

**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, 3 November 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 - 2)

To approve and sign the minutes of the meeting held on 6 October 2006.

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 2 November 2006 at 10.00am.

4. Gambling Policy (Pages 3 - 52)

This report advises members of the consultation exercise carried out in respect of the draft licensing policy as agreed by the Licensing Act 2003 committee on 7th July 2006. It seeks members approval of a revised policy and a recommendation for it to be approved by Council on 30th November 2006. It also seeks members direction as to the method of publication of the policy.

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

Democracy Officer

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

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

City of York Council

Minutes

MEETING	LICENSING ACT 2003 COMMITTEE
DATE	6 OCTOBER 2006
PRESENT	COUNCILLORS NIMMO (CHAIR), BARTLETT (VICE-CHAIR), D'AGORNE, EVANS, SUE GALLOWAY, HYMAN, KING, REID, RUNCIMAN, I WAUDBY AND WILDE
APOLOGIES	COUNCILLORS HALL, HORTON, MOORE AND B WATSON

5. DECLARATIONS OF INTEREST

At this point Members were asked to declare any personal or prejudicial interests they had in the business on the agenda.

Councillor Evans declared a personal non-prejudicial interest in agenda item 4 (Operational Implications of the Licensing Act 2003) as an employee of York Museums Trust, who held the licence for Museum Gardens.

6. MINUTES

RESOLVED: That the minutes of the meeting held on 7 July 2006 be approved and signed as a correct record.

7. PUBLIC PARTICIPATION

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

8. OPERATIONAL IMPLICATIONS OF THE LICENSING ACT 2003

Members received a report which advised them of two operational implications of the Licensing Act 2003 in relation to the performance of exotic dance and the holding of licensable activities on public land where a premises licence is in force.

The report explained that the Council had granted premises licences for nine public spaces within the city. The effect of this was that the licence holders could authorise any other person to hold licensable activities on this land within the limitations and conditions of the licence.

Members noted that the aborted plan to stage a circus in Hull Road Park was inappropriate but not in breach of the licence. They highlighted the need for Council directorates holding licences for public spaces to assess the merits of proposed events and carry out risk assessments, as well as checking that they complied with the licence, and requested that this be drawn to the attention of officers in these directorates.

The report also explained that the relaxation of the licensing laws had seen a number of enquiries from businesses interested in opening venues which provided exotic dancing and that this had resulted in the opening of a lap-dancing club in the Micklegate area of the city. It advised that, whilst the Licensing Authority could not object on moral grounds, it could, alongside statutory bodies and interested parties, take into account the increased risk to the licensing objectives and the statement of licensing policy, set out in paragraphs 15-20, in considering any applications made under the Licensing Act 2003 for grant, variation or review.

With regards to the suggested conditions listed at paragraph 20 of the report, Members noted that the age restriction for performers was 18 and for attendees was 21. They expressed the view that these age restrictions should be the same and noted that the age restriction for performers could not be raised without contravening the Employment Equality (Age) Regulations 2006 and that licence holders' house rules could stipulate an age restriction of 21 for attendees, even if the condition stipulated 18.

Members suggested that a daytime site visit to the club on Micklegate would be useful to view the premises and the CCTV monitoring equipment and procedures.

RESOLVED: That the contents of the report be noted.

REASON: To update Members on the operational implications of the Licensing Act 2003.

G NIMMO
Chair

The meeting started at 2.00 pm and finished at 2.35 pm.



*Licensing Act 2003 Committee
Executive
Council*

*3rd November 2006
21st November 2006
30th November 2006*

Report of the Director of Neighbourhood Services

Gambling Act 2005 – Statement of Licensing Policy

Summary

1. This report advises members of the consultation exercise carried out in respect of the draft licensing policy as agreed by the Licensing Act 2003 committee on 7th July 2006. It seeks members approval of a revised policy and a recommendation for it to be approved by Council on 30th November 2006. It also seeks members direction as to the method of publication of the policy.

Background

2. The Gambling Act 2005 received Royal Assent on 7th April 2005 and will come into full effect from September 2007. In order to implement the legislation the council, as licensing authority, must consult on and publish its statement of licensing policy. This policy should be reviewed from time to time and in any event after 3 years. The policy must be approved by full council.
3. Members will recall that legislation did not allow licensing authorities much discretion in the content of their policies and the July 2006 report highlighted 5 particular areas where local considerations could be made. These will be addressed in the analysis section of this report.
4. Attached to this report at annex 1 is a revised draft of the Gambling Act Policy which has been produced following the consultation and from an exercise conducted by officers to present the policy in a more logical and readable form. Minor clarification issues resulting from the consultation exercise have already been incorporated but member decisions will need to be added. Proof reading will be undertaken when all revisions have been made prior to final publication of the Policy .
5. Members should also note that, as was the case with the introduction of the Licensing Act 2003, we still do not have all the guidance and regulations necessary to operate this legislation.

6. There are requirements as to the publication of the policy. The policy must be published before 3rd January 2007 i.e. 4 weeks before the date it comes into effect which is 31st January 2007.
7. Notice of the publication must be made on the council website and in one or more of the following places: a local newspaper, local newsletters, public notice board near main office of the council or public notice boards of libraries in the area.
8. The policy itself must be published on the council website and be available for inspection at one or more public libraries and other premises ie. council offices.

Consultation

9. At its meeting on 7th July 2006 the Licensing Act 2003 Committee approved a draft policy on which to consult and also approved a list of consultees. The consultation process was subsequently conducted over a period of 12 weeks and ended on 6th October 2006.

As a result of the consultation process 38 responses were received and these are summarised in a table at Annex 2 to this report.

Options

10. Members have the following options:
 - a. To make amendments to the draft policy as recommended.
 - b. To make any other amendments they see necessary.
 - c. To determine a policy for the publication of the policy.

Analysis

11. Members attention is particularly drawn to the following issues where decisions are required to be inserted into the draft policy.
 - 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 3 years and maybe revoked by further resolution. (Draft Policy paragraphs 22.1 and 22.2)

Comment: members will note that there is a mixed view of respondents to the consultation. Of those who commented 11 were in favour of York having a licensed casino and 19 against.

Unless the government amend legislation to allow more casinos to be developed no applications will be possible in York. The adoption or

otherwise of a 'no casino policy' would however set a marker for the future should legislation change. In any event the council's policy may be changed at any time subject to the proper procedure being followed.

- 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 paragraph 29.5 sets out a statement as suggested by the Gambling Commission but authorities are able to determine their own principles or indeed not adopt any.

Comment: There are no special circumstances in York that would seem to require any different policy to that suggested by the Gambling Commission.

- 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 may be 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 paragraph 31.2 sets out options in relation to the authorities principles.

Comment: There are no special circumstances in York that would seem to require any different policy to that suggested by the Gambling Commission.

- d) Interested parties - the draft policy paragraphs 10.1–10.6 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.

Comment: Consultees were generally in favour of this approach. The Clementhorpe Community Association did however suggest that community and social groups be included. This is not possible as they are outside the statutory definition of interested party.

- e) Location - the draft policy paragraph 14.4 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 to give the authority maximum discretion but there is scope to be more prescriptive.

Comment: No specific comments were received in the consultation.

- f) Publication of policy - See paragraphs 7 and 8 of this report.

Comment : There are no publication dates for "Your City" that will fit into the required time frame. In order to provide a readily evidenced proof that the

policy was properly made then it is proposed that notice of its publication be made in the York Press. It is further suggested that notice be placed on the Guildhall notice board and that the policy will be available for inspection by the public at the Guildhall and 9 St Leonard's Place reception and at public libraries.

Corporate Priorities

12. 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 contribute to the Council's priority of reducing 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.

13. 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 before January 7th 2007. 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

14. 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 must adopt a Licensing Policy for application of the Act which is lawful and upon which licensing decisions can be based.

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

15. Members of the Licensing Committee are recommended to consider revisions to the draft licensing policy, make any amendments and :-
- (i) support the policy and recommend it for approval by full council on 30th November 2006, and
 - (ii) refer the draft policy to the Executive for consideration and recommend that the Executive endorse the document for subsequent approval by full Council, and
 - (iii) approve the method for publication of the policy as set out in paragraph 11(f)

Reason: to satisfy requirements of section 349 of the Gambling Act 2005.

Contact Details

Author:

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Neighbourhood Services
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Chief Officer Responsible for the report:

Andy Hudson
Assistant Director Neighbourhood Services

Report Approved

Yes

Date 17/10/2006

Wards Affected: *List wards or tick box to indicate all*

All yes

For further information please contact the author of the report

Background Papers:

Gambling Act 2005
Gambling Commission Guidance to Local Authorities
Report to Licensing Act 2003 Committee 7th July 2006

Annexes

Annex 1 Draft statement of policy (Gambling Act 2005)

Annex 2 Summary of responses to consultation exercise

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.

GAMBLING ACT 2005

1. Preface

1.1 The Gambling Act 2005 (the Act) introduces a new regime for regulating gambling and betting which will be introduced throughout the United Kingdom from 1 September 2007. Apart from the National Lottery and spread betting, gambling and betting will be regulated by the Gambling Commission, whose duties include licensing the operators and individuals involved in providing gambling and betting facilities.

1.2 City of York Council, along with other licensing authorities, has a duty under the Act to licence premises where gambling is taking place, and to licence certain other activities such as registering small society lotteries. This document sets out how we intend to approach this task.

2. Consultation on Producing City of York Council Gambling Policy

2.1 Under section 349 of the Act, licensing authorities are required to publish a statement of the principles which they propose to apply when exercising their functions in accordance with the legislation. This statement must be regularly reviewed and published at least every 3 years. If any part of the document is amended, further consultation and re-publication is required.

2.2 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.

2.3 City of York Council consulted widely upon this policy statement before finalising and publishing it. *[A list of those consulted will be attached at Appendix A.]*

2.4 Consultation took place between 14 July 2006 and 6 October 2006 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.

2.5 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.

2.6 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. Declaration

3.1 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.

3.2 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. Duplication with other regulatory regimes

4.1 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.

5. Profile of York

5.1 City of York Council is the Licensing Authority for the application of the Gambling Act 2005 (the Act) within its administrative area.

5.2 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.

5.3 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).

5.4 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.

PART A

ADMINISTRATIVE PRINCIPLES

6. The Licensing Objectives

6.1 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.

6.2 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 this Authority's statement of licensing policy.

6.3 The Gambling Commission's Guidance (5.27) states that "Moral objections to gambling are not a valid reason to reject applications for premises licences. This is because such objections do not relate to the licensing objectives. An authority's decision cannot be based on dislike of gambling, or a general notion that it is undesirable to allow gambling premises in an area (with the exception of the casino resolution powers). In deciding to reject an application, a Licensing Authority should rely on reasons that demonstrate that the licensing objectives are not being, or are likely to be met."

7. Licences under the Act

7.1 The Act provides for 4 categories of licence as follows;

- Operating licences
- Personal licences
- Premises licences
- Permits/Temporary and Occasional Use Notices

7.2 This Licensing Authority will be responsible for the issue of premises licences, permits and temporary and occasional use notices. The Gambling Commission will be responsible for the issue of operating licences and personal licences.

8. Licensing Authority Functions

8.1 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.

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

9. Responsible Authorities

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

9.2 Section 157 of the Act defines those authorities as:

- A Licensing Authority is whose area the premises are wholly or partly situated
- The Gambling Commission
- The Police
- The Fire and Rescue Service
- The Local Planning Authority
- Environmental Health
- The Local Children’s Safeguarding Board
- HM Revenue and Customs
- Any other person prescribed by regulations made by the Secretary of State

9.3 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, that is, 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.

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

9.5 *[The contact details of all the Responsible Bodies are to be added as Appendix B.]*

10. Interested Parties

- 10.1 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).
- 10.2 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.
- 10.3 This Authority will also consider the Guidance with regard to interpretation of the phrase “has business interests” which will be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.
- 10.4 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.
- 10.5 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.
- 10.6 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.

11. Decision Process

- 11.1 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.

- 11.2 This Licensing Authority will consider each application on its own merits whilst having regard to this Statement of Licensing Policy, the Act, Regulations made under the Act and the Gambling Commission's Guidance.
- 11.3 This 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. Non 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 as Appendix C.
- 11.4 Where representations are received the Licensing Authority will consider whether they are relevant, vexatious, frivolous or if they would influence the Authority's determination of the application, The Head of Licensing together with the relevant Assistant Director will determine if any representation meet this criteria.

12. Exchange of Information

- 12.1 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.

13. Enforcement

- 13.1 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.
- 13.2 This Authority will endeavour to avoid duplication with other regulatory regimes so far as possible. It will also adopt a risk-based inspection programme.
- 13.3 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.

- 13.4 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.
- 13.5 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 understand and comply 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.
- 13.6 This Authority recognises that certain bookmakers have a number of premises within its area. In order to ensure that any compliance issues are recognised and resolved at the earliest stage, operators are requested to give the Authority a single named point of contact, who should be a senior individual, and whom the Authority will contact first should any compliance queries or issues arise.
- 13.7 This Authority's enforcement/compliance protocols/written agreements will be available upon request to the licensing section.

PART B

PREMISES LICENCES

14. GENERAL PRINCIPLES

14.1 Premises licences will be subject to the requirements set out in the Act and regulations, as well as any 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. The grant of a premises licence must be reasonably consistent with the licensing objectives.

14.2 This Licensing Authority will aim to permit the use of premises for gambling in so far as it thinks is:

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

14.3 This Authority accepts 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).

14.4 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.

15. APPLICATION OF LICENSING OBJECTIVES

15.1 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.

15.2 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 and will aim to achieve this by maintaining rigorous licensing procedures. Anyone applying to the Licensing Authority for a premises licence will have to hold an operating licence issued by the Gambling Commission before a premises licence can be issued. Therefore, this Authority will not generally be involved in determining the suitability of an applicant and where concerns about a person's suitability arise this Authority will bring those concerns to the attention of the Commission.

- 15.3 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.
- 15.4 **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. Both issues will be addressed by the Gambling Commission through the operating and personal licence regimes.
- 15.5 As betting track operators do not need an operating licence issued by the Gambling Commission, there is more of a role for licensing authorities with regard to tracks and premises licence conditions that is explained in more detail in the ‘tracks’ section at paragraph 25.
- 15.6 **Protecting children and other vulnerable persons from being harmed or exploited by gambling**
This objective means preventing children from taking part in gambling (it includes the restriction of advertising so that gambling products are not aimed at, or are, particularly attractive to children). In general the aim of the Act is that children and young persons should not be allowed to gamble and should be prevented from entering gambling premises which are ‘adult-only’ environments.
- 15.7 In determining an application for a premises licence 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. The Gambling Commission will issue a Code of Practice in relation to casinos only which will deal with access to the premises for children and young persons.
- 15.8 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.

16. CONDITIONS

- 16.1 Under section 167 to the Act the Secretary of State may make regulations to provide for a specified ‘mandatory’ condition to be attached to a premises licence. Sections 168 and 169 allows the Secretary of State to make regulations prescribing a specified condition be attached to any premises licence unless excluded by the Licensing Authority, these are known as ‘default’ conditions. In addition the Licensing Authority may impose conditions on a premises licence in certain circumstances.

- 16.2 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.
- 16.3 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. This Authority will also expect an applicant to offer their own suggestions as to the way in which the licensing objectives can be met effectively. Conditions may cover such issues as:
- Proof of age schemes; eg ID such as a PASS accredited proof of age card, driving licence or passport
 - CCTV
 - Door supervisors
 - Supervision of entrances / machine areas
 - Physical separation of areas
 - Location of entry
 - Notices/signage – to include such information as age restrictions and contact details in the event of complaints.
 - Specific opening hours
 - Self-barring schemes
 - Provision of information leaflets / helpline numbers for organisations such as GamCare – to include such information as age restrictions and contact details in the event of complaints.
 - Measures / training for staff on how to deal with suspected truant children on the premises.

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

- 16.4 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.
- 16.5 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.

16.6 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.

17. Door Supervisors

17.1 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 (does not have to be) 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.

17.2 There is no evidence that the operation of betting offices has required door supervisors for the protection of the public. This Authority will make a door supervision requirement only if there is clear evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.

17.3 Should any generic policy be considered in future full consultation will take place and will be reflected in a subsequent policy.

17.4 Where premises are licensed for the sale of alcohol under the Licensing Act 2003 any door supervisors employed will have to be registered with the SIA.

18. Credit / ATMs

18.1 Section 177 of the Act requires, in relation to casino and bingo premises licences, that a condition be placed on the licence prohibiting the provision of credit in connection with gambling authorised by the licence or any involvement with such provision.

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

- 18.3 The Licensing Authority will expect all ATM or cash machines to be sited separately from gaming machines, so that clients will have to leave the machines for more funds if so required. The siting of ATMs may be subject to further legislation.

PREMISES CLASSIFICATION

19. DEFINITION OF “PREMISES”

- 19.1 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 to be determined on an individual basis by merit. 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.

- 19.2 This Licensing Authority takes specific 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.

- 19.3 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.

20. ADULT GAMING CENTRES

- 20.1 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.

- 20.2 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.

21. LICENSED FAMILY ENTERTAINMENT CENTRES

- 21.1 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 those and the category C machines.
- 21.2 This Licensing Authority will have specific 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.

22. CASINOS

- 22.1 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.
- 22.2 **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.

23. BINGO PREMISES

- 23.1 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.
- 23.2 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 premises 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 indicting that access to the area is prohibited to persons under 18.
- 23.3 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.

24. BETTING PREMISES

- 24.1 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 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.
- 24.2 With regard to 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.

25. TRACKS

- 25.1 Tracks are sites, including horse racecourses and dog tracks where races or other sporting events take place eg football grounds and cricket grounds.
- 25.2 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.
- 25.3 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.
- 25.4 Further guidance from the Gambling Commission is awaited with regard to gaming machines and 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. 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.
- 25.5 With regard to 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.

- 25.6 **Tracks: 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.
- 25.7 **Tracks: Applications and plans** – This Licensing Authority will 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.
- 25.8 This Licensing Authority considers 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.

26. TRAVELLING FAIRS

- 26.1 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.
- 26.2 This Authority will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 26.3 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 its boundaries is monitored so that the statutory limits are not exceeded.

27. PROVISIONAL STATEMENTS

- 27.1 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.
- 27.2 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.
- 27.3 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.

28. REVIEWS

28.1 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.

28.2 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 relevant Assistant Director in consultation with the relevant Executive Member.

PART C

PERMITS/TEMPORARY & OCCASIONAL USE NOTICE

29. UNLICENSED FAMILY ENTERTAINMENT CENTRE GAMING MACHINE PERMITS (STATEMENT OF PRINCIPLES ON PERMITS – SCHEDULE 10 PARA 7)

29.1 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.

29.2 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 .

29.3 An application for a permit may be granted only if the Authority is satisfied that the premises will be used as an unlicensed Family Entertainment Centre, 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 Family Entertainment Centres;
- 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).

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

29.5 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 Family Entertainment Centres; 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]*.

30. ALCOHOL LICENSED PREMISES GAMING MACHINE PERMITS – (SCHEDULE 13 PARA 4(1))

- 30.1 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.
- 30.2 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. Any determination will also have regard to the points listed at 30.1 and will be made by the Head of Licensing in consultation with the relevant Assistant Director.
- 30.3 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.
- 30.4 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.

30.5 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.

30.6 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.

30.7 Premises that are subject to a permit issued under the Gaming Act 1968 allowing the siting of more than two machines will automatically be entitled to grandfather rights.

31. PRIZE GAMING PERMITS – (STATEMENT OF PRINCIPLES OF PERMITS – SCHEDULE 14 PARA 8(3))

31.1 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.

31.2 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]*.

31.3 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.

- 31.4 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.

32. CLUB GAMING AND CLUB MACHINE PERMITS

- 32.1 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).
- 32.2 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.
- 32.3 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.
- 32.4 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.

32.5 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.

33. TEMPORARY USE NOTICES

33.1 A person holding an operating licence can serve on the Licensing Authority a notice regarding the temporary use of premises for:

- a) A casino,
- b) Facilities for the playing of bingo,
- c) Use of a gaming machine,
- d) Other facilities for gaming, or
- e) Facilities for betting.

33.2 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.

34. OCCASIONAL USE NOTICES

34.1 Where there is betting on a track, ie a racecourse, dog track or other sporting place and betting is carried out on 8 days or less in a calendar year, betting may be permitted by an occasional use notice without there being in force a full premises licence. However, anyone actually taking the bets must have the appropriate operating licence.

34.2 The Licensing Authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days 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.

35. TRANSITIONAL ARRANGEMENTS

35.1 During the transitional arrangements period specified in the Act, a premises licence will be issued to persons applying under an Order made by the Secretary of State under Schedule 18 of the Act, who have supplied the required information, documentation and fee. Issue of licences will be on the basis of existing permissions being continued. If however, the Police make a representation that the conversion of an existing licence would undermine the crime prevention and disorder objective, the licence will be referred to the Council’s Licensing Sub-Committee for consideration.

Appendix A to be attached

Appendix B

Appendix B to be attached

SUMMARY OF LICENSING AUTHORITY DELEGATIONS PERMITTED UNDER THE GAMBLING ACT

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

X = Indicates at the lowest level to which decisions can be delegated

Subsequent matters to be dealt with	Delegated persons
Determining whether representations made to an application or in relation to a review are vexatious, frivolous or whether they influence the Authority's determination of the application.	Head of Licensing with the relevant Assistant Director
Evaluating a review initiated by the Licensing Authority to determine the suitability of whether or not to proceed with a review.	Relevant Assistant Director with the relevant Executive Member
Application to allow more than 2 gaming machines on Alcohol Licensed Premises	Head of Licensing with the relevant Assistant Director

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Schedule of Responses to Licensing Policy

Ref No:	Respondent	Who should be considered an Interested Party?	Response	Should York have a Licensed Casino?	Comments	Appraisal / Response to Comments
1	Cllr S Galloway 6 Stirrup Close Foxwood York YO24 3LU	Ward Councillors	Ward Councillors are included	No	There is no suitable site at present and no proven demand for a casino	Noted
2	Cllr D Livesley 33 Lang Road Bishopthorpe York YO23 2QJ	List in Section 6 seems quite satisfactory		No	I think this would be entirely the wrong direction to take for tourism in a city like York. To enter this field would detract from the ambience of the majority both of residents and visitors.	Noted
3	Tony Lee York Racecourse York YO23 1EX			No	Personal view as a local resident, I believe we have enough evening activity in the city.	Noted

4	<p>Holly Robarts Racecourse Services Coordinator The Racecourse Association Ltd Winkfeld Road Ascot SL5 7HX</p>			<p>A comprehensive response to the policy was received from the Racecourse Association Ltd stressing that consultation between the DCMS, the Gambling Commission and the Racecourse Association was still ongoing. These are the main points relevant to the policy: Delineation - there is the suggestion that a level of delineation will be required between areas on racecourses covered by different betting premises licences. Given the layout of racecourse facilities, this may not be possible or practical. In addition, if these areas are covered by the racecourse's betting premise licence, such segregation will not be necessary.</p>	<p>Any applications received for the racecourse will be considered in line with the legislation and considered on their own merits</p>
	<p>Holly Robarts cont.</p>			<p>Separate licences for certain facilities - the council may require off-course operators with on-course facilities to hold a separate betting premises licence for this area. Discussions with DCMS have indicated that this will not be a mandatory requirement, and will be at the discretion of the racecourse and the betting operator. This should be reflected in the Statement of Principle.</p>	<p>This is already covered in the policy</p>
	<p>Holly Robarts cont.</p>			<p>Location - The council is asked to consider that the location of racecourses will not have altered since their foundation, and cannot be transferred to another location.</p>	<p>Noted</p>

	Holly Robarts cont.				Licensing Act 03 & Private Security Industry Act 01 - racecourses are already required to provide licensed door supervisors in some roles. In line with the Governments Better Regulations Agenda, the council should not impose any further provisions relating to door supervisors.	Noted
	Holly Robarts cont.				Access by Children - note that Section 47 of the Gambling Act allows children to enter a racecourse on days when racing is taking place or is scheduled to take place.	Noted
	Holly Robarts cont.				We would also request that the Statement takes account of the fact that the Guidance to Licensing Authorities does not represent an accurate picture of the intended premise licence regime as it will apply to tracks, though it lays the framework.	Noted
5	Rosemary Suttill 39 Seventh Avenue York YO31 0TZ			No	Protection of children & the vulnerable is imperative, proof of age cards, no gambling using credit, gamblers anonymous hotline to received high profile including a % of profits.	Points regarding protection of children and credit are already covered in the policy and by legislation. The subject of profits is outside the remit of the policy.
6	Alan Faulkner Gamcare Partners 2/3 Manager Baden Place Crosby Row London SE1 1YW				All local authorities must now recognise that they should have a 'Duty of Care' and become 'Corporate Parents' assisting the residents of their authority with gambling addictions.	Noted

	Alan Faulkner cont.				Gamcare request the following are addressed either in the policy or as part of the Licensing conditions:	
	Alan Faulkner cont.				1. The sale and distribution of controlled drugs and the laundering of the proceeds of drugs to support gambling.	Covered by legislation
	Alan Faulkner cont.				2. Prostitution to feed gambling needs.	Covered by legislation
	Alan Faulkner cont.				3. Any unlawful gaming gambling and betting.	Covered by legislation
	Alan Faulkner cont.				4. All leaflets giving assistance to problem gambling clearly displayed in prominent areas such as toilets.	Included in policy, this practice will be encouraged
	Alan Faulkner cont.				5. Self exclusion forms available.	Included in policy, this practice will be encouraged
	Alan Faulkner cont.				6. Operator must have regard to best practice issued by organisations that represent the interests of vulnerable people.	Included in policy, this practice will be encouraged
	Alan Faulkner cont.				7. On machines such as FOBTs the odds clearly displayed.	Covered by legislation
	Alan Faulkner cont.				8. All ATM or cash terminals to be separate from gaming machines, so that clients will have to leave the machine for more funds if so required. They should also display stickers with GamCare Helpline information positioned prominently on machine.	Included in policy at paragraph 18.3 and may be subject to further regulation
	Alan Faulkner cont.				9. Social responsibility must be adhered to and mentioned at all times when reasonable.	Noted

	Alan Faulkner cont.				10. Clear visible signs of age restriction are clearly displayed in gaming or betting establishment, also entrances to gambling and betting areas are well supervised and age identification verified.	Covered in the policy
	Alan Faulkner cont.				11. Posters displayed suggesting 'stay in control of your gambling' with details of GamCare telephone number and website.	Included in policy, this practice will be encouraged
	Alan Faulkner cont.				12. Compulsory non-gambling areas or 'Chill out Rooms' in all casinos if relevant.	Noted
7	John Campion Head of Administration Rank Group Gaming Division Rank Group Plc Stateman House Stafferton Way Maidenhead Berkshire SL6 1AY			Yes	Rank Group Gaming Division is of the view that a casino in York would be beneficial to the city for a number of reasons: 1. An additional leisure facility for the local community. 2. Additional employment and career opportunities for local people. 3. A potential attraction for both existing and additional visitors.	Noted
8	Nick Blitz 22 South Lane Haxby York YO32 3JB			Yes	Would prefer any licensed casino licensed to; - be permitted only in purpose-built premises, rather than modifying an existing structure or within, say, an existing hotel; - that it should not be permitted within the City Centre; - that it should be built on a site with substantial on-site, or adjacent, car parking: clearly this need not exclude a development on, or adjacent to, any current or planned Park & Ride facility.	Noted

9	David Hunter 5 Larch Way Haxby York YO32 3RT	To include all Parish Councils	Parish Councils are already included	Yes	A modern tourist city should have modern amenities.	Noted
10	Lee Le Clerq North of England Regional Secretary British Beer & Pub Association 1 Nine Elms Lane London SW8 5NQ				A comprehensive response was received. Points relevant to the policy are listed below; <u>Protection of children and vulnerable persons</u> - stresses importance of the management of gaming machines in pubs to ensure minimum age requirement is complied with, eg by requesting recognised ID such as a PASS accredited proof of age card, driving licence or passport.	Specific reference to recognised ID now included in policy at 16.3.
	Lee Le Clerq cont.				<u>Grant of additional permits</u> - when operators apply for additional machine permits and they are complying with the Gambling Commission Code of Practice [. . .], there is no reason why these should not be granted. It would be helpful if the Statement of Principles could reflect this.	Noted
	Lee Le Clerq cont.				<u>Application procedures for more than two machines</u> - Would welcome inclusion in the policy of an outline of the application procedures for permits for more than two machines.	Included in policy at paragraph 30.2
	Lee Le Clerq cont.				<u>Transitional arrangements</u> - It would be helpful if some reference to transitional arrangements could be included either in the policy or in the form of separate guidance.	Brief reference included in policy at paragraph 35. Guidance will be sent to existing businesses in due course.

11	Alan Robinson Clerk to Rawcliffe Parish Council Green Bank Harton York YO60 7NP	The same as Licensing Act 2003.	Legislative definition of interested party in Gambling Act is wider than the Licensing Act	No	1. The Parish Council believes that the draft statement is wide-ranging in content and entirely suitable for its purpose. 2. York should not have a Licensed Casino and suggest that York should not have a Casino policy at all.	Noted
12	Jean Shepherd Foxwood Residents Association 128B Foxwood Lane Acomb York YO24 3LT	People who live close by and people with business interests in the area.	Already included	Yes	As long as it [casino] is run properly and safely I see no problem.	Noted
13	PC 293 Mike Welsh North Yorkshire Police Licensing Section Fulford Road York YO10 4BY				The police neither have any issues with this policy nor have any comments regarding the 'No Casino' resolution. As a responsible authority, the North Yorkshire Police (Licensing Unit) will work closely with the Local Authority to promote the licensing objectives of the Gambling Act 2005.	Noted
14	Graham Huntington graham.huntington@ btinternet.com			No	I think it is very important that the Council reconsiders its policy, and adopts a 'No Casino' approach.	Noted

15	<p>Bond Pearce LLP 3 Temple Quay Temple Back East Bristol BS1 6DZ (on behalf of the Association of British Bookmakers)</p>			<p>Comprehensive response received, items relevant to the policy are listed: <u>Door supervision</u> is not necessary for Betting Offices and request that the following paragraph be added; ". . . there is no evidence that the operation of betting offices has required door supervisors for the protection of the public. The authority will make a door supervision requirement only if there is clear evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate."</p>	<p>Paragraph added to policy at 17.2</p>
	<p>Bond Pearce LLP cont.</p>			<p><u>Betting Machines</u> - request the following paragraph be added; "While the authority has discretion as to the number, nature and circumstances of use of betting machines, there is no evidence that such machines give rise to regulatory concerns. This authority will consider limiting the number of machines only where there is clear evidence that such machines have been or are likely to be used in breach of the licensing objectives. Where there is such evidence, this authority may consider, when reviewing the licence, the ability of staff to monitor the use of such machines from the counter."</p>	<p>Noted</p>

	Bond Pearce LLP cont.			<p><u>Re-site applications</u> - Over the last two decades in particular, betting offices have been subject to an evolutionary process of enlargement and improvement [. . .]. Frequently, this has involved re-siting within the same locality. Under the former regime, such re-sites were positively welcomed by licensing authorities concerned to improve the general level of facilities in their area, and were rarely objected to by competitors. This was recognised in the leading case of <i>R(Hestview) v Snaresbrook Crown Court</i>. It is requested that the policy positively encourage, or at least state that the authority will give sympathetic consideration to, re-sites within the same locality and extensions in order to enhance the quality of the facility provided for the benefit of the betting public.</p>	<p>This approach could be contradictory to the presumption that each application should be considered on its own merits. Applications will be determined after taking into account all relevant factors.</p>
	Bond Pearce LLP cont.			<p><u>Enforcement</u> - It is requested that the policy includes: "The authority recognises that certain bookmakers have a number of premises within its area. In order to ensure that any compliance issues are recognised and resolved at the earliest stage, operators are requested to give the authority a single named point of contact, who should be a senior individual, and whom the authority will contact first should any compliance queries or issues arise."</p>	<p>Paragraph added to policy at 13.6</p>

16	Clementhorpe Community Association 2 Lower Ebor Street York YO23 1AY	Houses, businesses, churches, residential/nursing homes, community/social groups and related halls/centres etc within at least half a mile.	Legislation includes residents / businesses in area likely to be affected. A half mile radius excludes representations outside the area which may be relevant to large/complicated applications and could undermine presumption that an application is considered on its merits and with regard to paragraph 10.2. Community/social groups and related halls/centres etc not deemed to be interested persons under the Act unless actual businesses.	No		
17	Brenda Ellis brenda@chestnut59.freeserve.co.uk			Yes	People should not be denied a night out to have some pleasure.	Noted
18	Alan L Rowntree 38 Walmer Carr Wigginton YO32 2SX			No	Such establishment could attract elements of the criminal fraternity, create problems associated with addiction and destroy the moral fibre of the city of York.	Noted
19	John Moore 28 The Village Osbaldwick			No	A casino would lead to an increase in crime due to the need to gamblers to find extra money to finance such activity.	Noted

20	Phil Jones 1 Almerly Tee Bootham York			Yes	I do not agree in banning something that can be a pleasure for the majority who partake for the sake of the potential misdeeds of the minority, as this is the easy option. I do not agree with the 'no casino' resolution.	Noted
21	Vicki Gimbley theall2gether@yahoo.co.uk			Yes	A casino in York is an excellent idea. York has to move with the times.	Noted
22	Anita Bartholomew 71 Seventh Avenue York YO31 0UQ			No	A casino would bring more problems to the area. We already have problems from alcohol abuse and to add gambling on top of this would just make things worse.	Noted
23	Mr D & Mrs S Finch 9 Trentholme Drive York YO24 1EL			No		Noted
24	Nick Bird 20 Raven Grove York YO26 5PL			No	There are enough avenues for gambling already. And I am concerned that some people would be even more prone to addiction if one was to be established.	Noted
25	Mrs J R Turner 128 Moor Lane York YO24 2QA			No		Noted

26	June Hampson & Jean Stubbington twojays-res@supanet.com			No	York and it's citizens have a responsibility to the residents and visitors alike, especially for their moral welfare. [. . .] To allow a casino would be to shirk and disregard those responsibilities, it would lower the tone of city life and be providing something that people do not need or expect.	N
27	Gillian Cruddas Chief Executive York Tourism Bureau 20 George Hudson St York YO1 6WR	Tourism Bureau	Tourism Bureau will be considered an interested party as it represents many businesses within York. The relevancy of any representation made will be considered on its own merits		Would like to be kept in the loop, interested from a tourism perspective in the benefits of a casino to certain segments of our target market but that at the present time we are unsure as to what these benefits are.	Noted
28	Mr & Mrs W Sessions Six Rawcliffe Grove Clifton York YO30 6NR			No	Do not want our beautiful city turning into a city of addicts.	Noted
29	P Allenby 57 Kexby Avenue Hull Road York YO10 3HF			No		Noted

30	Dom Doherty 15 Eastfield Crescent Badger Hill York YO10 5HZ			Yes	Cllr Waller needs to listen to the people. People are sick and tired of the Nanny State we don't need his outdated views on what we should and shouldn't have.	Noted
31	Stuart Kay SIKay@aol.com			Yes	The risk inherent in gambling can be managed and I believe a city the size of York with its major tourist industry should have a range of amenities including a casino.	Noted
32	Dave Taylor 26 New Walk Terrace York YO10 4BG				Under Part A, 9.1 I wonder what miners' welfare institutes are extent in York. Has this draft been copied from elsewhere?	LACORS (Local Authorities CoOrdinators of Regulatory Services) template used
	Dave Taylor cont.				Part B, 1.5 The combination of alcohol and gambling does not encourage responsible or controlled gambling. Premises should not be licensed for both alcohol and gambling.	No discretion as the legislation allows this
	Dave Taylor cont.			No	Part B, 4.2 I strongly believe that the Authority should pass a no casino resolution. York is not a city which is in need of gambling-led regeneration.	Noted
33	C Godfrey Bishopthorpe Parish Council The Village Hall Main Street Bishopthorpe York YO23 2RB	Residents in close proximity of the proposed development	Already included	No	A casino would attract an entirely different clientele to one that visits the Historic city of York. The two would seem to be in direct conflict and therefore the Casino would not be a desirable addition to this city.	Noted.

34	Meg Armstrong-Speed & Edward Wilcock artconsulyork@aol.com			No	A casino would only appeal to gamblers Gambling is a serious addiction that undermines the family - dashes dreams and frays the fabric of society.	Noted
35	R Bileckyj cityandcountrytravel@ vodafone.net			Yes	Yes we should have one. As it gives us the choice on how we spend our money. It could bring more jobs to the city, and a better class tourist with more to spend.	Noted
36	Barbara A Robinson 20 Barmby Avenue Fulford, York, YO1 4HX			No	At our AGM (BAGNARA - Broadway Area Good Neighbour and Residents Association) on 25 July 2006, it was agreed that we were opposed to a licensed casino.	Noted
37	Leslie MacLeod-Miller General Counsel BACTA (British Amusement Catering Trades Association) LindaM@bacta.org.uk	BACTA			BACTA submitted a comprehensive response to the policy stating that they were in consultation with the DCMS and Gambling Commission the following are the main points relevant to the policy: <u>Interested parties</u> It is noted that Gambling Commission Guidance states that 'interested parties' includes trade associations and although BACTA is not of itself an interested person under the terms of the Gambling Act 2005 it does represent, through its members, parties who live sufficiently close to the premises to be affected by activities being applied for.	Covered in the policy

	Leslie MacLeod-Miller cont.			<p><u>Proximity / location</u> [. . .] it would not be appropriate for a licensing authority to take action based upon proximity alone. A decision must only be taken based upon a reasonable analysis of evidence and therefore mere concern is insufficient ground for the refusal of an application or the imposition of conditions.</p>	Noted
	Leslie MacLeod-Miller cont.			<p><u>Door supervision</u> [. . .] a condition for door supervision should not be imposed unless justified on the basis of the application of pre-requisites applying to the addition of conditions set out under the heading above.</p>	Noted
	Leslie MacLeod-Miller cont.			<p><u>Definition of premises</u> The gaming machine industry has operated designated adult areas within family entertainment areas for over 10 years and on the basis of evidence Parliament has accepted that this model of direct access would be adopted specifically in relation to licensing FECs and regional casinos. [. . .] While licensing authorities should take particular care in considering applications for multiple licenses under one premises, their concern should be to ensure that there are clear barriers and that the licence conditions are properly observed.</p>	Noted

	Leslie MacLeod-Miller cont.				(Alcohol) Licensed premises gaming machine permits (Schedule 13 paragraph 4(1)) The Minister has guaranteed that those premises that currently site more than two machines will automatically be entitled to grandfather rights [. . .]. This principle should be preserved by licensing authorities and machine numbers should only be reduced if there is evidence of a real regulatory need.	Noted. Included in policy at paragraph 30.7
38	Ian Tempest Secretariat First Stop York Tourism Partnership			Yes	This was a comprehensive response outlining the structure and function of the group and the present situation and rate of growth of the tourist industry in York. The group believes that a high quality casino operation would be a useful addition to this evening economy mix in the city, would attract visitors from York's target markets (both UK and overseas) and would be a sufficient draw to encourage other benefits (spend on evening meals, overnight stays etc) whether it was a standalone facility or as part of a hotel development.	Noted
	Ian Tempest cont.				The Group therefore endorses the current position which is that the Council has NOT so far passed a "No Casinos" resolution and that it should continue NOT to pass this resolution.	Noted