

! Metropolitan
Borough of Wirral

Statement of Principles

Gambling Act 2005

Consultation Document August 2006

**Wirral Licensing Authority
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Preface

Under the Gambling Act 2005 (the Act) a new regime for regulating gambling and betting will come into effect from 1 September 2007.

Wirral Borough Council will become the Licensing Authority responsible for granting premises licenses in the borough of Wirral in respect of:

- Betting premises, including tracks
- Bingo premises
- Family entertainment centres
- Adult gaming centres
- Casino premises

The Licensing Authority will also have responsibility for certain gaming machine permits, temporary use notices and occasional use notices, as well as the registration of small society lotteries.

The Gambling Act 2005 requires the Council to prepare and publish a statement of Licensing Principles that the Authority will apply when considering applications under the Act.

This statement of Principles has been drafted, by necessity at a time when a number of statutory regulations, codes of practice and guidance have not been published by the Government. Should anything in these documents, when published, impact on the content of this document appropriate amendments will be made prior to final publication.

This draft statement of Licensing Principles has been prepared having regard to the provisions of the Gambling Act 2005 and the Guidance issued by the Gambling Commission. It is a consultation document.

After giving due regard to any responses received during this consultation process the Statement of Licensing Principles will be adopted by full Council on 18 December 2006. The principles will come into effect on the date of adoption and will be reviewed as necessary and at least every three years from the date of adoption. This Statement of Principles will be available on the Councils web site www.wirral.gov.uk and at local libraries.

The Licensing Objectives

In exercising most of their functions under the Gambling Act 2005, (The Act) Wirral Borough Council as the Licensing Authority must have regard to the following licensing objectives.

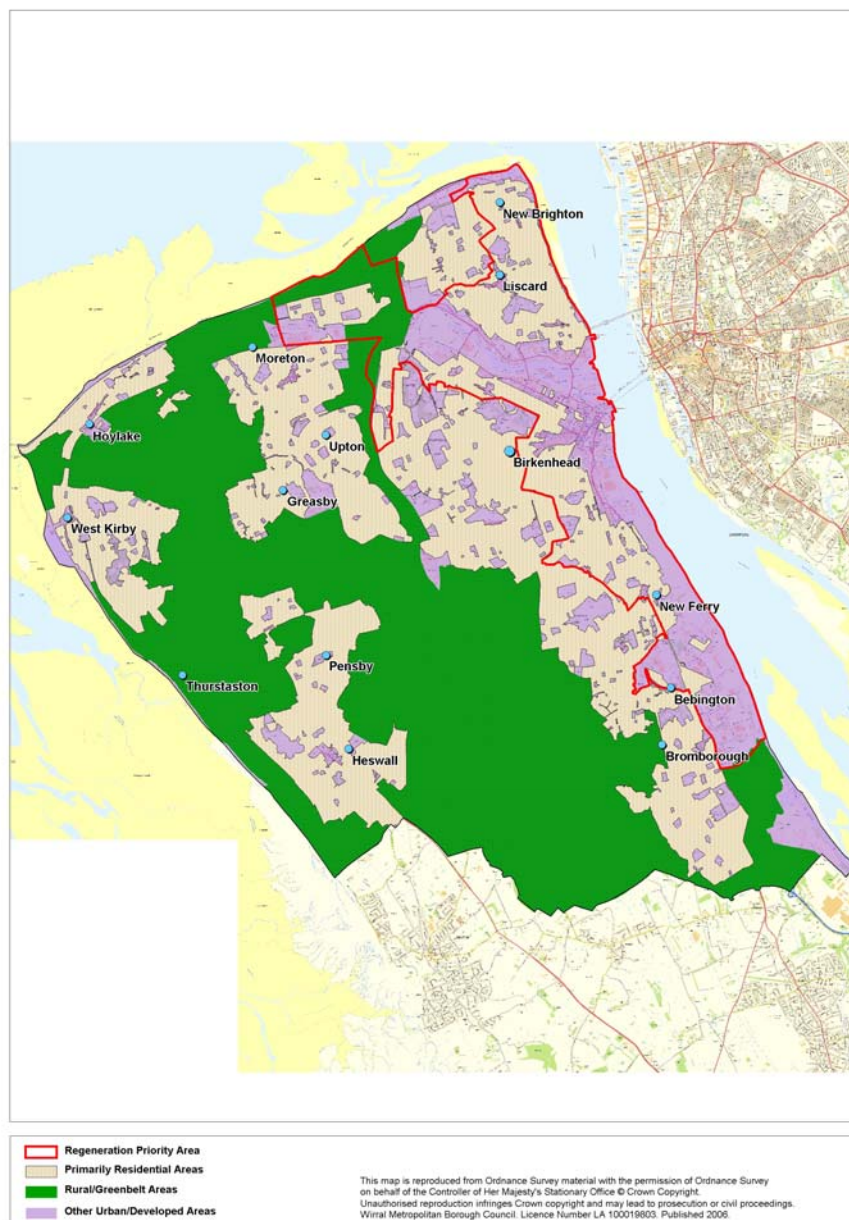
- Preventing gambling from being a source of crime and disorder, being associated with crime and disorder or being used to support crime
- Ensuring that gambling is conducted in a fair and open way
- Protecting children and other vulnerable persons from being harmed or exploited by gambling

This Licensing Authority is aware that in accordance with Section 153 of the Gambling Act 2005, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises so far as it thinks it is:

- In accordance with any relevant Code of Practice issued by the Gambling Commission
- In accordance with any relevant Guidance issued by the Gambling Commission
- Reasonably consistent with the Licensing objectives in accordance with the Authority's STATEMENT OF LICENSING PRINCIPALS

1.0 Introduction

1.1 Wirral Council is situated in the County of Merseyside, which contains no district Councils, but 5 metropolitan councils Knowsley, Liverpool, Sefton, St Helens and Wirral. The Council area has a population of 313,000 (ONS 2004 midyear population estimates) making it the second largest after Liverpool in the County in terms of population. In terms of area it is the largest in Merseyside, covering 60.1 square miles. The Borough is mainly urban in outlook, with 32.85 square miles (54.66% of the borough) covered in Residential, Industrial or Commercial buildings. These areas are shown in the map below.



The key provided identifies the urban / rural areas as well as regeneration priority areas.

- 1.2 Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they proposed to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from “time to time” and any amended parts re-consulted upon. The statement must be then re-published.
- 1.3 The Gambling 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 Gambling Act 2005
- 1.4 This draft statement of policy is published to ensure that we consult widely upon our policy statement before finalising and publishing it. A list of the persons we have sent this document to is illustrated at **Appendix A**.
- 1.5 This consultation is being carried out in accordance with the Cabinet Office Guidance on Consultation by the Public Sector and we have followed the Revised Code of Practice. These documents are available on:
<<http://www.cabinetoffice.gov.uk/regulation/consultation/code/index.asp>>
<<http://www.cabinetoffice.gov.uk/regulation/consultation/documents/pdf/code.pdf>>
- 1.6 Should you have any comments as regards this policy statement please send them via e-mail or letter to the following contact:
Name: Maureen Ferrer, Licensing Department
Address: Town Hall, Brighton Street, Wallasey CH44 8ED
E-mail: MoFerrer@wirral.gov.uk
The consultation period will finish on 6th November 2006.
- 1.7 The full list of comments made and the consideration by the Council of those comments will be available by request to: The Licensing Department, Wirral Borough Council, Town Hall, Brighton Street, Wallasey, CH44 8ED or www.wirral.gov.uk.
- 1.8 This statement of principles is available on our web site www.wirral.gov.uk and copies are also available in public libraries as well as at the Town Hall.
- 1.9 It should be noted that this policy statement will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

2.0 Declaration

2.1 In producing the final statement, this licensing authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission, and any responses from those consulted on the statement.

3.0 Responsible Authorities

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

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

3.2 In accordance with the suggestion in the Gambling Commission's Guidance for local authorities, this authority designates the Local Safeguarding Children Board for this purpose.

3.3 The Responsible Authorities under the Gambling Act 2005 are:

- Wirral Borough Council Licensing Department
- The Gambling Commission
- The Chief Constable, Merseyside Police
- Merseyside Fire and Rescue Service Authority
- Wirral Borough Council Planning Section
- Wirral Borough Council Environmental Health Section
- Local Safe Guarding Children Board
- H.M. Revenue & Customs

Subject to any other person being prescribed in Regulation by the Secretary of State. The contact addresses for these authorities are illustrated at **Appendix B**.

4.0 Interested parties

- 4.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:
“For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the applications is made, the person-
- 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
 - c) represent persons who satisfy paragraph (a) or (b)
- 4.2 We are required by regulations to state the principles we will apply in exercising our powers under the Gambling Act 2005 to determine whether a person is an interested party.
- 4.3 We will consider the examples of consideration provided in the Gambling Commission’s Guidance to Licensing Authorities at Paragraph 8.14 and 8.15. We will also consider the Guidance that “ has business interests “ is given it’s widest possible interpretation and should include partnerships, charities, faith groups and medical practices.
- 4.4 The Gambling Commission has recommended that we state that interested parties include trade associations and trade unions, and residents and tenants associations at Paragraph 8.17. We will not however generally view these bodies as interested parties unless they have a member who can be classed as an interested person under the provisions of the Act ie. lives sufficiently close to the premises to be likely to be affected by the activities applied for.
- 4.5 Interested parties can be persons who are democratically elected such as a ward Councillor, M.P. Etc. No specific evidence of being asked to represent an interested party will be required as long as the Councillor / M.P. Etc. represents the ward likely to be affected.
Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate / relative) ‘represents’ someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.
- 4.6 If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then

please contact the Licensing Department at the Town Hall, Brighton Street, Wallasey, CH44 8ED.

5.0 Exchange of Information

- 5.1 We are required to include in our policy statement the principles to be applied by the authority in exercising the functions under Sections 29 and 30 of the Act with respect to the exchange of information between us and the Gambling Commission, and the functions under Section 350 of the Act with respect to the exchange of information between ourselves and the other persons listed in Schedule 6 to the Act.
- 5.2 The principle that this licensing authority applies is that it will act in accordance with 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. We will also have regard to any Guidance issued by the Gambling Commission to local authorities on this matter when it is published, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.
- 5.3 Should any protocols be established as regards information exchange with other bodies then they will be made available.

6.0 Enforcement

- 6.1 Licensing authorities are required by regulation under the Gambling Act 2005 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 Section 346 of the Act to institute criminal proceedings in respect of the offences specified.
- 6.2 This licensing authority's principles are that

We will be guided by the Gambling Commission's Guidance for local authorities and will endeavour to be

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

In accordance with the Gambling Commission's Guidance for local authorities this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

- 6.3 This licensing authority will also, as recommended by the Gambling Commission's Guidance for local authorities, adopt a risk-based inspection programme.
- 6.4 Whilst the Gambling Commission's Guidance suggests that the criteria the authority will utilise in this respect are included in this statement, this has not been possible. At the time of writing, the Gambling Commission has not published its risk criteria, nor are regulations such as mandatory / default conditions published, nor Codes of Practice. This authority will consider the (LACORS) Local Authority Co-ordinates of Regulator Services risk model for premises licences developed with the Gambling Commission once it is made available.
- 6.5 The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 will be to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for operating and personal licences. Concerns about manufacture, supply or repair of gaming machines will not be dealt with by the licensing authority but will be notified to the Gambling Commission.
- 6.6 This licensing authority will also keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.
- 6.7 Bearing in mind the principle of transparency, this licensing authority's enforcement/compliance protocols/written agreements will be available upon request at the Licensing Department, Town Hall, Brighton Street, Wallasey CH44 8ED.

7.0 Licensing Authority functions

- 7.1 Licensing Authorities are required under the Act to:
- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences
 - Issue Provisional Statements
 - Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
 - Issue Club Machine Permits to Commercial Clubs

- Provide information to the Gambling Commission regarding details of licences issued
 - Maintain registers of the permits and licences that are issued under these functions
 - Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
 - Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
 - Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
 - Register small society lotteries below prescribed thresholds
 - Issue Prize Gaming Permits
 - Receive and Endorse Temporary Use Notices
 - Receive Occasional Use Notices
- 7.2 We as the licensing authority will not be involved in licensing remote gambling. Regulation will fall to the Gambling Commission via Operator Licences.
- 7.3 Upon publication by the Gambling Commission of a definitive list of 'licensable activities' under the Gambling Act 2005, we will reproduce that document in the final version of this document.
- 7.4 In accordance with the Act and Guidance, this authority will;
- Refer the decision whether to make a resolution not to issue casino licences within the Borough to Full Council
 - Refer approval of this three-year licensing policy to Full Council
 - Refer to any delegated power under forthcoming Regulations to set fees to the Licensing Act 2003 Committee
 - Delegate all decisions relating to premises licenses to the Licensing Act 2003 Committee
 - Invite the Licensing Act 2003 Committee to further delegate decision making to a Sub-Committee or officers in accordance with the law and guidance, illustrated at **Appendix C**.

PART B

8.0 Premises Licences

General Principles

- 8.1 Premises Licences will be subject to the permissions/restrictions set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which will be detailed in regulations issued by the Secretary of State.
- 8.2 We as the licensing authority will be able to exclude default conditions and also attach other conditions, where we believe it to be appropriate.
- 8.3 This licensing authority is aware that in making decisions about premises licences we should aim to permit the use of premises for gambling in so far as we think it is:
- In accordance with any relevant code of practice issued by the Gambling Commission
 - In accordance with any relevant guidance issued by the Gambling Commission
 - Reasonably consistent with the licensing objectives
 - In accordance with this statement of licensing policy
- 8.4 We appreciate that gambling can be an emotive subject but acknowledge that in accordance with Gambling Commission Guidance for Local Authorities, “moral objections to gambling are not a valid reason to reject applications for premises licences”. Except in respect of a Casino resolution and also that unmet demand is not a criterion for a Licensing Authority.
- 8.5 Premises is defined in the Act as “any place”. Different premises licences cannot apply in respect of a single premises at different times. It is however possible for a single building to be subject to more than one premises licence, providing that each licence is for a different part of the building and such different parts can be properly regarded as different premises.
- 8.6 We will judge each case on its individual merits to decide as a matter of fact, whether different parts of a building can be properly regarded as being separate premises.
- 8.7 We note that the Gambling Commission, in their guidance, do not consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises. We support this view.

8.8 This licensing authority takes particular note of the Gambling Commission's Guidance for local authorities 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 that entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area.
- Licensing authorities should pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). Clearly there will be specific issues that authorities should consider before granting such applications, for example, whether children can gain access; compatibility of the two establishments; and the ability to comply with the requirements of the Act. But in addition an overriding consideration should be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act.

We also note that an applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed. The Gambling Commission has advised that reference to "the premises" are to the premises in which gambling may now take place. Therefore a licence to use premises for gambling will only be issued in relation to premises that are ready to be used for gambling.

Subject to future case law, we agree with this interpretation that it is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence. The Gambling Commission emphasises that requiring the building to be complete ensures that the Licensing Authority can, if necessary, inspect it fully, as can other responsible authorities, with inspection rights under the Act.

9.0 Location

9.1 This licensing authority is aware that demand issues cannot be considered in relation to the location of premises but that considerations made in terms of the licensing objectives can be considered.

9.2 We will, in accordance with the Gambling Commission's Guidance for local authorities, pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.

9.3 This authority has not adopted any specific policy in relation to areas where gambling premises should not be located. Should any such policy be decided upon, as a result of this consultation or otherwise, regarding such areas where

gambling premises should not be located, this policy statement will be updated.

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

10.0 Duplication with other regulatory regimes

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

11.0 Licensing objectives

- 11.1 Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission's Guidance to local authorities and some comments are made below.
- 11.2. **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.**
This licensing authority is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that the licensing authority should pay attention to the proposed location of gambling premises in terms of this licensing objective. Therefore, where an area has known high levels of organised crime, we 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. Responsible authorities would however have the right to make representation with regard to such premises.
- 11.3 We are 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, so as to make that distinction. It should be noted that nuisance is not a Gambling Act licensing objective.
- 11.4 In considering licence applications, the Council will particularly take into account the following:
- The design and layout of the premises
 - The training given to staff in crime prevention measures appropriate to those premises

- Physical security features installed in the premises. This may include matters such as the position of cash registers or the standard of CCTV that is installed
 - Where premises are subject to age-restrictions, the procedures in place to conduct age verification checks
 - The likelihood of any violence, public order or policing problem if the licence is granted
- 11.5 **Ensuring that gambling is conducted in a fair and open way.** This licensing authority is aware that the Gambling Commission has stated that it would generally not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed by the operator and personal licensing system. There is however more of a role with regard to tracks which is explained in more detail in the tracks section below.
- 11.6 **Protecting children and other vulnerable persons from being harmed or exploited by gambling.**
We note the Gambling Commission Guidance to local authorities states that this objective relates to 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.
- 11.7 We will therefore consider, as suggested by the Gambling Commission's Guidance, whether specific measures are required at individual premises to promote the licensing objectives.
- 11.8 Appropriate measures may include supervision of access points, segregation of areas etc.
- 11.9 We will also take account of the Codes of Practice regarding this objective in relation to specific types of premises.
- 11.10 In reference to the term "vulnerable persons" we note that the Gambling Commission or statute law is not seeking to offer a definition but the Commission states that "it will for regulatory purposes assume that this group includes:
- People who gamble more than they want to
 - People who gambling beyond their means
 - People who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs."
- 11.11 This licensing authority will consider promotion of this licensing objective on a common sense, case by case basis. Should a practical definition prove possible in future then this policy statement will be updated with it, by way of a revision.

12.0 Conditions

12.1 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
- Reasonable in all other respects

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

12.3 This licensing authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.

12.4 This authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:

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

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

- 12.6 This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will 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.
- 12.7 It is noted that there are conditions which the licensing authority cannot attach to premises licences, they are
- Any condition on the premises licence which makes it impossible to comply with an operating licence condition
 - Conditions relating to gaming machine categories, numbers, or method of operation
 - Conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated)
 - Conditions in relation to stakes, fees, winning or prizes

13.0 Door Supervisors

- 13.1 The Gambling Commission advises in its Guidance that licensing authorities may consider whether there is a need for door supervisors in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime.
- 13.2 It is noted that the Gambling Act 2005 has amended the Security Industry Act and that door supervisors at casinos or bingo premises, cannot be licensed by the Security Industry Authority.
- 13.3 This licensing authority therefore has specific requirements for door supervisors working at casinos or bingo premises they are, that a book is maintained in which it is recorded
- The identity of the doorstaff deployed
 - The time they commenced duty and left duty
 - Any incidents that they dealt with
- 13.4 The book shall be maintained on a daily basis and be available for inspection for a period of 3 months from the date of the record entry. This is in recognition of the nature of the work in terms of searching individuals, dealing with potentially aggressive, young and vulnerable persons, etc.

13.5 For premises other than casinos and bingo premises, premises operators and the Licensing Authority may decide that supervision of entrances / exits / gaming machine areas is appropriate for particular cases but each case will have to be considered to establish whether such supervisors need to be S.I.A. licensed.

14.0 Adult Gaming Centres

14.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to for example, ensure that under 18 year olds do not have access to the premises.

14.2 This licensing authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures or licence conditions may cover issues such as:

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

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

15.0 (Licensed) Family Entertainment Centres:

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

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

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

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

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

16.0 Casinos

16.1 **No Casinos resolution** - This licensing authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should this 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.

16.2 **Casinos and competitive bidding** - This licensing authority is aware that where a licensing authority area is enabled to grant a premises licence for a new style casino (i.e. the Secretary of State has made such regulations under Section 175 of the Gambling Act 2005) there are likely to be a number of operators which will want to run the casino. In such situations the local authority will run a 'competition' under Schedule 9 of the Gambling Act 2005. This licensing authority will run such a competition in line with any regulations / codes of practice issued under the Gambling Act 2005.

- 16.3 The Gambling Commission has stated at Section 17.30 of their guidance that further guidance will be issued in due course about the particular issues that licensing authorities should take into account in relation to the suitability and layout of casino premises". We will consider this guidance in detail when published by the Gambling Commission.
- 16.4 **Betting machine** - This licensing authority will in accordance with the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

17.0 Bingo Premises

- 17.1 This licensing authority notes that the Gambling Commission's Guidance states:

It is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted licensing authorities should ensure that:

- All such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance
 - Only adults are admitted to the area where the machines are located
 - Access to the area where the machines are located is supervised
 - The area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder
 - At the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18
- 17.2 This licensing authority is also aware that the Gambling Commission is going to issue further guidance about the particular issues that licensing authorities should take into account in relation to the suitability and layout of bingo premises. This guidance will be considered by this licensing authority once it is made available.

18.0 Betting Premises

18.1 Betting machines This licensing authority will, in accordance with the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

19.0 Tracks

19.1 This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. In accordance with the Gambling Commission's Guidance, this licensing authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

19.2 This authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

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

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

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

- 19.4 **Gaming machines** Further guidance from the Gambling Commission is awaited as regards where such machines may be located on tracks and any special considerations that should apply in relation, for example, to supervision of the machines and preventing children from playing them. This licensing authority notes the Commission's Guidance that licensing authorities therefore need to consider the location of gaming machines at tracks and applications for track premises licences will need to demonstrate that, where the applicant holds a pool betting operating licence and is going to use his entitlement to four gaming machines, these machines are located in areas from where children are excluded. Children and young persons are not prohibited from playing category D gaming machines on a track.
- 19.5 **Betting machines** - This licensing authority will in accordance with the Gambling Commission's Guidance, take into account, the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or, by vulnerable people when considering the number/nature/circumstances of betting machines, an operator wants to offer. It will also take note of the Gambling Commission's suggestion that licensing authorities will want to consider restricting the number and location of such machines in respect of applications for track betting premises licences.
- 19.6 **Condition on rules being displayed** - The Gambling Commission has advised in its Guidance for local authorities that "...licensing authorities should attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office."
- 19.7 **Applications and plans** - This licensing authority awaits regulations setting-out any specific requirements for applications for premises licences but is in accordance with the Gambling Commission's suggestion "To ensure that licensing authorities gain a proper understanding of what they are being asked to license they should, in their licensing policies, set out the information that they will require, which should include detailed plans for the racetrack itself and the area that will be used for temporary "on-course" betting facilities (often known as the "betting ring") and in the case of dog tracks and horse racecourses fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities." and that "Plans should make clear what is being sought for authorisation under the track betting premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence."
- 19.8 This licensing authority also notes that in the Commission's view, it would be preferable for all self-contained premises operated by off-course betting

operators on track to be the subject of separate premises licences, to ensure that there is clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

20.0 Travelling Fairs

- 20.1 It will fall to this licensing authority to decide whether, where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 20.2 This licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 20.3 It has been noted that the 27-day statutory maximum for the land being used as a fair, is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

21.0 Provisional Statements

- 21.1 This licensing authority notes the Guidance for the Gambling Commission which states that "It is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence" and that "Requiring the building to be complete ensures that the authority could, if necessary, inspect it fully".
- 21.2 In terms of representations about premises licence applications, following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances. 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:
- (a) Which could not have been raised by objectors at the provisional licence stage
 - (b) Which in the authority's opinion reflects a change in the operator's circumstances
- 21.3 This authority has noted the Gambling Commission's Guidance that "A licensing authority should not take into account irrelevant matters.... One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal."

22.0 Reviews

22.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities, however, it is for the licensing authority to decide whether the review is to be carried-out.

22.2 This will be on the basis of whether the request for the review is relevant to the matters listed below, as well as consideration as to whether the request is frivolous, vexatious, will certainly not cause this authority to wish alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

- In accordance with any relevant code of practice issued by the Gambling Commission
- In accordance with any relevant guidance issued by the Gambling Commission
- Reasonably consistent with the licensing objectives
- In accordance with the authority's Statement of Principles

22.3 The licensing authority can also initiate a review of a licence on the basis of any reason which it thinks is appropriate.

PART C

PERMITS/TEMPORARY AND OCCASIONAL USE NOTICE

23.0 Unlicensed Family Entertainment Centre gaming machine permits. (Statement of Principles on Permits – Schedule 10 Paragraph 7)

- 23.1 Where a premises 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 as required by Section 238.
- 23.2 The Gambling Act 2005 states that a licensing authority may prepare a *statement of principals* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25.
- 23.3 The Gambling Commission's Guidance for local authorities also states: "In their three year licensing policy statement, licensing authorities may include a statement of principals that they propose to apply when exercising their functions in considering applications for permits....., licensing authorities will want to give weight to child protection issues."
- 23.4 The Gambling Commission's Guidance also states: ".....An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application. In accordance with the Guidance, this Licensing Authority will expect applicants to demonstrate:
- A full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs
 - That an applicant has no relevant convictions, those that are set out in Schedule 7 of the Act
 - That staff are trained to have a full understanding of the maximum stakes and prizes
- 23.5 We note that a licensing authority can grant or refuse a licence but cannot attach conditions to this type of permit.
- 23.6 This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations.

23.8 The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises.

24.0 (Alcohol) Licensed premises gaming machine permits - (Schedule 13 paragraph 4(1))

24.1 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 can remove the automatic authorisation in respect of any particular premises if:

- Provision of the machines is not reasonably consistent with the pursuit of the licensing objectives
- Gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with)
- The premises are mainly used for gaming
- An offence under the Gambling Act has been committed on the premises

24.2 If a premises licence holder wishes to have more than 2 machines, then they need to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*”

24.3 This licensing authority considers that “such matters” will be decided on a case by case individual basis, but generally there will be regard to the need to protect children and vulnerable persons from being harmed 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.

24.4 Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage on the machines or in the premises may also be help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

- 24.5 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would normally need to be applied for, and dealt with as an Adult Gaming Centre premises licence.
- 24.6 It should be noted that we as 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. Conditions other than these cannot be attached to a permit.
- 24.7 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.

25.0 Prize Gaming Permits - (Statement of Principles on Permits - Schedule 14 paragraph 8 (3))

- 25.1 The Gambling Act 2005 states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority propose to consider in determining the suitability of the applicant for a permit”.
- 25.2 This licensing authority has prepared a Statement of Principles which is that the applicant should 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
 - That the gaming offered is within the law
- 25.3 In making its decision on an application for this permit the licensing authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance.
- 25.4 It should be noted that there are conditions in the Gambling Act 2005 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

- 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)
- Participation in the gaming must not entitle the player to take part in any other gambling

26.0 Club Gaming and Club Machines Permits

- 26.1 Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines permit.
- 26.2 The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in forthcoming regulations.
- 26.3 A Club Gaming machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).
- 26.4 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. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968.
- 26.5 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."
- 26.6 The Commission Guidance also notes that "licensing authorities may only refuse an application on the grounds that:
- 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
 - The applicant's premises are used wholly or mainly by children and/or young persons
 - An offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities
 - A permit held by the applicant has been cancelled in the previous ten years
 - An objection has been lodged by the Commission or the police

- 26.7 There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10).
- 26.8 As the Gambling Commission's Guidance for local 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:
- That the club is established primarily for gaming, other than gaming prescribed under schedule 12
 - That in addition to the prescribed gaming, the applicant provides facilities for other gaming
 - That a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."

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.

27.0 Temporary Use Notices

- 27.1 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 would include hotels, conference centres and sporting venues.
- 27.2 There are a number of statutory limits as regards temporary use notices.
- 27.3 Gambling Commission Guidance is noted that "The meaning of "premises" in part 8 of the Act is discussed in Part 7 of this 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.
- 27.4 This Licensing Authority will apply the Gambling Commission Guidance that states:
In the Act "premises" is defined as including "any place". In considering whether a place falls within the definition of "a set of premises", licensing authorities will need to look at, amongst other things, the ownership/occupation and control of the premises...This is a new permission and licensing authorities should be ready 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."

28.0 Occasional Use Notices

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