

CITY OF PLYMOUTH

Subject: Gambling Act 2005 – 3 Year Review of the Statement of Principles

Committee: Cabinet

Date: 10 November 2009

Cabinet Member: Councillor Brookshaw

CMT Member: Director of Community Services

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Ref: ERS/LIC/PREM

Part: I

Executive Summary:

The Council is required to review the Gambling Act statement of policy, which lasts for a 3 year period. The current policy review must be completed to bring the new policy into force by the 31st January 2010.

The Council's existing Policy was reviewed and public consultation on the new draft Policy was undertaken in accordance with Department of Culture, media and Sport and the Gambling Commission guidance. The Customers and Community Overview and Scrutiny Panel has also reviewed the proposed new Policy.

Amendments have been made to the draft Policy following the consultation process, with the new proposed Policy contained in Appendix B.

The Policy is required to be considered by City Council at the meeting set for 30th November 2009 in order to meet Gambling Act 2005 requirements.

Corporate Plan 2009- 2012:

This report links to the delivery of the corporate improvement priorities. In particular:

1. Informing and involving residents.
 2. Providing more and better culture and leisure activities.
 3. Keeping Children Safe
-

**Implications for Medium Term Financial Plan and Resource Implications:
Including finance, human, IT and land**

None.

Other Implications: eg. Section 17 - Community Safety, Health and Safety, Risk Management, Equalities Impact Assessment etc.

Members should be aware that Section 17 of the Crime and Disorder Act 1998 puts a statutory duty on every Local Authority to exercise its various functions with due regard to the need to do all that it reasonably can do to prevent crime and disorder in its area.

Recommendations and Reasons for recommended action:

That Members consider this report and to:

1. Recommend to the City Council that the Gambling Act Statement of Licensing Policy contained in Appendix B is adopted and to authorise Officers to take the necessary steps to publish the new Policy to be implemented on the 31st January 2010.
-

Alternative options considered and reasons for recommended action:

- Cabinet may recommend alterations to the City Council meeting on the 30th November 2009.
 - The only available Full Council meeting is set for the 30th November 2009, failure to have the policy approved by that date will be criticised by the Government and licence applications after the 31st January 2010 can not be processed until a new policy is approved.
-

Background papers:

Gambling Act 2005

Plymouth City Council - Gambling Act Statement of Principles 30th April 2007 to 30th January 2010

Full Council 6th July 2009 – Review of Council's Constitution

Cabinet – 15th September 2009, Agenda item 8

Customers and Community Overview and Scrutiny Panel, 28th September 2009

Sign off:

| | | | | | | | | | | | |
|------------------------|-------------------------|-------------|------------------|------------|--|------------|--|------------|--|--------------------|--|
| Head of Fin | EM Dev F910 0049 | Head of Leg | AG 6463. 8.10.09 | Head of HR | | Head of AM | | Head of IT | | Head of Strat Proc | |
| Originating SMT Member | | | | | | | | | | | |

1.0 BACKGROUND

- 1.1 The Gambling Act 2005 (The Act) requires the Council as the Licensing Authority to have a Statement of Licensing Policy. The Act also requires that the policy must be for a three year period and must be reviewed at the end of each subsequent three year period. The current Policy is required to be republished by 31st January 2010. The Council is also required to consult publicly with a specified list of stakeholders affected by the exercise of the authority's functions under the Act.
- 1.2 A public consultation exercise was undertaken, which included the following interested parties:
- Citizen's Advice Bureau
 - Crime and Disorder Reduction Partnership
 - Devon and Cornwall Constabulary
 - Plymouth City Council Social Services / Education Department
 - Devon & Somerset Fire and Rescue Service
 - Environmental Health
 - Gamblers Anonymous
 - Gambling Commission
 - Gamcare
 - Local businesses and their representatives
 - Local faith groups
 - Local residents and their representatives
 - Mencap
 - NSPCC
 - Primary Care Trust
 - Representatives of existing licence-holders
 - Voluntary & Community organisations working with children & young people
 - Devon Licensing Forum
- 1.3 Internal consultation was undertaken via the Corporate Strategy Group.
- 1.3 Constitutional changes which were made at the City Council meeting on the 6th July 2009 brought the Gambling Act Statement of Licensing Policy (the Policy) into the Council's Policy Framework. Cabinet referred the Policy to the Overview and Scrutiny Management Board for inclusion on their work plan. Subsequently the Customers and Communities Overview and Scrutiny Panel discussed the draft Policy on the 28th September 2009. The panel noted the report and made no recommendations on alterations to the draft policy.
- 1.4 Following the public consultation 7 responses were received. A summary of the responses is contained in Appendix A.

1.5 As a result of the consultation exercise some areas of the draft Policy were amended. In summary these were;

Adult Gaming Centres – additional detail added to clarify issues to potential applicants

Sensitive areas – a list was added of those areas which the Council would consider sensitive when considering any application in close proximity. This is to ensure applicants are aware that the Council may expect a higher level of control on gambling activities in these areas.

“Race Nights” and non commercial gambling – Additional details added to highlight the potential need for licenses to undertake these activities and links to guidance.

Split Premises

Additional detail added following additional guidance received from the Gambling Commission

1.6 The Policy is required to be considered by City Council at the meeting set for 30th November in order to meet the statutory publication requirements under the Gambling Act 2005.

2.0 Recommendation

That Members consider this report and to:

1. Recommend to the City Council that the Gambling Act Statement of Licensing Policy contained in Appendix B is adopted and to authorise Officers to take the necessary steps to publish the new Policy to be implemented on the 31st January 2010.

R. Carton
Manager of Public Protection Service

Appendix A

Consultation Response Table Gambling Act 2005 - Statement of Principles Consultation July – September 2009

Table Headings

- | | |
|--------------------------|--|
| 1. Reference Number | Each particular response has been given a unique reference number. |
| 2. Respondent | The individual, company or organisation and address of the respondent. |
| 3. Details of Comments | A copy or précis of the response made referenced to the section of the policy. |
| 4. Appraisal of Comments | Officers response to the representation including whether any changes/variations are proposed as a result. |

| 1 | 2 | 3 | 4 |
|---|---|--|---|
| 1 | Earlswood Drive Trading Ltd | The current conditions issued by the Gambling commission are more than adequate. Our trade association, BACTA, are extremely diligent that all conditions are met including problem gambling information leaflets and phone contact numbers. Under age card application forms are available and all staff are trained to enquire about a person's age and what necessary documents are acceptable for proof of age. | The conditions issued by the Gambling Commission are applicable to the operators and personal licence. Our policy relates to the premises licenses under the Gambling Act 2005, in accordance with any relevant code of practice issued by the Gambling Commission. |
| 2 | Hooe & Turnchapel community Association | The association only has a lottery licence so we feel that this review does not affect us. | Small society lotteries are covered under the Gambling Act 2005 and are therefore also affected by this policy. |
| 3 | Mount Batten Park Ltd/Mount Batten Sailing & watersports centre | The centre agrees with the policy | Comment noted |
| 4 | Crownhill Methodist Church | We never allow gambling on the premises. | Comment noted |

| | | | |
|---|--|---|---|
| 5 | Prince Rock Primary School | As a primary school we don't have any gambling on the premises. Our only concern would be if we let out a room for a private function, do we need to ensure that no gambling takes place e.g. Bingo as we don't hold a licence. | Comment noted |
| 6 | Licensing Manager and Chair of the Devon Licensing Forum Mid Devon District Council | The Devon Licensing Officers Forum set up a small working party to review the Gambling Statement of Principles. As part of the outcome some additional guidance has been produced to cover unlicensed family entertainment centres and prize gaming as both of these activities are carried out by way of permits, rather than licences. Members of the Forum are encouraged to use this guidance in their statement of principles. | Additional guidance has been included in amended policy |
| 7 | Devon & Cornwall Constabulary | With reference to the draft Statement of Principles for public consultation, the Police having considered the document make no representations or suggestions to alter the policy as written. All appropriate licence conditions for consideration by applicants appear to be included with regard to preventing gambling from being a source of crime and disorder, or supporting crime and for protection of children. | Comment noted |

Appendix B



Plymouth City Council

Draft Statement of Principles

Under the Gambling Act 2005

For the period 31st January 2010 to 30th January 2013

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Part A - Statement of Principles

Text in the shaded boxes within this Statement of Principles is advisory and only intended to give assistance to applicants, interested persons and responsible authorities.

1. The Licensing Objectives

1.1 The Licensing Authority has a duty under the **Gambling Act 2005 (from now on referred to as the Act)** to carry out its licensing functions in a manner, which is consistent with three licensing objectives. The relevant 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, and**
- **Protecting children and other vulnerable persons from being harmed or exploited by gambling**

1.2 In discharging its responsibilities under the Act and in making decisions in relation to premises licences and temporary use notices (S.153), this Licensing Authority will aim to permit the use of premises for gambling in so far as it thinks it that use will be:

- 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,
- In accordance with this Licensing Authorities Statement of Principles.

2.2 Each case will be considered on its merits

2.3 In deciding whether or not to grant a licence, this Licensing Authority does not have regard to the expected demand for the facilities that are the subject of the application.

2. Introduction

2.1 This Statement of Principles is written to conform to the provisions of the Act and its associated regulations. Guidance issued under section 25 of the Act by the Gambling Commission outlines the way that this Licensing Authority will deal with applications for a range of premises licences, permits and enforcement of the Act.

2.2 This Statement of Principles is effective from the 31st January 2010 for a three-year period and will then be the subject of a further consultation and then re-published. The Statement will also be reviewed from time to time and any amended parts re-consulted upon and then re-published.

The Statement of Principles can be seen in the Councils website www.plymouth.gov.uk. Copies are available for viewing at the Council Offices, Civic Centre, Armada Way, Plymouth, PL1 2AA and in public libraries throughout the City

Should you have comments regarding this Statement of Principles please write to the Licensing Section at the above address or email licensing@plymouth.gov.uk

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

3. The Geographical Area

- 3.1 Plymouth is the second largest City on the south coast of England and, after, Bristol, the largest in the South West with a residential population in the region of 241,00 with approximately 53% being within the 20-59 age group. Looked upon as the regional capital of Devon and Cornwall, Plymouth has a rich combination of heritage and natural beauty in what is a thriving maritime city that attracts millions of visitors.
- 3.2 The City is located in an area of outstanding beauty, with the Dartmoor National Park to the north, the natural harbour of Plymouth Sound to the south and the rivers Plym and Tamar on either side. Plymouth's rich history and maritime heritage, combines the advantages of city living with the benefits of having the diverse countryside and coastline of Devon and Cornwall on its doorstep.
- 3.3 Plymouth City Council has employed the world-renowned architect David Mackay and the 'Mackay Vision' are embedded in the on-going re-development of Plymouth. It is likely that over the next twenty years it is reasonable to expect that the population of Plymouth could rise to between 300,000 - 350,000 due to urban expansion.
- 3.4 This Licensing Authority recognises that the provision of entertainment is a major contributor to the economy of the City, attracting tourists and visitors, making for a vibrant City, which in turn continues to be a major employer. Commercial occupiers of premises have a legitimate expectation of an environment that is attractive and sustainable for their businesses.



4. Consultation

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

- The 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.

4.2 List of persons this Authority consulted includes:

- Citizen's Advice Bureau
- Crime and Disorder Reduction Partnership
- Devon and Cornwall Constabulary
- Plymouth City Council Social Services / Education Department
- Devon Fire and Rescue Service
- Environmental Health
- Gamblers Anonymous
- Gambling Commission
- Gamcare
- Local businesses and their representatives
- Local faith groups
- Local residents and their representatives
- Mencap
- NSPCC
- Primary Care Trust
- Representatives of existing licence-holders
- Voluntary & Community organisations working with children & young people

4.3 Proper weight has been given to the views of all those who have been consulted prior to the date of implementation of the Statement of Principles.

Our consultation took place between 20/07/2009 and 1/10/2009 having regard to the HM Government Code of Practice on Consultation (published July 2008), which can be viewed at <http://www.berr.gov.uk/files/file47158.pdf>

5. Declaration

- 5.1 In producing the final Statement of Principles, this Licensing Authority declares that it has had regard to the licensing objectives of the Act, the **Gambling Commission's Guidance to Licensing Authorities (3rd Edition - May 2009) (from now on referred to as the Gambling commission's Guidance)** and any responses from those consulted on the statement.

6. Relationship with Other Legislation

- 6.1 This Licensing Authority will seek to avoid any duplication with other

statutory or regulatory systems where possible, including planning. This Authority 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 cannot be met by licensees due to planning restrictions, should such a situation arise.

6.2 The grant of a licence does not imply the approval of other legislative requirements.

Applicants for Premises Licences for Casinos, Bingo Halls, Adult or Family Entertainment Centres (licensed or unlicensed) or Permits are advised to speak to the Planning Department of this Council before making a formal application to the Licensing Authority. The Planning Department can be contacted at Plymouth City Council, Civic Centre, Armada Way, Plymouth. PL1 2AA.
Tel: 01752 304366
Email: - planningconsents@plymouth.gov.uk

7. Responsible Authorities

7.1 Responsible authorities are those public bodies, as specified by the Act, which must be notified of applications for premises licences. Such bodies are entitled to make representations to the Licensing Authority in relation to the applications. The responsible authorities are detailed in Appendix A.

7.2 This Licensing Authority is required by regulation 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.

7.3 In accordance with the Gambling Commission's Guidance this Authority designates the **Children's Services Child Protection Team, Plymouth City Council** for this purpose.

8. Interested Parties

8.1 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 applications is made, the person;

- Lives sufficiently close to the premises to be likely to be affected by the authorised activities
- Has business interests that might be affected by the authorised activities, or
- Represents persons who satisfy paragraph (a) or (b)"

8.2 This Licensing Authority is required by regulation 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.
- Will not apply a rigid rule to its decision-making.
- It will consider the examples of considerations provided in the Gambling Commission's Guidance (Para 8.11 to 8.18).

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 or MP represents the ward likely to be affected. Other than these however, the licensing authority will generally require written evidence that a person/body (e.g. an advocate/relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the Licensing Section, Public Protection Service, Plymouth City Council, Civic Centre, Armada Way, Plymouth. PL1 2AA Tel: 01752 304141 or email: - licensing@plymouth.gov.uk

9. Exchange of Information

Licensing Authorities are required to include in their Statement the Principles to be applied by the Authority in exercising the functions under S.29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under S.350 of the Act with the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

9.1 This Licensing Authority will apply the provisions of the Gambling Act 2005 in its exchange of information, which includes the provision that the Data Protection Act 1998 will not be contravened. In addition this Licensing 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 Act.

9.2 Should any protocols be established as regards information exchange with other bodies then they will be made available.

10. Enforcement

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

10.1 This Licensing Authority's principles are that it will be guided by the Gambling Commission's Guidance and that enforcement should be:

- **Proportionate:** regulators should only intervene when necessary: Remedies

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

10.2 In line with the Gambling Commission's Guidance this Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as reasonably possible.

10.3 This Licensing Authority has adopted and implemented a risk-based inspection programme based on;

- **The Licensing Objectives**
- **Relevant codes of practice**
- **Guidance issued by the Gambling Commission, in particular at Part 36**
- **The principles set out in this statement of principles**

The main enforcement and compliance role for this Licensing Authority in terms of the Gambling Act 2005 is to ensure compliance with the Premises Licences and other permissions, which it authorises.

This Licensing Authority also keeps itself informed of developments as regards the work of the Local Better Regulation Office (LBRO) in its consideration of the regulatory functions of Local Authorities.

Bearing in mind the principle of transparency, this Licensing Authority's enforcement, compliance protocols and/or written agreements are available upon request to the Licensing Section, Public Protection Service, Plymouth City Council, Civic Centre, Armada Way, Plymouth. PL1 2AA Tel: 01752 304141 or email: - licensing@plymouth.gov.uk.

11. Licensing Authority Functions

11.1 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 by 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

It should be noted that this Licensing Authority is not involved in licensing remote gambling, which is regulated by the Gambling Commission via Operator Licences.

12. The Licensing Process

- 12.1 A Licensing Committee, a Licensing Sub-Committee, or an officer acting under delegated authority may carry out the powers of the Licensing Authority under the Act.
- 12.2 Many of the licensing procedures are largely administrative in nature. In the interests of efficiency, non-contentious procedures are delegated to licensing officers.
- 12.3 This Licensing Authority will ensure that all Licensing Officers and Members of the Licensing Committee receive adequate training to enable them to undertake their role under the Act.
- 12.4 Where admissible and relevant representations are received in relation to an application for a premises licence, or in relation to the review of a premises licence, a Licensing Sub-Committee is delegated to hear the matter.
- 12.5 Applicants for premises licences are required to copy their applications in full to the responsible authorities as listed in Appendix A.

Part B - Premises Licences - Consideration of Applications

1. General Principles

1.1 Premises Licences are subject to the requirements set out in the Act and associated 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 appropriate.

1.2 This Licensing Authority is aware that in its **decision-making** 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
- In accordance with any relevant guidance issued by the Gambling Commission
- Reasonably consistent with the licensing objectives
- In accordance with the Licensing Authority's Statement of Principles.

It is appreciated that in line with the Gambling Commission's Guidance "**moral objections to gambling are not a valid reason to reject applications for premises licences**" (except as regards to any 'no casino resolution' - see section on Casinos below) and also that unmet demand is not a criterion for a Licensing Authority.

1.3 In the Act the **definition of "premises"** includes "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, licensing authorities should pay particular attention if there are issues about subdivisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

The Gambling Commission's Guidance states that: "In most cases the expectation is that a single building / plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises."

Any premises granted multiple licences prior to clarification of guidance issued by the Gambling Commission, may be reviewed from time to time having regard to the amended guidance; the decision making process taken at that time; the separation control measures put in place; any material changes noted since the granting of the application and the relevance of all these factors having regard to the promotion of the licensing

objectives, in particular to the protection of children and vulnerable persons from being harmed or exploited from gambling.

This Licensing Authority takes particular note of the Gambling Commission's Guidance, which states that Licensing Authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following.

- The third licensing objective seeks to protect children from being harmed by gambling. In practice, that means not only preventing them from taking part in gambling but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to, or closely observe gambling where they are prohibited from participating
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not '**drift**' into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit
- Customers should be able to participate in the activity named on the premises licence

The Guidance also gives a list of factors which the Licensing Authority should be aware of, which may include:

Do the premises have a separate registration for business rates?
Is 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?

This Licensing Authority will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

The Gambling Commission's relevant access provisions for each premises type are set out below from the Gambling Commission Guidance

Casinos

- The principal access entrance to the premises must be from a street (Para 7.23)
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons
- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence

Adult Gaming Centre

- No customer must be able to access the premises directly from any other licensed gambling premises

Betting Shops

- Access must be from a street (Para 7.23) or from another premises with a betting premises licence
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.

Tracks

- No customer should be able to access the premises directly from:
 - A casino
 - An adult gaming centre

Bingo Premises

- No customer must be able to access the premise directly from:
 - A casino
 - An adult gaming centre
 - A betting premises, other than a track

Family Entertainment Centre

- No customer must be able to access the premises directly from
 - A casino
 - An adult gaming centre
 - A betting premises, other than a track

Part 7 of the Gambling Commission's Guidance to Licensing Authorities (3rd edition May 2009) contains further guidance on this issue, which this authority will also take into account in its decision-making.

- 1.4 The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be **ready to be used for gambling** in the reasonably near future consistent with the scale of building or alterations required before the premises are brought into use.

If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a **provisional statement** should be made instead.

In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process:-

- First, whether the premises ought to be permitted to be used for gambling
- Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

Applicants should note that a Licensing Authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

More detailed examples of the circumstances in which such a licence may be granted can be found in the Gambling Commission's Guidance (Para 7.59 – 7.66).

- 1.5 This Licensing Authority is aware that demand issues cannot be considered with regard to the **location of premises** but that considerations in terms of the licensing objectives are relevant to its decision-making. As per the Gambling Commission's Guidance this Licensing Authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

Therefore in determining whether a premises location is suitable for the grant of a licence, this Licensing Authority will have particular regard to the following factors:-

- The proximity of the premises to any school, centre or establishment for the education, training or care of young and/or vulnerable persons

- The proximity of the premises to leisure centres used for sporting and similar activities by young and/or vulnerable persons
- The proximity of the premises to any youth club or similar establishment, and
- The proximity of the premises to any community, ecclesiastical, welfare, health or similar establishments used specifically, or to a large extent, by young and /or vulnerable persons

1.6 This Licensing Authority is aware of the **relationship between planning, building regulations and the granting of a premises licence** (Para 7.59). In determining applications this Licensing Authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.

1.7 This Licensing Authority will not take into account irrelevant matters as per the above guidance. In addition this authority also notes the following excerpt from the Gambling Commission's Guidance (Para 7.66):

“When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence. Section 210 of the 2005 Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.”

1.8 This Licensing Authority seeks to avoid any **duplication with other statutory/regulatory regimes**, where possible, including planning. This Licensing Authority 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 cannot be met by licensees due to planning restrictions, should such a situation arise.

When dealing with a premises licence application for finished buildings, this Licensing Authority will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health & safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

Premises licences granted must be reasonably consistent with the **licensing objectives**. With regard to these objectives, this Licensing Authority has considered the Gambling Commission's Guidance.

1.9 **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** - This Licensing Authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that Licensing Authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective.

Thus, where an area has known high levels of organised crime this Authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This Licensing Authority is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it will be taken into account.

1.10 **Ensuring that gambling is conducted in a fair and open way** - This Licensing Authority has noted that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is however, more of a role with regard to tracks, which is explained in more detail in Part B, Para 7, Tracks.

1.11 **Protecting children and other vulnerable persons from being harmed or exploited by gambling** – This Licensing Authority has noted the Gambling Commission’s Guidance that states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). This Licensing Authority will therefore consider whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances/machines, segregation of areas etc.

This Licensing Authority is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.

As regards the term “vulnerable persons” it is noted that the Gambling Commission does not seek to offer a definition but states that “it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.” This Licensing Authority will consider this licensing objective on a case-by-case basis.

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

- Relevant to the need to make the proposed building suitable as a gambling facility
- Directly related to the premises and the type of licence applied for;
- Fairly and reasonably related to the scale and type of premises: and
- Reasonable in all other respects.

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this Licensing Authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This Licensing Authority will also expect the licence applicant to offer his/her own suggestions as to the ways in which the licensing objectives can be met effectively when making their application.

This Licensing Authority will also consider specific measures, which may be required for buildings, which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling

areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives.

This Authority will also ensure that where category C (Guidance - Appendix B) or above machines is on offer in premises to which children are admitted:

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

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

This Licensing Authority is aware that tracks may be subject to more than one premises licence, provided each licence relates to a specified area of the track. In line with the Gambling Commission's Guidance, this Licensing Authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

It is noted that there are conditions, which this Licensing Authority cannot attach to premises licences, which are:

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

Door Supervisors - The Gambling Commission Guidance advises that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a premises licence to this effect.

Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether these need to be SIA licensed or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary (as per the Guidance, Part 33).

2. Adult Gaming Centres

- 2.1 This Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the

applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises. Appropriate licence conditions may cover issues such as:

- CCTV
- Door supervisors
- Location of entry
- Notices / signage
- Physical separation of areas
- Proof of age schemes
- Provision information leaflets helpline numbers for organisations such as GamCare.
- Self –barring schemes
- Specific opening hours
- Supervision of entrances / machine areas

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

3. (Licensed) Family Entertainment Centres

3.1 This Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

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

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

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

3.3 This Licensing Authority will, in line with the Gambling Commission's Guidance, refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. This Licensing Authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

4. Casinos

Casino – Local Policy

- 4.1 This Licensing Authority has not passed a '**no casino**' resolution under Section 166 of the Gaming Act 2005, but is aware that it has the power to do so. Should this Licensing Authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution. Any such decision will be made by the Full Council. Similarly, a resolution will not affect the ability of the casinos with preserved entitlements from the 1968 Gaming Act from continuing to operate as casinos.
- 4.2 **Licence considerations / conditions** - This Licensing Authority will attach conditions to casino premises licences according to the principles set out in the Gambling Commission's Guidance (Para 9), bearing in mind the mandatory conditions listed (Para 17), and the Licence Conditions and Codes of Practice published by the Gambling Commission.
- 4.3 **Betting machines** - This Licensing Authority will, as per the Gambling Commission's Guidance take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

5. Bingo premises

- 5.1 This Licensing Authority notes that the Gambling Commission's Guidance states;
- 5.2 This Licensing Authority will take steps to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas (Para 18.4).
- 5.3 This Licensing Authority also notes the Gambling Commission's Guidance regarding the unusual circumstances in which the **splitting of pre-existing premises** into two adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded (Para 18.8).
- 5.4 Children and young people are allowed into bingo premises, however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed (Para 18.7).
- 5.2 **Credit in Casinos and Bingo Premises** – S. 177 of the Act does not prevent the licensee from permitting the installation of cash dispensers (ATMs) on the premises. Such machines may accept credit cards (and debit cards) and the arrangement is subject to a requirement that the licensee has no other commercial connection in

relation to gambling (aside from the agreement to site the machines) with the service-provider and does not profit from the arrangement, not make any payment in connection with the machines. This Licensing Authority will also take note of any restrictions and requirements on the Operating Licences for betting premises as regards credit.

6. Betting premises

- 6.1 **Betting machines** – S.181 contains an express power for Licensing Authorities to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence or to a casino premises licence (where betting is permitted in the casino). When considering whether to impose a condition to restrict the number of betting machines in particular premises, this Licensing Authority, amongst other things, 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 persons.”

7. Tracks

- 7.1 This Licensing Authority is aware that tracks may be subject to more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this Licensing Authority will especially consider the impact upon the third licensing objective (that is the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 7.2 This Licensing Authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.
- 7.3 This Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures/licence conditions may cover issues such as:
- CCTV
 - Location of entry
 - Notices / signage
 - Physical separation of areas
 - Proof of age schemes
 - Provision of information leaflets / helpline numbers for organisations such as GamCare
 - Self-barring schemes
 - Specific opening hours
 - Supervision of entrances / machine areas

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

- 7.4 **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.

Applicants are advised to consult the Gambling Commission's Guidance on where gaming machines may be located on tracks and any special considerations that should apply in relation, for example, to supervision of the machines and preventing children from playing them. This Licensing Authority will take note of this guidance. This Licensing Authority will also, in line with the Gambling Commission's Guidance, consider the location of gaming machines at tracks.

- 7.5 **Betting machines** - This Licensing Authority will, as per part 6 of the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator proposes to offer.

On tracks where the potential space for such machines may be considerable, bringing with it significant problems in relation to the proliferation of such machines, the ability of track staff to supervise them if they are scattered around the track and the ability of the track operator to comply with the law and prevent children betting on the machines, this Licensing Authority will generally consider restricting the number and location of betting machines, in the light of the circumstances of each application for a track betting premises licence.

- 7.6 **Applications and plans** - The Act (S.51) requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity (Para 20.28).

Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations (Para 20.29).

Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises (Para 20.31).

In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined (Para 20.32).

This authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the "five times rule" (commonly known as betting rings) must be indicated on the plan (Para 20.33).

Only one premises licence may be issued for any particular premises at any time. There is one exception to this rule, namely a track (i.e. a horse race course, dog track or other premises where races or sporting events take place), which may be subject to more than one premises licence, provided each licence relates to a specified area of the track. The Act sets out that there will be a main (betting premises) licence for the track, and in addition subsidiary premises licences for other gambling activities may be issued.

In principle there is no reason why all types of gambling should not co-exist upon a track, however this Licensing Authority will want to think about how the third licensing objective is delivered by the co-location of premises. As with the granting of multiple licences in a single building, this Licensing Authority will 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.

Premises licences in relation to tracks are unusual in that, because the track operator does not need to have an operating licence (although may have one), the premises licence will need to contain requirements about responsibilities in relation to the proper conduct of betting. The conduct of the betting on tracks will be regulated primarily through the operating licences that the persons offering betting on the track will need to hold (whether a general betting operating licence or a pool betting operating licence). The track operator will have a role to play in ensuring, for example, that the betting areas are properly administered, and licensing authorities will have an important role in regulating tracks, because of the particular rules surrounding on-course betting, and the sub-division of the track into different areas.

As the betting premises licence for a track could authorise the entire premises to be used for providing betting facilities, this could mean that no separate betting premises licence would be necessary for the self-contained premises. The effect of this approach would be that the track operator was responsible for premises licence issues relating to the self-contained premises, rather than accountability resting with the betting operator providing facilities within it.

If the self-contained premises were the subject of a separate premises licence, that licence would have its own, directly imposed conditions. It would also allow the premises to use up to four gaming machines (in categories B2 to D), as described Appendix B.

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

The Commission has issued guidance about how such premises should be delineated, both to make it clear to the public that they are entering a "betting office" and to keep children and young persons out.

8. Travelling Fairs

- 8.1 Where category D machines and/or equal chance prize gaming without a permit are available for use at travelling fairs. The Licensing Authority is responsible for deciding whether the facilities for gambling are no more than an ancillary amusement at the fair.
- 8.2 This Licensing Authority will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 8.3 It is noted that the 27-day statutory maximum for the land being used as a fair, applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This Licensing Authority will work with its neighbouring Authorities to ensure that land, which crosses our boundaries, is monitored so that the statutory limits are not exceeded.

9. Provisional Statements

- 9.1 **Provisional Statements** - Developers may wish to apply to this authority 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.
- 9.2 S.204 of the Act provides for a person to make an application to the licensing authority 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.
- 9.3 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.

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 (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority 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.

In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- Which could not have been raised by objectors at the provisional statement stage;
- Which in the authority's opinion reflect a change in the operator's circumstances; or
- Where the premises have not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

The Gambling Commission's Guidance (Part B - Para 1.6) also applies.

Once an operator has completed a building, the licensing authority will be able to consider a premises licence application for it.

Requiring the building to be complete ensures that the authority can inspect it fully, as can other responsible Authorities with inspection rights under Part 15 of the Act. Inspection will allow Authorities to check that gambling facilities comply with all necessary legal requirements, for example, that Category C and D machines in a licensed family entertainment centre are situated so that people under 18 do not have access to the category C machines. The physical location of the machines will be an important part of this, and inspection will allow the authority to check that the layout complies with the operator's proposals and the legal requirements." (In relation to Provisional Licences)

10. Reviews

10.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities however it is for this 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;

- 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 Licensing Authority's Statement of Principles.

10.2 The request for the review will also be subject to the consideration by the authority as to whether the request is frivolous, vexatious, or 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.

10.3 This Licensing Authority 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.

10.4 Once a valid application for a review has been received, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.

- 10.5 The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.
- 10.6 The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are;
- Add, remove or amend a licence condition imposed by the licensing authority;
 - Exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
 - Suspend the premises licence for a period not exceeding three months; and
 - Revoke the premises licence.
- 10.7 In determining what action, if any, should be taken following a review, this Licensing Authority will have regard to the principles set out in S.153 of the Act, as well as any relevant representations.

In particular, this Licensing Authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

Once the review has been completed, the licensing authority will, as soon as possible, notify its decision to:

- The licence holder
- The applicant for review (if any)
- The Commission
- Any person who made representations
- The chief officer of police or chief constable; and
- Her Majesty's Commissioners for Revenue and Customs

Part C - Permits/Temporary & Occasional Use Notices

1. **Unlicensed Family Entertainment Centre (Gaming machine permits Statement of Principles – Schedule 10 Para 7)**
 - 1.1 Where an establishment does not hold a Premises Licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).
 - 1.2 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. The Gambling Commission's Guidance also states: "In their three year licensing policy statement (statement of principles), licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits", "licensing authorities will want to give weight to child protection issues." (Para 24.6).
 - 1.3 Gambling Commission's Guidance also states: "An application for a permit may be granted only if the Licensing Authority is satisfied that the premises will be used as an unlicensed Family Entertainment Centre and if the Chief Officer of Police has been consulted on the application..."

This Licensing Authority will consider asking the applicant to demonstrate (Para 24.7);

- 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 (Para 24.7)
- 1.4 This Licensing Authority will not attach conditions to this type of permit.
 - 1.5 **Statement of Principles**

This licensing authority has adopted a Statement of Principles in accordance with Paragraph 7 of Schedule 10 of the Act and they are for the purposes of clarifying the measures that this licensing authority will expect applicants to demonstrate when applying for a permit for an unlicensed family entertainment centre. This will allow this licensing authority to better determine the suitability of the applicant and the premises for a permit.

Within this process this Licensing Authority will aim to grant the permit where the applicant is able to demonstrate that:

- They are a fit and proper person to hold the permit
- They have considered and are proposing suitable measures to promote the licensing objectives, and
- They have a legal right to occupy the premises to which the permit is sought.

The measures suggested in this statement of principles should be read as guidance only and this Licensing Authority will consider any alternative measures suggested by the applicant, not included, and to substitute measures as appropriate.

1.6 **Unlicensed Family Entertainment Centres**

The term 'unlicensed family entertainment centre' (uFECs) is one defined in the Act and refers to a premises which provides category D gaming machines along with various other amusements, such as computer games and penny-pushers. The premises is 'unlicensed' in that it does not require a premises licence, but does require a permit to be able to provide its category D gaming machines. It should not be confused with a 'licensed family entertainment centre' which does require a premises licence because it contains both category C and D gaming machines.

uFECs will be most commonly located at seaside resorts, in airports and at motorway style service centres, and will cater for families, including unaccompanied children and young persons.

This Licensing Authority will only grant an uFEC gaming machine permit where it is satisfied that the premises will be operated as a bonafide unlicensed family entertainment centre.

In line with the Act, while this Licensing Authority will not attach conditions to this type of permit, but can refuse applications, if not satisfied that issues raised in this "Statement of Principles" have been addressed in the application.

1.7 **Supporting Documents**

The council will require the following supporting documents to be served with all uFEC gaming machine permit applications:

- Proof of age - a certified copy or sight of an original birth certificate, a photo style driving licence, or passport – all applicants for these permits must be aged 18 or over)
- Proof that the applicant has the right to occupy the premises - acceptable evidence would be a copy of any lease, a copy of the property's deeds or a similar document
- A criminal records basic disclosure - the disclosure must have been issued within the previous month. This will be used to check that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act).
- Evidence that the machines to be provided are or were supplied by a legitimate gambling machine supplier or manufacturer who holds a valid gaming machine technical operating licence issued by the Gambling Commission
- A plan of the premises for which the permit is sought showing the following items:
 - (i) The boundary of the building with any external or internal walls, entrances and exits to the building and any internal doorways
 - (ii) Where any category D gaming machines are positioned and the particular type of machines to be provided (e.g. slot machines, penny-falls, cranes)
 - (iii) The positioning and types of any other amusement machines on the premises
 - (iv) The location of any fixed or semi-fixed counters, booths or offices on the premises whereby staff monitor the customer floor area

- (v) The location of any ATM/cash machines or change machines
- (vi) The location of any fixed or temporary structures such as columns or pillars
- (vii) The location and height of any stages in the premises; any steps, stairs, elevators, balconies or lifts in the premises
- (viii) The location of any public toilets in the building

Unless otherwise agreed, the plan should be drawn to a standard scale with a key showing the items mentioned above. The standard scale is 1:100.

1.8 **Child Protection**

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 council will consider these policies and procedures on their merits but should (depending on the particular permit being applied for) include appropriate measures/training for staff having regard to the following:

- Maintain contact details for any local schools and or the education authority so that any truant children can be reported
- Employ policies to address problems associated with truant children who may attempt to gain access to the premises and to gamble when they should be at school
- Employ policies to address any problems that may arise when there is an increased likelihood that children may frequent the premises in greater numbers, such as half terms and summer holidays
- Maintain information at the premises of the term times of any local schools in the vicinity and to review staffing levels during these times
- Display posters with the 'Child Line' phone number in discreet locations throughout the premises e.g. toilets, corridors
- Maintain a register of any incidents that arise on and around the premises related to children i.e. children gambling excessively, truant children, children being unruly or young unaccompanied children entering the premises. The register can be used to detect any trends which require action by the management of the premises.
- Take steps to ensure all young children are accompanied by a responsible adult.
- Maintain policies to deal with any young children who enter the premises unaccompanied
- Undertake satisfactory disclosure checks (criminal records checks) for all staff who will be working with children.

NB: Any supporting evidence of the above measures e.g. training manuals or other similar documents/written statements should be attached to the application.

1.9 **Protection of Vulnerable Persons**

This Licensing Authority will expect the applicant to show that there are policies and procedures in place to protect vulnerable persons. Applicants should refer to Part 2 Para 1.11 of this policy for further information on protecting (children) and vulnerable persons from being harmed or exploited by gambling. This Licensing Authority will assess the submitted policies and procedures on their merits, but (depending on the

particular permit being applied for) should include appropriate measures/training for staff relating to the following:

- Display Gamcare helpline stickers on all gaming machines
- Display Gamcare posters in prominent locations on the premises
- Training for staff members which focuses on building an employee's ability to maintain a sense of awareness of how much (e.g. how long) customers are gambling, as part of measures to detect persons who may be vulnerable
- Consider appropriate positioning of ATM and change machines, including the display of Gamcare stickers on any such machines.

NB: Any supporting evidence of the above measures e.g. training manuals or other similar documents/written statements should be attached to the application.

1.10 **Other Miscellaneous Issues**

The applicant should also be mindful of the following possible control measures (depending on the particular permit being applied for) to minimise crime and disorder and the possibility of public nuisance:

- Maintain an effective CCTV system to monitor the interior and exterior of the premises
- Keep the exterior of the premises clean and tidy
- Ensure that external lighting is suitably positioned and operated so as not to cause nuisance to neighbouring or adjoining premises
- Consider the design and layout of the outside of the premises to deter the congregation of children and youths.

NB: Any supporting evidence of the above measures e.g. training manuals or other similar documents/written statements should be attached to the application.

Applicants for Permits for Adult or Family Entertainment Centres (licensed or unlicensed) (formerly known as 'Amusement Arcades') are advised to speak to the Planning Service, Plymouth City Council before making a formal licensing application.

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

2.1 **Automatic Entitlement: 2 Machines** - There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority. The Licensing Authority can also 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 (i.e. that written notice has been provided to the Licensing Authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with)
- The premises are mainly used for gaming; or
- An offence under the Act has been committed on the premises

2.2 **Permit: 3 or More Machines** - If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Act, and “other such matters as the Authority think relevant.” This Licensing Authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the licensing authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff that will monitor that the machines are not being used by those under 18. Notices and signage may also be helpful. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

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

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

Applicants should be aware that only those premises which have a ‘bar’ (servery) at which alcohol is sold for consumption on the premises will be eligible for a machine in the bar area of the premises. This means that premises such as restaurants, which do not have a bar for serving drinks or can only, sell alcoholic drinks as an ancillary to food will no longer automatically qualify for two machines.

3. *Prize Gaming Permits*

- 3.1 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”.
- 3.2 This Licensing Authority will expect the applicant to set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:
- That they understand the limits to stakes and prizes that are set out in Regulations; and
 - That the gaming offered is within the law
 - Clear policies that outline the steps to be taken to protect children from harm
- 3.3 In making its decision on an application for this permit the Licensing Authority does not need but may have regard to the licensing objectives but must have regard to any Gambling Commission’s Guidance (the Act, Schedule 14, Para 8(3)).
- 3.4 It should be noted that there are conditions in the Act by which the permit holder must comply, but that the Licensing Authority cannot attach conditions.

The conditions in the Act are:

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

4. *Club Gaming and Club Machines Permits*

- 4.1 Member’s Clubs (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set out in forthcoming regulations. A Club Gaming machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).
- 4.2 Gambling Commission Guidance states: "Members clubs must have at least 25 members and be established and conducted “wholly or mainly” for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulation and these cover bridge and whist clubs, which replicates the position under the Gaming Act 1968. A members’ club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men’s clubs, branches of Royal British Legion and clubs with political affiliations."

- 4.3 The Commission Guidance also notes that "Licensing Authorities 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 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 Commission or by the police.
- 4.4 There is also a '**fast-track**' procedure available under the Act for premises, which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). 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 ground upon which an Authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:
- (a) That the club is established primarily for gaming, other than gaming prescribed under schedule 12;
 - (b) That in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
 - (c) That a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."
- 4.5 There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

5. Temporary Use Notices

- 5.1 Temporary use notices allow the use of premises 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 to the Gambling Commission, would include hotels, conference centres and sporting venues.
- 5.2 The licensing authority can only grant a temporary use notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.
- 5.3 The Secretary of State has the power to determine what form of gambling can be authorised by temporary use notices, and at the time of writing this Statement the relevant regulations (SI no 3157: The Act (Temporary Use Notices Regulations 2007) state that temporary use notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.
- 5.4 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 Gambling Commission's 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".

- 5.5 In considering 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. 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.

6. Occasional Use Notices

- 6.1 This Licensing Authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded.
- 6.2 Occasional Use Notices or other licences may be required for events such as "race nights". This Licensing Authority will consider any guidance issued by the Gambling Commission or any other statutory agency (please refer to the references at the end of this document) regarding non-commercial betting and race nights of how their activities can be regulated within the Act. Similarly, for gaming activities such as poker played in licensed premises, further details are set out in the glossary at the end of this document.

7. Vessels

- 7.1 This Licensing Authority when considering applications for premises licences in respect of vessels will give particular weight to the views of the Maritime and Coastguard Agency in respect of promoting the licensing objectives. Where in the opinion of the Licensing Authority any of the three objectives are undermined, and this cannot be resolved through the imposition of conditions, the application will be refused.

Where a premises licence is sought in connection with a vessel which will be navigated whilst licensable activities take place, the licensing authority will be concerned following the receipt of relevant representations, with the promotion of the licensing objectives on-board the vessel. The licensing authority will not focus on matters relating to safe navigation or operation of the vessel, the general safety of passengers or emergency provisions, all of which are subject to regulations, which must be met before the vessel is issued with a Passenger Certificate and Safety Management Certificate. It is expected that if the Maritime and Coastguard Agency is satisfied that the vessel complies with Merchant Shipping standards for a passenger ship, the premises will normally be accepted as meeting the public safety objectives. In respect of other public safety aspects, representations made to the licensing authority by the Maritime and Coastguard Agency will be given particular weight.

Disclaimer: This Licensing Authority wishes to make clear that the Gambling Commission's Guidance to Local Authorities (3rd Edition – May 2009) was the most recent information available at the time of writing and can be the subject of change within the period that this statement of principles is in force. I would also draw your attention to the following:

- **Legislation may change over time and the advice given is based on the information available at the time the guidance was produced – it is not necessarily comprehensive and is subject to revision in the light of the further information**
- **Only the courts can interpret statutory legislation with any authority; and**
- **This advice is not intended to be definitive guidance nor a substitute for the relevant law and independent legal advice should be sought where appropriate**

Appendix A

Responsible Authorities Contacts (non emergency calls only): -

1) The Licensing Authority

Licensing Section
Plymouth City Council
Civic Centre
Plymouth, PL1 2AA

Tel: 01752 307981 / 305465 / 307983

Fax: 01752 307810

Email: licensing@plymouth.gov.uk

2) The Gambling Commission

Victoria Square House
Victoria Square
Birmingham, B2 4BP

Tel: 0121 230 6666

Fax: 0121 230 6720

Email: - info@gamblingcommission.gov.uk

3) H M Revenue & Customs

Law Enforcement
Custom House
The Parade
Barbican
Plymouth, PL1 2JP

Tel: 01752 234644

4) Child Protection

Child Protection Team
Social Services
Ginkgo House,
156 Mannamead Road
Plymouth, PL3 5QL

Tel: 01752 306340

Fax: 01752 306344

Email: childprotect@plymouth.gov.uk

5) Devon & Cornwall Police

The Licensing Office
Devon & Cornwall Constabulary
Charles Cross Police Station
Hampton Street
Plymouth, PL4 8HG.

Tel: 01752 720469

Fax: 01752 720487

Email: plymlc@devonandcornwall.pnn.police.uk

6) Devon & Somerset Fire and Rescue Service

Glen Road
Plympton
Plymouth, PL7 3XT

Tel: 01752 333600

Fax: 01752 333640

Email: westfiresafety@devfire.gov.uk

7) Public Protection Service

Public Protection Service
Plymouth City Council
Civic Centre
Armada Way
Plymouth, PL1 2AA

Tel: 01752 304141; Fax: 01752 226314

E-mail: public.protection@plymouth.gov.uk

8) Planning & Regeneration

Planning Consents
Plymouth City Council
Civic Centre
Plymouth, PL1 2AA

Tel: 01752 304366;

Fax: 01752 305523

E-mail: planningconsents@plymouth.gov.uk

9) Maritime & Coastguard Agency (Boats only)

Plymouth Marine Office
New Fish Market
Sutton Harbour
Plymouth, PL4 0LH

Tel: 01752 266211

Fax: 01752 225826

Email: plymouthmo@mcga.gov.uk

Appendix B

| Premises Type | Machine category | | | | | | |
|---|---|---|--|--|---|--|---------------------------------|
| | A | B1 | B2 | B3 | B4 | C | D |
| Regional casino (machine/table ratio of 25-1 up to maximum) | Maximum of 1250 machines Any combination of machines in categories A to D, within the total limit of 1250 (subject to table ratio) | | | | | | |
| Large casino (machine/table of 5-1 up to maximum) | | Maximum of 150 machines Any combination of machines in categories B to D, within the total limit of 150 (subject to table ratio) | | | | | |
| Small casino (machine/table ratio of 2-1 up to maximum) | | Maximum of 80 machines Any combination of machines in categories B to D, within the total limit of 80(subject to table ratio) | | | | | |
| Pre-2005 Act casinos (no machine/table ratio) | | Maximum of 20 machines categories B to D <u>or</u> C or D machines instead. | | | | | |
| Betting premises and tracks occupied by Pool Betting | | | Maximum of 4 machines categories B2 to D | | | | |
| Bingo Premises | | | | Maximum of 4 machines in Category B3 or B4 | | No limit C or D machines | |
| Adult gaming centre | | | | Maximum of 4 machines in Category B3 or B4 | | No limit C or D machines | |
| Family entertainment centre (with premises licence) | | | | | | No limit on Category C or D machines | |
| Family entertainment centre (with permit) | | | | | | | No limit on Category D machines |
| Clubs or miners' welfare institutes with permits | | | | | Maximum of 3 machines in categories B4 to D | | |
| Qualifying alcohol licensed premises | | | | | | 1 or 2 machines of category C or D automatic upon notification | |
| Qualifying alcohol licensed premises with gaming machine permit | | | | | | Number as specified on permit | |
| Travelling fair | | | | | | | No limit on Category D machines |
| | A | B1 | B2 | B3 | B4 | C | D |

References

DCMS - Department of Culture, Media, and Sport

http://www.culture.gov.uk/what_we_do/gambling_and_racing/3305.aspx

Race Nights under the Gambling Act 2005

Poker under the Gambling Act 2005

Factsheets – bingo, casino nights, poker, race nights, arcades, gaming machines in pubs and clubs, etc

LACORS - The Local Authority Coordinators of Regulatory Services

Gambling Commission – Documents

<http://www.gamblingcommission.gov.uk/>

Poker in Pubs - Advice on allowing poker in alcohol licensed premises (July 2009)

Advice on Gaming in clubs and alcohol licensed premises: Gambling Act 2005 (Sept 2008)

Note – Specific guidance on activities such as **poker in pubs, race nights and lotteries** may be obtained by visiting the above-mentioned web sites

Glossary

An Interested Party – is a person, in the opinion of the Licensing Authority who:

- 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)

Responsible Authority –

- (i) The Licensing Authority
- (ii) The Gambling Commissioner
- (iii) The Chief Officer of Devon & Cornwall Constabulary
- (iv) The Devon Fire & Rescue Service.
- (v) The local planning authority within the meaning given by the Town and Country Planning act 1990 (c.8) for any area in which the premises are wholly or partly situated
- (vi) The local authority by which statutory functions are exercisable in any area in which the premises are wholly or partly situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health
- (vi) A body, which is designated in writing for the purpose of this paragraph, by the Licensing Authority for an area in which the premises are wholly or partly situated, as competent to advise the authority about the protection of children from harm:
- (vii) And any other person prescribed by regulations by the Secretary of State.