British Waterways Board
Business in Sport and Leisure
CAMRA
Casino Operators Association
Chief Constable, South Yorkshire Police
Chief Fire Officers, South Yorkshire Fire and Rescue Service
Clerks to Parish Councils
Club and Institute Union (CIU)
Codes Solicitors
COMMUNITY
Cripps Harries Hall LLP
Environment Agency
GAMCARE
GAM-ANON
Gambling Commission
Gichard and Co Solicitors
Harrison Clark Solicitors
Harry's Game Amusements
Harthills Solicitors
HM Revenues and Customs
John Gaunt and Partners Solicitors
LACORS (Local Authorities Coordinators of Regulatory Services)
Ladbrokes
Leisuretime Amusements
LicenceWatch
Licensing Legal Solicitors
Malcolm Foy Solicitors
Naphthens Solicitors
Nobles Amusements
Norrie Waite and Slater Solicitors

Oglethorpe, Sturton and Gillibrand Solicitors
Oxley and Coward Solicitors
Picken Racing
Poppleston Allen Solicitors
Racecourse Services Executive
Responsibility in Gambling Trust
RIDO (Rotherham Investment and Development Office)
RMBC Neighbourhood Enforcement Manager
RMBC Head of Planning and Transportation
RMBC Safeguarding Manager – Child Protection
RMBC Equalities and Diversity Manager
RMBC Access Liaison Officer
RMBC Town Centre Manager
RMBC Ward Councillors
Rotherham Business Chamber
Rotherham PCT
Safer Rotherham Partnership
Security Industry Agency (SIA)
South Yorkshire Neighbourhood Watch
The Bingo Association
The Institute of Licensing
The Law Society
The Lotteries Council
Tierney and Co Solicitors
William Hill

Mr Denis McShane MP
Rt Hon K Barron MP
Mt K Healey MP

Focus Groups

REMA (Rotherham Ethnic Minority Alliance)
Rotherham Deaf Community (postponed to September 2006)
The University of the Third Age (Older People)

Gambling Questionnaire

2010 Tenants and Residents
Mosque Liaison Group – (presented by Equalities and Diversity Manager)
RMBC Intranet Public Notice Board
Rotherham Deaf Community
Rotherham Visitors Centre
Rotherham Youth Cafe

Other methods

Citizens Panel – Reachout 14
Consultation documents at all RMBC Town Centre reception areas, including the Town Hall

Licensing Stand – Rotherham Market Day – 27th June, 2006

Press Release – 31st May, 2006

RMBC Licensing Website

Rotherham Advertiser Public Notice

APPENDIX 'B'

Schedule of Responses to Gambling Act 2005 Statement of Principles

Reference	Respondent	Comments	Response
001	Byron Evans, Commercial Director, RAL Limited (in capacity of 'persons representing the interests of persons carrying on gambling businesses in the authority's area')	<p>1. Concerns re 'inclusion of 'door supervisors' in the list of possible appropriate measures to promote the licensing objective of protecting children and other vulnerable persons from being harmed or exploited by gambling...record our objection to the possibility that such a condition be imposed specifically to adult gaming centres and urge caution that, if it is to be imposed, it should only be in appropriate cases...if operators are currently running a safe and successful centre (at present under Gaming Act 1968) without the need for door supervisors, then there can be no valid reason for a change of policy in this regard...provision of door supervisors is not a mandatory condition under Gambling Act 2005...would urge Licensing Authority to adopt same position where 'door supervision' could be added to a licence to promote the prevention of crime and disorder objective, but that, in practical terms, its efficacy as a measure to protect children and vulnerable people is extremely limited...operators of adult gaming centres and key personnel will be subject to rigorous verification processes in order to obtain personal and operating licences...existing operators fully versed in measures to uphold the proposed objectives...many protective measures currently in place and mirror those suggested in the</p>	<p>Comments noted</p> <p>The Licensing Authority feels it appropriate that 'Door Supervisors' are kept as one of a number of conditions that COULD be imposed.</p> <p>However, it is accepted that such measures, in line with this Authority's approach under the Licensing Act 2003, would only be considered on a case by case basis, appropriate to the problem they seek to address in relation to the licensing objectives</p> <p>The policy should not seek to 'fetter the discretion' of the Licensing Committee by the addition of particular circumstances, and particular pre-requisites for</p>

		<p>Guidance...issues of crime and disorder etc bare little relevance to adult gaming centres as capacities rarely match those found in alcohol licensed premises and, as alcohol is not provided in the adult gaming centres we operate, there is little risk of instances of alcohol-fuelled disorder...we would submit that any link between customers entering adult gaming centres and the presence of organized crime is tenuous and unsubstantiated...should there be little or no evidence that the applicant premises adds to levels of organized crime, we submit that a condition requiring the use of door supervisors would be entirely inappropriate...we would echo the concerns of respondents to the Gambling Commission's consultation on its Statement of Principles who stated that the inclusion of door supervisors would be 'cost prohibitive' and 'should only be imposed where necessary'.</p>		<p>the imposition of any condition.</p>
<p>002</p>	<p>The Racecourse Association Limited</p>	<p>1. No comments – no venues in area</p>		<p>Noted</p>

<p>003</p>	<p>Bond Pearce Solicitors – on behalf of The Association of British Bookmakers</p>	<p>1. Comments re Door Supervision...because of success of the betting industry in managing its offices, and because of the general nature of betting clientele, door supervisors are not employed in betting offices..door supervision has not been operationally required and neither the licensing justices nor the police have suggested that door supervision is necessary...refer to paragraph 9.26 of Gambling Commission Guidance...suggested wording for policy.</p> <p>2. Comments re Betting machines...suggested wording for policy.</p> <p>3. Comments re-site applications...suggested wording.</p> <p>4. Comments re enforcement...suggested wording.</p>	<p>Comments noted</p> <p>The 'Statement of Licensing Principles' sets out the approach to be applied in dealing with matters under the Gambling Act 2005 and the licensing of 'premises'.</p> <p>It is inappropriate to include in the 'Statement of Principles' a preconception as to how premises have previously operated in the past, either good or bad.</p> <p>It will be, in the event of a hearing, for premises operators to evidence how the premises have previously operated, if necessary.</p>
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<p>004</p>	<p>British Beer and Pub Association</p>	<p>1. Welcome approach taken by council in basing draft policy on the LACORS template.</p> <p>First main issue of concern...pubs have had AWP machines in premises for many years...take responsibility very seriously..committed to ensuring that underage people may not play machines even though this is not currently written into law...under age schemes in place...whilst we welcome the parts of the draft policy that deal with the protection of children from harm and vulnerable people from harm, we encourage the council to bear the above points in mind when they put the policy into practice.</p> <p>2. Second area of concern is transitional arrangements...more and more premises will contact licensing authority...advantageous for licensing authorities to have some sort of guidance prepared</p>	<p>Comments noted</p> <p>Please refer to response 003</p> <p>Comments noted</p> <p>All assistance, where possible, will be provided by the Licensing Authority to ensure a smooth transition from the old regime to the new</p> <p>This is a point that cannot be taken in relation to the 'Statement of Licensing Principles' but will be address by the Licensing Authority in relation to its</p>
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<p>005</p>	<p>GAMCARE</p>	<p>1. Not too many 'discrepancies for concern'</p> <p>Provided a separate list of inclusions to be included in the policy or as part of the licensing conditions</p> <p>Local authorities should now recognise that they have 'duty of care' and become 'corporate parents'</p> <p>Gambling is a much hidden form of addiction with little recognition</p> <p>Many authorities have now set up programs for Drug and Alcohol addictions – feel there is a great benefit of a program of problem gambling and possibly debt management counseling, to run in conjunction</p>	<p>'education strategy' prior to transition</p> <p>Many of the 'inclusions', if not all, will be covered in the Codes of Practice issued by the Gambling Commission to all operators – Codes that must be adhered to and which set a minimum standard for the gambling industry and which will cover areas such as money laundering, combating problem gambling, access to gambling, methods of intervention and self exclusion, to name but a few</p> <p>There will be both 'mandatory' and 'default' conditions under the legislation – at the time of writing local authorities are awaiting such conditions</p> <p>This authority will not impose standards conditions of its own, and</p>
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				<p>will treat every premises and application on its own merits</p> <p>The final two points are noted and further contact with GAMCARE is planned to discuss areas of 'best practice'</p>
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APPENDIX 'C'**Schedule of Focus Group Responses to Gambling Act 2005 Statement of Principles**

Reference	Respondent	Comments	Response
28.6.06	The University of the Third Age	<p>Concern about 'vulnerable adults in premises and their welfare</p> <p>Thought that 'swipe cards' and a 'credit' limit in venues would be appropriate</p> <p>Worried that the Act would open up gambling to a wider market – that gambling was being legitimised – which could be dangerous</p> <p>Re the demand test – feeling that 'opening up' the market and lack of control over the number of premises was inappropriate</p> <p>Concern that Gambling Act was not compliant with EU policy and could be challenged</p> <p>Concern that the drive of the Act was to make more from taxes and that more premises meant more revenue</p> <p>That perhaps the Act would address the traditional perspective of the industry as being 'grotty and unclean'</p> <p>That the image has an image problem</p>	<p>Comments noted</p> <p>Most of the comments, whilst relevant, are concerned with 'national' and 'social' issues in respect of the Gambling Act 2005</p> <p>Whilst the Licensing Authority are respectful of the comments, they cannot be incorporated into Rotherham Metropolitan Borough Council's own 'Statement of Licensing Principles'</p> <p>However, it is anticipated that some issues might be addressed by further Government guidance and regulations, particularly in respect of enforcing the Gambling Act 2005</p>

		<p>Concerns over controls in the premises themselves – entering whilst under the influence of drink could lead to less rationalisation</p> <p>Need for good management</p>	
<p>20.7.06</p>	<p>REMA (Rotherham Ethnic Minority Alliance)</p>	<p>Expression that ‘gambling does not benefit anyone’</p> <p>One participant had noticed a massive rise in number of gambling premises in Rotherham since the 1950’s</p> <p>The issue of the ‘demand test’ was a big worry – that a proliferation of ‘betting’ establishments might continue</p> <p>Concern and worry that gambling premises in BME areas would be a detriment, and at odds with certain belief systems</p> <p>Expression that the public notice could present a problem, where English was not the first language in some areas – suggestion that notice could be provided in the appropriate language as well as English</p> <p>Concern that, in respect of children and amusements, low level gambling leads to more temptation</p> <p>Concerns about the measures in place to protect children and the vulnerable</p>	<p>Comments noted</p> <p>“ “</p> <p>Noted – Government policy to remove the ‘demand test’ although local planning requirements will still apply</p> <p>Comments noted</p> <p>Accepted – Recommended ‘good practice’ will be included in the ‘Statement of Licensing Principles’</p> <p>Comments noted</p> <p>Comments noted</p>

		<p>Increased number of premises leads to more 'temptation'</p> <p>The Town should offer more social alternatives to Gambling</p> <p>Concern about gambling in the Chinese community, how it is a social norm, reassurance that enforcement would deal with illegal gambling</p> <p>Large operators should be encouraged to link up and interact with gambling charities and support groups</p> <p>That guidance notes be produced for BME groups in respect of process and procedure</p>	<p>Comments noted</p> <p>Comments noted</p> <p>Comments noted</p> <p>Gambling Act 2005 already commits operators to establish links with such groups – Gambling Commission enforce the 'operators' rather than the Licensing Authority</p> <p>Comments noted – The policy document and advice will be available to all, and information will be provided in a variety of formats, as and when required</p>
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STATEMENT OF LICENSING PRINCIPLES

GAMBLING ACT 2005

(3rd DRAFT)

Appendix 'D'

Licensing Office
Howard Building
College Lane
Rotherham
S65 1AX

Tel: 01709 823153

ROTHERHAM METROPOLITAN BOROUGH COUNCIL

LICENSING PRINCIPLES

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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

Licensing Authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences;
- Issue Provisional Statements;
- Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits;
- Issue Club Machine Permits to Commercial Clubs;
- Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres;

- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines;
- Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines;
- Register small society lotteries below prescribed thresholds;
- Issue Prize Gaming Permits;
- Receive and Endorse Temporary Use Notices;
- Receive Occasional Use Notices;
- Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange'); and
- Maintain registers of the permits and licences that are issued under these functions.

It should be noted that local licensing authorities will not be involved in licensing remote gambling at all. This will fall to the Gambling Commission via operating licences.

The Gambling Commission has recommended that licensing authorities include a list of licensable activities in their policy statements. LACORS has requested a definitive list from the Gambling Commission and this will be incorporated into this policy statement once provided.

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 or disorder or being used to support crime;
- Ensuring that gambling is conducted in a fair and open way; and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

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 gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.”

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

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

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 Principles**

Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they propose to apply when exercising their functions under the Act. This statement must be published at least every three years. The statement must also be reviewed from ‘time to time’ and any amended parts re-consulted upon. The statement must then be re-published.

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 centres, prize gaming, gaming machines on alcohol-licensed premises and club gaming and club gaming machines, respectively.

The statement 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 statement is offering guidance on the wider considerations that will be taken in to account.

The statement 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 statement was approved at a meeting of the Full Council on xxxx06 and comes into force on 31 January, 2007.

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 34 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 consulted widely upon the statement before finalising and publishing it.

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).

It should be noted that unsolicited comments were received from other persons but we have not listed all of these.

The consultation took place between 1st June, 2006, and 31st August, 2006, and lasted a period of 12 weeks. The Revised Code of Practice (which came into effect in April 2004) and the Cabinet Office Guidance on consultations by the public sector were followed, *along with the Council's own 'Consultation and Community Involvement Toolkit' and 'Consultation Planning Protocol'.

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.

*Part of the process involved engaging the general public and other community groups by way of a questionnaire, enabling the Council to assess general opinion about gambling as a whole, as well as its effects on Rotherham. In summary:

- the majority of respondents had never been to a gambling establishment;
- they felt that it was neither good nor bad for Rotherham to have such establishments (although there was greater concern expressed about amusement arcades and casinos);
- that it was safe to go into local gambling establishments;
- that, in general, gambling is carried out in a fair and open way (although some concern was expressed in relation to casinos);
- there was concern expressed about children and vulnerable people in gambling establishments, particularly betting shops, amusement arcades and casinos;
- that, on the whole, crime and disorder was NOT made worse by gambling establishments;
- that an all out 'ban' on gambling establishments in the town was not accepted, although residents would be happier if there were no amusement arcades or casinos.

Full details of the results of the questionnaire are available by request from the Council.

The policy was approved at a meeting of the Full Council on X date and was published via our website on x date. Copies were placed in the public libraries of the area as well as being available in the Town Hall.

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

The Licensing Manager
Licensing Team
Ground Floor
Howard Building
College Lane
Rotherham S65 1AX

Telephone: 01709 823153

E-mail: licensing@rotherham.gov.uk

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

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, 4th 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 licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:

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

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

The 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. The principles are:

Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission’s Guidance for local authorities at 8.14 and 8.15.

It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

The Gambling Commission has recommended that the licensing authority states that interested parties include trade associations and trade unions, and residents’ and tenants’ associations (Gambling Commission Guidance for local authorities 8.17). This authority will not however generally view these bodies as interested parties unless they have a member who can be classed as an interested person under the terms of the Gambling Act 2005 i.e. lives sufficiently close to the premises to be likely to be affected by the activities being applied for.

Interested parties can be persons who are democratically elected such as councillors and MP's. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, parish councils likely to be affected, will be considered to be interested parties. Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the licensing team.

*** As a matter of 'best practice, if an application is in respect of a premises in an area where there are other community languages, and English is not necessarily the first language, the operators of premises are requested to consider provided advertisements and public notices in the appropriate language(s) for that area**

11. **Enforcement**

Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

This licensing authority's principles are that:

It will be guided by the Gambling Commission's Guidance for local authorities and will endeavour to be:

- Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
- Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
- Consistent: rules and standards must be joined up and implemented fairly;
- Transparent: regulators should be open, and keep regulations simple and user friendly; and
- Targeted: regulation should be focused on the problem, and minimise side effects.

As per the Gambling Commission's Guidance for local authorities this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

This licensing authority will also, as recommended by the Gambling Commission's Guidance for local authorities, adopt a risk-based inspection programme. Whilst the Gambling Commission's Guidance suggests that the criteria the authority will utilise in this respect are included in this statement, this has not been possible. At the time of writing the Gambling Commission has not published its risk criteria, nor are regulations such as mandatory / default conditions published, nor Codes of Practice. LACORS is working with the Gambling Commission to produce a risk model for premises licences and this authority will consider that model once it is made available.

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

This licensing authority will also keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

Bearing in mind the principle of transparency, this licensing authority's enforcement/compliance protocols/written agreements will be available upon request to the licensing team. Our risk methodology will also be available upon request.

12. **Exchange of Information**

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

The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened.

The licensing authority will also have regard to any Guidance issued by the Gambling Commission to local authorities on this matter when it is published, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

Should any protocols be established as regards information exchange with other bodies then they will be made available. Discussions with the Gambling Commission and LACORS as regards information exchange between the Commission and local authorities are, at the time of writing, at an early stage.

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 Statement of Principles**

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 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 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, or visit our website at www.rotherham.gov.uk, following the link to 'business>licensing'.

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

PART B

PREMISES LICENCES

1. **General Principles**

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

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 principles.

It is appreciated that as per the Gambling Commission's Guidance for Local Authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any "no casino resolution"- see section on Casinos below – pages 23-24) and also that the unmet demand is not a criterion for a licensing authority.

Definition of "premises"

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

This licensing authority takes particular note of the Gambling Commission's Guidance for local authorities which states that:

- licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware that entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area; and
- licensing authorities should pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). Clearly, there will be specific issues that authorities should consider before granting such applications, for example, whether children can gain access; compatibility of the two establishments; and ability to comply with the requirements of the Act. But, in addition an overriding consideration should be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act.

It should also be noted that an applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed. The Gambling Commission has advised that reference to "the premises" are to the premises in which gambling may now take place. Thus a licence to use premises for gambling will only be issued in relation to premises that are ready to be used for gambling. This 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. The Gambling Commission emphasises that requiring the building to be complete ensure that the authority can, if necessary, inspect it fully, as can other responsible authorities with inspection rights.

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 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 statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

Duplication with other regulatory regimes

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

It will though listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

Licensing objectives

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

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

This licensing authority is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction. Issues of nuisance cannot be addressed via the Gambling Act provisions.

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

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 has stated that it would generally not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences.

There is however, more of a role with regard to tracks which is explained in more detail in the “tracks” Section below – pages 25-27).

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

This licensing authority has noted the Gambling Commission's Guidance for local authorities states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

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

As regards the term “vulnerable persons” it is noted that the Gambling Commission is not seeking to offer a definition but states that “it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who

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.” 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 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 the way in which the licensing objectives can be met effectively.

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

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

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and

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

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

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

Door supervisors

If there are concerns that premises may attract disorder or be subject to unauthorised access by children and young persons, then the Licensing Authority may require that a Door Supervisor control entrances to the premises.

Where door supervisors are imposed as a condition on a Premises Licence then by virtue of Section 178(3) of the 2005 Act if those persons are required by the Private Security Industry Act 2001 to hold a licence under that Act that requirement shall be treated as if it was a condition of the Premises Licence.

Full details about registration with the Security Industry Authority can be found on the Security Industry Authority website at 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, for example, ensure that under 18 year olds do not have access to the premises. This licensing authority will expect applicants to offer their own measures to meet the licensing objectives, however appropriate measures/ licence conditions may cover issues such as:

- Proof of age schemes
- CCTV
- Door supervisors
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry

- Notices / signage
- Specific opening hours
- Self-barring schemes
- Provision of information leaflets/helpline number for organizations such as GamCare

This list is not mandatory or exhaustive and is merely indicative of example measures.

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, 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.

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

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

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

This licensing authority will, as per the Gambling Commission's 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 statement with details of that resolution. Any such decision will be made by the Full Council.

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/codes of practice issued under the Gambling Act 2005.

Licence considerations / conditions

The Gambling Commission has stated that "further guidance will be issued in due course about the particular issues that licensing authorities should take into account in relation to the suitability and layout of casino premises" (Gambling Commission Guidance for local authorities - 17.30) This guidance will be considered by this licensing authority when it is made available.

Betting machines

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

5. Bingo premises

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

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

- all such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where the machines are located;
- access to the area where the machines are located is supervised;
- the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and

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

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

6. **Betting premises**

Betting machines

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

7. **Tracks**

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

This authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

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

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage

- Specific opening hours
- Self-barring schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare

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

Gaming machines

Further guidance from the Gambling Commission is awaited as regards where such machines may be located on tracks and any special considerations that should apply in relation, for example, to supervision of the machines and preventing children from playing them. This licensing authority notes the Commission's Guidance that licensing authorities therefore need to consider the location of gaming machines at tracks, and applications for track premises licences will need to demonstrate that, where the applicant holds a pool betting operating licence and is going to use his entitlement to four gaming machines, these machines are located in areas from which children are excluded. Children and young persons are not prohibited from playing category D gaming machines on a track.

Betting machines

This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer. It will also take note of the Gambling Commission's suggestion that licensing authorities will want to consider restricting the number and location of such machines in respect of applications for track betting premises licences.

Condition on rules being displayed

The Gambling Commission has advised in its 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."

Applications and plans

This licensing authority awaits regulations setting-out any specific requirements for applications for premises licences but is in accordance with the Gambling Commission's suggestion "To ensure that licensing authorities gain a proper understanding of what they are being asked to licence they should, in their licensing policies, set out the information that they will require, which should include detailed

plans for the racetrack itself and the area that will be used for temporary “on-course” betting facilities (often known as the “betting ring”) and in the case of dog tracks and horse racecourses fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities.” and that “Plans should make clear what is being sought for authorisation under the track betting premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence.”

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, to ensure that there is clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

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 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 could, 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 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 Guidance that "A licensing authority should not take into account irrelevant matters...One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal".

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 principles.

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 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.' (24.6)

The Guidance also states: "An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application.licensing authorities might wish to consider asking applications to demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act; and
- that staff are trained to have a full understanding of the maximum stakes and prizes. (24.7)

It should be noted that a licensing authority cannot attach conditions to this type of permit.

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 appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises. This licensing authority will also expect, as per Gambling Commission Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

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 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).

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

The Commission 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' 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.

There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003.(Schedule 12 paragraph 10). As the Gambling Commission's Guidance for local authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the 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.”

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. **Temporary Use Notices**

There are a number of statutory limits as regards temporary use notices. Gambling Commission Guidance is noted that "The meaning of "premises" in part 8 of the Act is discussed in Part 7 of this guidance. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place". In considering whether a place falls within the definition of "a set of premises", licensing authorities will need to look at, amongst other things, the ownership/occupation and control of the premises...This is a new permission and licensing authorities should be ready to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises."

6. **Occasional Use Notices**

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

Matter to be dealt with	Full Council	Sub Committee of licensing committee	Officers
Three year licensing policy	x		
Policy not to permit casinos	x		
Fee setting (when appropriate)		x	
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		x	
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		x	
Applications for other permits			x
Cancellation of licensed gaming machine permits			x
Consideration of temporary use notice			x
Decision to give counter Notice to a temp. use notice		x	