

Notice of meeting of

Licensing Act 2003 Committee

- To:** Councillors Nimmo (Chair), Bartlett (Vice-Chair),
D'Agorne, Sue Galloway, Hall, Horton, Hyman, King,
Moore, Reid, Runciman, B Watson, I Waudby, Wilde and
Evans
- Date:** Friday, 7 July 2006
- Time:** 2.00 pm
- Venue:** Guildhall

AGENDA

1. **Declarations of Interest**

At this point, Members are asked to declare any personal or prejudicial interests they may have in the business on this agenda

2. **Minutes**

(Pages 1 - 4)

To approve and sign the minutes of the meeting held on 12th December 2005.

3. **Public Participation**

At this point in the meeting members of the public who have registered their wish to speak regarding an item on the agenda or an issue within the Committee's remit can do so. Anyone who wishes to register or requires further information is requested to contact the Democracy Officer on the contact details listed at the foot of this agenda. The deadline for registering is Thursday 6th July 2006 at 10am.

4. Gambling Act 2005 – Consultation on (Pages 5 - 54) Licensing Policy

This report outlines the council's responsibilities under the Gambling Act 2005 and the timescales for its implementation. It seeks member approval to consult on a draft statement of licensing policy and agreement on those parties to be consulted. Members are also asked to approve a rearranged date for a future meeting of the committee to consider the responses to the consultation exercise.

Please Note:

Annex 2 to this report, which contains the Draft Statement of Licensing Policy, is a large document and is therefore available as follows:

Online at www.york.gov.uk (see meetings). If you are already viewing the online version of this agenda, then the annex will be incorporated into the agenda.

A paper copy is available for viewing at the Guildhall, York. Please contact the Democracy Officer on the details at the foot of this agenda. Copies will be available at the meeting.

5. Any other business which the Chair decides is urgent under the Local Government Act 1972

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting:

Rowan Hindley
Democracy Officer
Tel. (01904) 552062
rowan.hindley@york.gov.uk

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

City of York Council

MEETING	LICENSING ACT 2003 COMMITTEE
DATE	2 DECEMBER 2005
PRESENT:	COUNCILLORS NIMMO (In the Chair), BARLETT, S GALLOWAY, HORTON, HYMAN, KING, MOORE, REID, RUNCIMAN, B WATSON, I WAUDBY AND WILDE
APOLOGIES	COUNCILLORS D'AGORNE, HALL and HOPTON,

PART A – MATTERS DEALT WITH UNDER DELEGATED POWERS

6. DECLARATIONS OF INTEREST

The Chair invited Members to declare at this point any personal or prejudicial interests which they had in any of the business on the agenda. No interests were declared.

7. MINUTES

RESOLVED: That the minutes of the meeting held on 3 June 2005 be approved and signed as a correct record.

8. PUBLIC PARTICIPATION

It was reported that there were no registrations to speak under the Council's Public Participation Scheme.

9. IMPLEMENTATION OF LICENSING ACT 2003 REFORM – CITY OF YORK

Members received a report, which brought them up to date as to the current situation in relation to the implementation of the Licensing Act 2003 reforms, which came into effect on 24 November 2005.

Officers referred to the licensing statistics detailed in Annex 1 of the report and updated that by 24 November 38% of premises licences and 95.7% of personal licences had been issued. It was explained that the Licensing Department still had to process a large number of applications and issue the relevant licences, although all premises granted a licence had received a letter which detailed the approval and conditions imposed and to which they could refer. The licence was not time limited and was in force until there was a fundamental change or there was a change of supervisor.

- RESOLVED:
- (i) That the contents of the report be noted.
 - (ii) That the Officers be thanked for their hard work in processing the licensing applications and for the support they have given to members during the hearings.

REASON: To update Members on as to the current situation in relation to the implementation of the Licensing Act 2003 reforms.

10. LICENSING ACT 2003 APPEALS

Members received a report which advised them of the procedure before the Magistrates' Court in licensing appeals under the Licensing Act 2003 whereby parties to an appeal were able to reach an agreement on the outcome and requests the Licensing Committee to agree proposals to deal with one particular aspect of the process.

Officers updated that it was considered that there would only be a limited number of cases where such settlements would be required but it was felt that if no mediation took place then this could leave the Council open for an award of costs.

Consideration was given to the following options when considering whether or on what basis the Council should reach an agreement on the outcome of an appeal

- (i) to seek to reach an agreement on the outcome of appeal at the review hearing, or
- (ii) to reach an agreement in appeal cases, to be approved by the Chair of the relevant Sub-Committee, only where all those who could have been parties to the appeal agree terms of settlement **and** where those terms do not involve any significant modification to the decision made and/or the conditions imposed by the Sub-Committee, or
- (iii) to continue to defend all appeals at the full hearing and decline to accept any terms of settlement negotiated between the parties to the appeal.

Members questioned how representors could be involved in the procedure, how costs were awarded and whether the Committee could be kept informed of the number and type of appeal cases and their outcomes. Members also requested consistent guidance from Officers regarding member's involvement in Licensing Hearings and their involvement in subsequent planning applications for the premises.

- RESOLVED:
- (i) That agreement may be reached to settle appeal cases only where all those who could have been parties to the appeal agree terms of settlement **and**

also where the Chair of the relevant Sub Committee considers that the proposed alteration does not involve any significant modification to the decision made and/or the conditions imposed by the Sub-Committee

- (ii) That in all other cases decline to accept terms of settlement that may be negotiated between the parties to the appeal and defend the decision of the Licensing Sub-Committee at the hearing of the appeal.
- (iii) That Officers prepare guidance for Members regarding member's involvement in Licensing Hearings and subsequent Planning Committee meetings when consideration is given to applications related to the premises.
- (iv) That Officers prepare advice regarding Council Officers who speak at Licensing Hearings.

REASON: To assist Officers in the settlement of licensing appeals and to progress work in this area.

11. MEMORANDUM OF UNDERSTANDING AND JOINT ENFORCEMENT PROTOCOL – LICENSING ACT 2003

Members received a report, which advised them of the preparation of a Memorandum of Understanding, and Joint Enforcement Protocol, which had been recommended in guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003.

Officers explained that statutory guidance recommended licensing authorities establish protocols with the local police on enforcement issues. This Protocol had been drawn up between other Local Authorities in North Yorkshire and it was anticipated that all the responsible authorities would sign up to it.

Members questioned the prime responsibilities for enforcing various offences under the Act and the need for the register of formal cautions to be maintained and available nationally.

RESOLVED: That approval be given to the use and content of the Memorandum of Understanding and Joint Enforcement Protocol as set out at Annex 1 of the report.

REASON: To establish protocols with the local police on enforcement issues.

12. TEMPORARY EVENT NOTICES

The Chair confirmed that there was an additional item for consideration relating temporary event notice hearings, which he had agreed to take, owing to the need to report details of new legislation and the possibility of these hearings being required at short notice.

Officers circulated further details of the Temporary Events Notices (TENS) including notification, permitted limits and the procedure. They explained that only the Police could object to a Temporary Events Notice and that the Police had 48 hours in which to object and notify the Licensing Authority of their objections. If the Police objected, a hearing must then be held within 7 working days. This would leave very little time in which to arrange the Panels and to publish documentation for the hearing. Officers confirmed that their policy was to encourage early notification of these events to alleviate the need to arrange these late hearings

RESOLVED: That the details circulated in relation to the Temporary Event Notices (TEN's) be noted.

REASON: To update Members on this notification procedure and to progress work in this area.

G NIMMO
(IN THE CHAIR)

The meeting started at 2.00 pm and finished at 3.20 pm.



Licensing Act 2003 Committee**7th July 2006**

Report of the Director of Neighbourhood Services

Gambling Act 2005 – Consultation on Licensing Policy**Summary**

1. This report outlines the council's responsibilities under the Gambling Act 2005 and the timescales for its implementation. It seeks member approval to consult on a draft statement of licensing policy and agreement on those parties to be consulted. Members are also asked to approve a rearranged date for a future meeting of the committee to consider the responses to the consultation exercise.

Background

2. The Department for Culture, Media and Sport (DCMS) provide the following overview of the Gambling Act 2005 (the Act):

“The Act replaces most of the existing law about gambling in Great Britain and puts in place an improved, more comprehensive structure of gambling regulation. This includes a new structure of flexible protections for children and vulnerable adults and, in particular, brings the burgeoning internet gaming sector within British regulation for the first time. It creates a new independent regulatory body, the Gambling Commission (the Commission), which will be the new, tough national regulator for commercial gambling in Great Britain.

The Act also allows for a controlled increase in the number of casinos in Great Britain. There will be a maximum of 17 new style casinos, whose locations will be proposed by an independent advisory panel. Existing casinos will be able to continue broadly as now. These new casinos will be significant leisure developments that will bring jobs and improved leisure facilities where they are wanted. But the Act also puts in place a strong role for local authorities in licensing gambling premises in their area, and authorities will be able to resolve not to license any new casinos in their area if they do not want them.”

3. A more comprehensive overview to the Act is attached at annex1 to this report.

Role of the Local Authority

4. The City of York will be a licensing authority under the Act and will be responsible for:

- Issuing premises licences for casinos, betting offices, race tracks, bingo clubs, adult gaming centres, family entertainment centres
 - Issuing permits for gaming machines in members' clubs and licensed premises, gaming in members' clubs, prize gaming including certain lotteries and unlicensed family entertainment centres
 - Endorsing temporary use notices
 - Issuing provisional statements
 - Receiving occasional use notices
 - Receiving notifications for the use of 2 or less gaming machines in licensed premises.
 - Providing information to the Gambling Commission
 - Maintaining a register of permits and licences issued
 - Carrying out its enforcement functions under the Act either independently or in partnership with the Gambling Commission or the police.
5. Before being able to exercise its powers under the Act a licensing authority must prepare and publish a licensing policy covering all their functions. An essential part of that process is consultation. The policy should be reviewed from time to time and in any event is subject to a 3 yearly renewal.

Draft Licensing Policy Statement

6. Attached at Annex 2 is the draft policy statement to be subject to consultation. The document is produced as a working paper, which will, after revision following the consultation, be edited prior to publication. The government recommended time for the consultation process is 12 weeks.

Timescales

7. The following are key dates leading to the implementation of the Act;

Approval of draft statement by Licensing Act 2003 Committee – 7th July 2006.

Draft statement out for consultation 14th July 2006

Consideration of responses by Licensing Act 2003 Committee – to be arranged. (scheduled meeting 6th October)

Approval of statement of licensing policy by Council 30th November 2006.

Licensing Policy Statement published December 2006.

Licence applications accepted February 2007 (subject to legislation)

Full implementation 1st September 2007 (subject to legislation)

Consultation

8. The Act requires the following to be consulted:
 - a) The Chief Officer of Police, and
 - b) 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
 - c) 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 this Act
9. It is proposed to consult in respect to those included in b) above
 - Casino Operators Association
 - British Casinos Association
 - Association of British Bookmakers
 - William Hill Bookmakers
 - Ladbrokes Bookmakers
 - Coral Bookmakers
 - BACTA (leisure machines)
 - Racecourse Association
 - Business in Sport and Leisure
 - British Pub and Beer Association
 - Bingo Association
10. It is proposed to consult in respect to those included in c) above
 - City of York Safeguarding Children Board
 - Selby and York Primary Care Trust
 - Safer York Partnership
 - Director of Housing and Adult Social Services
 - Director of Learning, Culture and Children's Services
 - Director of City Strategy
 - Citizens Advice Bureau
 - Council for Voluntary Services
 - GamCare
 - York Tourism Bureau
11. In addition we propose to publish the draft policy on the councils website and provide a press release for the local media. All members of this council and parish councils will be directed to the consultation document on the website and comments will be invited.

Options

12. Members have the following options:
- a) to approve the draft policy for consultation without amendment
 - b) to make amendment to the draft policy prior to the consultation process
 - c) to agree or amend the proposed list of consultees

Analysis

13. The opportunities for this authority to make significant changes to the policy are limited by legislation. There are however areas where local decisions are required and members may wish to consider these in relation to the to the options above.
- a) Casinos – the Licensing Authority may resolve a ‘no casino’ resolution, which will prevent casino operators applying for a casino in the city, should there be a relaxation in the current limitation on the number of casinos nationally. Such a resolution lasts for 3years and maybe revoked by further resolution. (Draft policy Part B. 4 page 19)
 - b) Permits for unlicensed Family Entertainment Centres – these are premises where only low category D gaming machines are in use. There is no restriction on entry or use of machines by children. No operator’s licence is required. A permit is issued by the licensing authority. A licensing authority may include in their policy a statement of principles they intend to apply when considering applications for these permits. The draft policy Part C.1 page 26 sets out a statement as suggest by the Gambling Commission but authorities are able to determine their own principles or indeed not adopt any.
 - c) Permits for prize gaming – gaming where the size of the prize is not determined by the number of persons playing. Children or young persons may participate in equal chance prize gaming ie bingo and maybe attracted to premises offering this facility. A licensing authority may include in their policy a statement of principles they intend to apply when considering applications for these permits. The draft policy Part C.3 page 29 sets out options in relation to the authorities principles.
 - d) Interested parties-the draft policy Part A.6 page 5 sets out officers views as to who should be considered as an interested party in general terms giving maximum discretion to the licensing authority. There is scope however for the authority to be more prescriptive.

- e) Location - the draft policy Part B.1 page 12 sets out officers views as to how the licensing authority will consider location of applicants premises in relation to meeting the licensing objectives. The parameters are set give the authority maximum discretion but there is scope to be more prescriptive.

Corporate Priorities

14. The Gambling Act has 3 objectives:

- a) preventing gambling from being a source of crime and disorder, being associated with crime and disorder or being used to support crime;
- b) ensuring that gambling is conducted in a fair and open way; and
- c) protecting children and other vulnerable persons from being harmed or exploited by gambling.

These will contribute to the overall corporate objective of :

“Improving the actual and perceived impact of violent, aggressive and nuisance behaviour on people in York.”

Such behaviour can be associated with poorly regulated gambling activities.

15. Implications

- **Financial** - N/A
- **Human Resources (HR)** – N/A
- **Equalities** – N/A
- **Legal** – The Gambling Act requires a licensing policy statement to be prepared, consulted on and published by the licensing authority. This statement is required to set out the principles which the licensing authority propose to apply in exercising its functions under the Act
- **Crime and Disorder** - The Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority’s responsibility to co-operate in the reduction of crime and disorder in the city.
- **Information Technology (IT)** – N/A
- **Property** – N/A
- **Other** – none

Risk Management

- 16. In compliance with the Councils risk management strategy any decision made which is unreasonable or unlawful could be open to legal challenge resulting in loss of image reputation and potential financial penalty. The Council needs to adopt a Licensing Policy for application of the Act which is lawful and upon which licensing decisions can be based.
- 17. Measured in terms of impact and likelihood, the risk score has been assessed at less than 16. This means that at this point the risks need only to be monitored, as they do not provide a real threat to the objectives of this report.

Recommendations

- 18. Members are requested to
 - a) approve the draft statement of the Gambling Act 2005 licensing policy as submitted or amended for consultation; and
 - b) approve the named consultees and process for consultation ; and
 - c) determine a suitable date for a meeting of this committee to take place after the period for consultation, which concludes on 6th October 2006 and before full council on 30th November 2006

Reason: to meet legislative requirements.

Contact Details

Author:

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Chief Officer Responsible for the report:

Andy Hudson
Assistant Director Neighbourhood Services

Report Approved **Date** 20/6/06

Wards Affected:

All

For further information please contact the author of the report

Background Papers:

Gambling Act 2005
Gambling Commission Guidance to Licensing Authorities

Annexes

Annex 1 Summary of Gambling Act 2005
Annex 2 Draft statement of Licensing Policy (Gambling Act 2005) (see below)

Please Note:

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The Gambling Act 2005

Summary of the Act

1. The Act repeals the Betting, Gaming and Lotteries Act 1963 (c.2), the Gaming Act 1968 (c.65) and the Lotteries and Amusements Act 1976 (c.32).
2. Gambling will be unlawful in Great Britain, unless permitted by:
 - the measures contained in this Act; or
 - measures contained in the National Lottery etc. Act (c.39), or pursuant to the Financial Services and Markets Act 2000 (c.8)
3. Two comprehensive offences are established: providing facilities for gambling or using premises for gambling, in either case without the appropriate permission. Such permission may come from a licence, permit or registration grant pursuant to the Act or from an exemption given by the Act. Where authority to provide facilities for gambling is obtained under the Act, it will be subject to varying degrees of regulation, depending on the type of gambling, the means by which it is conducted, and the people by whom and to whom it is offered.
4. The Act introduces a unified regulator for gambling in Great Britain, the Gambling Commission (“the Commission”), and a new licensing regime for commercial gambling (to be conducted by the Commission or by licensing authorities depending on the matter to be licensed). The Act removes from licensing justices all responsibility for granting gaming and betting permissions, which they exercised previously. Instead, the Commission and licensing authorities will share between them responsibility for all those matters previously regulated by licensing justices.
5. The commission will not regulate spread betting, which is currently the preserve of the Financial Services Authority (at least for the time being), or the National Lottery, which is regulated by the National Lottery Commission. Those aside, the Commission will regulate all commercial gambling in Great Britain.
6. The Commission will take over from the Gaming Board for Great Britain. In addition to assuming responsibility for the Board’s current remit of regulating gaming and certain lotteries, the Commission will take on responsibility for regulating betting. The Commission will be responsible for granting operating and personal

licences for commercial gambling operators and personnel working in the industry. It will also regulate certain lottery managers and promoters. The Act sets out different types of operating licence that cover the full spectrum of commercial gambling activities conducted in Great Britain. It also makes provision for the Commission to have powers of entry and inspection to regulate gambling, with safeguards for those subject to the powers.

7. The Act establishes a Gambling Appeals Tribunal to hear appeals from decisions made by the Commission.
8. Licensing authorities will have new powers to license gambling premises within their area, as well as undertaking functions in relation to lower stake gaming machines and clubs and miners' welfare institutes. In England and Wales local authorities are given these responsibilities; in Scotland they are given to licensing boards. There will be a new system of temporary new notices. These will authorise premises that are not licensed generally for gambling purposes to be used for certain types of gambling, for limited periods.
9. The Act contains three licensing objectives which underpin the functions that the Commission and licensing authorities will perform. These objectives are central to the new regulatory regime created by the Act. They are:
 - Protecting children and other vulnerable people from being harmed or exploited by gambling;
 - Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime; and
 - Ensuring that gambling is conducted in a fair and open way.
10. Regulation of gambling in Great Britain will be achieved through a variety of measures established under the Act. These include:
 - Secondary Legislation;
 - Conditions on Licences;
 - Codes of Practice; and
 - Guidance

11. The Act recognises and accommodates the significant technological changes that have taken place in the last 40 years. The Act requires regulation of gambling where the player is not present on the operator's premises. For example, operators based in Great Britain must obtain an operating licence to authorise the provision of gambling via remote communication eg via interactive television or the internet. Moreover, the new licensing system has been designed to keep pace with technological developments, so that, subject to appropriate Parliamentary approval, gambling delivered by new, unforeseen, methods can be regulated in the future
12. The Act revises the law of gambling. For example commercial bingo premises and casinos will no longer have to operate as clubs with a 24 hour membership rule (making them places to which the public will now have access); and a new class of betting intermediary operating licence has been introduced, to cater for the development of betting exchanges. The Act also repeals legislation that has prevented contracts relating to gambling from being enforceable through the courts.
13. The Act makes significant changes to the regime for casinos. It removes certain regulatory controls which existed under the Gaming Act 1968 (for example, "permitted" areas and the demand test). Three categories of casino are introduced (regional, large and small). These are defined according to a casino's size. A casino's category affects what forms of gambling can be provided at the casino. For example, a casino's gaming machine entitlement depends upon which category it falls into. There will be a minimum size limit for new casinos established under the Act.
14. The Act imposes an initial limit of 1 regional casino, and 8 small and 8 large casinos, to be licensed under the Act. There are powers to amend these limits or remove them entirely, subject to appropriate Parliamentary approval. Casinos which are in operation, or which can lawfully be operated, immediately before the casino provisions of the Act come into force will be allowed to continue to operate. This will be provided for by means of transitional provisions. A power is provided for licensing authorities to pass resolutions not to licence any new casinos premises in their area.
15. The Act introduces a new regime for gaming machines. A new definition of gaming machine is provided, together with power to prescribe categories. The Act provides certain entitlements for commercial operators to use specified numbers and categories of machines in consequence of their licences. It also establishes permit procedures for authorising use of the lower stake gaming machines in specific locations.

16. The Act provides protection for children and vulnerable adults from the effects of harmful gambling. It does this through a number of specific offences that will prevent children and young people from being given access to inappropriate or harmful gambling opportunities. In particular, it will be an offence to invite or permit a child or a young person to gamble contrary to the provisions of the Act. The Commission is required to promote socially responsible gambling thorough licence conditions and codes of practice directed at those providing facilities for gambling. The Act also provides powers for the Commission to void bets that are unfair, for example due to cheating.
17. A revised regime for the law of lotteries is contained in the Act, building upon that contained in the Lotteries and Amusements Act 1976, which the Act repeals. The Act regulates lotteries in two ways: either as exempt lotteries, or as licensable lotteries.
18. The Act makes provision for the advertising of gambling, creating new offences relating to the advertising of unlawful gambling and providing powers for the Secretary of State to make regulations controlling the content of gambling advertisements.
19. The Act establishes a series of authorisations for private and non-commercial gambling in Great Britain. This includes authorisations for domestic gaming and betting, and provisions for gaming and lotteries at non-commercial events.

GAMBLING ACT 2005**Statement of Licensing Policy**

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This Statement of Principles has been drafted at a time when a number of regulations, Operating / Personal Licence conditions, Codes of Practice and guidance are not yet published. Should anything in these impact upon the content of this document it will need to be borne in mind and amended at a later stage, bearing in mind resource implications for the authority. All references to the Gambling Commission's Guidance for Licensing Authorities refer to the Guidance published in April 2006.

PART A**1. Introduction**

- 1.1 City of York Council is the Licensing Authority for the application of the Gambling Act 2005 (the Act) within its administrative area.
- 1.2 City of York Council is a unitary authority that has a population of 181,100 (2001 Census) and covers an area of 105 square miles. It comprises the urban area of York that is surrounded by many small rural and semi-rural settlements covered by parish councils.
- 1.3 Tourism and leisure are important industries for York attracting over 4 million visitors a year who spend £283 million annually in the city. Over 9,000 jobs have been created in the tourist and leisure industry sector (2004 figures). This level of tourism can present challenges to the city in balancing the requirements of residents against the economic benefits that tourism can bring.
- 1.4 The following premises within the City of York area are currently concerned with the gambling industry: York racecourse, 30 betting offices, 2 bingo halls, 4 amusement arcades, 300 premises with AWP (amusement with prize) machines and 178 small society lotteries.

2. The Licensing Objectives

- 2.1 In exercising most of its functions under the Act, this Licensing Authority must have regard to the licensing objectives as set out in section 1 of the Act. These licensing objectives are:

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

2.2 In accordance with section 153 of the Act, this Authority will aim to permit the use of premises for gambling:

- 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.

3. Consultation on Producing City of York Council Gambling Policy

3.1 This Licensing Authority is required by the Act to publish a statement of the principles that it proposes to apply when exercising its functions. This statement must be published at least every three years and must also be reviewed from "time to time". Any amended parts must be re-consulted upon and the statement re-published.

3.2 The Act requires that the following parties be consulted:

- The Chief Officer 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;

- 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.

3.3 City of York Council consulted widely upon this policy statement before finalising and publishing it. A list of those consulted is provided at Annex [?].

3.4 Consultation took place between [date] and [date] and followed the Revised Code of Practice (which came into effect in April 2004) and the Cabinet Office Guidance on consultations by the public sector.

3.5 The full list of comments made and the consideration by the Council of those comments is available via the Council's website at: www.york.gov.uk/licensing.

3.6 The policy was approved at a meeting of the Full Council on [date] and was published via our website on [date]. Copies were also placed in all branches of the public library.

3.7 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 in accordance with the statutory requirements of the Act.

4. Declaration

4.1 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 to Licensing Authorities issued by the Gambling Commission (the Guidance), and any responses from those bodies consulted on the policy statement.

5. Responsible Authorities

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

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

5.2 This Authority designates the City of York Safeguarding Children Board for this purpose.

5.3 The contact details of all the Responsible Bodies are attached at Annex [?].

6. Interested Parties

6.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. As defined in the Act a person is an interested party if, in the opinion of the Licensing Authority, 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).

6.2 As required by regulations, in determining whether a person is an interested party, this Licensing Authority will determine each case upon its merits and will refer to the advice provided in the Guidance at 8.14 and 8.15 when determining what “sufficiently close to the premises” means. Factors which will be taken into account may include the following:

- 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;
- the circumstances of the complaint.

6.3 This Authority will also consider the Guidance with regard to interpretation of the phrase “has business interests” which should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

6.4 The Gambling Commission has recommended that the Licensing Authority state that interested parties include trade associations and trade unions, and residents’ and tenants’ associations (Guidance 8.17). This Authority will view these bodies as interested parties if they are representing someone who can be classed as an interested person as indicated above, ie lives sufficiently close to the premises to be likely to be affected by the activities being applied for.

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

6.6 If individuals wish to approach councillors to ask them to represent their views then care will be taken to ensure that these councillors are not part of the Licensing Committee dealing with the licence application.

7. Exchange of Information

7.1 This Licensing Authority will act in accordance with the provisions of sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and section 350 of the Act with respect to the exchange of information between it and the other persons listed in schedule 6 to the Act, which includes the provision that the Data Protection Act 1998 will not be contravened. This Authority will also have regard to any Guidance issued by the Gambling Commission as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

8. Enforcement

8.1 This Licensing Authority will apply the following principles in exercising its 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, and will endeavour to be:

- Proportionate: regulators should only intervene when necessary and 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.

8.2 This Authority will endeavour to avoid duplication with other regulatory regimes so far as possible. It will also adopt a risk-based inspection programme.

8.3 The main enforcement and compliance role for this Licensing Authority in terms of the Act will be to ensure compliance with premises licences and other permissions that 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.

8.4 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.

8.5 Any enforcement will seek to build upon the good working relationship which currently exists in the City of York between the enforcement areas. All parties recognise the importance of effective co-operation and liaison to ensure those with responsibility under the Act understands and complies with the law. In particular any enforcement should also provide for the targeting of agreed problems and high-risk premises which require greater attention whilst providing a lighter touch in respect of low risk premises which are well run.

8.6 This Authority's enforcement/compliance protocols/written agreements will be available upon request to the licensing section.

9. Licensing Authority Functions

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

9.2 This Authority will not be involved in licensing remote gambling at all. This will fall to the Gambling Commission via operating licences.

10. Decision Process

10.1 The ability of the Licensing Authority to take decisions is limited either by the provisions in the Act, Regulations made under the Act, or by the Gambling Commission's Guidance.

10.2 The Licensing Authority has reviewed its constitution and scheme of delegation to officers to ensure effective implementation of the Act. Licensing Committee and Sub-Committees have been set up to deal with licensing issues and the determination of applications in certain cases ie those where representations have been made or where premises licences require review. None contentious applications (ie those where no representations have been made), will be delegated to officers. A summary of Licensing Authority delegations permitted under the Act is attached at Annex [?].

PART B

PREMISES LICENCES

1. General Principles

1.1 Premises licences will be subject to the requirements set out in the Act and regulations, as well as specific mandatory and default conditions that will be detailed in regulations issued by the Secretary of State. This Licensing Authority is able to exclude default conditions and also attach others, where it is believed to be appropriate.

1.2 This Licensing Authority will 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.

1.3 This Authority appreciates that moral objections are not a valid reason to reject applications for premises licences (Guidance 5.27) and also that unmet demand is not a criterion for a licensing authority (Guidance 6.11).

1.4 **Definition of “premises”** – Premises is defined in the Act as “any place”. Different premises licences cannot apply in respect of a single premise at different times. However, it is possible for a single building to be subject to more than one premises licence, providing 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 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.

1.5 This Licensing Authority takes particular note of the Guidance (7.11 and 7.13) in that:

- Particular care will be exercised 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 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.
- Particular attention will be paid to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). Consideration will be given to whether children can gain access; compatibility of the two establishments; and ability to comply with the requirements of the Act. In addition consideration will be given if, 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.

1.6 Applicants cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed. A licence to use premises for gambling will only be issued in relation to premises that are ready to be used for gambling. It will be a question of fact and degree whether premises are finished to a standard that they can be considered for a premises licence. The requirement that the building be complete ensures that the Authority can, if necessary, inspect it fully, as can other responsible authorities with inspection rights.

1.7 **Location** – Demand issues cannot be considered with regard to the location of premises but considerations in terms of the licensing objectives can be considered.

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.

1.8 Duplication with other regulatory regimes – This Licensing Authority will seek to avoid any duplication with other statutory / regulatory systems where possible, including planning. Planning permission or building regulations approval will not be taken into consideration in determining an application. However, any concerns about conditions that cannot be met by licensees due to planning restrictions will be considered, should such a situation arise.

1.9 Licensing objectives – Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this Licensing Authority has considered the Guidance and further comments are made below in relation to the objectives.

A) Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime – The Gambling Commission will take a leading role in preventing gambling from being a source of crime. However, this Licensing Authority will 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.

- B) **Ensuring that gambling is conducted in a fair and open way** – 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 for licensing authorities with regard to tracks that is explained in more detail in the ‘tracks’ section below.
- C) **Protecting children and other vulnerable persons from being harmed or exploited by gambling** – This objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at, or are, particularly attractive to children). This Licensing Authority will consider whether specific measures are required at particular premises with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc. This Authority will 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.

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

1.11 **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.

1.12 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 some of the licence types below. This Authority will also expect an applicant to offer his/her own suggestions as to the way in which the licensing objectives can be met effectively.

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

1.14 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 so that it can be observed by the staff 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.

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

1.15 Tracks (see this part, section 7) may be subject to one or more premises licence, provided each licence relates to a specified area of the track. 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.

1.16 This Licensing Authority cannot attach:

- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;

- conditions which provide that membership of a club or body be required (the Act specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated); and
- conditions in relation to stakes, fees, winnings or prizes.

1.17 Door Supervisors – This Licensing Authority will 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 door supervisors at casinos or bingo premises cannot be licensed by the Security Industry Authority (SIA). This Licensing Authority will consider specific requirements for door supervisors working at casinos or bingo premises on the merits of each application. Should any generic policy be considered in future full consultation will take place and will be reflected in a subsequent policy.

PREMISES CLASSIFICATION

2. Adult Gaming Centres

2.1 Adult gaming centres are a new category of premises introduced by the Act and allow category B, C and D gaming machines to be available on the premises. No-one under the age of 18 is permitted to enter these type of premises.

2.2 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.

2.3 Applicants will be expected to offer their own measures to meet the licensing objectives however appropriate measures / licence conditions may cover such issues 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 numbers for organisations such as GamCare.

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

3. (Licensed) Family Entertainment Centres

3.1 The Act creates two classes of family entertainment centre. This type provides category C and D machines and requires a premises licence. Children and young persons will be permitted to enter these type of premises and may play on the category D machines providing there is clear segregation between the two types of machine.

3.2 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.

3.3 Applicants will be expected 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 children on the premises.

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

4. Casinos

4.1 The Act defines a casino as an arrangement whereby people are given an opportunity to participate in one or more casino games. Casino games are defined as a game of chance which is not equal chance gaming. Casinos are categorised as regional, large or small dependant on size of the premises, and are subject to various limitations with regard to casino games and gaming machines permitted on the premises.

4.2 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 Authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution. Any such decision will be made by the Full Council.

5. Bingo Premises

5.1 Bingo has not been given a statutory definition in the Act, however it is currently categorised as “equal chance gaming”. The Guidance states that it is to have its ordinary and natural meaning.

5.2 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 (Guidance 18.4). Where category C or above machines are available in premise to which children are admitted this Licensing Authority will 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.

5.3 The Gambling Commission will be issuing further guidance about the particular issues that licensing authorities should take into account in relation to the suitability and layout of bingo premises. This Authority will consider this guidance once it is made available.

6. Betting Premises

6.1 The Act contains a single type of licence for betting premises. However, within this single class of licence there will be different types of premises which require licensing. One type will be off course betting ie the betting shop. The other sort of licensing will be betting at a track ie a racecourse (dealt with in this part, section 7). There is a separate type of premises licence for betting on tracks, however, it is possible for there to be a premises licence for betting offices on tracks.

6.2 Betting machines – This Licensing Authority will take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

7. Tracks

7.1 Tracks are sites, including horse racecourses and dog tracks where races or other sporting events take place eg football grounds and cricket grounds.

7.2 This Licensing Authority is aware that tracks may be subject to one or more than one premises, provided each licence relates to a specified area of the track. This Licensing Authority will especially consider the impact upon the third licensing objective (ie the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

7.3 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.

7.4 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.

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

7.6 Gaming machines – Further guidance from the Gambling Commission is awaited 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 Authority notes the 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.

7.7 Betting machines – This Licensing Authority will take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer. This Licensing Authority will consider restricting the number and

location of such machines in respect of application for track betting premises licences.

- 7.8 Condition on rules being displayed – This Licensing Authority will 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.
- 7.9 Applications and plans – This Licensing Authority would require 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.
- 7.10 This Licensing Authority would consider it 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 a 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

- 8.1 This Licensing Authority will 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.

- 8.2 This Authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

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

- 9.1 Where a person expects premises to be constructed or altered, or expects to acquire a right to occupy premises, he may apply for a provisional statement from the Licensing Authority, in advance of a full premises licence.
- 9.2 It is a question of fact and degree whether premises are finished to a standard that they can be considered for a premises licence, however, the requirement that the building be complete ensures that the authority could, if necessary, inspect it fully.
- 9.3 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. This Licensing Authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:
- (a) which could not have been raised by objectors at the provisional licence stage; or
 - (b) which in the Authority's opinion reflect a change in the operator's circumstances.

10. Reviews

- 10.1 Interested parties or responsible authorities can make requests for a review of a premises licence, however, it is for the Licensing Authority to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below, as well as consideration as to whether

the request is frivolous, vexatious, will certainly not cause this Authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review:

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

10.2 The Licensing Authority can also initiate a review of a licence on the basis of any reason which it thinks is appropriate. Where the Authority initiates a review this will be first agreed by the Assistant Director of Neighbourhood Services in consultation with the Executive Member for Neighbouring Services.

PART C

Permits/Temporary & Occasional Use Notice

1. Unlicensed Family Entertainment Centre Gaming Machine Permits (Statement of Principles on Permits – Schedule 10 Para 7)

1.1 Where a premise does not hold a premises licence but wishes to provide gaming machines, it may apply to the Licensing Authority for this permit. In accordance with section 238 of the Act, the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.

1.2 The Act states that the Licensing Authority may prepare a *statement of principles* that it proposes 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 Gambling Commission. The "statement of principles" only applies to initial applications and not to renewals .

1.3 An application for a permit may be granted only if the 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. Applicants should be able 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 staked and prizes. (Guidance 24.7).

1.4 The Licensing Authority cannot attach conditions to this type of permit.

1.5 **Statement of Principles - Options Available**

Option 1 - 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 Authority will also expect applicants 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.

OR

Option 2 - This Licensing Authority has adopted a Statement of Principles which is *[insert text]* available from our website/on request *[insert website link or contact details]*

OR

Option 3 - This Licensing Authority has not currently adopted a Statement of Principles. Should it decide to do so it will be available from the licensing section *[insert contact details]*. Potential applicants/ other interested persons are advised to check with the licensing section as to whether a policy has been adopted. *[If the Authority decides not to adopt a Statement of Principles, it will need to have a reason why it has not followed the Guidance 24.7 in this regard].*

2. (Alcohol) Licensed Premises Gaming Machine Permits – (Schedule 13 Para 4(1))

- 2.1 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 Authority can remove the automatic authorisation in respect of any particular premise if:
- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
 - gaming has taken place on the premises that breaches a condition of section 282 of the Act (ie that written notice has been provided to the Licensing Authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
 - the premises are mainly used for gaming; or
 - an offence under the Gambling Act 2005 has been committed on the premises.
- 2.2 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, and such matters as this Authority thinks relevant.
- 2.3 This Authority considers that "such matters" will be decided on a case by case basis particularly with regard to the need to protect children and vulnerable persons. The applicant will need to satisfy the Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to adult only gaming machines. Measures which will satisfy the Authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may be

necessary. Applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

2.4 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.

2.5 The Licensing Authority may decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

2.6 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 machines.

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

3.1 The Gambling Act 2005 states that the Licensing Authority may prepare a statement of principles that it proposes to apply in exercising its functions under this Schedule which may, in particular, specify matters that the Licensing Authority proposes to consider in determining the suitability of the applicant for a permit.

3.2 Statement of Principles - Options Available

Option 1 - This Licensing Authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. 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 Authority will also expect applicants to demonstrate a full understanding of the maximum stakes and prizes as set out in regulations; 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.

OR

Option 2 - This Licensing Authority has adopted a Statement of Principles which is *[insert text]* available from our website/on request *[insert website link or contact details]*

OR

Option 3 - This Licensing Authority has not currently adopted a Statement of Principles. Should it decide to do so it will be available from the licensing section *[insert contact details]*. Potential applicants/ other interested persons are advised to check with the licensing section as to whether a policy has been adopted. *[If the Authority decides not to adopt a Statement of Principles, it will need to have a reason why it has not followed the Guidance 24.7 in this regard].*

3.3 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.

3.4 It should be noted that there are conditions in the Act with which the permit holder must comply, but 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 in any other gambling.

4. Club Gaming and Club Machine Permits

4.1 Members clubs and miners' welfare institutes (but not commercial clubs) may apply for a Club Gaming Permit or a Clubs Gaming Machines Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance 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).

4.2 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.

4.3 An application may only be refused on the grounds that:

- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- (b) the applicant's premises are used wholly or mainly by children and/or young persons;
- (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- (d) a permit held by the applicant has been cancelled in the previous ten years; or
- (e) an objection has been lodged by the Gambling Commission or the police.

4.4 There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (schedule 12 paragraph 10). Under the fast-track procedure there is no opportunity for objections to be made by the Gambling Commission or the police, and the grounds upon which the Licensing Authority can refuse a permit are reduced. These grounds are:

- (a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;

- (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

4.5 There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

5. Temporary Use Notices

5.1 There are a number of statutory limits as regards Temporary Use Notices. The meaning of “premises” in part 8 of the Act is discussed in part 7 of the Guidance. As with “premises”, the definition of “a set of premises” will be a question of fact in the particular circumstances of each notice that is given. In the Act “premises” is defined as including “any place”. In considering whether a place falls within the definition of a “a set of premises”, this Licensing Authority will look at, amongst other things, the ownership/occupation and control of the premises.

6. Occasional Use Notices

6.1 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. This Authority will consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

ANNEXES TO ADD

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