



# Statement of Licensing Policy 2019

Gambling Act 2005



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### 1. Introduction

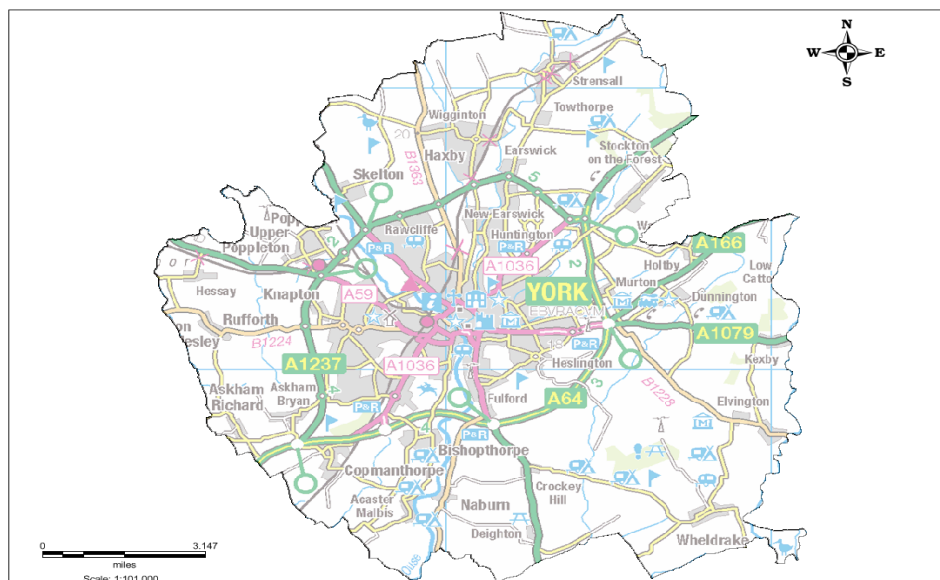
- 1.1 Under Section 349 of the Gambling Act 2005 (the Act) the licensing authority is required to prepare a statement of principles which it proposes to apply when exercising their functions. This statement must be published at least every three years.
- 1.2 In exercising most of their functions under the Act, the licensing authority must have regard to the licensing objectives as set out in Section 1 of the Act. The licensing objectives are:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
  - Ensuring that gambling is conducted in a fair and open way;
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 1.3 Any decision taken by the licensing authority in regard to determination of licences, permits and registrations should aim to permit the use of premises for gambling in so far as it thinks it is:
- is in accordance with any relevant code of practice issued by the Gambling Commission;
  - is in accordance with any relevant guidance issued by the Gambling Commission;
  - is reasonably consistent with the licensing objectives; and
  - is in accordance with the council's statement of licensing policy.
- 1.4 The Act requires that the following parties are consulted:
- Chief Officer of Police;
  - 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.
- 1.5 The council consulted widely upon this policy statement from 14 May to 12 August 2018.
- 1.6 The policy was approved at a meeting of the Full Council on 13 December 2018 and was published via our website on 8 January 2019.
- 1.7 It should be noted that this statement of licensing principles will not override the right of any person to make an application, make representations about an application or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

### 2. Profile of York

- 2.1 City of York Council is a unitary authority covering an area of 105 square miles and a population of more than 208,000 (2016 mid year est.) which includes a small black and

minority ethnic population. It comprises the urban area of York that is surrounded by many small rural and semi-rural settlements covered by parish councils.

- 2.2 York is nationally and internationally a prominent city for a range of reasons. Not only is it an historic centre for England and an important location for the Church of England, it is also one of the most visited tourist destinations in the country. York has excellent rail links across the UK with over 9 million passengers every year. It is also a centre of academic excellence, with around 24,000 students making up approximately 11.5% of York's population in term time.
- 2.3 Tourism and leisure are important industries for York, attracting up to 7 million visitors a year, who spend £560 million annually in the city. Over 18,500 jobs have been created in the tourist and leisure industry sector.
- 2.4 This level of tourism can, however, present challenges to the city in balancing the requirements of residents against this economic benefits that tourism can bring.
- 2.5 As an historical centre the city has many museums and historical buildings. The city offers a wide range of premises providing entertainment activities and supplying alcohol, outstanding restaurants, licensed entertainment venues, including 3 cinemas and 5 theatres, numerous high quality traditional and historic public houses, and bars. Other premises, such as York Racecourse and bingo halls, provide alcohol and entertainment as part of their overall activities.
- 2.6 City of York Council Authority Area



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### 3. Declaration

- 3.1 In producing the final statement, the council has had regard to the licensing objectives of the Act, the Guidance to Licensing Authorities issued by the Gambling Commission and

any responses from those consulted on the statement.

#### **4. Responsible Authorities**

- 4.1 The council is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:
- the need for the body to be responsible for an area covering the whole of the licensing authority's area; and
  - the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.
- 4.2 In accordance with the suggestion in the Gambling Commission's Guidance to Licensing Authorities, this authority designates Children's Social Care for this purpose.
- 4.3 The contact details of the Responsible Authorities under the Act are available on the Councils website or from the Licensing Section.

#### **5. Interested parties**

- 5.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Act as follows:
- “For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the application is made, the person-
- (a) lives sufficiently close to the premises to be likely to be affected by the authorised activities;
  - (b) has business interests that might be affected by the authorised activities; or
  - (c) represents persons who satisfy paragraph (a) or (b)”.
- 5.2 The council is required by regulations to state the principles it will apply in exercising its powers under the Act to determine whether a person is an interested party. The principles are:
- Each case will be decided upon its merits. The council will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance to Licensing Authorities. It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.
  - 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 and/or has business interests that might be affected by the authorised activities. A

letter from one of these persons, requesting the representation is sufficient.

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

## **6. Exchange of Information**

- 6.1 The council is required to include in their statements the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.
- 6.2 The principle that this council applies is that it will act in accordance with the provisions of the Act in its exchange of information which includes the provision that the Data Protection Act 2018 will not be contravened. The council will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Act.
- 6.3 Should any protocols be established as regards information exchange with other bodies, then they will be made available.

## **7. Enforcement**

- 7.1 The council is required by regulation under the Act to state the principles to be applied by the council in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.
- 7.2 In carrying out its enforcement duties with regards to the inspection of premises, and the powers to institute criminal proceedings in respect of certain offences under the Act the council will endeavour to be:
- **Proportionate:** regulators should only intervene when necessary, remedies should be appropriate to the risk posed and costs identified and minimised;
  - **Accountable:** regulators must be able to justify decisions and be subject to public scrutiny;
  - **Consistent:** rules and standards must be joined up and implemented fairly;
  - **Transparent:** regulators should be open and keep regulations simple and user friendly;
  - **Targeted:** regulation should be focused on the problem, and minimise side effects.
- 7.3 The council will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 7.4 The main enforcement and compliance role for the council in terms of the Act is to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission is the enforcement body for the operating and personal licences. Concerns about manufacture, supply or repair of gaming machines are not dealt with by

the council but will be notified to the Gambling Commission. In circumstances where the council believes a premises requires a premises licence for gambling activities and no such licence is in force, the council will alert the Gambling Commission.

7.5 The council also keeps itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

7.6 The council's enforcement/compliance protocols/written agreements are available upon request.

## **8. Licensing authority functions**

8.1 Licensing authorities are required under the Act to:

- be responsible for the licensing of premises where gambling activities are to take place by issuing premises licences;
- issue provisional statements;
- regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing club gaming permits and/or club machine permits;
- issue club machine permits to commercial clubs;
- grant permits for the use of certain lower stake gaming machines at unlicensed family entertainment centres;
- receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines;
- issue licensed premises gaming machine permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines.
- register small society lotteries below prescribed thresholds;
- issue prize gaming permits;
- receive and endorse temporary use notices;
- receive occasional use notices;
- provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange');
- maintain registers of the permits and licences that are issued under these functions.

8.2 The council will not be involved in licensing remote gambling at all, which is regulated by the Gambling Commission via operating licences.



**9. Preventing gambling from being a source of crime or disorder, being associated with crime and disorder or being used to support crime.**

- 9.1 The Gambling Commission will take the lead role in keeping gambling free from crime by vetting applicants for operator and personal licences. The council will have to be satisfied that the premises will not adversely affect the licensing objective and is compliant with the Commission's Guidance, codes of practice and this policy statement.
- 9.2 The council will expect the applicant to have a good understanding of the local area in which they either operate, or intend to operate, a gambling premises. As part of the application, the applicant will provide evidence to demonstrate that in operating the premises they will have regard to the licensing objective.
- 9.3 Examples of the specific steps the council may take to address this area can be found in the section covering specific premises in Part C and in relation to permits and notices in Part D of this policy.

**10. Ensuring that gambling is conducted in a fair and open way**

- 10.1 The Gambling Commission is the body primarily concerned with ensuring that operators conduct gambling activities in a fair and open way, except in the case of tracks.
- 10.2 The council will notify the Gambling Commission of any concerns about misleading advertising or absence of required game rules, or any other matters as set out in the Gambling Commission's Licence Conditions and Code of Practice.
- 10.3 Examples of the specific steps the council may take to address this area can be found in the section covering specific premises in Part C and in relation to permits and notices in Part D of this policy.

**11. Protecting children and other vulnerable persons from being harmed or exploited by gambling.**

- 11.1 **Protection of Children** - Persons under 18 cannot be admitted to many types of gambling premises. This objective means preventing children from taking part in most types of gambling.
- 11.2 Section 45 of The Act provides the following definition for child and young person:  
Meaning of "child" and "young person"  
1) In this Act "child" means an individual who is less than 16 years old.  
2) In this Act "young person" means an individual who is not a child but who is less than 18 years old.
- 11.3 Children and young persons may take part in private and non-commercial betting and gaming, but the Act restricts the circumstances in which they may participate in gambling or be on premises where gambling is taking place as follows:

- casinos, betting shops and adult gaming centres are not permitted to admit anyone under 18;
- bingo clubs may admit those under 18 but must have policies to ensure that they do not play bingo, or play category B or C machines that are restricted to those over 18;
- family entertainment centres and premises licensed to sell alcohol for consumption on the premises can admit under 18s, but they are not permitted to play category C machines which are restricted to those over 18;
- clubs with a club premises certificate can admit under 18s, but they must have policies to ensure those under 18 do not play machines other than category D machines;
- All tracks can admit under 18s, but they may only have access to gambling areas on days where races or other sporting events are taking place, or are expected to take place. Tracks will be required to have policies to ensure that under 18s do not participate in gambling other than on category D machines.

11.4 The council will have regard to any code of practice which the Gambling Commission issues as regards this licensing objective in relation to specific premises.

11.5 The council will consider whether specific measures are required at particular premises, with regard to this licensing objective. These measure may include supervision of entrances / machines, segregation of areas, etc. Examples of the specific steps the council may take to address this area can be found in the section covering specific premises in Part C and in relation to permits and notices in Part D of this policy.

11.6 **Protection of vulnerable people** - It is difficult to define the term 'vulnerable person'. The Gambling Commission, in its Guidance to Local Authorities, does not seek to offer a definition, but will, for regulatory purposes assume that this group includes people:

'who gamble more than they want to, people who gamble beyond their means, elderly persons, and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, or because of the influence of alcohol or drugs.'

11.7 The Gambling Commissions Code of Practice clearly describes the policies and procedures that operators should put in place regarding:

- combating problem gambling
- access to gambling by children and young persons
- information on how to gamble responsibly and help for problem gamblers
- customer interaction
- self exclusion
- employment of children and young persons

11.8 The council may consider any of the measures detailed below as licence conditions should these not be adequately addressed by any mandatory conditions, default conditions or proposed by the applicant:

- leaflets offering assistance to problem gamblers should be available on gambling premises in a location that is both prominent and discreet
- training for staff members which focuses on an employee's ability to detect a person

who may be vulnerable and providing support to vulnerable persons

- self exclusion schemes
- operators should demonstrate their understanding of best practice issued by organisations that represent the interests of vulnerable people
- posters and leaflets with GamCare Helpline and website displayed in prominent locations
- external advertising to be positioned or designed not to entice passersby.

11.9 It is a requirement of the Gambling Commission's Licence Conditions and Codes of Practice (LCCP), under Section 3, that licensees must have and put into effect policies and procedures intended to promote socially responsible gambling.

11.10 The LCCP say that licensees must make an annual financial contribution to one or more organisation(s) which between them research into the prevention and treatment of gambling-related harm, develop harm prevention approaches and identify and fund treatment to those harmed by gambling.

## 12. General Principles

- 12.1 The council will issue premises licences to allow those premises to be used for certain types of gambling. These are:
- (a) casino premises,
  - (b) bingo premises'
  - (c) betting premises including tracks and premises used by betting intermediaries,
  - (d) adult gaming centre premises, or
  - (e) family entertainment centre premises.
- 12.2 Premises licences are subject to the requirements set out in the Act and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be necessary.
- 12.3 The Gambling Commission has issued Codes of Practice for each interest area for which they must have regard. The council will also have regard to these Codes of Practice.
- 12.4 **Decision-making** - The council is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:
- is in accordance with any relevant code of practice issued by the Gambling Commission;
  - is in accordance with any relevant guidance issued by the Gambling Commission;
  - is reasonably consistent with the licensing objectives; and
  - is in accordance with the council's statement of licensing policy.
- 12.5 It is appreciated that as per the Gambling Commission's Guidance to Licensing Authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" and also that unmet demand is not a criterion for a licensing authority.
- 12.6 This Council has reviewed its constitution and scheme of delegation to officers to ensure effective implementation of the Act. The Gambling Act 2005 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.
- 12.7 Where representations are received the council will consider whether they are relevant, vexatious, frivolous or if they would influence the council's determination of the application. The Head of Service together with the relevant Assistant Director will determine if any representation meets this criteria.
- 12.8 The council will take into consideration Gambling Commission Guidance for Licensing Authorities, Licence Conditions and Codes of Practice when determining applications for premise licences.

- 12.9 **Definition of “premises”** – In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, the council should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.
- 12.10 The council will take particular care in considering applications for multiple licences for a building, and those relating to a discrete part of a building used for other purposes. The council will assess entrances and exits of a premise covered by one or more licences to satisfy itself that they are genuinely separate and identifiable so that the separation of different premises is not compromised and that people do not drift into a gambling area.
- 12.11 In considering whether different areas of a building are genuinely separate premises the council will take into account factors which may include:
- do the premises have a separate registration for business rates?
  - are the premises' neighbouring premises owned by the same person or someone else?
  - can each of the premises be accessed from the street or a public passageway?
  - can the premises only be accessed from any other gambling premises?
- 12.12 The council will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.
- 12.13 **Location** – The council is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision making. The council 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. With regards to these licensing objectives it is the council's policy, upon receipt of any relevant representation to look at specific location issues which include:
- the possible impact that a gambling premises may have on any sensitive premises that provide services to children or young people or vulnerable people; eg a school, vulnerable adult centre;
  - the possible impact a gambling premises may have on a residential area where there is a high concentration of families with children;
  - the nature and size of the gambling activities taking place;
  - any levels of crime in the area.
- 12.14 If refusing an application the council would need to be satisfied that there is sufficient evidence that the particular location of the premises would be harmful to the licensing objectives. Since 6 April 2016, it has been a requirement of the Gambling Commission's Licence Conditions and Codes of Practice (LCCP), under Section 10, for licensees to

assess the local risks to the licensing objectives posed by the provisions of gambling facilities at each of their premises, and have policies, procedures and control measure to mitigate those risks. In undertaking their risk assessments, they must take into account relevant matters identified in this policy statement. The local risk assessment should be kept on the individual premises and made available for inspection by an authorised officer.

12.15 The LCCP say that licensees must review (and update as necessary) their local risk assessments:

- to take account of significant changes in local circumstances, including those identified in this policy statement;
- when there are significant changes at a licensee's premises that may affect their mitigation of local risks;
- when applying for a variation of a premises licence; and
- in any case, undertake a local risk assessment when applying for a new premises licence.

12.16 The council will expect the local risk assessment to consider as a minimum:

- the location of services for children such as schools, playgrounds, leisure/community centres and other areas where children will gather;
- the demographics of the area in relation to vulnerable groups;
- whether the premises is in an area subject to high levels of crime and/or disorder.

12.17 Local risk assessments should show how vulnerable people, including people with gambling dependencies are protected.

12.18 The Council has published a 'Local Area Profile' which is available on the Councils website.

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

12.20 **Duplication with other regulatory regimes** – The council seeks to avoid any duplication with other statutory / regulatory systems where possible, including planning. The council will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

12.21 **Conditions** – The Secretary of State has set mandatory and default conditions and the Gambling Commission has set Licence Conditions and Codes of Practice on Operator's Licences which are necessary for the general good conduct of gambling premises, therefore it is unlikely that the council will need to impose individual conditions imposing a more restricted regime in relation to matters that have already been dealt with.

12.22 If the council is minded to impose conditions because there are regulatory concerns of an exceptional nature, then any additional licence conditions must relate to the licensing objectives.

12.23 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, and/or related to the area where the premises is based;
- fairly and reasonably related to the scale and type of premises;
- consistent with the licensing objectives; and
- reasonable in all other respects.

12.24 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 it be necessary, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. The council will also expect the licence applicant to offer his/her own suggestions as to ways in which the licensing objectives can be met effectively.

12.25 Where certain measures are not already addressed by the mandatory/default conditions or by the applicant and there remains a demonstrable risk to the licensing objectives in the circumstances of a particular case, the council may consider licence conditions to cover issues such as:

- proof of age schemes
- CCTV
- entry controls
- supervision of entrances / machine areas
- signage / notices
- specific opening hours
- physical separation of areas
- location of entry
- requirements that children must be accompanied by an adult
- Enhance Disclosure and Barring Service checks of the applicant and/or staff
- self-barring schemes
- provision of information for organisations such as GamCare (leaflets / helpline numbers)
- measures and training for dealing with children on the premises

This list is not mandatory or exhaustive, and is merely indicative of examples of measures which may satisfy the requirements of the council and the responsible authorities to meet the licensing objectives.

12.26 It is noted that there are conditions which the council cannot attach to premises licences which are:

- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated); and

- conditions in relation to stakes, fees, winning or prizes.

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

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

12.28 **Door Supervisors** – The council will consider whether there is a need for door supervision in terms of the licensing objectives of the 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 that the door supervisors at casinos or bingo premises are not required to be registered by the Security Industry Authority (SIA) under the Private Security Act 2001. Where door supervisors are provided at these premises the operator should ensure that any persons employed in this capacity are fit and proper to carry out such duties. Possible ways to achieve this could be to carry out a Disclosure and Barring Service check on potential staff and for such personnel to have attended industry recognised training. Door supervisors not directly employed by a casino or bingo operator do have to be SIA registered.

### **13. Adult Gaming Centres (AGCs)**

13.1 Under the Act a premises holding an adult gaming centre licence will be able to make category B, C and D gaming machines available for use on the premises. No one under the age of 18 is permitted to enter such premises.

13.2 The council 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.

13.3 Where certain measures are not already addressed by the mandatory and default conditions and the Gambling Commissions Codes of Practice or by the applicant, the council may consider licence conditions to address such issues, examples of which are provided at paragraph 12.21.

### **14. Licensed Family Entertainment Centres (FECs)**

14.1 Licensed FECs are those premises which usually provide a range of amusements such as computer games, penny pushers and may have a separate section for adult only gaming machines with higher stakes and prizes. Licensed FECs will be able to make available unlimited category C and D machines where there is a clear segregation in place so children do not access the areas where the category C machines are located.



- 14.2 The council will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.
- 14.3 Where category C or above machines are available in premises to which children are admitted then the council 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 category C machines are located
  - access to the area where machines are located is supervised at all times
  - the area where the machines are located is arranged so that it can be observed by staff; 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.

## **15. Casinos**

- 15.1 The Act states that a casino is an arrangement whereby people are given the opportunity to participate in one or more casino games. Casino games are defined as a game of chance which is not equal chance gaming. This means that casino games offer the chance for multiple participants to take part in a game competing against the house or bank at different odds to their fellow players. Casinos can also provide equal chance gaming and gaming machines. Large and small casinos can also provide betting machines.
- 15.2 [Number of casinos in Great Britain](#) – Legislation stipulates the number of casino premise licences that can be issued and the areas where they can be located. A casino will not be allowed within City of York Council Authority area until such time that there is a change in legislation.
- 15.3 [No Casinos resolution](#) – The council has not passed a ‘no casino’ resolution under Section 166 of the Act, but is aware that it has the power to do so. Should the council 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.

## **16. Bingo premises**

- 16.1 There is no legal definition for bingo, or a standard set of rules under which the game is played. Bingo is equal chance gaming. From a licensing point of view there is a category of premises licence specifically for bingo premises which is used by traditional commercial bingo halls for both cash and prize bingo. In addition this premises licence will authorise the provision of a limited number of gaming machines in line with the provisions in the Act.
- 16.2 The council is aware that children and young persons are permitted in bingo premises, but may not participate in the bingo. Where category C or above machines are available for use, these must be separated from areas where children and young persons are allowed.

16.3 Where certain measures are not already addressed by the mandatory and default conditions and the Gambling Commissions Codes of Practice or by the applicant, the council may consider licence conditions to address such issues, examples of which are provided at paragraph 12.21.

## **17. Betting premises**

17.1 The Act contains a single class of licence for betting premises however within this single class there are different types of premises which require licensing such as high street bookmakers, bookmakers located in self contained facilities at racecourses as well as the general betting premises licences that track operators will require.

17.2 **Betting machines** – Section 181 of the Act states:

“A condition of a betting premises licence may relate to –

- a) the number of machines used on the premises for the purpose of making or accepting bets;
- b) the nature of those machines;
- c) the circumstances in which those machines are made available for use.”

17.3 When considering whether to impose a condition on a licence the council 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.

17.4 Where certain measures are not already addressed by the mandatory and default conditions and the Gambling Commissions Codes of Practice or by the applicant, the council may consider licence conditions to address such issues, examples of which are provided at paragraph 12.21.

## **18. Tracks**

18.1 The Act defines a track as a horse racecourse, greyhound track or other premises on any part of which a race or other sporting event takes place or is intended to take place. Betting is a major gambling activity on tracks, multiple betting outlets are usually located on tracks such as ‘on-course’ betting operators who come to the track just on race days to provide betting for the races taking place on that track. There can also be ‘off-course’ betting operators who may operate self contained facilities at the tracks which offer customers the chance to bet on other events, not just those taking place on the track.

18.2 All tracks will require a primary betting premises licence that the track operator will hold. It should be noted that track operators do not require an operator’s licence from the Gambling Commission although they may apply for one. This is because the various other gambling operators offering betting at the track will each hold an operating licence.

18.3 Tracks may be subject to more than one premises licence, provided each licence relates to a specified area of the track. This allows track venues to develop leisure facilities. The council will consider each individual case on its merits before deciding if this is necessary.

18.4 If any off-course operators are permitted to provide betting facilities under the authorisation of the track operator’s premises licence, then it will be the responsibility of

the premises licence holder to ensure the proper conduct of such betting within the premises boundary.

- 18.5 Children and young person's 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.
- 18.6 **Gaming machines** - Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.
- 18.7 **Betting machines** – Section 181 of the Act states:  
“A condition of a betting premises licence may relate to –  
a) the number of machines used on the premises for the purpose of making or accepting bets;  
b) the nature of those machines;  
c) the circumstances in which those machines are made available for use.”
- 18.8 When considering whether to impose a condition on a licence the council 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.
- 18.9 Where certain measures are not already addressed by the mandatory and default conditions and the Gambling Commissions Codes of Practice or by the applicant, the council may consider licence conditions to address such issues, examples of which are provided at paragraph 12.21.

## **19. Travelling Fairs**

- 19.1 The Act defines a travelling fair as “wholly or principally” providing amusements and they must be on site that has been used for fairs for no more than 27 days per calendar year.
- 19.2 Travelling fairs have the right to provide an unlimited number of category D gaming machines and/or equal chance prize machines, without the need for a permit, as long as the gambling amounts to no more than an ancillary amusement at the fair.
- 19.3 The council will work with neighbouring authorities to ensure that land which crosses the council boundary is monitored so that the statutory limits are not exceeded.

## **20. Provisional Statements**

- 20.1 Developers may wish to apply to the council for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.
- 20.2 Section 204 of the Act provides for a person to make an application to the council for a provisional statement in respect of premises that he or she:

- expects to be constructed;
- expects to be altered; or
- expects to acquire a right to occupy.

- 20.3 The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.
- 20.4 In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission and they do not have to have a right to occupy the premises in respect of which their provisional application is made.
- 20.5 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The council will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow 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.
- 20.6 In addition, the council may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:
- which could not have been raised by objectors at the provisional statement stage;
  - which in the council's opinion reflect a change in the operator's circumstances; or
  - where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and the council notes that it can discuss any concerns it has with the applicant before making a decision.

## **21. Reviews**

- 21.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the council 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:
- any relevant Code of Practice issued by the Gambling Commission;
  - any relevant guidance issued by the Gambling Commission;
  - that it is reasonably consistent with the licensing objectives; and
  - is in accordance with this authority's Gambling Act 2005 - Statement of Licensing Policy.
- 21.2 The request for the review will also be subject to consideration by the council as to whether the request is frivolous or vexatious; whether it 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 and there has been no change in circumstances.

- 21.3 The council can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.

## 22. Unlicensed Family Entertainment Centre gaming machine permits (UFECs)

22.1 UFECs are premises which provide category D gaming machines along with various other amusements such as computer games and penny pushers, but is not required to hold a premises licence. It will require a permit to be able to provide category D machines. A permit allows any number of these machines to be available at the premises, subject to other consideration such as health and safety and fire safety regulations. Given that category D machines have no age restrictions, these premises will appeal to children and young persons. Therefore, the council will give particular weight to matters relating to child protection issues.

22.2 The Act states that a licensing authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under Section 25.

22.3 City of York Council Statement of Principles:

The council 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. The council will also expect, as per Gambling Commission Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in UFECs; 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.

## 23. Gaming Machines Permits in Premises Licensed for the Sale of Alcohol

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

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of Section 282 of the 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 Act has been committed on the premises.

- 23.2 It should be noted that the council cannot attach conditions to this type of permit.
- 23.3 **Permit: more than two machines.** If a premises wishes to have more than two machines, then it needs to apply for a permit and the council must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*” Any determination will be made by the Head of Service in conjunction with the relevant Assistant Director.
- 23.4 The council considers “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure under 18 year olds do not have access to the adult only gaming machines. Measures which may satisfy the council 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 also help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare. Compliance with the Gambling Commissions Code of Practice for Gaming Machines Permits will be a condition of any permit issued.
- 23.5 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.
- 23.6 The council can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.
- 23.7 The holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

## **24. Prize Gaming Permits**

- 24.1 The Act (Section 288) defines gaming as prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before play commences. Prize gaming can often be seen at seaside resorts in amusement arcades where a form of bingo is offered and the prizes are displayed on the walls.
- 24.2 The Act states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority proposes to consider in determining the suitability of the applicant for a permit”.
- 24.3 City of York Council Statement of Principles:  
The council 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 council 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 (as set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

24.4 In making its decision on an application for this permit the council does not need to (but may) have regard to the licensing objectives, but must have regard to any Gambling Commission guidance. (Gambling Act 2005, Schedule 14 paragraph 8(3)).

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

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

24.6 Prize gaming may take place without a permit in various premises. These are casinos, bingo halls, adult gaming centres, licensed and unlicensed family entertainment centres and travelling fairs.

## **25. Club Gaming and Club Machine Permits**

25.1 A members' club or miners' welfare institute may apply for a 'Club Gaming Permit' or a 'Club Gaming Machine Permit'. A commercial club may apply for a Club Gaming Machine Permit. The Club Gaming Permit will enable the premises to provide gaming machines (three machines of categories B3A, B4, C or D), equal chance gaming and games of chance as set-out in regulations. A Club Gaming machine permit will enable the premises to provide gaming machines (three machines of categories B3A, B4, C or D). Only one category B3A machine can be sited as part of this entitlement.

25.2 To qualify for these special club permits a members club must have a least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations.

25.3 The council may only refuse an application 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 person's;
- (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 Commission or the police.

25.4 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). As the Gambling Commission's Guidance to Licensing Authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which an authority can refuse a permit are reduced" and "The grounds on which an application under the process may be refused are:

- (a) that the club is established primarily for gaming;
- (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."

25.5 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.

## **26. Temporary Use Notices (TUNs)**

26.1 TUNs allow the use of premises, on not more that 21 days in any 12 month period, for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Use Notice, according the Gambling Commission, would include hotels, conference centres and sporting venues.

26.2 The council can only grant a TUN to a person or company holding a relevant operating licence, ie a non-remote casino operating licence.

26.3 TUNs allow the use of premises for any form of equal chance gambling where those participating in the gaming are taking part in a competition which is intended to produce a single, overall winner, which in practice means poker tournaments.

26.4 There are a number of statutory limits as regards TUNs. The meaning of "premises" in Part 8 of the Act is discussed in the Gambling Commissions Guidance to Licensing Authorities. 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".

26.5 In consideration whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.

26.6 This licensing authority expects to object to notices where it appears that their effect would

be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

## **27. Occasional Use Notices (OUNs)**

- 27.1 The Act provides that where there is betting on a track on eight days or fewer in a calendar year, betting may be permitted by an OUN without the need for a full premises licence.
- 27.2 The council has very little discretion as regards these notices aside from ensuring that the statutory limit of eight days in a calendar year is not exceeded. This licensing authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

### Gaming Machine Categories

Gaming machines (fruit machines, slot machines) fall into categories depending on the maximum stake and prize available:

| Machine Category  | Maximum Stake<br>(from January 2014) | Maximum Prize<br>(from January 2014)  | Allowed Premises   |
|---|--------------------------------------|---|--|
| A   | Unlimited                            | Unlimited   | Regional Casino  |
| B1  | £5                                   | £10,000 (with the option of a maximum £20,000 linked progress jackpot on a premises basis only) | Large Casino, Small Casino, Pre-2005 Act Casino and Regional Casinos   |
| B2  | £100                                 | £500  | Betting premises and tracks occupied by pool betting and all of the above  |
| B3  | £2                                   | £500  | Bingo premises, adult gaming centre and all of the above   |
| B3A   | £2                                   | £500  | Members' club or Miners' welfare institute only  |
| B4  | £2                                   | £400  | Members' club or Miners' welfare club, commercial club and all of the above  |
| C   | £1                                   | £100  | Family entertainment centre (with Commission operating licence), qualifying alcohol licensed premises (without additional gaming machine permit), qualifying alcohol licensed premises (with additional LA gaming machine permit) all of the above |
| D money prize   | 10p                                  | £5  | Travelling fairs, unlicensed (permit) family entertainment centre and all of the above   |
| D non-money prize (other than crane grab machine)                                     | 30p                                  | £8  | All of the above   |
| D non-money prize (crane grab machine)  | £1                                   | £50   | All of the above   |
| D combined money and non-money prize (other than coin pusher or penny falls machines) | 10p                                  | £8 (of which no more than £5 may be a money prize)  | All of the above   |
| D combined money and non-money prize (coin pusher or penny falls machine)             | 20p                                  | £20 (of which no more than £10 may be a money prize)  | All of the above   |