

## PLYMOUTH CITY COUNCIL

**Subject:** Gambling Act 2005 – Statement of Licensing Policy  
**Committee:** Cabinet  
**Date:** 10 November 2015  
**Cabinet Member:** Councillor Philippa Davey  
**CMT Member:** Kelechi Nnoaham (Director of Public Health)  
**Author:** Andy Netherton, Public Protection Service  
**Contact details:** Email: andy.netherton@plymouth.gov.uk  
Tel: 01752 304742  
**Ref:**  
**Key Decision:** No (Policy Framework item)  
**Part:** I

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### **Purpose of the report:**

The report provides details of the three year review of the City Councils Gambling Act Statement of Licensing Policy and contains a draft policy to commence from 31 January 2016. The Statement of Licensing Policy is specified within the Council's Policy Framework, therefore, Full Council is required to consider and formally adopt the revised policy prior to the expiry of the current policy on the 30 January 2016.

The Gambling Act 2005 (the Act) creates the regulatory system that governs the provision of all gambling in Great Britain, other than for the National Lottery and spread betting.

The regulation of gambling aims to promote the following licensing objectives:

- 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.

Plymouth City Council is designated as a licensing authority for the purposes of the Gambling Act 2005 and is responsible for granting premises licenses within its area. Gambling premises would include casinos, bingo halls, betting shops, adult gaming centres and family entertainment centres. The Gambling Commission regulate the operators of gambling activities and how gambling is undertaken.

The Act requires the Council to review and publish a Statement of Licensing Policy every three years on how we will exercise our functions over the three year period to which it applies.

The new policy includes criteria which gambling operators should consider when completing their gambling risk assessments. It also outlines how the Council will use any Local Area Profiles once they are published.

It is likely that the work to generate these Local Area Profiles will identify specific local issues that may need to be addressed through the licensing policy. It is therefore likely that a further review of the policy will be required.

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## **The Brilliant Co-operative Council Corporate Plan 2013/14 -2016/17:**

**Growth** – Gambling is a part of the local leisure and entertainment industry offered within the City. This revised policy will provide businesses with a consistent and transparent view of how the Council will consider premises licence applications in respect to the design, layout and operation of premises used for gambling activities

**Caring** – Gambling activities could negatively affect a participant’s welfare. This revised policy and the licensing system will assist in minimising the risk of negative impact as far as the law allows. The statutory controls via the Gambling Commission and Local Authorities will assist in excluding children and young persons from accessing age-restricted activities, or those with any gambling addiction. The trade also operates various voluntary schemes to tackle and assist those with gambling addictions.

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

None

The Gambling (Premises Licence) Fees (England and Wales) Regulations 2007 sets out the standards to be followed in the setting of gambling fees and charges. The regulations do not set a specific fee that the authority must charge but set a maximum that cannot be exceeded.

The Council Constitution Scheme of Delegation has delegated responsibility for setting fees to the Licensing Committee, who have determined that its fees should be set at the maximum level to secure full cost recovery in carrying out its regulatory functions as specified in the Act.

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### **Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:**

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.

The Equalities Impact Assessment concluded that the new Statement of Licensing Policy would promote equality. It is a statutory requirement that no persons under the age of eighteen shall be permitted entry to age-restricted licensed premises for the purposes of gambling, although there is no upper limit. There are no restrictions that apply to any of the other protected characteristics i.e. disability, gender, race and sexual orientation.

Problem gambling can cause significant social and health problems, irrespective of socioeconomic status. The adverse impacts on family members, including children, are also clear (36% of callers to Gamcare reported gambling affected the family, friend or partner). Problem gambling can exacerbate child poverty. Parents who have a gambling problem may adversely affect their children’s well-being; they are less likely to parent well; they will have less money to spend to meet their family’s needs; and they may be less able to work.

Local data identifying the number of persons who are at risk of or those that experience problem gambling is not easily obtainable. National surveys are undertaken periodically which show that 4.2% of adults are classified as “at risk” with a further 0.4% classified as “problem” gamblers using the Problem Gambling Severity Index (PGSI).

The report highlights the requirements of the policy that protect children and vulnerable persons and identifies where further work on this topic is required

The policy seeks to allow licensed premises the legitimate opportunity to undertake licensed gambling activities providing that they are lawful and within their licensing requirements, in particular in respect to the protection of young persons and other vulnerable persons.

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### **Equality and Diversity:**

Has an Equality Impact Assessment been undertaken? Yes

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### **Recommendations and Reasons for recommended action:**

That Members consider this report and to:

Recommend to the City Council that the Gambling Act Statement of Licensing Policy contained in Appendix A is adopted with effect from 31 January 2016.

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### **Alternative options considered and rejected:**

No alternative options are available

In order to comply with statutory requirements the Policy must be considered and adopted by City Council at the meeting set for 23 November 2015. There is a statutory requirement to publish the revised policy, at least four weeks before the date on which it comes into effect. Failure to meet these timescales would result in the Council not being able to process any applications after the 31 January 2016 until a new policy statement had been formally approved.

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### **Published work / information:**

[Gambling Act 2005](#)

[Gambling Commission Guidance to Local Authorities \(th Edition\)](#)

[Plymouth City Council - Gambling Act Statement of Principles 2013 to 2016](#)

### **Background papers:**

Title	Part I	Part II	Exemption Paragraph Number						
			1	2	3	4	5	6	7
Responses to consultation	X								
Equality impact assessment	X								

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**Sign off:**

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Originating SMT Member

Has the Cabinet Member(s) agreed the content of the report? Yes

## **1.0 BACKGROUND**

- 1.1 The Gambling Act 2005 (the Act) contains the regulatory system that governs the provision of all gambling in Great Britain, other than for the National Lottery.
- 1.2 Plymouth City Council is designated as a 'licensing authority' for the purposes of the Gambling Act 2005 and is therefore responsible for granting premises licenses within its administrative district in respect of;
- Casino premises;
  - Bingo premises;
  - Betting premises, including tracks;
  - Adult Gaming Centres;
  - Family Entertainment Centres.
- 1.3 The Gambling Commission regulates gaming and certain lotteries. They are responsible for issuing new operating licences under the Act to organisations and individuals who are providing facilities for gambling and personal licences to certain categories of people working in the gambling industry. In general the Gambling Commission regulate the operation of the gambling activities, whilst the Licensing Authority regulates the environment in which the gambling activity takes place, such as the building.
- 1.4 The Gambling (Premises Licence) Fees (England and Wales) Regulations 2007 sets out the standards to be followed in the setting of gambling fees and charges. The regulations do not set a specific fee that the authority must charge but set a maximum that cannot be exceeded. The Council Constitution Scheme of Delegation has delegated responsibility for setting fees to the Licensing Committee, who has determined that fees should be set at the maximum level to secure full cost recovery in carrying out its regulatory functions as specified by the Act.
- 1.5 The report provides details of the 3 year review of the City Councils Gambling Act Statement of Licensing Policy and contains a draft policy to commence from 31<sup>st</sup> January 2016. The Statement of Licensing Policy is specified within the Council's Policy Framework, therefore, Full Council is required to consider and formally adopt the revised policy prior to the expiry of the current policy on the 30<sup>th</sup> January 2016.

## **2.0 STATEMENT OF LICENSING POLICY**

- 2.1 The Council are required to publish a Statement of Licensing Policy regarding the exercise of their functions in a manner, which is consistent with three licensing objectives. The licensing objectives are:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime
  - Ensuring that gambling is conducted in a fair and open way, and
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling

The Council's existing Statement of Licensing Policy is due to expire on the 30 January 2016, therefore the current review must be completed and the revised policy in place by this date in order for the Council to continue to be able to administer this legislative function.

2.2 The Council's revised policy is divided into three parts.

Part A sets out a **statement of principles** of how the Council, as the licensing authority, will discharge its functions, its policy on the exchange of information and the better regulation principles that will be applied;

Part B sets out the **general principles of how the Council will consider applications**, its relationship with other agencies and the relevance of licensing conditions;

Part C sets out **how the Council will issue gaming machine permits**.

2.3 Inequalities and the protection of children and vulnerable persons is a priority for the City. The adverse impacts on family members, including children, are also clear where problem gambling can exacerbate child poverty. Parents who have a gambling problem may adversely affect their children's well-being; they are less likely to parent well; they will have less money to spend to meet their family's needs; and they may be less able to work.

2.4 The Gambling Commission has recently altered the current conditions placed on operators licences to include a requirement for the production of local gambling risk assessments. The new policy outlines the expectations of operators risk assessments. It highlights a range of issues and factors the assessments should address, the use of control measures and when assessments will need to be reviewed.

2.5 The policy also outlines how the Council will use any Local Area Profiles once they are published. The objective of the profile is to set out what an area is like, what risks gambling activity may pose to the licensing objectives and what the implications are for the licensing authority and gambling operators.

Local Area Profiles will create a baseline of data which will help to identify elements of our local communities which may be vulnerable to gambling activities. Areas of vulnerability must be addressed through the gambling operators risk assessments and ultimately will be used when considering the suitability of an application.

The work to generate these Local Area Profiles will identify specific local issues that may need to be addressed through the licensing policy. It is therefore likely that a further review of the policy will be required on completion of these local area profiles.

2.6 The information gathered during the production of the Local Area Profiles will also assist in the delivery of Policy 12 of the Plymouth Plan – Delivery safe and strong communities and good quality neighbourhoods. The licensing and planning systems will be aligned to provide suitable controls on betting shops and the availability of fixed odds betting terminals

2.7 Officers will also continue to work with the trade and the Gambling Commission to promote voluntary schemes, such as self-barring, to prevent and reduce risks from gambling.

### **3.0 PUBLIC CONSULTATION**

3.1 The Council is required to consult publicly with stakeholders affected by the administration of its functions under the Act. A 4 week public consultation exercise was undertaken in August 2015, which included writing to the following interested parties:

Citizen's Advice Bureau  
Safer Plymouth  
Devon and Cornwall Constabulary  
Plymouth City Council  
    Social Services  
    Education  
    Public Health  
    Team Plymouth  
    Environmental Health  
Devon & Somerset Fire and Rescue Service  
Gambling welfare support organisations  
Gambling Commission  
Local businesses groups  
Local faith groups  
Local residents groups  
NSPCC  
Existing licence-holders  
Voluntary & Community organisations working with children & young people  
Ward Councillors

3.2 The Gambling Act Statement of Licensing Policy is specified within the Council's Policy Framework. In accordance with the Constitution the Cabinet Member for Safer and Stronger Communities referred the draft Policy to the Co-operative Scrutiny Board for consultation. The Board did not wish to review the policy at this stage but would wait for the more detailed review following the publication of the Local Area Profiles

3.3 A total of 6 responses were received and are summarised below.

#### **3.4 Ladbrokes Plc and Paddy Power Bookmakers Ltd**

- The gambling industry contributes to the vitality of the high street
- It is a highly regulated industry which helps individuals who suffer from gambling related harm
- Concerns were expressed regarding the additional burdens and added conditions which were beyond those agreed with the Gambling Commission
- Ladbrokes have a Primary Authority relationship with Liverpool and Milton Keynes Councils
- Variations in authority's requirements lead to inconsistencies and burdens on the industry
- The factors and expectations listed in the policy regarding gambling risk assessments are opinion and not based on evidence
- The industry already undertakes extension work to mitigate risks
- The Regulators Codes requires regulators to avoid unnecessary burdens

3.5 The draft policy does not add any additional burdens above those already required through operators licence conditions regarding risk assessments. The policy recognises that assessments must be tailored to the local circumstances. Operators will be expected to identify the local risk factors surrounding the premises. The risk factors will differ from location to location so an understanding of the specific characteristics of the local area and the people who live, work or visit that area is important. The policy outlines examples of those factors and characteristics that we believe may be relevant, but each case will be taken on its own merits.

### 3.6 **Gambling Commission**

Comments were made regarding the use for the new gambling risk assessments in unlicensed family entertainment premises and temporary use notices.

The policy has been amended in response.

### 3.7 **Barnardos**

They commented that staff working in gambling premises should receive training involving child sexual exploitation.

Most gambling premises should not admit those under 18 years of age, but the policy does require suitable and sufficient safeguarding policies and staff training to be in place. Those premises which allow under 18s to be present are expected to employ staff with satisfactory disclosure and barring service checks.

### 3.8 **Campaign for Fairer Gambling**

Recommends Local Authorities extend their test purchasing operations to include self-exclusion procedures, anti-money laundering controls as well as under age sales.

Licensing conditions should be used to ensure adequate staffing at gambling premises

Licensing should be used to mitigate the likelihood and impact of violence and aggression

Licensing authorities should consider the implication of the rising number of Self Service Betting Terminals (SSBTs)

Licensing policies should contain a statement supporting further regulatory action against Fixed Odds Betting Terminals (FOBTs)

3.9 Many of the issues raised by the campaign can already be addressed by the licensing system, but evidence to justify these additional controls is very often absent. The result of the work to produce the local area profiles (LAP) will create an evidence based context in which to challenge the sufficiency of the controls put forward by applicants. Where appropriate the actions suggested by the campaign may be more easily applied based on the LAP evidence.



#### **4.0 Future Policy Reviews**

- 4.1 The introduction of gambling risk assessments and the local area profiles provide a real opportunity to develop a policy that reflects local issues and control measures that are closely tailored to local circumstances. Westminster and Manchester Councils are just completing their pilot study into how local areas profiles can be developed.
  
- 4.2 This policy review has therefore been light touch and is being undertaken to meet our legal responsibilities and set the framework for the use of the new gambling risk assessments and local area profiles. A more in depth and meaningful review of the policy will occur once the local area profiles have been completed. This will need to be a multiagency project to be completed over the next 9 months. It is hoped that this work will also inform other policies and strategies across the Council.

# Appendix A

## Part A

### Statement of Principles

#### I Introduction

The Gambling Commission was set up under the Gambling Act 2005 (The Act) to regulate gambling in Great Britain in partnership with licensing authorities. The Commission is an independent non-departmental public body sponsored by the Department for Culture, Media and Sport (DCMS) whose work is funded by fees set by DCMS and paid by the organisations and individuals whom the Commission licenses.

The Commission issues licences for gambling operators and, through effective regulation and public engagement, ensures that crime is kept out of gambling, that gambling is fair and open, and that children and the vulnerable are protected. The Commission works closely with other regulators, including licensing authorities, and with bodies such as police and HM Revenue and Customs to regulate the gambling industry. ([Gambling Commission: Who are and what we do; April 2011](#)) The Commission has issued guidance in accordance with Section 25 of the 2005 Act about the manner in which licensing authorities exercise their licensing functions under the Act and, in particular, the principles to be applied.

The Commission will also issue Codes of Practice under Section 24 about the way in which facilities for gambling is provided, which may also include provisions about the advertising of gambling facilities.

The Gambling Commission can be contacted at:

Gambling Commission,  
Victoria Square House,  
Victoria Square,  
BIRMINGHAM,  
B2 4BP

[www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

Email: [info@gamblingcommission.gov.uk](mailto:info@gamblingcommission.gov.uk)

1.2 Plymouth City Council (the Council) is designated as a Licensing Authority' for the purposes of the Gambling Act 2005 and is therefore responsible for granting premises licenses within its district in respect of;

- Casino premises;
- Bingo premises;
- Betting premises, including tracks;
- Adult Gaming Centres;
- Family Entertainment Centres.

The Act requires the Council to prepare and publish a [Statement of Licensing Policy \(Statement of Principles\)](#) that sets out the policies that the Council will generally apply to promote the Licensing Objectives when making decisions on applications made under the Act.

The policy will come into effect on the date of adoption by the Council and will be reviewed as necessary, and at least every three years from the date of adoption.

## **2 The Licensing Objectives**

2.1 The Council has a duty under the Gambling Act 2005 (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

2.2 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 that its 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 Licensing Policy

2.3 The Council particularly notes the Gambling Commission's latest Guidance to Local Authorities (from now on referred to as the Gambling Commission's Guidance)

“In deciding to reject an application, a licensing authority should rely on reasons that demonstrate that the licensing objectives are not being, or are unlikely to be met. Licensing authorities should be aware that other considerations such as moral or ethical objections to gambling are not a valid reason to reject applications for premises licences. This is because such objections do not relate to the licensing objectives. An authority's decision cannot be based on dislike of gambling, or a general notion that it is undesirable to allow gambling premises in an area (with the exception of the casino resolution powers.”

2.4 Each case will be considered on its merits

2.5 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.

### 3 The Geographical Area

- 3.1 Plymouth is the second largest City in the South West with a residential population in the region of 256,400 (Census data 2011). 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 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 (Mackay Vision 2003).
- 3.4 The Council 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.
- 3.5 The Council may publish a Local Area Profile (LAP) from time to time, which will contain neighbourhood or ward based data.



## 4 Statement of Principles

- 4.1 Licensing authorities are required by the Act to publish a statement of the principles which they propose to apply when exercising their functions. This statement must be published at least every three years (or alternate time period as may be imposed by statutory provision). The statement must also be reviewed from “time to time” and any amended parts re-consulted upon. The statement must be then re-published.

This Statement of Principles is written to conform to the provisions of the Act and its associated regulations. The Gambling Commission’s Guidance issued under S.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.

- 4.2 This Statement or Principles is effective from the 31 January 2016 for a three-year period (or alternate time period as may be imposed by statutory provision) after which time it will be the subject of a further public consultation. The Statement of Principles may also be reviewed from time to time where there are significant changes in government guidance at which point an appropriate public consultation will be undertaken prior to any amendments being re-published.

The Council’s current Statement of Principles can be seen in the Councils website [www.plymouth.gov.uk/gamblingpolicy.htm](http://www.plymouth.gov.uk/gamblingpolicy.htm)

Copies are available for viewing at the First Stop, New George Street, Plymouth.

Should you have comments regarding this Statement of Principles please write to the Public Protection Service Manager at the above address or by email to [licensing@plymouth.gov.uk](mailto:licensing@plymouth.gov.uk)

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

## Review Procedures

- 4.3 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.

- 4.4 The Council will also consult relevant organisations and interested parties who it considers have a relevant legal or professional interest to comment, and consider any other contribution from any other person, business or organisation that it considers as relevant.

## **Organisations and Interested Parties**

The Council may consult the following organisations /persons as part of any public consultation;

- Citizen's Advice Bureau
- Community Safety Partnership
- Devon and Cornwall Constabulary
- Plymouth City Council Adult Social Care
- Plymouth City Council Children's Social Care
- Plymouth City Council Planning Services
- Office of Director of Public Health
- Plymouth City Council Environmental Health Service
- Gambling welfare support organisations
- Gambling Commission
- Local businesses groups
- Local faith groups
- Local residents groups
- NSPCC
- Existing licence-holders
- Voluntary & Community organisations working with children & young people
- Ward Councillors
- Team Plymouth Managers

4.5 Proper weight will be given to the views of all those who have been consulted prior to the date of implementation of the Statement of Principles.

4.6 In producing the published Statement of Principles, this Licensing Authority declares that it has had regard to the licensing objectives of the Act, the Gambling Commission's Guidance and any responses from those consulted on the statement.

## **5 Fees**

5.1 The Gambling (Premises Licence) Fees (England and Wales) Regulations 2007 sets out the standards to be followed in the setting of gambling fees and charges. The regulations do not set a specific fee that the authority must charge but set a maximum that cannot be exceeded.

The Council Constitution Scheme of Delegation has delegated responsibility for setting fees to the Licensing Committee.

5.2 The Council takes the matter of non-payment of annual licence fees seriously and in accordance with Section 193 of the Gambling Act 2005 where an operator fails to pay, without reasonable excuse, the annual fee shall revoke the premises licence.

When dealing with public money the Council has a duty to secure prompt payment as any delay in settling debt can undermine the effective operation of services within the city. Prompt payment of bills will avoid possible imposition of late payment charges.

The same principles will apply to permits and the Council will exercise its powers under Schedule 13 paragraph 17 of the Gambling Act and cancel the permit.

Each case will be treated on its own merits and consideration may be given to mitigating circumstances.

## **6. Relationship with Other Legislation**

6.1 The Council 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.

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 Services of this Council before making a formal application.

Email: - [planningconsents@plymouth.gov.uk](mailto: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 in relation to applications. All representations made by responsible authorities are relevant if they relate to the licensing objectives. The responsible authorities are detailed in Appendix A.

7.2 The Council 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.

In accordance with the Gambling Commission's Guidance this Authority designates the Children Young People and Family Service, Plymouth City Council, Midland House, Plymouth, PL1 2EJ 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. An Interested Party is defined in the Act as;

“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)” (S.158)

8.2 The Council is required by regulations to state the principles it will apply in exercising its powers under the Act to determine whether a person is an interested party. The principles that will apply are that;

- Each case will be decided upon its merits.
- Will not apply a rigid rule to its decision-making.
- Will consider considerations provided in the Gambling Commission’s Guidance.

Examples include interested parties who may be democratically elected councillors or MPs; people living close to the premises; the nature and scope of business interests that could be affected; and people who may represent those in the above categories.

Other than these we will expect written evidence that a person/body (e.g. an advocate/relative) ‘represents’ a person 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.

8.3 The Council will also consider the Gambling Commission’s Guidance that ‘business interests’ should be given the widest possible interpretation and include, for example partnerships, charities, faith groups and medical practices.

## **9 Exchange of Information**

9.1 The Council is required to include in their Statement of Principles the procedure to be applied in exercising the functions under S.29 and 30 of the Act in respect to the exchange of information with the Gambling Commission. The functions under S.350 of the Act with the respect to the exchange of information with persons and bodies are listed in Schedule 6 to the Act.

9.2 The Council 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 and any Guidance issued by the Gambling Commission or the Secretary of State under the powers provided in the Act.



- 9.3 The Council will work closely with the Gambling Commission, Devon and Cornwall Police and with Responsible Authorities where there is a need to exchange information on specific premises. Should any protocols be established in respect to the exchange of information with other bodies then they will be made available.
- 9.4 The privacy of those making representations will be respected, but it may be necessary for the identity of those making representations to be passed on to Responsible Authorities and the Gambling Commission for the purpose of determining licensing applications or in any subsequent appeal that may be made.
- 9.5 This Licensing Authority will maintain a Licensing Register of all premises licences and permits issued and this will be available on the Council's web site at [www.plymouth.gov.uk/licensingregister.htm](http://www.plymouth.gov.uk/licensingregister.htm)

## 10 Enforcement

- 10.1 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.
- 10.2 The Council's compliance and enforcement functions will be guided by the Gambling Commission's Guidance, Regulators Compliance Code, Better Regulation principles, Primary Authority partnerships schemes and the Public Protection Service Enforcement Policy in that the following guiding principles are applied;
- **Proportionality** - regulators should only intervene when necessary: Remedies should be appropriate to the risk posed, and costs identified and minimised;
  - **Accountability** - regulators must be able to justify decisions, and be subject to public scrutiny;
  - **Fairness and Consistency** - rules and standards must be joined up and implemented fairly;
  - **Openness and Transparency** - regulators should be open, and keep regulations simple and user friendly; and
  - **Targeted Enforcement** - regulation should be focused on the problem, and minimise side effects.
- 10.3 In line with the Gambling Commission's Guidance the Council will endeavour to avoid duplication with other regulatory regimes so far as reasonably possible.
- 10.4 The Council will apply in principle of risk-based inspection based on;
- The Licensing Objectives
  - Relevant Codes of Practice
  - [Gambling Commission's Guidance](#), in particular Part 36 on Compliance and Enforcement

- [Public Protection Service Enforcement Policy](#)
- The Current Statement of Licensing Policy ([Statement of Principles](#))

10.5 The Council's enforcement and compliance role in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions, which it authorises having regard to the Gambling Commission's guidance Part 36.

## **11 Licensing Authority Functions**

11.1 Licensing Authorities have a duty under the Act to;

- Issue premises licences where gambling activities are to take place
- Issue Provisional Statements where gambling activities are to take place
- 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 premises licensed under the Licensing Act 2003 for the use of up to two gaming machines on the premises
- Grant 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 on the premises
- 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
- Maintain registers of the permits and licences that are issued

Local licensing authorities are not involved in licensing remote gambling, which is regulated by the Gambling Commission via operating licences. The National Lottery is regulated by the National Lottery Commission, Remote Gambling is dealt with by the Gambling Commission and Spread Betting is regulated by the Financial Services Authority.

## **12 The Licensing Process**

12.1 A Licensing Committee, a Licensing Sub-Committee, or officers 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 The Council 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.

## Part B

### Premises Licences - Consideration of Applications

#### I. General Principles

##### Introduction

- 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 The Council 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 or 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).

The absence of unmet demand is not a criterion for a licensing authority in considering an application for a premises licence under the Gambling Act. Each application must be considered on its merits without regard to demand.

##### Definition of "Premises"

- 1.3 The Council will have regard to the definition of 'premises' as set out in the Section 152 of the Act to include 'any place'. In addition that the intention of Section 152 is to prevent more than one premises licence applying to any place.

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. Particular attention will be given to the sub-division of a single building or plot to ensure that mandatory conditions relating to access between premises are observed.

## Multiple Licences

- 1.4 The Council will have regard to the Gambling Commission's Guidance that states '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.'
- 1.5 The Council will have regard to the clarification of guidance issued by the Gambling Commission in respect to any premises granted multiple licences. These premises may be inspected to reconsider 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.
- 1.6 The Council 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
- 1.7 The Council may consider the following questions as relevant factors to in its decision-making, depending on all the circumstances of the case.
- 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?
  - Has a risk assessment identified and adequately controlled risks

**The Council will have regard to the Gambling Commission's Guidance on relevant access provisions for each premises type**

**Casinos**

- The principal access entrance to the premises must be from a street
- 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 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 also contains further guidance on this issue, which this authority will also take into account in its decision-making.

## Provisional Statements

- 1.8 The Council will have regard to the Gambling Commission's Guidance that a licence to use premises for gambling should only be issued in relation to premises where the licensing authority can be satisfied that the premises 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.

- 1.9 The Council 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 and will have regard to the detailed examples of the circumstances in which such a licence may be granted set out in the Gambling Commission's Guidance.

### 1.10 Location

The Council is aware that demand issues cannot be considered with regard to the "location of premises" but that considerations in terms of the licensing objectives are relevant to its decision-making. Particular attention will be given to the protection of children and vulnerable persons from being harmed or exploited by gambling in addition to issues of crime and disorder.

The Council will have regard to any further guidance as regards areas where gambling premises should not be located although the existence of any 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.

In determining whether a premises location is suitable for the grant of a licence regard will be given 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

- Proximity to payday loan businesses, pawn shops or other similar premises
- The proximity of any other area or location where young and / or vulnerable persons could congregate

### **Relationship with Other Agencies**

- 1.11 The Council is aware of the overlap with planning, building regulations in the granting of a premises licence. In determining applications the Council will 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.

When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have to comply with the necessary planning or building consents. Nor should fire or health and safety risks be taken into account. Those matters should be dealt with under relevant planning control, building and other regulations, and must not form part of the consideration for the premises licence. Section 210 of the 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.

Planning controls may restrict the provision of gambling activities. It is a relevant to consider the evidence base for this restriction and consider the reasons for the restrictions

### **Crime and Disorder**

- 1.12 The Council is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime or being used to support crime and will pay attention to the proposed location of gambling premises in terms of this licensing objective. Where evidence is submitted that 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.

The Council 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.

### **Openness**

- 1.13 The Council is aware that the Gambling Commission has responsibility for ensuring that gambling is conducted in a fair and open way via operating and personal licences. The Licensing Authority will need to consider this objective in detail and may add conditions in situations where an operating licence is not in place, such as in the licensing of tracks.



## **Children and Vulnerable Persons**

- 1.14 The Council notes the Gambling Commission's Guidance to protect children and other vulnerable persons from being harmed or exploited by gambling. This objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The Council 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.

The Council notes the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.

The Council recognises that the Gambling Commission does not seek to offer a definition of the term "vulnerable persons" but that "it does 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".

Where physical barriers are required to separate activities due to differing age restrictions the applicant must provide sufficient information with regards to the height, transparency and materials to be used. The licensing authority will require barriers to be designed and constructed to prevent inadvertent access and viewing of restricted areas. Adequate supervision within these areas must also be maintained.

We expect all operators to have a safeguarding policy in relation to children and vulnerable adults. All staff will be expected to undertake training regarding:

- Vulnerability risk factors
- How to identify safeguarding issues
- How to report and record concerns

## **Licensing Conditions That May Be Imposed**

- 1.15 The Council will consider the imposition of conditions on a case-by-case basis. 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.

The Council 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 e.g. the use of supervisors, appropriate signage for adult only areas etc.

- 1.16 The Council will 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-restricted premises in order to pursue the licensing objectives.

The Council will also ensure that where category C or above machines are on offer in premises to which children are admitted that the following measures are considered.

- 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.

- 1.17 The Council notes 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, 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.

### **Conditions That May Not Be Imposed**

- 1.18 The Council will not attach conditions to premises licences, which;
- Are impossible to comply with as an operating licence condition;
  - Relate to gaming machine categories, numbers, or method of operation;
  - 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
  - Are in relation to stakes, fees, winning or prizes

## **Door Supervisors**

- 1.19 Where premises attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then the entrances to the premises will be controlled by a door supervisor and attach such conditions as may be appropriate to the premises licence.

## **2. Adult Gaming Centres**

- 2.1 The Council will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to 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.

- 2.2 The Council recognises that the design and layout of adult gaming centres will vary. It will have particular regard to the siting of age restricted gaming machines within each individual premises to ensure, so far as is reasonably practicable, that staff properly monitor the use of these machines by children and young persons. The Council reserves the right to request that gaming machines are re-positioned where circumstances demonstrate that it is appropriate to do so.

Additional factors to be taken into consideration will include to following:

- Visual observation
- Re-location of the machines
- Door buzzers
- Remote cut-off switches

- Training provision
- Any other factor considered relevant

2.3 The Council will have regard to any relevant additional guidance that may be issued by the Gambling Commission in respect to adult gaming centre applications in any decision-making.

2.4 The Council accepts that there must be no direct entry from one adult gaming centre into another and will have regard to any relevant guidance issued by the Gambling Commission in respect to such applications.

### **3. (Licensed) Family Entertainment Centres**

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

3.2 The Council 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 The Council recommends applicants consider the adoption of BACTA's voluntary Code of Social Responsibility and Good Practice in respect to Adult Gaming Centres and Family Entertainment Centres.

## 4 Casinos

### Casino – Local Policy

- 4.1 The Council 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 The Council will attach conditions to casino premises licences according to the principles set out in the Gambling Commission’s Guidance, bearing in mind the mandatory conditions listed, and the Licence Conditions and Codes of Practice published by the Gambling Commission.

## 5 Bingo Premises

- 5.1 The Council will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas that may be present.
- 5.2 The Council 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 Gam Care
  - Self-barring schemes
  - Opening hours
  - Supervision of entrances / machine areas

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

- 5.2 The Council notes that the Gambling Commission's Guidance that it should 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 those excluded areas.
- 5.3 The Council will consider it an unusual circumstance in which the **splitting of pre-existing premises** into two adjacent premises might be permitted. In these cases this Licensing Authority will have particular regard to the Gambling Commission Guidance on the 'meaning of premises' and how it relates to the primary gambling activity.
- 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.

Section 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 The Council recognises that the design and layout of betting premises (or any other premises including tracks) will vary. The Council will take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the betting machines an operator wants to offer. The Council reserve the right to request that gaming machines are re-positioned or reduce the number where circumstances demonstrate that it is appropriate to do so. Factors to be taken into consideration will include to following:

- CCTV
- Visual observation
- Re-location of the machines
- Door buzzers
- Remote cut-off switches
- Training provision
- Self-barring schemes
- Proof of age schemes
- Opening hours

- Measures / training for staff on how to deal with suspected truant school children on the premises
- Any other factor considered relevant

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

## **7 Tracks**

- 7.1 The Council 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, the impact on the protection of children and vulnerable persons from being harmed or exploited by gambling; the need to ensure that entrances to each type of premises are distinct; that children are excluded from gambling areas where they are not permitted to enter are considered.
- 7.2 The Council 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 The Council 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
  - Measures / training for staff on how to deal with suspected truant school children on the premises
  - 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.

## **Gaming Machines**

- 7.4 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. The Council will also, in line with the Gambling Commission's Guidance, consider the location of gaming machines at tracks.

## **Betting Machines**

- 7.5 The Council will have regard to Part 6 of the Gambling Commission's Guidance, to take 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. The Council 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.

## **Applications and Plans**

- 7.6 The Act 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 information will also be used to plan future premises inspection activity.

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.

- 7.7 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.

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.



- 7.8 The Council 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.

## **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 Council is responsible for deciding whether the facilities for gambling are no more than an ancillary amusement at the fair.
- 8.2 The Council will also consider whether the applicant falls within the statutory definition of a travelling fair.

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. The Council 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 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.
- 9.4 In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (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.

- 9.5 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.
- 9.6 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.
- 9.7 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.

## **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 The Council can also initiate a review of a particular premises licence or a particular class of premises licence on the basis of any reason, which it thinks is appropriate.
- 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 Council 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, the Council will have regard to the principles set out in S.153 of the Act, as well as any relevant representations.

In particular, a review of a premises licence may be initiated 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

## 11 Local Area Gambling Risk Assessments

- 11.1 The Gambling Commissions Licence Conditions and Codes of Practice (LCCP) will require operators to consider local risks with effect from the 6 April 2016.

The Gambling Commission's Social Responsibility Code require licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks.

- 11.2 A local risk assessment of gambling premises should be carried out through a step-by-step approach. This will involve firstly assessing the local area; identify the relevant risk factors; assess the gambling operation and finally assess the premises design, both internal and external. Once the risk factors have been identified the appropriate control measures to mitigate the risks can be considered. These control measures may either already be in place or will need to be implemented.
- 11.3 It will be the responsibility of the gambling operator to assign an assessor for assessing the local risks for their premises. The person assigned as the assessor must be competent to undertake this role as failure properly to carry out this function could result in a breach of the provisions of the LCCP. The assessor must understand how the premises operate or will operate, its design, and where it is located. The assessor will need to understand the local area and can use staff or area managers to assist in gaining an understanding of that local area.
- In undertaking their risk assessments, licensees should take into account any relevant matters identified in this policy statement and any associated local area profile produced by this Licensing Authority.
- 11.4 It will be the responsibility of the gambling operator to ensure that a local risk assessment is provided, is regularly reviewed or updated having regard to the following circumstances;
- When applying for a new or a variation of a premises licence, including a Temporary Use Notice.
  - To take account of significant changes in local circumstances, including those identified in this policy.
  - When there are significant changes at a licensee's premise that may affect the level of risk or the mitigation of those risks.
  - on request of the Council
- 11.5 The following lists set out some examples of what the Licensing Authority considers to be significant changes in local circumstances:

- The local area is classified or declassified by the Licensing Authority as being an area of heightened risk within its Statement of Licensing Principles.
- Any substantial building development or conversion of existing premises in the local area which may increase or decrease the number of visitors. For example, where premises are converted to a local supermarket or a new office building is constructed nearby.
- Any new pay day loan or pawn brokers open in the local area
- Changes are made to the provision, location and/or timings of public transport in the local area, such as a bus stop which is used by children to attend school is moved to a location in proximity to gambling premises.
- Educational facilities increase in the local area. This may occur as a result of the construction of a new school/college or where a significant change is made to an existing establishment.

- The local area is identified as having elevated crime by the police and/or Licensing Authority.
  - Any vulnerable group is identified by the Licensing Authority or venues relating to those vulnerable groups are opened in proximity to gambling premises (e.g. additional homeless hostels or gambling or mental health care/support facilities are opened in the local area).
  - A new gambling premises opens in the local area.
- 11.6 The following lists sets out some examples of what the Licensing Authority considers to be significant changes in licenced premises (some of which may also require a variation to the existing premises licence):
- Any building work or premises refit where gambling facilities are relocated within the premises.
  - The premises licence is transferred to a new operator who will operate the premises with its own procedures and policies which are different to those of the previous licensee.
  - Any change to the operator's internal policies which as a result requires additional or changes to existing control measures; and/or staff will require retraining on those policy changes.
  - The entrance or entrances to the premises are changed,
  - New gambling facilities are made available on the premises which were not provided previously, for example, bet in play, handheld gaming devices for customers, Self Service Betting Terminals, or a different category of gaming machine is provided.
  - Changes in staffing levels or opening times
  - The premises operator makes an application for a licence at that premises to provide an activity under a different regulatory regime, for example, to permit the sale of alcohol or to provide sexual entertainment on the premises.
- 11.7 A significant change can be temporary and any temporary changes should be considered and adjustments made to the local risk assessment if necessary.
- 11.8 As a matter of best practice the Licensing Authority recommends that operators establish a regular review regime in respect of their local risk assessments. This review programme can be carried out alongside other reviews on Health and Safety risk assessments for the premises. This review programme would ensure that, regardless of whether or not any of the trigger events set out above have occurred, these risk assessments are considered at regular intervals and updated if necessary.
- 11.9 Whilst there are no plans to request that licensed premises share their risk assessments on a periodic basis, where concerns do exist, perhaps prompted by new or existing risks, the Licensing Authority is likely to request that a licensee share a copy of its risk assessment.
- 11.10 The risk assessment will set out the measures the licensee has put in place to address specific concerns, thereby potentially reducing the occasions on which a premises review and the imposition of licence conditions is required. Licensees may wish to offer voluntary conditions to be attached to any licence.

## **Matters to be included when undertaking a local risk assessment**

### The local area

11.11 Operators will be expected to identify the local risk factors surrounding the premises. The risk factors will differ from location to location so an understanding of the specific characteristics of the local area and the people who live, work or visit that area is important.

To assist in assessing the local area the Council may produce a Local Area Profile. The Local Area Profile sets out the demographic profile of areas of the City and the specific concerns and risks that have been identified in respect to gambling in those areas.

11.12 The list below is a small example of some of the risk factors that may be present in an area where gambling premises are located:

- The types of premises and their operation in the local area surrounding these premises
- The footfall in the local area, for example, does it predominately comprise residents, workers or visitors, is it a family orientated area, popular with children and young people.
- Socio-economic makeup of the area
- Prevalence of dependant or addictive gambling in an area, including information from self-exclusion data
- Transport links and parking facilities.
- Educational facilities.
- Community centres.
- Hospitals, mental health or gambling care providers.
- Homeless or rough sleeper shelters, hostels and support services.
- The ethnicity, age, economic makeup of the local community.
- Significant presence of young children
- Crime rates and types
- Unemployment rates
- Presence of alcohol or drug support facility
- Presence of a pawn broker/pay day loan businesses in the vicinity.
- Presence of other gambling premises in the vicinity.

### The gambling operation

11.13 In assessing the risk factors associated with a gambling operation the assessor should consider how that gambling operation may affect risk. The assessor as a minimum must consider:

- How the operator conducts its business
- What gambling products it provides in the premises
- The facilities to enable gambling within the premises
- The staffing levels within the premises
- The level and requirement for staff training
- Whether loyalty or account cards are used or not

- The policies and procedures it has in place in relation to regulatory requirements of the Act or to comply with the LCCP
- The security and crime prevention arrangements it has in place
- How it advertises locally and on the premises
- The marketing material within the premises
- The display and provision of information, etc.
- The opening hours of the premises and the possible interaction of the gambling premises with any surrounding night time economy.
- Support and early intervention engagement with customers
- Issues of lone working and staff working with closely with children.

#### The internal and external design of the premises

11.14 The design and layout of the premises is a key consideration as this could have a significant impact on the risk to the licensing objectives. The design, both internal and external should be considered and specific risk factors identified and noted. For example:

- The ability to view all parts of the gambling area and entrances, whether directly or via aids such as mirrors /CCTV
- The ability for children to and young people to look into the premises and see gambling taking place
- Nature and number of advertising materials present, particularly those viewable externally
- Position of various gambling activities
- The means to segregate various gambling activities

#### Control measures and monitoring

11.15 Once the risk factors have been identified, the assessor should seek to identify control measures that would mitigate the identified risks. Some risk factors may require a combination of control measures to adequately mitigate the risk.

Adequate management arrangements must be in place to ensure any control measures are in operation and licensees may wish to record these checks as part of any due diligence defence.

#### Completed assessment

11.16 The control measures must be implemented on the premises and, if applicable, staff on the premises should be trained in their use or trained on the new policy or procedure.

The Licensing Authority will assess the risks identified and the measures implemented to mitigate those risks. When a completed assessment is provided with a new application or with a variation application, the authority will consider the assessment in the course of determining whether to grant the application or not. Some control measures identified in the assessment may be put forward as conditions to be attached to the licence to address any significant local concerns.

## **12. Local Area Profiles (LAP)**

- 12.1 The authority may produce local area profiles which will be a relevant matter when determining applications or reviewing existing licences.

LAPs will be updated more frequently than the licensing policy to ensure they take account of the latest data and guidance. LAPs will therefore be published separately to this policy.

- 12.2 These LAPs may identify levels of risk from gambling which should be considered as part of any operator risk assessment.



## **PART C - PERMITS/TEMPORARY & OCCASIONAL USE NOTICES**

### **I. Unlicensed Family Entertainment Centres (Gaming Machine Permits)**

I.1 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. Only premises that are wholly or mainly used for making gaming machines available may hold an uFEC gaming machine permit or an FEC premises licence (S238 of the Act). Both a licensed FEC and an uFEC are classified as 'premises. As a result, it is generally not permissible for such premises to correspond to an entire shopping centre, airport, motorway service station or similar. Typically, the machines would be in a designated, enclosed area.

The Council will only grant an uFEC gaming machine permit where it is satisfied that the premises will be operated as a bonafide uFEC.

In line with the Act, while conditions will not be attached to this type of permit. The Council can refuse an application if not satisfied that issues raised in this Statement of Principles have been addressed in the application.

I.2 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 (S.238 of the Act).

I.3 The Council notes the Gambling Commission's Guidance which states that '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...' and will consider asking the applicant to demonstrate;

- A full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed Family Entertainment Centres;
- That the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act; and
- That staff are, or will be trained to have a full understanding of the maximum stakes and prizes

I.4 The Council will not attach conditions to this type of permit.

I.5 The Statement of Licensing Policy clarifies the measures it 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.

1.6 Within this process the applicant must be 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 Licensing Policy will be applied although will consider any alternative measures suggested by the applicant and will substitute measures as appropriate

1.7 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 standard disclosure and barring service check issued within the previous month. This will be used to check that the applicant has no relevant convictions as defined 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
- Suitable and sufficient gambling risk assessments
- Suitable and sufficient safeguarding policy
- 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 The Council will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas that may be present.

Harm in this context is not limited to harm from gambling, but includes wider 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
- Safeguarding policies in place to both protect children and vulnerable adults but also staff training in relation to the identification and onward alerting of safeguarding concerns
- 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.
- Clear signage that identifies gaming machines and skill machines
- Any prizes displayed must be capable of being won
- Staff training that covers all of the controls in place

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 The Council will expect the applicant to show that there are policies and procedures in place to **protect vulnerable persons**. The Council 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.
- Self-exclusion systems must be in operation

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 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.

## **2. (Alcohol) Licensed Premises (Gaming Machine Permits)**

### **Automatic Entitlement: 2 Machines**

2.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority. The Licensing Authority will consider removing an 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. the gaming machines have been made available in a way that does not comply with requirements on the location and operation of gaming machines)
- The premises are mainly used for gaming; or
- An offence under the Act has been committed on the premises

### **Permit: 3 or More Machines**

- 2.2 If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25, codes issued under s24 of the Act, and “other such matters as the Licensing Authority think relevant.”

The Council 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, or suitable Challenge scheme. 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.
- 2.4 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.
- 2.5 A plan must accompany applications indicating where and what type of gambling machines are to be provided. This plan may take the form of an amendment to the plan attached to the Premises Licence issued under the Licensing Act 2003.
- 2.6 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 must prepare a Statement of Licensing Policy 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 The Council 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 Council does not need but may have regard to the licensing objectives but must have regard to any Gambling Commission's Guidance (Schedule 14 and 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.

A **Club Gaming Permit** will enable the premises to provide gaming machines (3 machines of categories B3A or B4, C or D), equal chance gaming and games of chance as set out in regulations i.e. pontoon and chemin de fer. This is in addition to the exempt gaming authorised under S.269 of the Act.

Alternatively a member's club (but not commercial clubs) can apply for a **Club Gaming Machine Permit** will enable the premises to provide only gaming machines (3 machines of categories B3A or B4, C or D).

**Commercial clubs** are not permitted to provide non-machine gaming (other than exempt gaming under section 269 of the Act) which means that they should only apply for a Club Gaming Machine Permit. However they are not able to site category B3A gaming machines offering lottery games in their club.

- 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'.

The Council will take steps to ensure that a club is a bonafide club within the terms set out in the Act and with this in mind reserve the right to request or require sight of evidence that confirms the status of the club. The Council may request evidence any of the follow factors for consideration in its decision-making;

- Evidence of committee members and evidence of their election by club members?
- Minutes of previous meetings (where appropriate)?
- Is the primary activity of the club something other than gaming?
- Are the club's profits retained solely for the benefit of the club's members?
- Are there 25 or more members?
- Are the addresses of club member's genuine domestic addresses and live reasonably locally to the club?
- Do members participate in the activities of the club via the internet?
- Do guest arrangements link each guest to a member?
- Is the 48 hour rule being applied for membership and being granted admission being adhered to
- Are there annual club accounts available for more than one year?
- How is the club advertised and listed in directories and on the internet?
- Are children permitted in the club?
- Does the club have a constitution and can it provide evidence that the constitution was approved by members of the club?
- Submission of a plan of the premises for which the permit is sought i.e. premises, boundaries, machine position, etc.

- 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 S.72 Licensing Act 2003 (Schedule 12 paragraph 10) are exempt from the stricter vetting process that applies to applications for Club Gaming and Club Gaming Machine Permits.

As the Gambling Commission's Guidance to licensing authorities states: 'Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police and the grounds upon which an Authority can refuse a permit are reduced' and;

The grounds on which an application under the process may be refused are:

- (a) That the club is established primarily for gaming, 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 Council will only grant a temporary use notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.

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.

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'.

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.



5.3 The Council 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 Small Society Lotteries**

6.1 Under the Act a lottery is unlawful unless it runs under an operating licence or is an exempt lottery. The Council will register and administer small society lotteries as defined under the Act. Promoting or facilitating a lottery will fall into two categories.

- Licensed lotteries (requiring an operating licence from the Gambling Commission)
- Exempt lotteries (including small society lotteries registered with Plymouth City Council)

Exempt lotteries are lotteries permitted to run without a licence from the Gambling Commission and are defined as:

- Small society lotteries;
- Incidental non-commercial lotteries;
- Private lotteries;
- Private society lottery;
- Work lottery;
- Residents' lottery;
- Customers' lottery.

Advice regarding the definitions of the above exempt lotteries is available from the Gambling Commission guidance and their website:

[www.gamblingcommission.gov.uk/gambling\\_sectors/lotteries/getting\\_a\\_licence-what\\_you\\_n/do\\_i\\_need\\_a\\_licence/circumstances\\_in\\_which\\_you\\_do.aspx](http://www.gamblingcommission.gov.uk/gambling_sectors/lotteries/getting_a_licence-what_you_n/do_i_need_a_licence/circumstances_in_which_you_do.aspx)

## **7 Occasional Use Notices**

7.1 The Council has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This Licensing Authority will consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

7.2 The Council will consider any guidance issued by the Gambling Commission or any other statutory agency (please refer to the glossary 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.

## **8 Vessels**

- 8.1 The Council 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.
- 8.2 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: The Council wishes to make clear that the Gambling Commission's Guidance to Local Authorities (5th Edition - 2015) 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. This Licensing Authority will therefore have regard to changes in legislation, court judgements and any updated guidance issued by the Gambling Commission where it is appropriate to the application under consideration.

## **Appendix A - Responsible Authorities Contacts (non-emergency calls only)**

### **Licensing Authority**

Licensing Office,  
Public Protection Service,  
Plymouth City Council,  
Windsor House,  
Plymouth,  
PL6 5QZ

Tel: 01752 304141

Fax: 01752 226314

Email: [licensing@plymouth.gov.uk](mailto:licensing@plymouth.gov.uk)

### **The Gambling Commission**

Victoria Square House,  
Victoria Square,  
Birmingham,  
B2 4BP

Tel: 0121 230 6666

Fax: 0121 230 6720

Email: [info@gamblingcommission.gov.uk](mailto:info@gamblingcommission.gov.uk)

### **H M Revenue & Customs**

National Registration Unit,  
Betting & Gaming,  
Portcullis House,  
21 India Street,  
Glasgow,  
G2 4PZ

Tel: 03000 516023

Fax: 03000516249

Email: [NRUBetting&Gaming@HMRC.gsi.gov.uk](mailto:NRUBetting&Gaming@HMRC.gsi.gov.uk)

**Child Protection**

Child Protection Team,  
Social Services,  
Midland House,  
Notte Street,  
Plymouth,  
PL1 2EG

Tel: 01752 306340

Email: [childprotect@plymouth.gov.uk](mailto:childprotect@plymouth.gov.uk)

**Devon & Cornwall Police**

Licensing Department,  
Launceston Police Station,  
Moorland Road,  
Launceston,  
Cornwall, PL15 7HY

Tel: 01566 771309

Fax: 01566 771388

Email: [licensingwest@devonandcornwall.pnn.police.uk](mailto:licensingwest@devonandcornwall.pnn.police.uk)

**Devon & Somerset Fire and Rescue Service**

West Devon Headquarters,  
Glen Road,  
Plympton,  
Plymouth, PL7 3XT

Tel: 01752 333600

Fax: 01752 333640

Email: [westfiresafety@devfire.gov.uk](mailto:westfiresafety@devfire.gov.uk)

## **Public Protection Service**

Public Protection Service,  
Plymouth City Council  
Windsor House,  
Plymouth, PL1 2AA

Tel: 01752 304141;

Fax: 01752 226314

E-mail: [public.protection@plymouth.gov.uk](mailto:public.protection@plymouth.gov.uk)

## **Planning**

Planning Consents,  
Plymouth City Council,  
Ballard House,  
West Hoe Road,  
Plymouth, PL1 3BJ

Tel: 01752 304366;

Fax: 01752 305523

E-mail: [planningconsents@plymouth.gov.uk](mailto:planningconsents@plymouth.gov.uk)

## **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](mailto:plymouthmo@mcga.gov.uk)

## **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 and Somerset 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.