

**General Licensing and Registration
Committee**

14 November 2016



**Review of the Council's Statement of
Gambling Policy**

**Report of Joanne Waller, Head of Environment, Health and Consumer
Protection
Councillor Brian Stephens, Cabinet Portfolio Holder for
Neighbourhoods and Local Partnerships**

Purpose of the Report

1. The purpose of this report is for General Licensing and Registration Committee to consider and recommend to Council a Statement of Principles (Gambling Policy) for 2016 – 2019 in accordance with the Gambling Act 2005. Once adopted, the revised policy will enable the Council to continue to make decisions when exercising its responsibilities as the Licensing Authority under the Gambling Act 2005 for the next three years. The revised version is provided in Appendix 5.

Background

2. Under the Gambling Act 2005, the Council is responsible for issuing premises licences for casinos, bingo halls, betting offices, adult gaming centres and licensed family entertainment centres as well as permits for gaming machines in pubs, clubs and other alcohol-licensed premises.
3. The Act contains three licensing objectives, which underpin the functions of the Gambling Commission and the local authority, acting in their capacity as the licensing authority. These objectives are central to the regulatory regime created by the Act and 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;
4. Licensing authorities are required to prepare and publish, every three years, a statement of the principles that they propose to apply when exercising their functions under the Gambling Act 2005, during the three-year period to which the policy applies.

5. In preparing such a statement, licensing authorities must follow the procedure set out in the Act as well as the accompanying guidance. The last review leading to the adoption of the current statement of principles was undertaken in 2012. This enabled the current policy document to be adopted on the 9th January 2013. This is attached at Appendix 2. At the time of adoption it incorporated all relevant and amended legislation, guidance and reflected good practice.
6. The gambling policy fulfils two principal purposes; firstly, it provides advice to businesses and the public on the Council's overall position regarding the Gambling Act 2005. Secondly, it provides a decision-making framework for the Council via its Licensing Committee to exercise its quasi-judicial functions under the Act. As such the policy must balance the legitimate needs of businesses and demand for leisure and cultural activities alongside the need to protect those adversely affected by activities. Failure to achieve the correct balance could lead to a policy being either, overly prescriptive and open to challenge, or alternatively, ineffective in the protection of local residents or through a failure to promote the licensing objectives effectively.
7. The Gambling Commission's Licence Conditions and Codes of Practice (LCCP) were revised and published in February 2015 and formalised the need for operators to consider local risks.
8. From 6th April 2016 the Gambling Commission's LCCP required gambling premises operators to undertake a risk assessment taking into consideration their local information. Licence holders must assess the local risk to the licensing objectives posed by the provision of gambling facilities at each of their premises. Operators will be expected to have policies, procedures and control measures in place to mitigate those risks. In undertaking their risk assessments, they must take into account relevant matters identified in the licensing authority's statement of policy.
9. Guidance states that where a licensing authority's statement of policy sets out its approach to regulation with clear reference to local risks, it will facilitate operators being able to better understand the local environment and therefore proactively mitigate risks to the licensing objectives. In some circumstances, it might be appropriate to offer the licensee the opportunity to volunteer specific conditions that could be attached to the premises licence.
10. The government also recently introduced changes to the legislation to increase the stake and prizes for certain gaming machines.
11. It is appropriate that these matters are incorporated into the revised Gambling Policy. The revised Gambling Policy reflects recent changes in legislation and Gambling Commission Guidance.

Consultation

12. A 12-week public consultation exercise on the current statement of principles and proposals amendments took place between 4th July and 26th September 2016. This consultation was conducted in accordance with the Gambling

Commissions guidance to Licensing Authorities and Government's Code of Practice on Consultation.

13. The legislation provides licensing authorities with guidance on those organisations and bodies that the Council must consult with as part of a review. In addition to the statutory consultees, a number of other individuals, agencies and organisations considered to be affected by the policy were identified and their comments were invited. We made direct contact with all existing Gambling licensees within in the County in an attempt to obtain their views.
14. The draft policy was widely advertised in the local press and it appeared on the Council's website, where e-mail responses were invited. However, despite the lengthy consultation period and the comprehensive consultation methods used by the Council, only one response was received. See Appendix 3. A table of changes highlighting the revisions is shown in Appendix 4.
15. Following the consultation process and approval by AHSMT and CMT, the General Licensing and Registration Committee is asked to consider the outcome of the consultation exercise and the draft revision with a view to recommending to Council the adoption any amendments and a revised version of the policy.

Conclusion

16. The gambling policy has been reviewed in accordance with the Gambling Act 2005 which requires Licensing Authorities to prepare a Statement of Principles on a three year cyclical basis. The proposed revised Gambling Policy reflects recent changes in legislation and Gambling Commission Guidance. It is a statutory requirement to prepare a Gambling Policy for the next three years and to publish that policy.

Recommendations

17. That consideration is given to the proposed revised statement of principles attached in Appendix 5.
18. That General Licensing and Registration Committee recommends to Council the revised proposed statement of principles to the General Licensing and Registration Committee.

Background Papers

- Durham County Council's Gambling Act 2005 current Statement of Principles.
- Gambling Commissions Guidance to licensing authorities - 5th edition September 2015

Contact: Joanne Waller Tel: 03000 260924

Appendix 1: Implications

Finance

The costs of consultation and publication of the revised policy will be met from existing budgets. The report has no value for money implications. There are no additional financial implications arising from this report.

Staffing

None - There are no human resources implications from the recommended options.

Equality and Diversity

An Equality and Impact Assessment (EQIA) has been completed on this Policy and has indicated a neutral impact.

Accommodation

None - There are no property implications from the recommended options.

Crime and Disorder

The Council's licensing policy forms a central part of the control and regulation of gambling premises. As such, it can be viewed as having a pivotal role in achieving the three objectives, namely

- 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 effective control of licensed premises via appropriate conditions or restrictions on licences can significantly reduce the potential for gambling to be a source of crime and disorder. This coupled with monitoring and enforcement and the appropriate use of the review process can significantly contribute towards crime reduction and an increase in public reassurance.

Human Rights

There are no human rights implications from the recommended options

Consultation

The 3 yearly review of the Gambling Act Statement of Principles is subject to Government Guidance which prescribes the statutory consultees who must be included in policy consultation. In addition to the statutory consultees, other relevant local, regional and national bodies and organisations have been identified and are consulted in relation to policy revision.

Procurement None

Disability Discrimination Act None

Legal Implications

The statement of licensing policy must be right. If an appeal concludes it is deficient, Magistrates can declare it illegal. Matters already concluded or ongoing will be lost as the decisions were based on a defective document. Furthermore, a licensing policy can be subject to a judicial review.

Appendix 2

DCC Gambling Act 2005 Statement of Principles 2013 to 2016

Adult and Health Services

Environment Health and Consumer Protection

**Durham County
Council
Gambling Act
2005
Statement of
Principles**

Altogether better



Version Date	Version ref	Revision History	Reviser	Approved by	Review Date
2009	V1	Final version	Joanne Waller	County Council	2013
2013	V2	Final version	Joanne Waller	County Council	2016
2016	V3	Reviewed and revised	Joanne Waller	County Council	2019

Contents

Contents

Contents	3
Part A	5
1. Licensing Objective.....	5
2. Introduction.....	5
3. Declaration	7
4. Responsible Authorities	7
5. Interested Parties	8
6. Exchange of Information	9
7. Enforcement.....	9
8. Licensing Authority Functions	10
Part B	12
Premises Licences: Consideration of Applications	12
1. General Principles	12
2. Adult Gaming Centres.....	21
3. (Licensed) Family Entertainment Centres	21
4. Casinos.....	22
5. Bingo premises.....	22
6. Betting premises	23
7. Tracks	23
8. Travelling Fairs	25
9. Provisional Statements.....	25
10. Reviews	26
Part C	29
Permits / Temporary & Occasional Use Notice	29

1. Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits - Schedule 10 paragraph 7)	29
2. (Alcohol) Licensed premises gaming machine permits - (Schedule 13 paragraph 4(1))..	30
3. Prize Gaming Permits	31
4. Club Gaming and Club Machines Permits	32
5. Temporary Use Notices	33
6. Occasional Use Notices	34
7. Small Society Lotteries	34
Annexe 1 - Delegation of Functions	36
The Licensing Authority will delegate its functions under the Gambling Act 2005 as follows:	36
Annexe 2 - Responsible Authorities	37

Part A

1. Licensing Objective

1. In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:

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

It should be noted that the Gambling Commission has stated: “The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”.

Durham County Council is aware that, as per Section 153, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it is:

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

2. Introduction

2. Durham County Council is situated in the County of Durham, the heart of the North East of England.

The area features a rich diversity in lifestyle and culture including a historic city with a World Heritage Site, Beamish and Bowes Museums, Durham, Lumley and Lambton Castles, designated Areas of Outstanding Natural Beauty, and historic villages and market towns.

County Durham has a resident population of 513,200. The ethnic minority population of the area accounts for 1.4% of the total population (2011 census).

Durham University has 16,355 students and the area attracts over 4 million visitors per year.

Licensing authorities are required by the Gambling Act 2005 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. The statement must also be reviewed from “time to time” and any amended parts re- consulted upon. The statement must be then re-published.

Durham County Council consulted widely upon this statement before finalising and publishing. A list of those persons consulted is provided below. It should be noted that unsolicited comments were received from other persons but we have not listed all of these.

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 County Durham,
- 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:
 - All residents and businesses within the County Durham area, and all Councillors, Parish Councils, MPs and MEPs,
 - Association of British Bookmakers,
 - The Bingo Association,
 - British Amusement Catering Trade Association,
 - British Beer and Pub Association,
 - Gamblers Anonymous, GamCare, The Gordon House Association, Responsibility in Gambling Trust.

Our consultation took place between 7 September 2012 and 30 November 2012 and we followed the HM Government Code of Practice on Consultation (Published July 2008), which is available at: www.bis.gov.uk/files/file47158.pdf

The full list of comments made and the consideration by the Council of those comments is available by request to: Licensing Services, PO Box 617, Durham, DH1 9HZ.

The policy was approved at a meeting of the Full Council on 9 January 2013 and was published via our website. Copies were placed in the public libraries of the area as well as being available in the Town Hall.

Should you have any comments as regards this policy statement please send them via e-mail or letter to the following contact:

Licensing Manager
EHCP (Licensing)
PO Box 617
Durham DH1 9HZ
Email licensing@durham.gov.uk
Telephone 03000 265107

It should be noted that this statement of licensing principles will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

3. Declaration

3. In producing the final statement, Durham County Council declares that it has had regard to the licensing objectives of the Gambling Act 2005, the Guidance to Licensing Authorities issued by the Gambling Commission, and any responses from those consulted on the statement.

4. Responsible Authorities

4. Durham County Council is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are the need for the body to be:
 - responsible for an area covering the whole of the licensing authority's area; and
 - answerable to democratically elected persons, rather than any particular vested interest group.

In accordance with the suggestion in the Gambling Commission's Guidance to Licensing Authorities, Durham County Council designates the Local Safeguarding Children Board for this purpose.

The contact details of all the Responsible Authorities under the Gambling Act 2005 are available at Annex 1.

5. Interested Parties

5. The specific detail of the policy and any instructions/rules should be described. 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 application is made, the person-

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- b) has business interests that might be affected by the authorised activities or
- c) represents persons who satisfy paragraph (a) or (b)”

Durham County Council is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. The principles are:

Each case will be decided upon its merits. Durham County Council will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission’s Guidance to Licensing Authorities at 8.11 to 8.18. It will also consider the Gambling Commission’s Guidance that “has business interests” should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

Interested parties can be persons who are democratically elected such as Councillors and MP’s. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate / relative) ‘represents’ someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

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

Licensing Manager
EHCP (Licensing)
PO Box 617
Durham DH1 9HZ
Email _licensing@durham.gov.uk
Telephone 03000 265107

6. Exchange of Information

6. Licensing authorities are required to include in their statements the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

The principle that Durham County Council 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. Durham County Council will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

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

Please contact the licensing department for further information on our protocols

7. Enforcement

7. 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.

Durham County Council's principles are that it will be guided by the Gambling Commission's Guidance to Licensing 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 and,
- Targeted: regulation should be focused on the problem, and minimise side effects.

As per the Gambling Commission's Guidance to Licensing Authorities, Durham County Council will endeavour to avoid duplication with other regulatory regimes so far as possible.

Durham County Council has adopted and implemented a risk-based inspection programme, based on;

- The licensing objectives
- Relevant codes of practice
- Guidance issued by the Gambling Commission, in particular at Part 36
- The principles set out in this statement of licensing policy

This may include test purchasing activities to measure the compliance of licensed operators with aspects of the Gambling Act. When undertaking test purchasing activities, Durham County Council will undertake to liaise with the Gambling Commission and the operator to determine what other, if any, test purchasing schemes may already be in place. Irrespective of the actions of an operator on their overall estate, test purchasing may be deemed to be an appropriate course of action.

The main enforcement and compliance role for Durham County Council in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises.

The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the licensing authority but should be notified to the Gambling Commission.

8. Licensing Authority Functions

8. Licensing authorities are required under the Act to
 - Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences
 - Issue *Provisional Statements*

- Regulate *members' clubs* and *miners' welfare institutes* who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue *Club Machine Permits* to *Commercial Clubs*
- Grant permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- Issue *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- Register *small society lotteries* below prescribed thresholds
- Issue *Prize Gaming Permits*
- Receive and Endorse *Temporary Use Notices*
- Receive *Occasional Use Notices*
- Provide information to the Gambling Commission regarding detail of licences issued (see section above on 'exchange of information')
- Maintain registers of the permits and licences that are issued under these functions

It should be noted that licensing authorities are not involved in licensing remote gambling at all, which is regulated by the Gambling Commission via operating licences

Part B

Premises Licences: Consideration of Applications

1. General Principles

1. Premises licences are subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate

i) Decision-making

Durham County Council is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:

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

It is appreciated that as per the Gambling Commission's Guidance to Licensing Authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos - page 12) and also that unmet demand is not a criterion for a licensing authority.

Durham County Council also notes the Gambling Commission guidance on ensuring that betting is the primary activity of a licensed premises. Gaming machines may be made available for use in licensed betting premises only at times when there are also sufficient facilities for betting available. Operators will need to demonstrate that betting will continue to be the primary activity of the premise when seeking variations to licenses.

In making this determination, Durham County Council will have regard to the six indicators of betting as a primary gambling activity.

- The offer of established core products (including live event pictures and bet range)
- The provision of information on products and events The promotion of gambling opportunities and products
- The actual use made of betting facilities
- The size of premises
- The delivery of betting facilities

ii) Definition of “premises”

In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

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

Durham County Council takes particular note of the Gambling Commission’s Guidance to Licensing 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 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 names on the premises licence

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

- Does 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?

Durham County Council will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

The Gambling Commission’s relevant access provisions for each premises type are reproduced below:

Casinos

- The principal access entrance to the premises must be from a street (as defined at 7.24 of the Guidance)
- 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 (as per para 7.23 Guidance to Licensing Authorities) or from another premises with a betting premises licence
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.

Tracks

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

Bingo Premises

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

Family Entertainment Centre

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

Part 7 of the Gambling Commission's Guidance to Licensing Authorities contains further guidance on this issue, which Durham County Council will also take into account in its decision-making.

iii) Premises “ready for gambling”

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

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

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

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

Applicants should note that Durham County 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.

More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.60-7.67 of the Guidance.

iv) Location

Durham County 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. As per the Gambling

Commission's Guidance to Licensing Authorities, Durham County Council will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

v) Planning

The Gambling Commission Guidance to Licensing Authorities states:

7.60 – In determining applications the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.

Durham County Council will not take into account irrelevant matters as per the above guidance. In addition this authority notes the following excerpt from the Guidance:

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

vi) Duplication with other regulatory regimes

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

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

Licensing objectives

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 Licensing Authorities and some comments are made below.

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

Durham County Council is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. Durham County Council is aware of the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction.

Ensuring that gambling is conducted in a fair and open way

Durham County Council has noted that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section.

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

Durham County Council has noted the Gambling Commission's Guidance that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, 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.

Durham County Council is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.

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

Conditions

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

- relevant to the need to make the proposed building suitable as a gambling facility;
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects.

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures Durham County Council 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. Durham County Council will also expect the licence applicant to offer his/her own suggestions as to way in which the licensing objectives can be met effectively.

Durham County Council 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.

Durham County Council will also ensure that where category C or above machines are on offer in premises to which children are admitted:

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

Durham County Council 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, Durham County Council will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

It is noted that there are conditions which the licensing authority cannot attach to premises licences which are:

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

Door Supervisors

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

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

2. Adult Gaming Centres

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

Durham County Council may consider measures to meet the licensing objectives 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-exclusion 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

3. (Licensed) Family Entertainment Centres

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

Durham County Council may consider measures to meet the licensing objectives such as:

- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry Notices / signage Specific opening hours Self-exclusion 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.

Durham County Council will, as per the Gambling Commission's guidance, refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. Durham County Council will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published

4. Casinos

Durham County Council 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 we 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 Full Council.

5. Bingo premises

Durham County Council notes that the Gambling Commission's Guidance states:

18.4 Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.

Durham County Council also notes the Guidance at paragraph 18.8 regarding the unusual circumstances in which the splitting of a pre-existing premises into two

adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

18.7 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.

6. Betting premises

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

7. Tracks

Durham County Council 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, Durham County Council 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.

Durham County 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.

Durham County Council may consider measures to meet the licensing objectives 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-exclusion 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.

Gaming machines- Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.

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

Applications and plans

The Gambling Act (s51) requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity. (See Guidance to Licensing Authorities, para 20.28).

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

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

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

Durham County 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. (See Guidance to Licensing Authorities, para 20.33).

8. Travelling Fairs

Durham County Council is responsible for deciding 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.

The licensing authority 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. Durham County 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

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.

S204 of the Gambling 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.

The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.

In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:

- they concern matters which could not have been addressed at the provisional statement stage, or
- they reflect a change in the applicant's circumstances.

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

- which could not have been raised by objectors at the provisional statement stage;
- which in the authority's opinion reflect a change in the operator's circumstances; or
- where the premises has 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.

10. Reviews

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. 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 authority's statement of principles.

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.

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

Once a valid application for a review has been received by the licensing authority, 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.

The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.

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:-

- a) add, remove or amend a licence condition imposed by the licensing authority;
- b) exclude a default condition imposed by the Secretary of State or Scottish Ministers (e.g. opening hours) or remove or amend such an exclusion;
- c) suspend the premises licence for a period not exceeding three months and
- d) revoke the premises licence

In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

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

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

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

Part C

Permits / Temporary & Occasional Use Notice

1. Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits - Schedule 10 paragraph 7)

Where a premise does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).

The Gambling Act 2005 states that a licensing authority may prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25. The Gambling Commission's Guidance to Licensing Authorities also states: "In their three year licensing policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits...., licensing authorities will want to give weight to child protection issues." (24.6)

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....Licensing authorities might wish to consider asking applications to demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act; and
- that staff are trained to have a full understanding of the maximum stakes and prizes

It should be noted that a licensing authority cannot attach conditions to this type of permit.

Statement of Principles

Durham County Council has adopted a Statement of Principles which is available from our website via the following link: www.durham.gov.uk

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

Automatic entitlement: 2 machines

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority and pay the prescribed fee.

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; or
- an offence under the Gambling Act has been committed on the premises

Permit: 3 or more machines

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

Durham County 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 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.

Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will

monitor that the machines are not being used by those under 18. Notices and signage may 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.

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. Conditions (other than these) cannot be attached.

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

3. Prize Gaming Permits

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 proposes to consider in determining the suitability of the applicant for a permit”.

Durham County Council 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
- Clear policies that outline the steps to be taken to protect children from harm.

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

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; 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

Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in forthcoming regulations.

Members Clubs and Miner's welfare institutes – and also Commercial Clubs – may apply for a Club Machine Permit. A Club Machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D). NB Commercial Clubs may not site category B3A gaming machines offering lottery games in their club.

Durham County Council notes that the Gambling Commission's Guidance states:

25.46 The LA has to satisfy itself that the club meets the requirements of the Act to obtain a club gaming permit. In doing so it will take account a number of matters as outlined in sections 25.47-25.49 of the Gambling Commission's Guidance. These include the constitution of the club, the frequency of gaming, and ensuring that there are more than 25 members.

The club must be conducted 'wholly or mainly' for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulations and these cover bridge and whist clubs.

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 the police.

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). Commercial clubs cannot hold club premises certificates under the Licensing Act 2003 and so cannot use the fast-track procedure. As the Gambling Commission's Guidance to Licensing Authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:

- a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
- b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."

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

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.

The licensing authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.

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 Gambling Act 2005 (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 Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place".

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.

Durham County 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 to Licensing Authorities.

6. Occasional Use Notices

Durham County 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. Durham County Council will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice. Durham County Council will also ensure that no more than 8 OUNs are issued in one calendar year in respect of any venue.

7. Small Society Lotteries

Durham County Council will adopt a risk based approach towards its enforcement responsibilities for small society lotteries. This authority considers that the following list, although not exclusive, could affect the risk status of the operator:

- submission of late returns (returns must be submitted no later than three months after the date on which the lottery draw was held)
- submission of incomplete or incorrect returns
- breaches of the limits for small society lotteries

Non-commercial gaming is permitted if it takes place at a non-commercial event, either as an incidental or principal activity at the event. Events are non-commercial if no part of the proceeds is for private profit or gain. The proceeds of such events may benefit one or more individuals if the activity is organised:

- by or on behalf of, a charity or for charitable purposes
- to enable participation in, or support of, sporting, athletic or cultural activities.

Charities and community groups should contact Durham County Council on 03000 265107 to seek further advice.

Annexe 1 - Delegation of Functions

The Licensing Authority will delegate its functions under the Gambling Act 2005 as follows:

Matter to be dealt with	Full Committee	Sub-Committee	Officers
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received / have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received / have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission or responsible authority	Where no representations received from the Commission or responsible authority
Application for a provisional statement		Where representation have been received and not withdrawn	Where no representations received / have been withdrawn
Review of a premises licence		X	
Application for club gaming/club machine permits		Where objections have been made (and not withdrawn)	Where no objections made / have been withdrawn
Cancellation of club gaming/club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

X - Indicates the lowest level to which decisions can be delegated

Annexe 2 - Responsible Authorities

Responsible Authority	Name	Contact Details
Gambling Commission		Victoria Square House Victoria Square Birmingham B2 4BP Telephone: 0121 2306666 e-mail: info@gamblingcommission.gov.uk
Licensing Authority		Durham County Council EHCP (Licensing) PO Box 617 Durham DH1 9HZ Telephone: 03000 265107 e-mail: licensing@durham.gov.uk
Durham Constabulary		Durham Constabulary (AHRU) Annand House John Street North Meadowfield County Durham DH7 8RS Telephone: (0191) 3752308 e-mail: ahru@durham.pnn.police.uk
County Durham and Darlington Fire and Rescue Service		Fire and Rescue Service Headquarters Framwellgate Moor Durham DH1 5JR Telephone: 0845 305 8383 e-mail: firesafety@ddfir.gov.uk
Durham County Council - Local Safeguarding Children's Board		Durham LSCB County Hall Durham DH1 5UJ Telephone: 0191 3834065
Durham County Council- Planning		Durham County Council County Hall Durham Telephone: 03000 261397
Durham County Council - Environmental Health		Environment, Health & Consumer Protection Annand House John Street North Meadowfield Durham. DH7 8RS Telephone: 03000 260995 e-mail: pollution.control@durham.gov.uk

OTHER USEFUL CONTACTS

Useful Contacts	Name	Contact Details
Durham County Council Policy issues		Durham County Council Telephone: 0300 026 0000
Durham County Council Building Control		Durham County Council Telephone: 0300 026 0000
Durham County Council CCTV		Durham County Council Telephone: 0300 026 0000
Door Supervisors	Security Industry Authority	Security Industry Authority PO Box 1293 Liverpool L69 1AX Telephone: 0844 892 1025 e-mail: info@the-sia.org.uk

Please ask us if you would like this document summarised in another language or format.

العربية (Arabic) (中文(繁體字)) (Chinese) اردو (Urdu)
 polski (Polish) ਪੰਜਾਬੀ (Punjabi) Español (Spanish)
 বাংলা (Bengali) हिन्दी (Hindi) Deutsch (German)
 Français (French) Türkçe (Turkish) Melayu (Malay)

Insert email here
Insert Tel No. here



Braille



Audio



Large Print

Appendix 3 Consultation Response Report



**Review of Gambling Act Statement of Principles
Consultation Results Report
Adult and Health Services**

29 September 2016

Table of contents

Section name	Page
1. Background	3
2. Methodology	4
3. Consultation results	5
3.1 Email feedback received	6
 Appendices	
Appendix 1: Consultation briefing note	12

1. Background

Durham County Council's Gambling Act Statement of Principles, more commonly referred to as 'the "gambling policy"' was introduced in 2013.

Licensing authorities are required by the Gambling Act 2005 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. The statement must also be reviewed from "time to time" and any amended parts re-consulted upon. The statement must be then re-published.

The Act contains three licensing objectives, which underpin the functions of the Gambling Commission and the local authority, acting in their capacity as the licensing authority. These objectives are central to the regulatory regime created by the Act and 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;

Licensing authorities are required to consult with anyone who may be affected by or otherwise have an interest in their statement of policy to enable a comprehensive consultation exercise.

The statement was due to be reviewed in 2016 and a consultation was carried out.

Policy review

A review of the policy took place in spring 2016 when changes to the policy were considered in the following areas:

- **Inclusion of local risk assessment requirements** – since April 2016, the Gambling Commission's Licence Conditions and Codes of Practice (LCCP) require gambling operators to carry out a risk assessment to consider local risks. Licence holders must assess the risks posed to the local area by gambling facilities, taking into consideration the licensing objectives. Operators will be expected to have policies, procedures and control measures in place to reduce those risks
- **Inclusion of information to support applicants to undertake local risk assessments** – further to the above, it is proposed that the new statement will include signposting to local information that will help operators to undertake the required local risk assessments.
- **Inclusion of a reference to the council seeking guidance from primary authorities prior to taking enforcement action** - Primary Authority is a statutory scheme, established by the Regulatory Enforcement and Sanctions Act 2008 (the RES Act). It allows an eligible business to form a legally recognised partnership with a single local authority in relation to regulatory compliance. This local authority is then known as its 'primary authority'.

The new policy will be amended to reflect that if a licensed premises in our area has a primary authority relationship with another local authority in the country, we will liaise with both the premises/business and the primary authority in relation to any enforcement or regulatory related activities.

- **Inclusion of information relating to Government amendments** – it is proposed that the new statement will be inclusive of government changes to the legislation to increase the stake and prizes for certain gaming machines as implemented by the DCMS.

Respondents were also asked for any comments they had on the gambling statement.

Consultation

A 12 week public consultation was held between Monday 4 July and Monday 26 September 2016.

This report describes the consultation process and provides details of the feedback obtained.

2. Methodology

The purpose of the consultation was to obtain feedback on proposed revisions to the gambling act statement of principles as part of a review of the policy.

An engagement plan was developed in line with the council's consultation approach ensuring all appropriate, available communication channels were utilised to maximise awareness and encourage participation in the consultation.

Engagement methods

Respondents were able to take part in the consultation using the following methods:

- 1) Emailing any comments to **licensing@durham.gov.uk**
- 2) Writing any comments to: **Licensing Services, Annand House, John Street North, Meadowfield, County Durham, DH7 8RS**

Information about the proposed revisions to the gambling policy was published on the Council website. This included a briefing note outlining the changes.

Equality and Diversity Impact Assessment

An equality and diversity initial screening was carried out on this policy review. The screening identified that the impact and outcome of the consultation will have a positive impact across all equality groups and will not affect relations between different communities or groups.

The equality and diversity impact assessment is to be reviewed following consideration of the consultation results.

Promotional mechanisms

A range of communication mechanisms, open to the council, were used to raise awareness of the consultation and encourage participation. These included:

- A consultation webpage created specifically for the review of Gambling Act Statement of Principles. This page included a briefing note (*appendix 1*) providing details of the proposed changes and details of how to submit comments.
- Press release to the general public at the start of the consultation to prompt participation.
- Social media posts signposting to the Gambling Act Statement of Principles consultation webpage.
- Promotional slides on display in Durham County Council customer access points
- Information in the County Council's staff magazine 'Buzz'.
- Information in the County Council's magazine for local members 'Members Update'.
- Information in the County Council's magazine for residents, 'Durham County News'
- Information in the County Council's newsletter for customer services, 'CSI'
- Letter or email sent to the following stakeholders and consultees:
 - Licensee holders
 - County Durham MPs
 - Local members
 - Area Action Partnerships (AAP) and their networks
 - Town and parish councils
 - The Chief Officer of Police
 - Association of British Bookmakers
 - The Bingo Association
 - British Amusement Catering Trade Association
 - British Beer and Pub Association
 - Gamblers Anonymous, GamCare, The Gordon House Association, Responsibility in Gambling Trust
 - North East Chamber of Commerce (NECC)
 - Area action partnerships
 - Durham BID
 - North East Strategic Licensing Group
 - Citizens Advice County Durham

3. Consultation results and feedback

One response was received by email from Gosschalk Solicitors acting for the Association of British Bookmakers (ABB). Please see below.

3.1 Email feedback received – Gosschalk Solicitors



GOSSCHALKS
SOLICITORS

Licensing Services

Annand House

John Street North

Meadowfield

County Durham

DH7 8RS

Please ask for:

Direct Tel:

Email:

Our ref:

Your ref:

Date: 23 August 2016

Dear Sir/Madam,

Re: Gambling Act 2005 Policy Statement Consultation

We act for the Association of British Bookmakers (ABB) and have received instructions to respond on behalf of our client to the current consultation on the Council's review of its gambling policy statement.

The Association of British Bookmakers (ABB) represents over 80% of the high street betting market. Our members include large national operators such as William Hill, Ladbrokes, Coral and Paddy Power, as well as almost 100 smaller independent bookmakers.

Please see below for the ABB's response to the Council's current consultation on the draft 2016-19 gambling policy statement.

Betting shops have been part of the British high street for over 50 years and ensuring a dialogue with the communities they serve is vital.

The ABB recognises the importance of the gambling policy statement in focusing on the local environment and welcomes the informed approach this will enable operators to take for example, with regard to the new requirements for local area risk assessments and ensuring the right structures are in place in shops that are appropriate for that area.

Whilst it is important that the gambling policy statement fully reflects the local area, the ABB is also keen to ensure that the statutory requirements placed on operators and local authorities under the Gambling Act 2005 remain clear; this includes mandatory conditions

(for instance, relating to Think 21 policies) and the aim to permit structure. Any duplication or obscuring of these within new processes would be detrimental to the gambling licensing regime. The ABB also believes it is important that the key protections already offered for communities, and clear process (including putting the public on notice) for objections to premises licence applications, continue to be recognised under the new regime.

Any consideration of gambling licensing at the local level should also be considered within the wider context.

- the overall number of betting shops is in decline. The latest Gambling Commission industry statistics show that numbers as at 31 Mar 2016 were 8,809 - a decline of over 300 since March 2014, when there were 9,137 recorded.
- recent planning law changes introduced in April 2015 have increased the ability of licensing authorities to review applications for new premises, as all new betting shops must now apply for planning permission.
- successive prevalence surveys and health surveys tells us that problem gambling rates in the UK are stable (0.6%) and possibly falling.

Working in partnership with local authorities

The ABB is fully committed to ensuring constructive working relationships exist between betting operators and licensing authorities, and that where problems may arise that they can be dealt with in partnership. The exchange of clear information between councils and betting operators is a key part of this and the opportunity to respond to this consultation is welcomed.

LGA – ABB Betting Partnership Framework

In January 2015 the ABB signed a partnership agreement with the Local Government Association (LGA), developed over a period of months by a specially formed Betting Commission consisting of councillors and betting shop firms, which established a framework designed to encourage more joint working between councils and the industry.

Launching the document Cllr Tony Page, LGA Licensing spokesman, said it demonstrated the *"desire on both sides to increase joint-working in order to try and use existing powers to tackle local concerns, whatever they might be."*

The framework builds on earlier examples of joint working between councils and the industry, for example the Medway Responsible Gambling Partnership which was launched by Medway Council and the ABB in December 2014. The first of its kind in Britain, the voluntary agreement led the way in trialing multi-operator self-exclusion. Lessons learned from this trial paved the way for the national multi-operator self-exclusion scheme now in place across the country. By phoning a free phone number (0800 294 2060) a customer who is concerned

they are developing a problem with their gambling can exclude themselves from betting shops close to where they live, work and socialise. The ABB is working with local authorities to help raise awareness of the scheme, which is widely promoted within betting shops.

The national scheme was first trialed in Glasgow in partnership with Glasgow City Council. Cllr Paul Rooney, Glasgow's City Treasurer and Chairman of a cross-party Sounding Board on gambling, described the project as *"breaking new ground in terms of the industry sharing information, both between operators and, crucially, with their regulator."*

Primary Authority Partnerships in place between the ABB and local authorities

All major operators, and the ABB on behalf of independent members, have also established Primary Authority Partnerships with local authorities. These Partnerships help provide a consistent approach to regulation by local authorities, within the areas covered by the Partnership; such as age-verification or health and safety. We believe this level of consistency is beneficial both for local authorities and for operators.

For instance, Primary Authority Partnerships between Milton Keynes Council and Reading Council and their respective partners, Ladbrokes and Paddy Power, led to the first Primary Authority inspection plans for gambling coming into effect in January 2015. By creating largely uniform plans, and requiring enforcing officers to inform the relevant Primary Authority before conducting a proactive test-purchase, and provide feedback afterwards, the plans have been able to bring consistency to proactive test-purchasing whilst allowing the Primary Authorities to help the businesses prevent underage gambling on their premises.

The ABB welcomes your proposal to amend the policy to indicate that where an operator has a primary activity relationship, the licensing authority will liaise with both the operator and primary authority in relation to any proposed enforcement action.

Local area risk assessments

Since April 2016, under new Gambling Commission LCCP provisions, operators are required to complete local area risk assessments identifying any risks posed to the licensing objectives and how these would be mitigated. Licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy, and any local area profile, in their risk assessment. These must be reviewed where there are significant local changes or changes to the premises, or when applying for a variation to or for a new premises licence.

The ABB fully supports the implementation of risk assessments which will take into account risks presented in the local area, such as exposure to vulnerable groups and crime. The new requirements build on measures the industry has already introduced through the ABB Responsible Gambling Code to better identify problem gamblers and to encourage all customers to gamble responsibly.

This includes training for shop staff on how to intervene and direct problem gamblers to support services, as well as new rules on advertising including banning gaming machine advertising in shop windows, and the introduction of Player Awareness Systems which use technology to track account based gaming machine customers' player history data to allow earlier intervention with any customers whose data displays known 'markers of harm'.

We note that there is a proposal to include within the new policy signposts to local information to help operators complete local risk assessments. It is important that these signposts focus upon matters that are relevant to the issue of whether the operation of the premises poses a risk to the licensing objectives. Whereas the proximity of the a local school or center to assist those with gambling problems may be relevant, issues such as the proximity of pay day loan shops, pawn shops, transport interchanges etc are not relevant. Similarly references to age, ethnicity or the economic make-up of the area should be avoided as these cannot be relevant to an assessment of whether the premises could pose a risk to the licensing objectives.

Best practice

The ABB is committed to working pro-actively with local authorities to help drive the development of best practice with regard to local area risk assessments, both through responses to consultations such as this and directly with local authorities. Both we and our members are open and willing to engage with any local authority with questions or concerns relating to the risk assessment process, and would encourage them to contact us.

Westminster Council is one local authority which entered into early dialogue with the industry, leading to the development of and consultation on draft guidance on the risk assessment process, which the ABB and our members contributed to. Most recently one operator, Coral, has been working closely with the Council ahead of it issuing its final version of the guidance, which we welcome.

The final guidance includes a recommended template for the local area risk assessment which we would point to as a good example of what should be expected to be covered in an operator's risk assessment. It is not feasible for national operators to submit bespoke risk assessments to each of the c.350 local authorities they each deal with, and all operators have been working to ensure that their templates can meet the requirements set out by all individual local authorities.

The ABB would be concerned should any local authority seek to prescribe what the form of an operator's risk assessment. This would not be in line with better regulation principles. Operators must remain free to shape their risk assessment in whichever way best meets their operational processes.

The ABB has also shared recommendations of best practice with our smaller independent members, who although they deal with fewer different local authorities, have less resource to devote to developing their approach to the new assessments. In this way we hope to

encourage a consistent application of the new rules by operators which will benefit both them and local authorities.

Concerns around increases in the regulatory burden on operators

The ABB is concerned to ensure that any changes in the licensing regime at a local level are implemented in a proportionate manner. This would include if any local authority were to set out overly onerous requirements on operators to review their local risk assessments with unnecessary frequency, as this could be damaging. As set out in the LCCP a review should only be required in response to significant local or premises change. In the ABB's view this should be where evidence can be provided to demonstrate that the change could impact the premises' ability to operate consistently with the three licensing objectives.

Any increase in the regulatory burden would severely impact ABB members at a time when overall shop numbers are in decline, and operators are continuing to absorb the impacts of significant recent regulatory change. This includes the increase to 25% of Machine Games Duty, limits to staking over £50 on gaming machines, and planning use class changes which require all new betting shops in England to apply for planning permission.

Employing additional licence conditions

It should continue to be the case that additional conditions are only imposed in exceptional circumstances where there are clear reasons for doing so. There are already mandatory and default conditions attached to any premises licence which will ensure operation that is consistent with the licensing objectives. In the vast majority of cases, these will not need to be supplemented by additional conditions.

The LCCP require that premises operate an age verification policy. The industry operates a policy called "Think 21". This policy is successful in preventing under-age gambling. Independent test purchasing carried out by operators and the ABB, and submitted to the Gambling Commission, shows that ID challenge rates are consistently around 85%. The ABB has seen statements of principles requiring the operation of Challenge 25. Unless there is clear evidence of a need to deviate from the industry standard then conditions requiring an alternative age verification policy should not be imposed.

The ABB is concerned that the imposition of additional licensing conditions could become commonplace if there are no clear requirements in the revised licensing policy statement as to the need for evidence. If additional licence conditions are more commonly applied this would increase variation across licensing authorities and create uncertainty amongst operators as to licensing requirements, over complicating the licensing process both for operators and local authorities

Other concerns

Where a local area profile is produced by the licensing authority, this be made clearly available within the body of the licensing policy statement, where it will be easily accessible by the operator and also available for consultation whenever the policy statement is reviewed.

Conclusion

The ABB and its members are committed to working closely with both the Gambling Commission and local authorities to continually drive up standards in regulatory compliance in support of the three licensing objectives: to keep crime out of gambling, ensure that gambling is conducted in a fair and open way, and to protect the vulnerable.

Indeed, as set out, the ABB and its members already do this successfully in partnership with local authorities now. This includes through the ABB Responsible Gambling Code, which is mandatory for all members, and the Safe Bet Alliance (SBA), which sets voluntary standards across the industry to make shops safer for customers and staff.

We would encourage local authorities to engage with us as we continue to develop both these codes of practice, which are in direct support of the licensing objectives, as well as our processes around local area risk assessments.

Yours faithfully,



GOSSCHALKS

**Gambling Act 2005 Statement of Principles
Consultation**

**Briefing note
July 2016**



Introduction

The Council is required by the Gambling Act 2005 to publish a statement of principles (also known as the 'gambling policy') which sets out how we will carry out our work and determine licence applications for a variety of gaming and betting facilities.

The statement includes three objectives which underpin the role of the Gambling Commission and the council in fulfilling their statutory obligations of gambling licensing in County Durham. These 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 current policy was introduced in January 2013 and is now due for review. As part of this review, we intend to maintain the above three objectives and invite comments on proposals for revisions as per the below:

- **Inclusion of local risk assessment requirements** – since April 2016, the Gambling Commission's Licence Conditions and Codes of Practice (LCCP) require gambling operators to carry out a risk assessment to consider local risks. Licence holders must assess the risks posed to the local area by gambling facilities, taking into consideration the licensing objectives. Operators will be expected to have policies, procedures and control measures in place to reduce those risks.
- **Inclusion of information to support applicants to undertake local risk assessments** – further to the above, it is proposed that the new statement will include signposting to local information that will help operators to undertake the required local risk assessments.
- **Inclusion of a reference to the council seeking guidance from primary authorities prior to taking enforcement action** - Primary Authority is a statutory scheme, established by the Regulatory Enforcement and Sanctions Act 2008 (the RES Act). It allows an eligible business to form a legally recognised partnership with a single local authority in relation to regulatory compliance. This local authority is then known as its 'primary authority'.

The new policy will be amended to reflect that if a licensed premises in our area has a primary authority relationship with another local authority in the country, we will liaise with both the premises/business and the primary authority in relation to any enforcement or regulatory related activities.

- **Inclusion of information relating to Government amendments** – it is proposed that the new statement will be inclusive of government changes to the legislation to increase the stake and prizes for certain gaming machines as implemented by the Department for Culture, Media & Sport.

Appendix 4 Table of Changes

Appendix Gambling Act 2005 Statement of Principles Revision -Table of Changes

No	Page/Paragraph	Change	Reason	Comments
1	Cover page 1	Directorate name change	Change in Directorate	Corporate reorganisation
2	Page 2	Addition to version table	Document control purposes	DCC Policy Controls
3	Page 3	Changes to content page numbers	Changes to page numbering	Revision altered page numbering
4	Page 4	Changes to content page numbers	Changes to page numbering	Revision altered page numbering
5	Part A	Rearrangement of content to show introduction before licensing objectives	Provides a more logical format	Better, more logical arrangement of text
6	Introduction	Changes to layout and formatting of paragraphs	Provides greater clarity and a more logical format	Better, more logical arrangement of text
7		Changes to dates for consultation and adoption	To reflect the recent consultation and to allow for new adoption dates	New dates reflecting recent consultation, revision and adoption dates
8	Licensing Objectives Page 5	Changes to text and additional information on licensing objectives	To give greater clarity and explanation	To give greater clarity and explanation
9	Interested parties page 8	Alterations to text formatting and additional information regarding which organisations and individuals will be deemed to represent those who live sufficiently close to the premises to be likely to be affected by the authorised	Provides greater clarity, additional information and a more logical format. Inclusion of reference to disclosure of details of persons making representations to applications	Better, more logical arrangement of text together with additional information on in connection with the representation of interested parties by others and information disclosure.

		activities.		
10	Exchange of information page 9	Changes to text and additional information regarding information disclosure for interested parties	To give greater clarity and explanation	To give greater clarity and explanation
11	Enforcement page 10	Changes to text and additional information regarding Primary Authority Schemes. Inclusion of a reference to the Licensing Authority seeking guidance from Primary Authorities prior to taking enforcement action	New inclusion to show how DCC would interact with other authorities under the Primary authority scheme should that be relevant to any premises licensed by DCC	To give greater clarity and more detailed explanation
12	Licensing Authority Functions page 11	Changes to text and additional information regarding the delegation of functions under current constitutional arrangements	Extra information on delegations	To give greater clarity and more detailed explanation
13	Part B General Principles page 12	Changes to text and additional information regarding the issuing of premises licenses and important reference to the guidance issued by the Gambling Commission	Additional information regarding premises licenses issued by the Council and the importance of relevant guidance	To give greater clarity and more detailed explanation
14	Part B General Principles page 12	Changes to text and additional information regarding the location of gambling premises and the new requirements regarding local risk assessments. The	New requirements. Additional information regarding premises licenses issued by the Council and the importance of relevant guidance	New requirements under the Act/approved guidance. To give greater clarity and more detailed explanation.

		<p>Gambling Commission's Licence Conditions and Codes of Practice (LCCP) were revised and published in February 2015 and formalised the need for operators to consider local risks.</p> <p>From 6th April 2016 the Gambling Commission's LCCP require gambling premises operators to undertake a risk assessment taking into consideration their local information</p> <p>Licence holders must assess the local risk to the licensing objectives posed by the provision of gambling facilities at each of their premises.</p> <p>Operators will be expected to have policies, procedures and control measures in place to mitigate those risks.</p>		
15	Decision making page 12	Changes to text and additional, explanatory information regarding conditions and control measures to provide applicants and current licence holders with greater clarification,	Additional information regarding premises licenses issued by the Council and the importance of relevant guidance	To give greater clarity and more detailed explanation

		information, guidance and explanation.		
16	Betting Premises page 23	Statement and information regarding FOBTs and the reporting of damage by customers to aid in the assessment of crime and disorder in relation to the use of these gaming machines within the county	Additional information regarding FOBTs to support the prevention of crime and disorder	The prevention of crime and disorder
17	Annex 1 Delegation of functions by licensing authority. Amendment of table	Option for operators to request a hearing in cases involving the cancellation of club gaming/club machine permits and the cancellation of licensed premises gaming machine permits. Also, change in connection with the decision to give a counter notice to a temporary use notice	Provide additional options for democratic decision making	Increased transparency and choice for operators
18	Annexe 3 – addition of table showing <i>Summary of Gaming Machine Categories and Entitlements</i>	Addition of table relating to gaming machine entitlements taking into account the increase of stakes and prizes in respect of certain categories of machines, as implemented by the DCMS	To provide additional information, explanation and guidance to operators and applicants	To provide additional information, explanation and guidance to operators and applicants

Appendix 5 Proposed DCC Gambling Act 2005 Statement of Principles 2016 to 2019

Adult and Health Services

Environment Health and Consumer Protection

**Durham County
Council
Gambling Act 2005
Statement of
Principles
2016 to 2019**

Altogether better



Version Date	Version ref	Revision History	Reviser	Approved by	Review Date
2009	V1	Final version	Joanne Waller	County Council	2013
2013	V2	Final version	Joanne Waller	County Council	2016
2016	V3	Reviewed and revised	Joanne Waller	County Council	2019

Contents

Contents

Contents.....	3
Part A.....	5
1. Introduction	6
2. Licensing Objectives	6
3. Declaration.....	10
4. Responsible Authorities.....	10
5. Interested Parties	11
6. Exchange of Information	12
7. Enforcement	12
8. Licensing Authority Functions	14
Part B.....	16
Premises Licences: Consideration of Applications	16
1. General Principles.....	16
2. Location	16
3. Local Risk Assessment	17
4. Decision-making	19
5. Definition of "premises"	21
6. Premises "ready for gambling"	23
7. Planning	24
8. Duplication with other regulatory regimes	24
9. Door Supervisors	27
10. Adult Gaming Centres	28
11. (Licensed) Family Entertainment Centres	28
12. Casinos	29

13. Bingo premises	29
14. Betting premises	30
15. Tracks.....	30
16. Travelling Fairs.....	32
17. Provisional Statements	32
18. Reviews.....	33
Part C.....	36
Permits / Temporary & Occasional Use Notice.....	36
1. Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits - Schedule 10 paragraph 7)	36
2. (Alcohol) Licensed premises gaming machine permits - (Schedule 13 paragraph 4(1)) .	37
3. Prize Gaming Permits	38
4. Club Gaming and Club Machines Permits.....	39
5. Temporary Use Notices	40
6. Occasional Use Notices	41
7. Small Society Lotteries.....	41
Annexe 1 - Delegation of Functions.....	43
The Licensing Authority will delegate its functions under the Gambling Act 2005 as follows:	43
Annexe 2 - Responsible Authorities	44
Annexe 3 - Summary of Gaming Machine Categories and Entitlements	46

Part A

1. Introduction

Durham County Council is situated in the County of Durham, the heart of the North East of England.

The area features a rich diversity in lifestyle and culture including a historic city with a World Heritage Site, Beamish and Bowes Museums, Durham, Lumley and Lambton Castles, designated Areas of Outstanding Natural Beauty, and historic villages and market towns.

County Durham has a resident population of 513,200. The ethnic minority population of the area accounts for 1.4% of the total population (2011 census). Durham University has 16,355 students and the area attracts over 4 million visitors per year.

Licensing authorities are required by the Gambling Act 2005 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. The statement must also be reviewed from "time to time" and any amended parts re-consulted upon. The statement must be then re-published.

Durham County Council consulted widely upon this statement before finalising and publishing. A list of those persons consulted is provided below. It should be noted that unsolicited comments were received from other persons but we have not listed all of these.

The Gambling Act requires that the following parties are consulted by licensing authorities:

- I. The Chief Officer of Police
- II. One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in County Durham
- III. 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:
 - All residents and businesses within the County Durham area, and all Councillors, Parish Councils, MPs and MEPs,
 - Association of British Bookmakers,
 - The Bingo Association,
 - British Amusement Catering Trade Association,
 - British Beer and Pub Association,

- Gamblers Anonymous, GamCare, The Gordon House Association
- Responsibility in Gambling Trust.

Our consultation took place between **4th July and 26th September 2016** and we followed the HM Government Code of Practice on Consultation (Published July 2008), which is available at: www.bis.gov.uk/files/file47158.pdf

The full list of comments made and the consideration by the Council of those comments is available by request to: Licensing Services, PO Box 617, Durham DH1 9HZ.

The policy was approved at a meeting of the Full Council on **[DATE]** and was published via our website. Copies were placed in the public libraries of the area as well as being available in the Town Hall.

Should you have any comments as regards this policy statement please send them via e-mail or letter to the following contact:

Licensing Manager
EHCP (Licensing)
PO Box 617
Durham DH1 9HZ
Email licensing@durham.gov.uk
Telephone 03000 261016

It should be noted that this statement of licensing principles will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

2. Licensing Objectives

The Gambling Act came into force in 2007 and put in place a comprehensive and cohesive regulatory regime based on three fundamental objectives.

In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:

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

It should be noted that the Gambling Commission has stated: “The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”.

Preventing gambling from being a source of crime or disorder, being associated with crime and disorder or being used to support crime - The Gambling Commission will take the lead role in keeping gambling free from crime by vetting applicants for operator and personal licences. The council will have to be satisfied that the premises will not adversely affect the licensing objective and is compliant with the commission’s guidance, codes of practice and this policy statement.

The council will expect the applicant to have a good understanding of the local area in which they either operate, or intend to operate, gambling premises. As part of the application, the applicant will provide evidence to demonstrate that in operating the premises they will promote this licensing objective.

Ensuring that gambling is conducted in a fair and open way - The Gambling Commission is the body primarily concerned with ensuring that operators conduct gambling activities in a fair and open way, except in the case of tracks.

The council will notify the Gambling Commission of any concerns about misleading advertising or absence of required game rules, or any other matters as set out in the Gambling Commission’s Licence Conditions and Code of Practice.

Protecting children and other vulnerable persons from being harmed or exploited by gambling – (Protection of children) - Persons under 18 cannot be admitted to many types of gambling premises. This objective means preventing children from taking part in most types of gambling.

Section 45 of The Act provides the following definition for child and young person:

Meaning of “child” and “young person”

- (i) In this Act “child” means an individual who is less than 16 years old.
- (ii) In this Act “young person” means an individual who is not a child but who is less than 18 years old.

Children and young persons may take part in private and non-commercial betting and gaming, but the Act restricts the circumstances in which they may participate in gambling or be on premises where gambling is taking place as follows:

- casinos, betting shops and adult gaming centres are not permitted to admit anyone under 18

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

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

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

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

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

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

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

- self-exclusion
- employment of children and young persons

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

- leaflets offering assistance to problem gamblers should be available on gambling premises in a location that is both prominent and discreet
- training for staff members which focuses on an employee's ability to detect a person who may be vulnerable and providing support to vulnerable persons
- self-exclusion schemes
- operators should demonstrate their understanding of best practice issued by organisations that represent the interests of vulnerable people
- posters and leaflets with GamCare Helpline and website displayed in prominent locations
- external advertising to be positioned or designed not to entice passers-by

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

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

Since 2007 there have been significant changes in how gambling is carried on both nationally and within the County. Gambling has for many years formed an important and significant part of the entertainment culture. It is however important that we understand the harm that can be caused by irresponsible and problem gambling.

Increasingly there is awareness and concern about the availability of some gambling activities that enable people to bet large amounts of money very quickly; and that doing so can lead to financial and other problems if it gets out of hand.

It is important also that we recognise that the vast majority of licensees operating in the County do so responsibly and with appropriate sensitivity to the needs of the communities in which they operate.

It is incumbent on all those involved in the gambling industry to be mindful of the needs of the most vulnerable members of our society, and Durham County Council has an important role to play through the licensing regime in helping to safeguard them.

In accordance with section 153 of the Act Durham County Council is aware that in making decisions about premises licences and temporary use notices, it should aim to permit the use of premises for gambling in so far as it thinks it is:

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

3. Declaration

In producing the final statement, Durham County Council declares that it has had regard to the licensing objectives of the Gambling Act 2005, the Guidance to Licensing Authorities issued by the Gambling Commission, and any responses from those consulted on the statement.

4. Responsible Authorities

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

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

In accordance with the suggestion in the Gambling Commission's Guidance to Licensing Authorities, Durham County Council designates the Local Safeguarding Children Board for this purpose.

The contact details of all the Responsible Authorities under the Gambling Act 2005 are available at Annex 1.

5. Interested Parties

5.1 The specific detail of the policy and any instructions/rules should be described. 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 or
- c) represents persons who satisfy paragraph (a) or (b)”

Durham County Council is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. The principles are:

- Each case will be decided upon its merits. Durham County Council will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission’s Guidance to Licensing Authorities at 8.11 to 8.18. It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.
- Interested parties can be persons who are democratically elected such as Councillors and MP’s. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these however, this authority will generally require written evidence that a person/body (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.
- Interested parties referred to under S.158 of the Act in the opinion of the licensing authority also includes those individuals and organisations concerned with or involved with social welfare, addiction, poverty, public

health, poverty and protection of the vulnerable which individuals and organisations. They will be deemed to represent those who live sufficiently close to the premises to be likely to be affected by the authorised activities.

- 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:

Licensing Manager
EHCP (Licensing)
PO Box 617
Durham DH1 9HZ
Email licensing@durham.gov.uk
Telephone 03000 261016

6. Exchange of Information

Licensing authorities are required to include in their statements the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

The principle that Durham County Council 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.

Durham County Council will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

Details of those persons making representations in relation to applications will ordinarily be made available to applicants to allow mediation to take place if appropriate, and in the event of a hearing, will form part of a public document. Anyone making representations or applying for a review of a premises licence will be informed that their details will be disclosed.

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

Please contact the licensing department for further information on our protocols

7. Enforcement

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.

Durham County Council's principles are that it will be guided by the Gambling Commission's Guidance to Licensing 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 and,
- Targeted: regulation should be focused on the problem, and minimise side effects.

As per the Gambling Commission's Guidance to Licensing Authorities, Durham County Council will endeavour to avoid duplication with other regulatory regimes so far as possible.

Durham County Council has adopted and implemented a risk-based inspection programme, based on;

- The licensing objectives
- Relevant codes of practice
- Guidance issued by the Gambling Commission, in particular at Part 36
- The principles set out in this statement of licensing policy

This may include test purchasing activities to measure the compliance of licensed operators with aspects of the Gambling Act. When undertaking test purchasing activities, Durham County Council will undertake to liaise with the Gambling Commission and the operator to determine what other, if any, test purchasing schemes may already be in place. Irrespective of the actions of an operator on their

overall estate, test purchasing may be deemed to be an appropriate course of action.

The main enforcement and compliance role for Durham County Council in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises.

The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the licensing authority but should be notified to the Gambling Commission.

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

Where there is a Primary Authority scheme in place, the Licensing Authority will seek guidance from the Primary Authority before taking enforcement action. At the time of the publication of this statement there are no Gambling Act 2005 Primary Authority arrangements in place in County Durham.

The council's enforcement/compliance protocols and any written agreements currently in operation are available upon request.

8. Licensing Authority Functions

Licensing authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences
- Issue *Provisional Statements*
- Regulate *members' clubs* and *miners' welfare institutes* who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue *Club Machine Permits* to *Commercial Clubs*
- Grant permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines

- Issue *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- Register *small society lotteries* below prescribed thresholds
- Issue *Prize Gaming Permits*
- Receive and Endorse *Temporary Use Notices*
- Receive *Occasional Use Notices*
- Provide information to the Gambling Commission regarding detail of licences issued (see section above on 'exchange of information')
- Maintain registers of the permits and licences that are issued under these functions

It should be noted that licensing authorities are not involved in licensing remote gambling at all, which is regulated by the Gambling Commission via operating licences.

The provisions of the Gambling Act delegates all decisions relating to Premises Licences, Temporary Use Notices, Occasional Use Notices and the issuing of permits for gaming machines and prize gaming to the Licensing and General Registration Committee of the Council.

In order to provide a speedy, efficient and cost effective service and in accordance with the Act, the Licensing Committee will delegate decisions and functions and will establish a number of sub-committees to deal with them as detailed in this Statement. Three members will sit on these sub-committees.

Further, with any of the decisions and functions being administrative in nature, the grant of non-contentious applications, including those where no representations have been made, are delegated to officers.

Part B

Premises Licences: Consideration of Applications

1. General Principles

Premises licences are subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate

The council will issue premises licences to allow those premises to be used for certain types of gambling. These are:

- (a) casino premises,
- (b) bingo premises"
- (c) betting premises including tracks and premises used by betting intermediaries,
- (d) adult gaming centre premises, or
- (e) family entertainment centre premises.

Premises licences are subject to the requirements set out in the Act and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

The Gambling Commission has issued Codes of Practice for each interest area for which they must have regard. The council will also have regard to these Codes of Practice.

2. Location

The council is aware that the issue demand for gambling activities cannot be considered with regard to the location of premises but that considerations in connection with the licensing objectives are relevant to its decision-making. In accordance with the Gambling Commission's Guidance to Licensing Authorities, Durham County Council will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. In deciding whether a licence for particular premises should be granted, each case will be decided on its merits.

Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. Any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

3. Local Risk Assessment

Licence holders must assess the local risk to the licensing objectives posed by the provision of gambling facilities at each of their premises. Operators will be expected to have policies, procedures and control measures in place to mitigate those risks.

The council will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. With regards to these licensing objectives it is the council's policy, upon receipt of any relevant representation to look at specific location issues which include:

- the possible impact that a gambling premises may have on any sensitive premises that provide services to children or young people or vulnerable people; eg a school, vulnerable adult centre;
- the possible impact a gambling premises may have on a residential area where there is a high concentration of families with children;
- the nature and size of the gambling activities taking place;
- any levels of crime in the area.

Risk is not necessarily related to an event that has happened. Risk is related to the probability of an event happening and the likely impact of that event, in this case the risk of the impact on the licensing objectives.

The local risk assessment process is not the same as other forms of risk assessments undertaken by gambling operators, such as Health and Safety at Work, Fire Safety etc. The local risk assessments are specific to the potential harm that gambling premises can have on one or more of the licensing objectives under the Act. They are specific to the premises, the area and the local community.

Licence holders are required to undertake a local risk assessment when applying for a new premises licence.

The Licensing Authority will expect the local risk assessment to consider as a minimum:

- The location of educational establishments attended by persons under 18 years of age

- The location of services for children such as playgrounds, leisure centres and other areas where children will gather
- The location of any establishment frequented by vulnerable adults for the purpose of treatment and/or support
- The location of any establishment frequented by persons addicted to gambling for the purpose of treatment and/or support
- The layout of the local area and physical environment in which the premises are situated including any crime and disorder hotspots

The local risk assessment should show how vulnerable people, including people with gambling dependencies, are protected by the licensee or applicant.

Licence holders must review (and update as necessary) their local risk assessments to take account of significant changes in local circumstances. A significant change may include (but is not limited to):

- the development of an educational establishment for persons under 18 years of age
- the development of an establishment at which vulnerable adults and/or persons addicted to gambling may attend for the purpose of treatment and/or support
- the licensee becoming aware of a particular risk to premises offering gambling facilities in the location of the premises
- the Licensing Authority, having received information and having consulted with the licensee upon the significance of that information, determines that this amounts to a change in local circumstances
- When there are significant changes at a licence holders premises that may affect their mitigation of local risks
- When applying for a variation of a premises licence.

In preparing a Local Risk Assessment the licence holder may have regard to;

- The crime mapping website: www.police.uk
- Neighbourhood statistics website: www.neighbourhood.statistics.gov.uk
- **Information made available by Durham County Council**

Where concerns do exist, the council suggests that the licence holder considers consulting the most appropriate Responsible Authority for guidance before

submitting an application for a licence or a variation of a licence, or where it is believed there has been a significant change in local circumstances.

When the officers from the Council undertake an inspection of premises offering gambling facilities it is likely that the Local Risk Assessment will be requested to be seen. It is therefore a requirement that the Local Risk Assessment, or a copy, is kept at the premises at all times.

As a matter of best practice the Council recommends that operators establish a regular review regime. This review programme would ensure that these assessments are considered at regular intervals and updated if necessary.

4. Decision-making

Durham County Council is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:

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

It is appreciated that as per the Gambling Commission's Guidance to Licensing Authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos - page 12) and also that unmet demand is not a criterion for a licensing authority.

Durham County Council also notes the Gambling Commission guidance on ensuring that betting is the primary activity of licensed premises. Gaming machines may be made available for use in licensed betting premises only at times when there are also sufficient facilities for betting available. Operators will need to demonstrate that betting will continue to be the primary activity of the premise when seeking variations to licenses.

In making this determination, Durham County Council will have regard to the six indicators of betting as a primary gambling activity.

- The offer of established core products (including live event pictures and bet range)
- The provision of information on products and events
- The promotion of gambling opportunities and products

- The actual use made of betting facilities
- The size of premises
- The delivery of betting facilities

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. The council will also expect the licence applicant to offer his/her own suggestions as to ways in which the licensing objectives can be met effectively.

Where certain measures are not already addressed by the mandatory/default conditions or by the applicant, the council may consider licence conditions to cover issues such as:

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

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

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

- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;

- conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated); and
- conditions in relation to stakes, fees, winning or prizes.

5. Definition of “premises”

In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

The Gambling Commission states in the fourth edition of its Guidance to Licensing Authorities that: “In most cases the expectation is that a single building/ plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably.

Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises.”

Durham County Council takes particular note of the Gambling Commission’s Guidance to Licensing 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 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 names on the premises licence

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

- Does 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?

Durham County Council will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

The Gambling Commission’s relevant access provisions for each premises type are reproduced below:

Casinos

- The principal access entrance to the premises must be from a street (as defined at 7.24 of the Guidance)
- 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 (as per para 7.23 Guidance to Licensing)

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

Tracks - No customer should be able to access the premises directly from:

- a casino
- an adult gaming centre

Bingo Premises - No customer must be able to access the premise directly from:

- a casino
- an adult gaming centre
- a betting premises, other than a track

Family Entertainment Centre - No customer must be able to access the premises directly from:

- a casino
- an adult gaming centre
- a betting premises, other than a track

Part 7 of the Gambling Commission’s Guidance to Licensing Authorities contains further guidance on this issue, which Durham County Council will also take into account in its decision-making.

6. Premises “ready for gambling”

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

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

In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, Durham County

Council will determine applications on their merits, applying a two stage consideration process:-

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

Applicants should note that Durham County 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.

More detailed examples of the circumstances in which such a licence may be granted can be found in the Guidance produced by the Gambling Commission.

7. Planning

The Gambling Commission Guidance to Licensing Authorities states:

In determining applications the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.

Durham County Council will not take into account irrelevant matters as per the above guidance. In addition this authority notes the following excerpt from the Guidance:

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

8. Duplication with other regulatory regimes

Durham County Council seeks to avoid any duplication with other statutory / regulatory systems where possible, including planning. Durham County Council will not consider whether a licence application is likely to be awarded planning

permission or building regulations approval, in its consideration of it. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

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

Application of the Licensing objectives - 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 Licensing Authorities and some comments are made below.

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

Durham County Council is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. Durham County Council is aware of the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction.

Ensuring that gambling is conducted in a fair and open way

Durham County Council has noted that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section.

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

Durham County Council has noted the Gambling Commission's Guidance that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are,

particularly attractive to children). The licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, 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.

Durham County Council is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.

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

Conditions

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

- relevant to the need to make the proposed building suitable as a gambling facility;
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects.

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures Durham County Council 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. Durham County Council will also expect the licence applicant to offer his/her own suggestions as to way in which the licensing objectives can be met effectively.

Durham County Council 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.

Durham County Council will also ensure that where category C or above machines are on offer in premises to which children are admitted:

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

Durham County Council 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, Durham County Council will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

It is noted that there are conditions which the licensing authority cannot attach to premises licences which are:

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

9. Door Supervisors

The Gambling Commission advises in its Guidance to Licensing Authorities that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young

persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a premises licence to this effect.

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

10. Adult Gaming Centres

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

Durham County Council may consider measures to meet the licensing objectives 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-exclusion 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

11. (Licensed) Family Entertainment Centres

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

Durham County Council may consider measures to meet the licensing objectives such as:

- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry Notices / signage Specific opening hours Self-exclusion 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.

Durham County Council will, as per the Gambling Commission's guidance, refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. Durham County Council will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published

12. Casinos

Durham County Council 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 we 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 Full Council.

13. Bingo premises

Durham County Council notes that the Gambling Commission's Guidance states:

18.4 Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.

Durham County Council also notes the Guidance at paragraph 18.8 regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

18.7 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.

14. Betting premises

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

Fixed Odds Betting Terminals (FOBTs) - The Authority is concerned about the potential effects of excessive use of FOBTs by customers who may be least able to afford to lose cash, coupled with the speed and ease with which they can gamble compared with other forms of gambling. Under this policy the Council encourages operators to report vandalism to FOBTs on their premises so the council can obtain more information about the level of crime associated with the use of FOBTs within the County.

15. Tracks

Durham County Council 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, Durham County Council 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.

Durham County 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.

Durham County Council may consider measures to meet the licensing objectives 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-exclusion 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.

Gaming machines- Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.

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

Applications and plans

The Gambling Act (s51) requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity. (See Guidance to Licensing Authorities, para 20.28).

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

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

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

Durham County 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. (See Guidance to Licensing Authorities, para 20.33).

16. Travelling Fairs

Durham County Council is responsible for deciding 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.

The licensing authority 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. Durham County 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.

17. Provisional Statements

Developers may wish to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises

licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

S204 of the Gambling 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.

The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.

In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:

- they concern matters which could not have been addressed at the provisional statement stage, or
- they reflect a change in the applicant's circumstances.

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

- which could not have been raised by objectors at the provisional statement stage;
- which in the authority's opinion reflect a change in the operator's circumstances; or

- where the premises has 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.

18. Reviews

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. 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 authority's statement of principles.

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.

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

Once a valid application for a review has been received by the licensing authority, 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.

The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.

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:-

- a) add, remove or amend a licence condition imposed by the licensing authority;
- b) exclude a default condition imposed by the Secretary of State or Scottish Ministers (e.g. opening hours) or remove or amend such an exclusion;
- c) suspend the premises licence for a period not exceeding three months and
- d) revoke the premises licence

In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

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

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

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

Part C

Permits / Temporary & Occasional Use Notice

1. Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits - Schedule 10 paragraph 7)

Where a premise does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).

The Gambling Act 2005 states that a licensing authority may prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25. The Gambling Commission's Guidance to Licensing Authorities also states: "In their three year licensing policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits...., licensing authorities will want to give weight to child protection issues." (24.6)

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. Licensing authorities might wish to consider asking applications to demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act; and
- that staff are trained to have a full understanding of the maximum stakes and prizes

It should be noted that a licensing authority cannot attach conditions to this type of permit.

Statement of Principles

Durham County Council has adopted a Statement of Principles which is available from our website via the following link: www.durham.gov.uk

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

Automatic entitlement: 2 machines

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority and pay the prescribed fee.

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; or
- an offence under the Gambling Act has been committed on the premises

Permit: 3 or more machines

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

Durham County 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 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.

Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may 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.

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. Conditions (other than these) cannot be attached.

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

3. Prize Gaming Permits

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 proposes to consider in determining the suitability of the applicant for a permit”.

Durham County Council 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
- Clear policies that outline the steps to be taken to protect children from harm.

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

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; 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

Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in forthcoming regulations.

Members Clubs and Miner's welfare institutes – and also Commercial Clubs – may apply for a Club Machine Permit. A Club Machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D). NB Commercial Clubs may not site category B3A gaming machines offering lottery games in their club.

Durham County Council notes that the Gambling Commission's Guidance states:

25.46 The LA has to satisfy itself that the club meets the requirements of the Act to obtain a club gaming permit. In doing so it will take account a number of matters as outlined in sections 25.47-25.49 of the Gambling Commission's Guidance. These include the constitution of the club, the frequency of gaming, and ensuring that there are more than 25 members.

The club must be conducted 'wholly or mainly' for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulations and these cover bridge and whist clubs.

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 the police.

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). Commercial clubs cannot hold club premises certificates under the Licensing Act 2003 and so cannot use the fast-track procedure. As the Gambling Commission's Guidance to Licensing Authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:

- a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
- b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."

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

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 the Gambling Commission, would include hotels, conference centres and sporting venues.

The licensing authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.

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 Gambling Act 2005 (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 Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place".

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.

Durham County 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 to Licensing Authorities.

6. Occasional Use Notices

Durham County 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. Durham County Council will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice. Durham County Council will also ensure that no more than 8 OUNs are issued in one calendar year in respect of any venue.

7. Small Society Lotteries

Durham County Council will adopt a risk based approach towards its enforcement responsibilities for small society lotteries. This authority considers that the following list, although not exclusive, could affect the risk status of the operator:

- submission of late returns (returns must be submitted no later than three months after the date on which the lottery draw was held)
- submission of incomplete or incorrect returns
- breaches of the limits for small society lotteries

Non-commercial gaming is permitted if it takes place at a non-commercial event, either as an incidental or principal activity at the event. Events are non-commercial if no part of the proceeds is for private profit or gain. The proceeds of such events may benefit one or more individuals if the activity is organised:

- by or on behalf of, a charity or for charitable purposes
- to enable participation in, or support of, sporting, athletic or cultural activities.

Charities and community groups should contact Durham County Council on 03000 265107 to seek further advice.

Annexe 1 - Delegation of Functions

The Licensing Authority will delegate its functions under the Gambling Act 2005 as follows:

Matter to be dealt with	Full Committee	Sub-Committee	Officers
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received / have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received / have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission or responsible authority	Where no representations received from the Commission or responsible authority
Application for a provisional statement		Where representation have been received and not withdrawn	Where no representations received / have been withdrawn
Review of a premises licence		X	
Application for club gaming/club machine permits		Where objections have been made (and not withdrawn)	Where no objections made / have been withdrawn
Cancellation of club gaming/club machine permits		X (if requested by the holder)	X (if no request received)
Applications for other permits			X
Cancellation of licensed premises gaming machine permits		X (if requested by the holder)	X (if no request received)
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X (where representations have been received and not withdrawn)	X (where time limits have been exceeded)

Note: The Licensing Committee can consider any application; it is not precluded from doing so by reason that the relevant column above is devoid of an entry. **X** Indicates the lowest level to which decisions can be delegated

Annexe 2 - Responsible Authorities

Responsible Authority	Name	Contact Details
Gambling Commission		Victoria Square House Victoria Square Birmingham B2 4BP Telephone: 0121 2306666 e-mail: info@gamblingcommission.gov.uk
Licensing Authority		Durham County Council EHCP (Licensing) PO Box 617 Durham DH1 9HZ Telephone: 03000 261016 e-mail: licensing@durham.gov.uk
Durham Constabulary		Durham Constabulary (AHRU) Annand House John Street North Meadowfield County Durham DH7 8RS Telephone: (0191) 3752308 e-mail: ahru@durham.pnn.police.uk
County Durham and Darlington Fire and Rescue Service		Fire and Rescue Service Headquarters Belmont Business Park Durham DH1 1TW Telephone: 0845 305 8383 e-mail: firesafety@ddfir.gov.uk
Durham County Council - Local Safeguarding Children's Board		Durham LSCB County Hall Durham DH1 5UJ Telephone: 03000 267979
Durham County Council- Planning		Durham County Council County Hall Durham DH1 5UQ Telephone: 03000 261397
Durham County Council - Environmental Health		Environment, Health & Consumer Protection Annand House John Street North Meadowfield Durham. DH7 8RS Telephone: 03000 260995 e-mail: pollution.control@durham.gov.uk

OTHER USEFUL CONTACTS

Useful Contacts	Name	Contact Details
Durham County Council Policy issues		Durham County Council Telephone: 0300 026 0000
Durham County Council Building Control		Durham County Council Telephone: 0300 026 0000
Durham County Council CCTV		Durham County Council Telephone: 0300 026 0000
Door Supervisors	Security Industry Authority	Security Industry Authority PO Box 1293 Liverpool L69 1AX Telephone: 0844 892 1025 e-mail: info@the-sia.org.uk

Annexe 3 – Summary of Gaming Machine Categories and Entitlements

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

Category of Machine	Maximum Stake	Maximum Prize	Allowed premises
A	Unlimited	Unlimited	Regional casino
B1	£5	£10,000 (with the option of £20,000 linked progressive jackpot on premises basis only)	Large casino, small casino, pre-2005 Act casino and regional casinos
B2	£100 (in multiples of £10)	£500	Betting premises and tracks occupied by pool betting and all of the above
B3	£2	£500	Bingo premises, adult gaming centre and all of the above
B3A	£2	£500	Members' club or miners' welfare institute only
B4	£2	£400	Members' club or miners' welfare club, commercial club and all of the above
C	£1	£100	Family entertainment centre (with commission operating licence) qualifying alcohol licensed premises (without additional gaming machine permit) qualifying alcohol licensed premises (with additional LA gaming machine permit) all of the above
D (money prize)	10p	£5	Travelling fairs, unlicensed (permit) family entertainment centre and all of the above
D – non-money prize (other than a crane grab machine)	30p	£8	All of the above
D – non-money prize (crane grab machine)	£1	£50	All of the above

D – combined money and non-money prize (other than a coin pusher or penny falls machine)	10p	£8 (of which no more than £5 may be money prize)	All of the above
D – combined money and non-money prize (coin pusher or penny falls machine)	20p	£20 (of which no more than £10 may be money prize)	All of the above

Please ask us if you would like this document summarised in another language or format.

العربية (Arabic) (中文 (繁體字)) (Chinese) اردو (Urdu)
 polski (Polish) ਪੰਜਾਬੀ (Punjabi) Español (Spanish)
 বাংলা (Bengali) हिन्दी (Hindi) Deutsch (German)
 Français (French) Türkçe (Turkish) Melayu (Malay)

Insert email here
Insert Tel No. here



Braille



Audio



Large Print