



Review of Gambling Act 2005 Statement of Principles 2016 - 2019

A. Changes proposed by DCC Licensing Services for and on behalf of the Licensing Authority

Section and pages	Recommended Change
Title page 1	Departmental name, dates and Act reference
Version control page 2	Version date, information contact details and accessibility
Forward page 3	Foreword by Councillor Brian Stephens - Portfolio Member for Neighbourhoods and Local Partnerships
Contents pages 4 to 5	New format and contents reflecting additional sections
1.0 Introduction pages 6 to 9	New introduction – explanatory, background information and contextual settings (strategic, legal and local)
2.0 Part A The Gambling Act 2005 pages 10 to 18	Additional explanations and clarifications relating to the legislation, objectives, general approach to decision making, risk assessments, policy integration and the licensing framework. An expansion of the overview of the Councils' functions and how they are exercised in practice. Enhanced clarification and greater description of roles and responsibilities, new section on fees and contact details together with update of data protection legislation and information exchange with reference to the General Data Protection Regulations.
3.0 Part B – Promotion of the licensing objectives pages 19 to 23	Additional information and descriptions for explanatory and clarification purposes in relation to the three licensing objectives. And enquiry processes that the Council may undertake for the protection of children and of vulnerable people. Reference to the Care Act 2014
4.0 Part C Premises Licences pages 24 to 47	Additional information and descriptions for explanatory and clarification purposes. Extra information providing enhanced descriptions of the meaning of 'premises' and effects of their adaptation or separation into separate units. Information on newly developed premises. Extra information for explanatory and clarification purposes in relation to locality and locational issues including local risk assessments. New examples of factors to be taken into consideration by the Council are provided to assist operators in carrying out their risk assessments. Extra information to provide clarification on mandatory

	conditions and specific measures which may be required for buildings which are subject to multiple premises licences for the protection of children. Changes to and additional Information on door supervision, fixed odds betting terminals, tracks, travelling fairs and provisional statements for clarification and explanatory reasons.
5.0 Part D Permits, Notices and Lottery Registrations pages 48 to 57	Additional information and descriptions for explanatory and clarification purposes. References to Gambling Commission Guidance for legal clarification in connection with prize gaming. Examples of measures the council may expect to be included in operator's policies and procedures aimed at promoting and supporting the licensing objectives. Information clarifying the role and purpose of the Councils statement of principles and its use by operators and premises licence holders or applicants.
6.0 Part E Enforcement pages 58 to 62	Additional information and descriptions for explanatory and clarification purposes. Reference to the Statutory Regulators Code and Primary Authority scheme. Additional information in connection with premises licence reviews, appeals to the courts and complaints about gambling premises licenced by the Council.
Appendix 2 Glossary pages 64 to 67	New appendix for information and clarification
Appendix 4 Summary of Gaming Machine Categories and Entitlements page 70	Latest information from the Gambling Commission reformatted and represented.

B. Changes proposed by respondent consultees

Consultees	Proposals	Recommendations
The Gambling Commission (Mel Potter, Compliance Manager)	<ul style="list-style-type: none"> • If you are including a table of stakes and prizes in your current Statement of Policy review then we suggest you just add a footnote to say the stakes are subject to change (if you have not done so already). • Similarly if you have suggested specific local risk assessment requirements in relation to B2 machines in your Policy, you may want to review the wording and consider making it more generic - either to all category B machines or all machines, as appropriate (for example some policies are stating 	<p>Footnote added to table of stakes and prizes Appendix 4 – Summary of Gaming Machine Categories and Entitlements page 70.</p> <p>The policy does not require specific risk assessments for category B2 machines.</p> <p>Information noted. Draft policy vetted by DCC Legal Services</p>

	<p>that a variation is required for introducing screens/booths around B2 machines only)</p> <p>We have become aware that industry lawyers are scrutinising LA's Statement of Policy.</p> <p>Some are contesting the content.</p> <p>We wish to ensure that in such circumstances, Local Authorities understand that the Gambling Commission are willing to discuss the issues raised with yourselves and provide assistance rather than just agreeing to change your SoP.</p> <p>Please do not hesitate to contact me, should you require any assistance.</p>	
<p>Elizabeth Speed, Novomatic UK on behalf of 'Luxury Leisure'</p>	<p>On behalf of Luxury Leisure I make the following comments in relation to the consultation draft (the "Draft"):</p> <p>1. As the Authority will appreciate, in matters of regulation under the Gambling Act 2005 (the "Act") it is subject to the Regulators' Code. That code imposes a number of obligations on the Authority, including one that it should carry out its activities in a way that it supports those it regulates to comply and grow. Additionally under the Code, when designing and reviewing policies, the Authority must among other things, understand and minimise the negative economic impact of its regulatory activities and regulate and minimise the costs of compliance of those it regulates. Further, the Authority should take an evidence-based approach in determining priority risks and recognise the compliance record of those it regulates. I cannot see a reference to the Regulators' Code in the current Draft and suggest that it is incorporated.</p>	<p>Reference is made to the Regulators code in Section 6.0 Part E Enforcement at 6.1 on page 58.</p>

	<p>2. Section 5 – I note the unusually broad and loosely worded definition of those falling within Section 158 c) of the Act – i.e. those representing persons who i) live sufficiently close to premises to be likely to be affected by the authorised activities or ii) have business interests that might be affected by the authorised activities. I do not believe that the current draft catch-all wording for such representatives is appropriate - in short and with respect, it is not for the Authority to “deem” that certain bodies will automatically represent Interested Parties.</p> <p>Rather, the question of whether someone is a representative of an Interested Party within the section, should properly be a matter for consideration on a case by case basis. This is in keeping with the main wording in s158 that “...a person is an interested party in relation to an application... if, in the opinion of the licensing authority... the person represents persons who satisfy a) or b)”. My submission is also in keeping with the Commission’s Guidance on this (paras 8.06 and 8.17), which does not refer to the categories included in the Draft, but rather to e.g. democratically elected representatives, trade associations, trade unions, residents associations or community groups. The Guidance also refers to the licensing authority having to satisfy themselves on a case by case basis that a person does in fact represent an Interested Party and suggests obtaining a letter of confirmation from the Interested Party.</p> <p>The Draft’s more general approach to categories seems to relate more closely to the concept of Responsible Authorities. However those bodies are already defined in</p>	<p>This subject is now fully addressed in section 2.0 Part A The Gambling Act at paragraph section 2.14 interested parties which states that In accordance with guidance from the Gambling Commission it is not the council’s role to deem that certain bodies will automatically represent Interested Parties. The question of whether someone is a representative of an Interested Party will be a matter for consideration on a case by case basis.</p>
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	<p>S 157 of the Act and, again with respect, it is not for the Authority to add to those definitions or categories; instead it is a matter for parliament.</p> <p>3. Section 6 – I refer to the 2008 case of R (on the application of Betting Shop Services Limited) –V– Southend on Sea Borough Council, in which it was held that an applicant could apply for a premises licence (without the need for a provisional statement) even though the premises were not fully constructed – the applicant is not restricted to making an application for a provisional statement. It was held by the court that the then current Guidance issued by the Commission was wrong. The Guidance was subsequently amended.</p> <p>4. Section 8 – protection of children and other vulnerable persons. As is alluded to elsewhere in the Draft, it is perfectly legal for children to take part in some limited gambling activities (Category D machines). As such it is not appropriate to refer to this objective as meaning that children should be prevented from taking part in gambling. Perhaps this could be clarified.</p> <p>5. Sections 10, 11, 13, 14 and 15 - while the Draft suggests that for AGCs, FECs and Tracks, the Authority may consider measures (examples of which are listed) to meet the licensing objectives, curiously these are not repeated for bingo premises, nor betting premises. This is inconsistent. No reason is given as to why such matters are not relevant to Bingo or Betting premises and I suggest that the provisions should be mirrored.</p>	<p>This matter is addressed in section 4.0 Part C Premises Licences at paragraph section 4.20 Provisional Statements on pages 44 to 45.</p> <p>Clarification is provided in section 3.0 Part B Promotion of the licensing objectives at paragraph sections 3.3 and 3.4 on pages 19 to 21 and in section 4.0 Part C Premises Licences at paragraph 4.10 Licensed Family Entertainment Centres (LFECs).</p> <p>This matter has now been addressed in section 4.0 Part C Premises Licences at 4.7 Decision Making on pages 32 to 36 and in sections 4.10 Licensed Family Entertainment Centres (LFECs), 4.12 Bingo premises and 4.16 Tracks</p>
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<p>Catherine Sweet, Head of Marketing and Communications of gamcare.org.uk</p>	<p>While we do not have the resources available to allow us to personally respond to each Local Authority which contacts us regarding their refreshed Statement of Principles, we have compiled a list of the issues or factors which we think it would be helpful to consider below:</p> <ul style="list-style-type: none"> • A helpful first step is to develop a risk map of your local area so that you are aware of both potential and actual risks around gambling venues. A useful explanation of area-based risk-mapping has been developed with Westminster and Manchester City Councils, which gives some guidance on those who may be most vulnerable or at-risk of gambling-related harm. For more information please see www.geofutures.com/research-2/gambling-related-harm-how-local-space-shapes-our-understanding-of-risk/ • Consider that proposals for new gambling premises which are near hostels or other accommodation or centres catering for vulnerable people, including those with learning difficulties, and those with gambling / alcohol / drug abuse problems, as likely to adversely affect the licensing objectives set out by the Gambling Commission. This is also relevant regarding the proximity to schools, colleges and universities. • A detailed local risk assessment at each gambling venue – pertinent to the environment immediately surrounding the premises as well as the wider local area – is a good way to gauge whether the operator and staff teams are fully aware of the challenges present in the local area and can help reassure the Local 	<p>For health and deprivation, crime and community safety information about the local area visit: https://www.durhaminsight.info/</p> <p>These matters are comprehensively addressed in section 4.0 Part C Premises Licences at section 4.5 Location and section 4.6 Local Risk assessments on pages 28 to 32.</p> <p>These matters are comprehensively addressed in section 4.0 Part C Premises Licences at</p>
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	<p>Licensing Authority that appropriate mitigations are in place.</p> <ul style="list-style-type: none"> • Does the operator have a specific training programme for staff to ensure that they are able to identify children and other vulnerable people, and take appropriate action to ensure they are not able to access the premises or are supported appropriately? • Does the operator ensure that there is an adequate number of staff and managers are on the premises at key points throughout the day? This may be particularly relevant for premises situated nearby schools / colleges / universities, and/or pubs, bars and clubs. • Consider whether the layout, lighting and fitting out of the premises have been designed so as not to attract children and other vulnerable persons who might be harmed or exploited by gambling. • Consider whether any promotional material associated with the premises could encourage the use of the premises by children or young people if they are not legally allowed to do so. 	<p>section 4.5 Location and section 4.6 Local Risk assessments on pages 28 to 32.</p> <p>This matter is addressed in section 4.0 Part C Premises Licences at section 4.3 Building separation, access arrangements and multiple licences; section 4.7 Decision Making pages 32 to 36 and in section 4.9 on page 36 to section 4.19 on pages 43 and 44.</p> <p>This is addressed in section 4.6 Local Risk assessments on page 32.</p> <p>These matters are addressed in section 4.0 Part C Premises Licences at section 4.3 Building separation, access arrangements and multiple licences; This is also addressed in section 4.6 Local Risk assessments; section 4.7 Decision Making pages 32 to 36 and in section 4.9 on page 36 to section 4.19 on pages 43 and 44.</p>
Susan Smith	<p>The current notices used by gambling companies such as 'when the fun stops, stop' and 'gamble responsibly' are both pretty meaningless. I therefore suggest it be made a legal requirement for all</p>	<p>Durham County Council is not able to make legislation, only policy. This proposal cannot be actioned by DCC. The advertising and promotion of gambling</p>

	<p>gambling outlets to have large notices stating 'ONLY GAMBLE WHAT YOU CAN AFFORD TO LOSE'. This notice should also be displayed in the window of establishment in at least an A3 size. I also believe the gambling outlets should no longer be allowed to advertise their products and offers in their windows. Currently they are on full display and seen by all, including children. Children seeing these adverts leads to gambling being normalized for them.</p> <p>If you can do anything to implement these suggestions, you could make a real difference to people's quality of life.</p>	<p>activities are outside the remit and responsibility of local councils and are matters which are governed and regulated by the gambling Commission and the Advertising Standards Authority. This policy seeks to protect children from harm by promoting the licensing objectives – i.e. protecting children and other vulnerable persons from being harmed or exploited by gambling see sections 1 to 6.</p>
<p>Rachel Stockdale on behalf of Durham Constabulary</p>	<p>The only other thing I could see which may frustrate for the future is that when considering an application the LA should not give any consideration to if the premises has or is likely to get planning permission/change of use. That this should be left to the planning committee as an entirely separate matter:</p> <p>“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.</p> <p>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</p>	<p>See section 2.0 Part A The Gambling Act 2005 paragraph section 2.10 Duplication with other regulatory regimes and 2.11 Planning. Also see section Part C Premises Licences paragraph sections 4.3 Building separation, access arrangements and multiple licences; 4.4 Premises “ready for gambling” and 4.20 Provisional statements. The Council will pay due regard to the legislation and associated guidance.</p>

	<p>example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.</p> <p>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.”</p> <p>I appreciate that is what it says now but if we are looking to future proof in line with making planning and licensing run in harmony rather than against each other is this something worth exploring to see if we can be out there, and ahead of the curve to try and align them better – not to over step the law but to make it streamlined and work better for all of us going forward?</p>	
<p>Sean Barry representing Durham Local Safeguarding</p>	<p>I represent the Durham Local Safeguarding Children Board (LSCB) which is a responsible authority identified under Durham County Council Gambling Act 2005</p>	

<p>Children Board (LSCB)</p>	<p>Statement of Principles.</p> <p>In reviewing the current Statement of Principles to promote the protection of children and in preparation for a new revised Statement I offer the following comments:</p> <p>Section 4 – Responsible Authorities (page 10) Currently Durham Local Safeguarding Children Board is identified as the competent body to advise the authority (Durham County Council) about the protection of children from harm. Local child safeguarding structures and framework will be changing due to the introduction of new legislation in the Children and Social Work Act 2017. The time scale for this work is currently autumn 2018 – March 2019.</p> <p>In short this means Durham Safeguarding Children Board will be replaced at some point by a new (as yet unnamed) safeguarding partnership. It will be this new safeguarding partnership that will undertake the ‘Responsible Authorities’ duty for licensing. Up until the change the LSCB continues to hold and carry out the statutory duty. Depending on your timescales and ours you may have a new ‘competent body to advise the authority (Durham County Council) about the protection of children from harm’ or you may still be referencing the LSCB. If the latter is the case you will have to build in a revision of the Statement of Principles to reflect the safeguarding changes once they come into force.</p> <p>We will update you as we get to know more.</p>	
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	<p>Section 15 – Tracks (page 8 and page 30)</p> <p>While this focuses solely on the gambling element, access and environment of a track. I note that the review of the current Statement of Principles provides an opportunity to address the issue of a child witnessing disturbing scenes due to animal injury. It is suggested that the Statement of Principles could advise as best practice that track owners introduce of warning notices, so that parents can make informed choices before bringing children to track events.</p> <p>I have no other comments to make on behalf of Durham LSCB.</p>	