

SPECIAL MEETING OF LICENSING AND SAFETY COMMITTEE

WEDNESDAY 12TH SEPTEMBER 2012

**AT 6.00 PM
IN COMMITTEE ROOM 3
AT THE COUNCIL HOUSE
DUDLEY**

If you (or anyone you know) is attending the meeting and requires assistance to access the venue and/or its facilities, could you please contact Democratic Services in advance and we will do our best to help you

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www.dudley.gov.uk**

IMPORTANT NOTICE

MEETINGS IN DUDLEY COUNCIL HOUSE

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Directorate of Corporate Resources

Law and Governance, Council House, Priory Road, Dudley, West Midlands DY1 1HF
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Our Ref:
JJ/JJ

Your Ref:

Please Ask For:
Mr J Jablonski

Telephone No:
01384 815243

4th September, 2012

Dear Councillor,

Special Meeting of Licensing and Safety Committee –12th September, 2012

You are requested to attend a Special Meeting of the Licensing and Safety Committee to be held on Wednesday, 12th September, 2012, commencing at 6.00 pm in Committee Room 3 at the Council House, Dudley, to consider the business set out in the agenda below.

The agenda and reports for this meeting can be viewed on the internet site www.dudley.gov.uk (Follow the links to Meetings and Decisions).

Yours sincerely

A handwritten signature in black ink, appearing to be "P. Z.", written over a white background.

Director of Corporate Resources

A G E N D A

1. APOLOGIES FOR ABSENCE

To receive apologies for absence from the meeting.

2. DECLARATIONS OF INTEREST

To receive declarations of interest in accordance with the Members' Code of Conduct.

3. MINUTES

To approve as a correct record and sign the minutes of the Meeting of the Committee held on 24th May, 2012 (copy attached).

4. GAMBLING POLICY (PAGES 1 - 43)

To consider a report of the Director of Corporate Resources

5 REVIEW OF POLICY FOR HOUSE TO HOUSE COLLECTIONS LICENCES (PAGES 44 - 47)

6. UNDERAGE SALES - TO FOLLOW

To consider a joint report of Officers

7. TO ANSWER QUESTIONS UNDER COUNCIL PROCEDURE RULE 11.8(IF ANY)

To:- Members of the Licensing and Safety Committee: -

Councillors Mrs Ameson, M Aston, Bills, Blood, Cowell, K. Finch, Hanif, James, Roberts, Russell, Taylor and Woodall

LICENSING AND SAFETY COMMITTEE

Thursday, 24th May, 2012 at 6 pm
in Committee Room 2, The Council House, Dudley

PRESENT: -

Councillor Bills (Chair)

Councillor Cowell (Vice Chair)

Councillors A. Ahmed, Mrs Ameson, M. Aston, Blood, A. Finch, K.Finch, James, Roberts, Taylor and J Woodall.

Officers: -

Principal Solicitor, Licensing Officer and Mr J Jablonski (all Directorate of Corporate Resources) and the Food and Occupational Safety Manager (Directorate of the Urban Environment)

1. DECLARATIONS OF INTEREST

No member made a declaration of interest in accordance with the Members' Code of Conduct.

2 MINUTES

RESOLVED

That the minutes of the Special Meeting of the Committee held on 12th April, 2012, be approved as a correct record and signed.

3. APPOINTMENT OF SUB COMMITTEES

A report of the Director of Corporate Resources was submitted on the appointment of four Licensing Sub-Committees for the municipal year 2012/13.

Details of the proposed membership of Licensing Sub-Committees for 2012/13 were circulated at the meeting.

It was noted that training, to which all Members of the Committee were invited, would be held at the end of this meeting.

RESOLVED

- (1) That four Licensing Sub-Committees, numbered 1 to 4, be established to deal with all licensing functions requiring member determination in accordance with the functions allocated to the Licensing and Safety Committee as set out in the Council's Constitution.
- (2) That the membership of the Sub-Committees for 2012/13, as set out in the details circulated at the meeting, be as follows;-

Sub-Committee 1 –
Councillors Bills *, Blood and Woodall

Sub-Committee 2 –
Councillors Cowell *, Mrs Ameson and A.Finch

Sub-Committee 3 –
Councillors K.Finch *, M.Aston and James

Sub-Committee 4 –
Councillors Roberts *, A Ahmed and Taylor

with those members whose name appears with an asterisk acting as the Chair of the respective Sub-Committee.

- (3) That the substitution arrangements set out in the Council's Procedure rules be noted and be applied to Licensing Sub-Committees subject to an eligibility requirement that any named substitute must be;-
 - (a) appointed to the Licensing and Safety Committee;
 - (b) otherwise eligible to serve on any given occasion; and
 - (c) notified to the Director of Corporate Resources prior to the commencement of the meeting in question and that Democratic Services be responsible for arranging substitutes for Sub-Committees.

4. HEALTH AND SAFETY ENFORCEMENT SERVICE PLAN 2012-13

A report of the Director of Urban Environment was submitted on the Health and
LSC/2

Safety Service plan 2012-13, including a review of achievements of the service in 2011-12.

The Food and Occupational Safety Manager in her presentation of the report, highlighted various aspects contained within the report, in particular the key achievements of the health and safety enforcement service in 2011-12 and the key delivery priorities in the Service Plan for 2012-13.

Following questions on the content of the report it was

RESOLVED

That the information contained in the report submitted, on the Health and Safety Service Plan, 2012-13, be endorsed and that the achievements of the service in 2011-12 be noted .

The meeting ended at 6.25 pm.

CHAIR

Licensing and Safety Committee – 12th September 2012

Report of the Director of Corporate Resources

Gambling Policy

Purpose of Report

1. For the Committee to consider the responses to the consultation of the Council's Gambling Policy and to recommend approval of the policy to full Council.

Background

2. The Gambling Act 2005 requires the Council to prepare and publish a statement of its Gambling Policy every three years.
3. The current Policy was approved by the Committee on 12th November 2009, full Council on 30th November 2009 and came into effect 14th of January 2007.
4. The Licensing Officer has produced a draft Gambling Policy. A copy of the draft policy is attached to this report at appendix 1.
5. The draft policy went out to consultation on 1st July 2012 - 30th September 2012 requesting comments by the 13th August 2012. If further comments are received, these will be brought to the Committee's attention. A list of consultees is contained within the draft Policy on page 4 and 5.
6. We have received three responses to the consultation from Royal British Legion Kingswinford, Christ Church The Lye and Stambermill and Royal British Legion Amblecote. A copy of these responses are attached to this report at Appendix 2. Any further responses to the consultation will be available at the meeting.
7. It is planned that following Committee consideration of the draft policy, it will be recommend to Cabinet on 31st October 2012, and full Council on 26th November 2012, with publication of the policy on 4th of January 2013. It is statutory that the policy must be published by 14th of January 2013.

Finance

8. The costs of publication of the Gambling Policy will be met out of the Licensing budget.

Law

9. Gambling Act 2005 section 348 (1)(a) and (b) requires all Local Authorities to prepare and publish a Licensing Policy.
10. Statutory consultees on that policy are set out in Section 349(3) of the Gambling Act 2005: -

The Chief Officer of Police

Representatives of persons carrying on gambling businesses

Representatives of persons who are likely to be affected or by or otherwise have an interest in the licensing policy.

Equality Impact

11. This report takes into account the Council's policy on equal opportunities.
12. This report takes into account the Council's policy on equality and diversity.
13. A Gambling Policy will impact equally on all racial groups.
14. A Gambling Policy will impact on children and young persons through their permitted attendance at certain categories of licensed premises.
15. There has been consultation and involvement of young people in developing this policy as part of the consultation process through Area Committee and the Directorate of Children's Services.
16. This application falls within the Council's responsibility for licensing as a direct link to the Council's key corporate priority that safety matters.

Recommendation

17. That the Licensing and Safety Committee considers the responses to the consultation of the Council's Gambling Policy and recommends approval of the Policy to full Council.



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DIRECTOR OF CORPORATE RESOURCES

Contact Officer: Mrs. J. Elliott 5377
Telephone: 01384 815377
Email: janet.elliott@dudley.gov.uk

List of Background Papers

Gambling Act 2005

Gambling Commission Guidance to the Gambling Act

Dudley Metropolitan Borough Gambling Policy

Responses to the Consultation of Dudley Metropolitan Borough Council's Gambling Policy

DUDLEY METROPOLITAN BOROUGH

GAMBLING ACT 2005

STATEMENT OF PRINCIPLES

Draft for Consultation
1st July 2012 – 30th September 2012

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All references to the guidance refer to the Gambling Commission's guidance to Licensing Authorities, third edition, published May 2009.

PART A

1. The Licensing 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".

This licensing authority 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:

- 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

The Metropolitan Borough of Dudley is a conurbation situated on the western edge of the West Midlands and includes part of the Black Country industrial region. The local authority provides services to approximately 306,000 residents. The Council area is mainly urban. These areas are shown on the map below.

The licensing Section is situated with the Legal Division of the Law and Property Services Directorate.

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.

Dudley 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 the authority's area;
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.

List of persons this authority consulted:

Directorate of Urban Environment

Public Protection

Food and Occupational Safety

Building Control

Trading Standards

Town Centre Managers

Directorate of Children Services

Directorate of Adult Community and Housing Services

West Midlands Police

West Midlands Fire Service
Dudley Primary Care Trust
Gambling Commission
Environment Agency
Gamblers Anonymous
Aquarius Alcohol and Drugs Service
Citizens Advice Bureau
Unison
T & G
G.M.B
Suffragan Bishop of Dudley MBC
Dudley Community Centre and Mosque
Gurdwara Guru Teg Bhadar Temple
British Waterways
Stourbridge Chamber of Trade
Dudley Chamber of Trade
Premises Licence Holders
British Beer and Pub Association
Club Premises Certificate Holders
Bookmakers/Betting Agency Licence Holders
Casino Licence Holders
Bingo Licence Holders
Betting Office Licence Holders
A.W.P Permit Holders
Small Lottery Licence Holders

Our consultation took place between 01/07/2012 and 30/09/2012.

The full list of comments made and the consideration by the Council of those comments is available by request to: Licensing Section, 5, Ednam Road, Dudley DY1 1HL/via the Council's website at: <http://www.dudley.gov.uk/business/licences-registrations-and-permits/gambling-licensing/gambling-licensing-policy-consultation>.

The policy was approved at a meeting of the Full Council on _____ and was published via our website on _____. 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:

Janet Elliott, 5 Ednam Road, Dudley, DY1 1HL

E-mail: Janet.Elliott@dudley.gov.uk

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

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

4. Responsible Authorities

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

- The need for the body to be responsible for an area covering the whole of the licensing authority's area; and
- The need for the body to be 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, this authority designates the Local Safeguarding Children Board for this purpose.

The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the Council's website at: <http://www.dudley.gov.uk/business/licences-registrations-and-permits/gambling-licensing/gambling-licensing-policy-consultation>.

5. Interested parties

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)"

The licensing authority 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. This authority 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 8.19. It will also consider the Gambling Commission's Guidance that "has business interest" 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, 5 Ednam Road, Dudley, DY1 1HL email: Licensing.LDS@dudley.gov.uk

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 section 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 this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. This licensing authority 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 in the Gambling Act 2005.

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

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.

This licensing authority'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 the 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 this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

The licensing authority has adopted and implemented a risk-based inspection programme, based on;

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

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

This licensing authority 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.

Bearing in mind the principle of transparency, this licensing authority's enforcement/compliance protocols/written agreements will be available upon request to the licensing department after 14th January 2010. Our risk methodology is also available upon request: <http://www.dudley.gov.uk/business/licences-registrations-and-permits/gambling-licensing/gambling-licensing-policy-consultation>.

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 details of licences issued (see section above on 'information exchange')
- Maintain registers of the permits and licences that are issued under these functions

It should be noted that licensing authorities are not be 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

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

This licensing authority 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.

The Gambling Commission's interpretation of the framework of the Gambling Act 2005 (the Act) is that holders of general betting standard non-remote operating licences must provide betting as the primary gambling activity on licensed betting premises. We reinforced this understanding of the Act in May 2009 with the introduction of licence

condition 16 to the Commission's Licence Conditions and Code of Practice (LCCP) to all holders of this particular operating licence.

The six indicators in the template are used by the Commission when assessing compliance with Licensing Conditions and Codes of Practice (LCCP) at premises where betting is the primary gambling activity offered. The indicators are based on the requirements of LCCP and what is accepted as typical of commercial betting shop provision in the British market.

(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 part, pier, track or shopping mall to obtain discrete premises licence, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-division 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 third edition of its Guidance to Licensing Authority 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.'

This licensing authority takes particular note of the Gambling Commission's Guidance to Licensing Authorities which state 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:

- Do the premises have a separate registration for business rates?
- Is the premises' neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?

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

7.16 If the Guidance states with the exception of bingo clubs, tracks on race days and licensed family entertainment centres children will not be permitted to enter licensed gambling premises. Therefore businesses will need to consider carefully how they wish to configure their buildings.

7.20 The proper application of Section 152 means that different premises licences cannot apply in respect of single premises at different times. There is no temporal element to a premises licence therefore premises could not, for example, be licensed as a bingo club on week days and a betting shop at weekends.

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

7.25

Casinos

- The principal access entrance to the premises must be from a street (as defined at 7.23 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 the 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 this authority 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, this authority will determine applications on their merits, applying a two stage consideration process:-

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

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

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

(iv) Location – This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. As per the Gambling Commission’s Guidance to Licensing Authorities, this authority will pay particular

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

(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.

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

When dealing with a premises licence application for finished buildings, this authority 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 – This licensing authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels or organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance and will consider factors (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 – This licensing authority has noted that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences.

Protecting children and other vulnerable persons from being harmed or exploited by gambling – This licensing authority 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.

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

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

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

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

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

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

frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.

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

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

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

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

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 number, 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

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

This licensing authority 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:

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

This licensing authority may consider measures to meet the licensing objectives such as:

- CCTV
- Supervision of entrances/machine areas
- Physical separation of area
- 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.

This licensing authority 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. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

4. Casinos

This licensing authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should this licensing authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution. Any such decision will be made by the Full Council.

5. Bingo premises

This licensing authority notices 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.

This authority also notes the Guidance at paragraph 18.6 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 eight category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

18.6 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 – This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions

available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

7. Primary Gambling Activity in Betting Premises

This is set out in full at paras 19.19-19.23 of the Gambling Commission's Guidance to Licensing Authorities, the most salient points being:

19.21: "...An operating licence condition provides that gaming machines may be made available for use in licensed betting premises only at times when there are also sufficient facilities for betting available.

19.22: In this respect, such facilities must include information that enables customers to access details of events on which bets can be made, make such bets, learn the outcome and collect any winnings. Where betting facilities are provided only by betting machines the number of betting machines must exceed the number of gaming machines made available for use.

19.23: The Licence Conditions and Codes of Practice (LCCP) published in January 2009 sets out the full requirements on operators. To assist operators of betting premises the Commission has published a document setting out the indicators that are used to assess as to whether the requirements for betting being the primary gambling activity in any particular premises are being met.

19.24: Should a licensing authority receive an application to vary a premises licence for bingo or betting in order to extend the opening hours, the authority should satisfy itself that the reason for the application is in line with the requirements of primary gambling activity (i.e. the need for operating licence holders to ensure that the gambling activity appropriate to the licence type ('the primary activity' or 'the principal activity') is actually offered at those premises and not replaced by the making available of gaming machines). Therefore, the applicant should be able to demonstrate that the extension of

the opening hours is not designed solely to benefit from the machine entitlement and activity which is ancillary to the primary activity of the premises, namely betting or bingo.

8. Travelling Fairs

This licensing authority 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. This licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

9. Provisional Statements

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 premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (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. (24.7)

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

Statement of Principles – This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measure/training for staff as regards suspected truant school children on the premises, measures/training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on/around the premises. This licensing authority will also expect, as per Gambling Commission Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FEC's; 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.

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.

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.”*

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

This licensing authority has prepared a Statement of Principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:

- That they understand the limits to stakes and prizes that are set out in Regulations;
- That the gaming offered is within the law
- 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 or a Clubs Gaming machines permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set out in forthcoming regulations. A Club Gaming machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).

Gambling Commission Guidance states: "Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulation and these cover bridge and whist clubs, which replicates the position under the Gambling Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations."

The 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). 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.

This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commissions Guidance to Licensing Authorities.

6. Occasional Use Notices

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

7. Small Society Lottery

The Licensing Authority is responsible for registering societies to run small society lotteries.

Definition of society – Licensing authorities should define ‘society’, as the society or any separate branch of such a society, on whose behalf a lottery is to be promoted, and need to understand the purposes for which a society has been established in ensuring that it is a non-commercial organisation. Section 19 of the Act defines a society as such if it is established and conducted:

- for charitable purposes
- for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity
- for any other non-commercial purpose other than that of a private gain 34.7 of the guidance

Gale Siviter

From: Janet Elliott
Sent: 08 August 2012 10:04
To: Gale Siviter
Subject: FW: GAMBLING ACT 2005. EC.349(3) CONSULTATION REVISION OF STATEMENT PRINCIPLES.

response to Gambling Act cons.

From:
Sent: 07 August 2012 12:35
To: Janet Elliott
Subject: GAMBLING ACT 2005. EC.349(3) CONSULTATION REVISION OF STATEMENT PRINCIPLES.

In response to your letter of the 11th July, I found the L.A. statement to be clear and easily understood. I have not seen one before and have quickly picked up that The Royal British Legion meets the criteria to be covered by Club Gaming and Club Machine Permits!

I hope this is helpful.

- Secretary, R.B.L. Kingswinford on behalf of Mr.G.Dudley - Chair.

Christ Church The Lye and Stambermill

Law & Governments Department,
Directorate of Corporate Sources,
5, Ednam Road,
Dudley,
DY1 1HL

17th July 2012

Dear Mrs Elliott,

Re: The Gambling Act 2005 – Revision of Statement of Principles.

Thank you for asking us for our views on your policy on the licensing of gambling in Dudley Borough. We note that in our local context in a very poor part of the Borough gambling often disproportionately affects the poor.

Outlets for gambling (Horse Racing, Slot Machines) are easily available on our High Street, and scratch cards are major sellers at local Supermarkets. In addition to this as a church we sometimes come across people with gambling addictions. We therefore hope that in any way you revise your Statement of Principles you do not do so in such a way as to make gambling more accessible to the population in this area.

Yours sincerely,

Stalshaw

Reverend Simon Falshaw.



Reverend Simon Falshaw
Christ Church Vicarage, High Street, Lye, Stourbridge, DY9 8LF. Telephone:

Parish Secretary, The Church Office, High Street, Lye, **42** Stourbridge.

THE ROYAL BRITISH LEGION
(Amblecote) Social Club Limited
School Drive, Amblecote,
Stourbridge, West Midlands, DY8 4DQ

President A Horton
Chairman D Fenemer
Treasurer D Gilroy
Secretary J Cartwright

19th July 2012

DEAR SIR/MADAM.

THANK YOU FOR YOUR CONSULTATION DOCUMENT REGARDING THE GAMBLING
ACT 2005.

WE HAVE READ YOUR DRAFT REVISION POLICY ON THE LICENSING WEB
PAGE AND FIND THE POLICY PROVIDES A CLEAR GUIDANCE TO THE
GAMING ACT, AND SUGGEST THIS DOCUMENT IS CARRIED FORWARD
TO THE LICENSING SAFETY COMMITTEE.

IF I CAN BE OF FURTHER ASSISTANCE IN THIS MATTER PLEASE
CONTACT ME ON THE ABOVE TELEPHONE NUMBER

YOURS FAITHFULLY

JS Cartwright



30th August 2012

John Polychronakis
Chief Executive
Dudley Metropolitan Borough Council
dudleycouncilplus@dudley.gov.uk

Dear Mr Polychronakis,

I am writing to you as Chairman on behalf of the National Casino Industry Forum (NCiF) the body that represents over 90% of UK land based casino operators.

As we know you're aware there is a requirement, under Section 349 of the Gambling Act 2005, for your Authority to publish a Gambling Policy Statement every three years, the next Policy Statement being due to come into force on 31st January 2013, following consultation. As you also know, under the Gaming Act 1968 your Authority is one of the 53 'Permitted Areas' in Great Britain where casinos may operate.

As the representative body for the casino industry we would welcome the opportunity to contribute to your consultation process.

Casinos play an important part in the provision of entertainment and hospitality, bringing mature and responsible patrons to our town and city centres. Casinos are an attractive and positive addition to the overall offer of our evening economies, without any of the negative experiences of anti-social behaviour sometimes sadly attributable to late night venues. Last year casinos in the UK hosted almost 19 million visits, and provided an important source of local revenue, which could translate to:

- New £15 million **construction investment** in local authority areas to help to restore confidence locally
- Possibility of Section 106 Agreements to **boost local services**
- Local Authority **business rates boosted** by £250,000 pa
- Areas benefit from **£4-5 million of added value** in the local economy

It is also worth noting that as a, quite properly, highly regulated industry it is also a labour intensive business, providing disproportionately high employment opportunities with typically 100 to 200 staff on a premises. Some current casino venues provide up to 450 jobs (depending on the size of the casino). Employment is met at a local level, often to the young; also the lack of academic qualifications is not a barrier to employment.

Where based, casinos are an important and positive contribution to the night-time economy of an area. They do not contribute to, but instead help to mitigate problems by offering different types of entertainment in the late night economy not centred around social drinking. Casinos add attraction, vigour and variety to our town and city centres and encourage tourism.

We would welcome and encourage dialogue with your authority to ensure that any casino premises in your area is viewed positively as contributing to the variety of offer in the night-time economy.

Yours sincerely



Malcolm Moss
Chairman

Licensing and Safety Committee – 12th September 2012

Report of the Director of Corporate Resources

Review of Policy for House to House Collections Licences

Purpose of Report

1. To review the application procedure policy for House to House Collection Licences.

Background

2. All charitable door to door collections require a licence issued under the House to House Collections Act 1939 or require a Home Office Exemption Order.
3. A similar commercial collection does not require a licence from the Council.
4. The policy in relation to applications for House to House Collection Licences require the applicant to submit the requisite application form together with a letter of authority to collect from the charity or organisation on whose behalf the collection is to be made. Also the applicant must submit any brochure, pamphlet, handbook or other publication of the organisation or charity describing its objects and activities.
5. In January 1999, the Licensing Section in accordance with the Neighbouring Authorities Working Group introduced a policy requiring all House to House Collection applicants to submit income and expenditure accounts for the previous financial year.
6. In recent years applications for House to House Collections have been received from independent commercial companies undertaking collections on behalf of specific charities. Therefore in November 2009, the Council introduced a further policy that all applicants for House to House Collection Licence be required to submit with the application income and expenditure accounts for the previous financial year of the charity for which the collection is being made and also for the company or organisation making the collection. This is to ensure that a substantial amount of the monies collected are used for charitable purposes.

7. Over some time the Licensing Section and Members have received expressions of concern and enquiries in relation to charitable collections of old clothes, rags etc made from door to door. Some of these collections are made directly by the charity and some of them are made by commercial companies in partnership with a charity. In the case of a collection made by a commercial company this usually involves payment of expenses to the company and a donation to the charity.
8. The usual method for this type of collection is for collection bags to be delivered to all houses in an area with a notification of the collection date. The bags should be clearly marked with the name of the charity if the charity are undertaking their own collection or with the name of the commercial company and the charity to which the donation is to be made if the collection is being undertaken by a commercial company.
9. All House to House applications of this type are determined by the Licensing and Safety Committee and to ensure that the bags which are to be distributed are marked in the correct way the Chairman of the Licensing and Safety Committee has suggested that the current policy be amended with the following addition:-

A sample of the bag to be distributed in connection with the proposed House to House Collection should be submitted with the application.
10. The majority of applications for House to House Collections are made by established charities and commercial companies who have and are currently conducting collections under licence from other Council's, therefore the addition of this requirement should not be an issue.
11. However, from time to time new applications are received from new charities/commercial companies who are unable to submit the current required documentation and similarly may not be able to submit the proposed additional requirement of collection bags. In these cases, as with all cases the Committee determine the applications on their individual merit.
12. This report has a direct link to the Council's policy for safety as the principal reason for submission is safeguarding the public.

Finance

13. There are no financial implications.

Law

14. House to house collection permits are governed by Section 2 of the House-to-House Collections Act 1939.
15. The Council may refuse to grant a licence or where a licence has been granted may revoke it if it appears to the Authority:-

- (a) that the total amount likely to be applied for charitable purposes as the result of the collection (including any amount already so applied) is inadequate in proportion to the value of the proceeds likely to be received (including any proceeds already received).
 - (b) that remuneration which is excessive in relation to the total amount aforesaid is likely to be, or has been, retained or received out of the proceeds of the collection by any person.
 - (c) that the grant of a licence would be likely to facilitate the commission of any offence under section three of the Vagrancy Act 1824, or that an offence under that section has been committed in connection with the collection.
 - (d) that the applicant or the holder of the licence is not a fit and proper person to hold a licence by reason of the fact that he has been convicted in the United Kingdom of any offences specified in the Schedule to this Act, or has been convicted in any part of His Majesty's dominions of any offence conviction for which necessarily involved a finding that he acted fraudulently or dishonestly, or of any offence of a kind the commission of which would be likely to be facilitated by the grant of a licence.
 - (e) that the applicant or the holder of the licence, in promoting a collection in respect of which a licence has been granted to him, has failed to exercise due diligence to secure that persons authorised by him to act as collectors for the purposes of the collection were fit and proper persons, to secure compliance on the part of persons so authorised with the provisions of regulations made under this Act, or to prevent prescribed badges or prescribed certificate of authority being obtained by persons other than persons so authorised.
 - (f) that the applicant or holder of the licence has refused or neglected by furnish to the authority such information as they may have reasonably required for the purpose of informing themselves as to any of the matters specified in the fore-going paragraphs.
16. If the Committee refuse to grant a licence or revoke a licence which has been granted. There is a right of appeal within 14 days to the Secretary of State against the refusal or revocation of licence.

Equality Impact

17. This report takes into account the Council's policy on equal opportunities.
18. There has been no consultation or involvement of children and young people when developing these proposals.

Recommendation

19. That the Committee consider the review of the policy in relation to applications for House to House Collection Licences.



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DIRECTOR OF CORPORATE RESOURCES

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List of Background Papers

Licensing and Safety Committee – 12th September 2012

Report of the Director of Corporate Resources, Director of the Urban Environment

Underage Sales

Purpose of Report

1. To inform the Committee of the work undertaken in partnership by the Police, Trading Standards and Licensing in relation to sale of alcohol to children under the age of 18.

Background

2. The Council grant Premises Licences for the sale by retail of alcohol for consumption on or off the premises under the Licensing Act 2003.
3. This Act defines the parties holding important roles in the context of applications, inspections, enforcement and review of premises licences. These are as follows:-

Authorised Persons - empowered to carry out inspection and enforcement roles (The Police are not included as they are separately empowered by the 2003 Act to carry out their duties)	<ul style="list-style-type: none"> • Officers of the Licensing Authority • Fire Inspectors • Environmental Health
Responsible Authorities - must be notified of applications and are entitled to make representations to the Licensing Authority in relation to the grant, variation or review of a premises licence.	<ul style="list-style-type: none"> • Police • Fire Service • Environmental Health • Planning • Children's Services • Primary Care Trust • Trading Standards • The Licensing Authority
Other Persons – are entitled to make Representations to the Licensing Authority to the grant, variation or review of licences	<ul style="list-style-type: none"> • Any individual or body or business regardless of proximity • Local Councillors

4. The Council **must** grant a Premises Licence unless relevant representations have been received from a Responsible Authority/Other Person.
5. The sale of alcohol to a person under the age of 18 is an offence under the Licensing Act 2003 and Trading Standards together with the Police undertake the enforcement role in this matter. For the most part it will be the local neighbourhood officers who liaise with Trading Standards.
6. The Police gather information in relation to underage sales and associated anti-social behaviour from various sources :-
 - The local community through PACT meetings (Police And Communities Together);
 - Interaction with local residents who identify locations of concern where individuals are acting in an anti-social manner associated with alcohol;
 - Partner agencies;
 - Logged incident calls from the public requesting Police action
7. The information obtained from the first three sources is followed up by local officers carrying out enquiries in relation to the identified licence premises to ascertain whether there are any breaches of the law.
8. Incident calls from the public are very often related to anti-social behaviour which is a primary aim for the Police to identify and action at the earliest opportunity. Accordingly the attending officer can very often glean information from the individuals concerned regarding where the alcohol in their possession was purchased.
9. When possible underage sales are identified the Police will liaise with Trading Standards to carry out 'test purchases' at the identified premises. Where a location has been identified as possibly being responsible for repeat incidents a dedicated incident number is generated and an individual Police officer assigned to monitor the situation, liaise with Trading Standards and be a single point of contact for the shop proprietor. This allows for continuity in the ongoing investigation and a means of regularly monitoring the activity of the store and the effectiveness of the measures being adopted.
10. Trading Standards Service has a duty under the Licensing Act 2003 (the Act) to enforce the provisions of the Act so far as they relate to sales of alcohol made on or from premises to which the public have access and also provides Trading Standards with the power to authorise test purchases to this end.
11. The Act also states that a person commits an offence if he sells alcohol to an individual aged under 18 and also states that a person who knowingly allows the sale of alcohol to an individual aged under 18 is committing an offence. This includes persons who work at the premises.
12. NHS Dudley has funded a full time Age Restricted Products Enforcement Officer post based within Trading Standards to focus on alcohol and tobacco enforcement. A 12-month contract has been agreed.
13. The Trading Standards Service proactively enforces the legislation concerning each product by utilising child volunteers to carry out test purchases at local

Sellers. Test purchasers serve to test the reality of a sales situation when a young person presents a product for purchase at a till. All test purchase exercises are conducted in accordance with Local Government Regulation codes of practice. Enforcement action by way of Fixed Penalty Notices (FPNs) or through the courts is likely to follow any sale subject to a decision being made in line with the Council's Enforcement Policy.

14. The Licensing Act 2003 sets out proceedings for reviewing premises licences which represents a key protection for the community where problems associated with the licensing objectives are occurring after the grant or variation of premises license. As a responsible authority the Trading Standards Service has the power to call for a review of an existing premises licence because of a matter arising in connection with any of the four licensing objectives namely the prevention of crime and disorder; public safety; the prevention of public nuisance; the protection of children from harm. Outcomes from the review process are summarised in paragraph 17.
15. Premises are targeted for test purchases due to intelligence received from partner agencies such as West Midlands Police and Her Majesty's Revenue and Customs, as well as by complaints from Councillors, members of the public and concerned parents. Premises in areas with higher than average tobacco and alcohol use among under 18s are also targeted by Trading Standards.
16. The enforcement of legislation related to the sale of alcohol to persons under 18 contributes in a positive manner to the reduction of crime and fear of crime across the Borough. In particular the Service achieves this by enforcing legislation relating to underage sales, through education and joint enforcement activities with the police and being an active partner in the Safe and Sound Partnership in particular the Crime and Reduction Implementation Group and Joint Activity Group.
17. Results achieved for the years highlighted below are as follows

Test Purchases 2010/2011	Sales 2010/11	% Sales 2010/11	Test Purchases 2011/2012	Sales 2011/2012	% Sales 2011/2012
74	6	8.1%	109	9	8.3%

Where illegal sales were made 11 Fixed Penalty notices were issued .A total of 13 requests were made for licence reviews of which there were 3 suspensions and one revocation. There are a number of matters pending with one premise being investigated for persistently selling alcohol under new legislation which came into force on 25th April 2012.

18. Following the issue of a penalty notice or a conviction for the sale of alcohol to a person under the age of 18, the Police and Trading Standards give careful consideration to the case and decide whether an application should be made to the Licensing Authority to review the premises licence.
19. If a review application is received the Licensing Authority must post a notice of the review, on the relevant premises and the Licensing Web page, which must

remain in place for 28 days. Following the expiry of the 28 days a meeting of the licensing and Safety Committee must be arranged within 20 working days and the applicant and defendant must have 10 working days notice of the date of the review.

20. A Sub- Committee of the Licensing and Safety Committee will hear the review and may take any of the following steps which it considers appropriate for the promotion of the licensing objectives i.e. The prevention of crime and disorder, Public Safety, The prevention of public nuisance and The protection of children from harm: -.
 - To take no further action in the matter;
 - Issue an informal warning to the licence holder and / or recommend improvement within a particular period of time;
 - Modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
 - Exclude a licensable activity from the scope of the licence
 - To remove the designated premises supervisor, for example because they consider that the problems are the result of poor management;
 - To suspend the licence for a period not exceeding three months;
 - To revoke the licence.
21. Following a review of a premises licence where persistent sales of alcohol to children have occurred, the licensing authority should consider the revocation of the licence if it considers the outcome appropriate. Responsible authorities should consider taking steps to ensure that a review of the licence is routine in these cases. Persistent sale of alcohol to children is defined as:-
 - The sale of alcohol to an individual on two or more different occasions within a period of 3 consecutive months.
22. In addition to the steps that the partner groups take in relation to underage sales and anti-social behaviour the Licensing Section chair a Licensing Forum which is attended by a representative of all the Responsible Authorities. This forum meets to share information in relation to problem premises and to formulate joint initiatives to prevent neighbour nuisance, anti-social behaviour and to assist licensees to promote the licensing objectives.
23. If the Licensing Section receive complaints in relation to neighbour nuisance, anti-social behaviour etc a Licensing Enforcement Officer will contact the complainant to obtain the precise details of the issue and if appropriate will contact Environmental Health and or Police to arrange a joint visit to the premises to discuss the matter with the Designated Premises Supervisor. This discussion will include setting out in detail the complaint(s) that have been received about the premises, advising the Designated Premises Supervisor of the steps that should be taken to alleviate the issues and agreeing a plan of action to be taken. This visit will be followed by a letter from the Licensing Office setting out in detail all matters discussed and the actions agreed to rectify the issues together with a final paragraph reminding the Designated Supervisor that failure to comply may result in an application to review his Premises Licence

being submitted. The Enforcement Officer will then contact the complainant to inform them of the actions taken and reassure them that the premises will continue to be closely monitored.

24. In the majority of cases this approach has been very successful without recourse to review of licence, however, if the premises continue to cause evidenced nuisance then one or more of the Responsible authorities will request a review of licence.
25. This report falls within the Council's responsibility for liquor licensing which has a direct link to the Council's key corporate priority that safety matters.

Finance

26. Financial implications from enforcing the Licensing Act 2003 regarding the sale of alcohol to persons under the age of 18 years are met from within existing budgets.

Law

27. The Trading Standards Service has a duty under Section 154 Licensing Act 2003 (the Act) to enforce the provisions of the Act so far as they relate to sales of alcohol made on or from premises to which the public have access and also provides Trading Standards with the power to authorise test purchases to this end.
28. Section 146 of the Act states that a person commits an offence if he sells alcohol to an individual aged under 18. S.147 of the Act states that a person who knowingly allows the sale of alcohol to an individual aged under 18 is committing an offence. This includes persons who work at the premises.
29. Section 147A(1)(a) of the Licensing Act 2003 (as amended), states that a person is guilty of an offence if on 2 or more occasions within a period of 3 consecutive months alcohol is unlawfully sold on the same premises to an individual aged under 18, at the time of each sale the premises were either licensed premises or premises authorised to be used for a permitted temporary activity by virtue of Part 5 and that person was a responsible person in relation to the premises each such time.

Equality Impact


30. This report takes into account the Council's policy on equal opportunities.
31. The licensing of premises and individuals will impact on children and young people through their attendance at licensed premises.
32. There has been no consultation or involvement with children and young people when formulating this report.

Recommendation

33. That the Committee note the information contained in this report.



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List of Background Papers