



**BOROUGH OF HYNDBURN
HOME OF THE ACCRINGTON PALS**

GAMBLING ACT 2005

STATEMENT OF PRINCIPLES **2019 - 2022**

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Table of Contents

Item	Page
Foreword	3
Part A	
1. The licensing objectives	4
2. Introduction	4
3. A Profile of Hyndburn	5
4. The Statement of Principles and Consultation	6
5. Declaration	7
6. Responsible Authorities	8
7. Interested parties	8
8. Exchange of information	10
9. Enforcement	11
10. Licensing authority functions	12
11. Safeguarding against CSE	13
Part B - Premises licences	
12. General Principles	14
13. Adult Gaming Centres	23
14. (Licensed) Family Entertainment Centres	24
15. Casinos	24
16. Bingo	25
17. Betting premises	26
18. Tracks	27
19. Travelling fairs	29
20. Provisional Statements	31
21. Reviews	30
Part C - Permits / Temporary and Occasional Use Notices	31
22. Unlicensed Family Entertainment Centre gaming machine permits	31
23. (Alcohol) Licensed premises gaming machine permits	33
24. Prize Gaming Permits	34
25. Club Gaming and Club Machines Permits	35
26. Temporary Use Notices	36
27. Occasional Use Notices	37
Appendices	
Appendix A Consultees	38
Appendix B Responsible Authorities	40
Appendix C Summary of Delegation	42

All references to the Guidance refer to the Gambling Commission's Guidance to Licensing Authorities, 6th Edition, published September 2016.

FOREWORD

To be inserted

PART A

1. The Licensing Objectives

1.1 In exercising most of their functions under the Gambling Act 2005 (“the act “), licensing authorities must have regard to the licensing objectives as set out in section 1 of the Gambling 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.**

1.2 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”.

1.3 The licensing authority is aware that, as per Section 153 of the act, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it is:

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

2. Introduction

2.1 All references to the Gambling Commission's Guidance for local authorities refer to the Guidance published in September 2016 available from www.gamblingcommission.gov.uk.

2.2 Hyndburn Borough Council is the Licensing Authority. We will regulate gambling with integrity in the public interest.

2.3 We are committed to avoid duplication with other legislation and regulatory regimes as far as possible, and will not replicate issues in this policy which are already legal requirements under other legislation such as health and safety and fire precautions.

2.4 This DRAFT policy has been developed after having regard for the statutory guidance from the Gambling Commission and we will also give appropriate weight to the views of persons and organisations consulted.

2.5 The Council delegates all functions under the Act to the Licensing Committee, except those functions which by law must be dealt with by the Council as a whole, such as the approval of this policy statement.

2.6 Section 349 of the Act requires the Licensing Authority to publish a statement of principles that we will apply in exercising our functions under the Act. This statement fulfils that statutory requirement.

- 2.7 The approved statement of principles will be applied during the 3 year period ‘at a date to be confirmed’ and during that time will be kept under review and revised when and if appropriate, during that 3 year period.
- 2.8 This document should be read in conjunction with the Act, Regulations made under the Act and Guidance issued by the Gambling Commission. This statement is designed to be a strategic gambling policy, not an operational guide to the Act.
- 2.9 Nothing in this policy will override the right of any person to make an application under the Act and have that application considered on its individual merits. Equally, nothing in this policy will undermine the right of any person to make representations on an application, or seek a review of a licence where there is a legal power to do so.
- 2.10 Previous legislation required that the grant of certain gambling permissions should take account of whether there was an unfulfilled demand for gambling facilities. We acknowledge that under this legislation, unmet demand is not a criterion for a Licensing Authority in considering an application.
- 2.11 We appreciate that gambling can be an emotive subject but acknowledge that in accordance with Gambling Commission Guidance for Local Authorities, “moral objections to gambling are not a valid reason to reject applications for premises licences “. except in respect of a Casino resolution in Section 13, and also that unmet demand is not a criterion for a Licensing Authority.
- 2.12 We will therefore consider any application in accordance with the Act, on its individual merits without regard to demand or moral objection to gambling in general.

3. A Profile of Hyndburn Borough Council

- 3.1 Hyndburn Council is situated in the County of Lancashire and is one of 14 Councils within the County.
- 3.2 Hyndburn has an estimated population of 80,734 (information from the census 2011)
- 3.3 The population profile is illustrated below;

Years of Age	0-14	15-64	65+
Percentage of Population	19.2%	64.9%	15.9%

- 3.4 The Borough in population number is the 4th smallest in Lancashire.
- 3.5 The Borough by area covers 73 square kilometres and has 16 wards. The number of people per km² is around three times the England and Wales average. The Council area is mainly urban, illustrated on the map below.



- 3.6 Accrington forms the heart of the Borough, with Oswaldtwistle, Clayton Le Moors, Rishton, Great Harwood, Church, Baxenden, Altham and Huncoat being areas of residential and commercial importance, supporting the main town.
- 3.7 The Council is working hard with its partners and the community in order to regenerate Hyndburn’s social, economic and physical infrastructure.

4. The Statement of Principles and Consultation

- 4.1 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.
- 4.2 Hyndburn Council has consulted widely upon this statement before finalising and publishing. A list of those persons consulted is illustrated at **Appendix A**
- 4.3 The Gambling Act requires that the following parties are consulted by licensing authorities:
- The Chief Officer of Police;
 - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority’s area;

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

4.4 Consultation took place between 25th July 2018 and 20th October 2018 and followed the Cabinet Office consultation principles guidance document published in January 2016, which is available at:

<https://www.gov.uk/government/publications/consultation-principles-guidance>

4.5 A copy of this statement is available on the Council's website.

4.6 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.

5. Declaration

5.1 In producing the final statement, this licensing authority declares that it will have 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 this statement.

6. Responsible Authorities

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

6.2 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.

6.3 In accordance with the suggestion in the Gambling Commission's Guidance to Licensing Authorities, this authority designates the Lancashire Safeguarding Children Board for this purpose.

6.4 The body has county wide responsibility, is democratically accountable.

6.5 The Responsible Authorities under the Gambling Act 2005 are:

- Hyndburn Borough Council Licensing Authority
- The Gambling Commission;
- The Chief Constable, Lancashire Constabulary
- Lancashire Fire and Rescue Service Authority
- Hyndburn Borough Council Planning and Transportation Section
- Hyndburn Borough Council Environmental Health Section
- Lancashire Area Child Protection Committee, Lancashire County Council Social Services Section
- H.M. Revenue & Customs

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

7. Interested Parties

7.1 “Interested parties” can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:

“For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the applications is made, the person-

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

7.2 We will have regard to anything people say about their status to make representations as an interested party.

7.3 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.

7.3 Each case will be decided upon its merits. This authority will adopt the principles of natural justice and decide each case on its merits. We will not apply a rigid rule to our decision making. We will have regard to the examples of considerations provided in the Gambling Commission’s Guidance to Licensing Authorities

7.4 The following gives further advice on how we can determine whether someone is an interested party.

People living close to the premises

7.5 When considering whether persons are interested parties in relation to any individual application we will consider issues such as:

- The size of the premises;
- The nature of the premises;
- The distance of the premises from the location of the person making the representation;
- The potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment);
- The type of complainant
- The catchment area of the premises (i.e. how far people to travel to visit it)

- 7.6 Relevant factors will depend on the particular application. For example, we believe it is reasonable for us to consider that living sufficiently close to the premise so as to likely be affected could have a different meaning for (a) a private resident, (b) a residential school for children with truanting problems and (c) a residential hostel for vulnerable adults.

The nature and scope of business interests that could be affected.

- 7.7 It could be argued that any gambling business could be affected by another gambling business expanding into any part of Great Britain. But that is unlikely to be enough to satisfy the test of being „a person with business interests that might be affected by the premises“ under consideration. For example, an operator in a particular sector be it casino, bingo, betting etc, should not be able to lodge representations on every application put in by a rival operator anywhere in the country, simply because they are in competition within the same gambling sector. Specifically, we recognise that the “demand test” from previous gambling legislation does not apply under the Act.

- 7.8 We must be satisfied that the relevant business is likely to be affected. Factors that are likely to be relevant include:

- The size of the premises
- The catchment area of the premises, that is, how far people travel to visit the premises
- Whether the person making the representation has business interests in that catchment area that might be affected.
- The potential impact of the premises (number of customers, routes likely to be taken by those visiting the premises)

People representing those in the above categories

- 7.9 Interested parties can be people who are democratically elected, as persons representing individuals in the other categories, such as councillors and MP's. This would include county, parish and town councillors. Other representatives might include bodies such as trade associations and trade unions, and residents' and tenants' associations. A school head or governor might act to represent the interests of pupils or parents in their school and a community group might represent vulnerable people living near to the proposed premises.

Save for democratically elected persons, licensing authorities should satisfy themselves on a case by case basis that a person does represent interested parties, and request written evidence where necessary. A letter from the interested person(s) they are representing would be sufficient.

- 7.10 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 which will deal with the licence application. If there are any doubts then please contact the licensing department at:

Hyndburn Borough Council
Licensing Authority
Scaitcliffe House
Ormerod Street
Accrington

8. Exchange of information

- 8.1 Licensing authorities are required to include in their statements the principles to be applied by the authority in exercising its functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.
- 8.2 The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information, which includes the provision that the Data Protection Act 1998 will not be contravened.
- 8.3 The 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 provided in the Gambling Act 2005.
- 8.4 Should any protocols be established in respect of information exchange with other bodies, then they will be made available.

9. Enforcement

- 9.1 Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising its 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.
- 9.2 Where appropriate, we will work with the Gambling Commission and other responsible authorities in our enforcement activity.
- 9.3 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: we will only intervene when necessary: remedies will be appropriate to the risk posed, and costs identified and minimised
 - Accountable: we will must be able to justify our decisions, and be subject to public scrutiny;
 - Consistent: our rules and standards will be joined up and implemented fairly;
 - Transparent: we will should be open, and keep regulations simple and user friendly; and
 - Targeted: regulation will be focused on the problem, and will seek to minimise side effects.
- 9.4 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.

- 9.5 This licensing authority has adopted and implemented a risk-based inspection programme, based on;
- The licensing objectives
 - Relevant codes of practice
 - Part 36 of the guidance issued by the Gambling Commission
 - The principles set out in this statement of licensing policy
- 9.6 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.
- 9.7 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 and should be notified to the Gambling Commission.
- 9.8 This licensing authority also keeps itself informed of developments arising from the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.
- 9.9 Bearing in mind the principle of transparency, this licensing authority's enforcement/compliance protocols/written agreements are available upon written request to the Licensing Manager.
- 9.10 Any prosecution will only be commenced in accordance with the sufficiency of evidence and public interest criteria referred to in the Prosecution of Offences Act 1985.
- 9.11 The Licensing Authority will liaise with a qualified solicitor of the authority prior to the commencement of criminal proceedings to seek a second objective opinion prior to a prosecution being instigated by this authority.

10. Licensing Authority Functions

- 10.1 Licensing Authorities are required under the Act to :
- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences
 - Issue Provisional Statements
 - Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities by issuing Club Gaming Permits and/or Club Machine Permits
 - Issue Club Machine Permits to Commercial Clubs
 - Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
 - Receive notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or fewer gaming machines
 - Grant Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required
 - 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 7 above on 'information exchange')
 - Maintain registers of the permits and licences that are issued under these functions
 - Exercise its powers of compliance and enforcement under the Act, in partnership with the Gambling Commission via Operating Licences.
- 10.2 We as the licensing authority will not be involved in licensing remote gambling. Regulation will fall to the Gambling Commission by the grant of Operator Licences.
- 10.3 In accordance with the Act and Guidance, this authority will :
- Refer the decision whether to make a resolution not to issue casino licences within the Borough to Full Council.
 - Refer approval of this three-year licensing policy to Full Council
 - Refer any delegated power under forthcoming Regulations to set fees to Cabinet.
 - Delegate all decisions relating to premises licences to the Licensing Committee where representations have been received and not withdrawn.
 - Further delegate decision making to officers in accordance with the law and guidance, attached at Appendix C.

11. Safeguarding against Child Sexual Exploitation (CSE)

- 11.1 The Council acknowledges children are not permitted access to most gambling premises. However where children are permitted access to for example Family Entertainment Centres, Tracks etc. applicants should ensure that suitable management controls are in place to safeguard children against the risk of CSE. Applicants should be equally aware of children in the proximity of the premises that may be waiting for, or seeking, older persons.
- 11.2 Suitable management controls which could be put in place to safeguard children against the risk of CSE, may include, but are not limited to:
- awareness training for staff;
 - recording concerns and reporting these to the police.
- 11.3 The Council expects applicants to be aware of 'risk indicators' of CSE which include, but are not limited to:
- developing relationships between a child and an older person;
 - children in the company of a group of older persons;
 - children regularly attending premises and meeting with a number of different older persons, particularly where older persons may be facilitating gambling for children;
 - children outside of licensed premises developing relationships with an older person, particularly an older person facilitating gambling for children;
 - children leaving the locality of the premises with older people, particularly with a group of older persons;
 - children looking uncomfortable in the company of, or leaving with, older people, particularly groups of older persons.
- 11.4 Whilst the Council does not wish to create the impression that all contact between children and older people is inappropriate, it is strongly of the view

that licence holders should be aware of the risks of CSE and should proactively manage their premises to minimise the risks.

- 11.5 Whilst the licensing authority acknowledges that CSE falls outside of the requirement of the licensing objective which is to protect children from the harm of gambling, the authority considers that we all have a moral duty to protect children from CSE and regard should be given to this in areas where children and adults may congregate together socially. The licensing authority are requesting that operators consider this matter when dealing with staff training etc.

PART B

Premises Licences

12 General Principles

- 12.1 Premises licences are subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State.
- 12.2 We as the licensing authority will be able to exclude default conditions and also attach other conditions, where we believe it to be appropriate.
- 12.3 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.
- 12.4 In accordance with the Gambling Commission's Guidance to Licensing Authorities "moral objections to gambling are not a valid reason to reject applications for premises licences", except in respect of a Casino resolution and also that unmet demand is not a criterion for a Licensing Authority. Issues of nuisance and the likelihood of planning permission or building regulations approval being obtained are not issues that can be taken into account when considering an application for a premises licence.
- 12.5 Licence conditions are one method by which it is possible to mitigate risks associated with particular premises. The imposition of licence conditions might be prompted by locality specific evidence based risks. If additional conditions are to be imposed, they will be imposed in response to evidence of risk to the licensing objectives not already addressed by the mandatory and default conditions.
- 12.6 Wherever possible and where there are justifiable concerns the licensing authority will have proactive engagement with local operators to encourage them to mitigate risks to the licensing objectives effectively. Such engagement can facilitate an open and constructive partnership which, in turn, can improve compliance and reduce regulatory costs.

- 12.7 The Gambling Commissions Licensing Conditions and Code of Practice (LCCP) document contains two types of code provisions:
- Social responsibility code provisions: compliance with these is a condition of licences
 - Ordinary code provisions: These do not have the status of operator licence conditions but set out good practice. Operators may adopt alternative approaches to those set out in ordinary code provisions if they have actively taken account of the ordinary code provisions and can demonstrate that an alternative approach is reasonable in the operator's particular circumstances; or that to take an alternative approach would be acting in a similar effective manner.
- 12.8 To improve the exchange of information between licensing authorities and operators, the Commission has introduced social responsibility code provisions that require operators of premises-based businesses to conduct local risk assessments (SR 10.1.1), and an ordinary code provision that says licensees should share their risk assessments with licensing authorities in certain circumstances (OC 10.1.2).
- 12.9 SR 10.1.1 which came into force on 6th April 2016 applies to non-remote licensees who hold or are applying for premise licences. The provision requires licensees to assess and have policies, procedures and control measures to mitigate local risks to the licensing objectives, taking account of the licensing authority's statement of licensing policy. It goes on to require local risk assessments to be reviewed when there are significant changes in local circumstances or at the premises, or when applying for a new licence or a variation of a licence. The risk assessments should be carried out to identify specific risks to the licensing objectives in the local area and to assess whether control measures going beyond standard control measures are needed.
- 12.10 The licensing authority when considering an application in relation to the grant or variation of the premise licence will expect to see a risk assessment that has been carried out as per the above provision and will give consideration to that risk assessment before making a decision.
- 12.11 This licensing authority will expect applicants for a new licence to submit the completed assessment with their application. It must identify risks and state what control mechanisms are to be employed at the premises to ensure that the licensing objectives are being met having regard to the local area profiles produced by this Authority. The assessment must consider as a minimum –
- The local area, including but not restricted to; the types of premises and operation in the area surrounding the gambling premises; the character of the area (for example is it predominantly residential or commercial, is it a family orientated area); transport links, educational facilities; centres for vulnerable people; ethnicity, age, economic make-up of the local community; high crime area; high unemployment area; or not a pawn broker/pay day loan businesses in the vicinity, other gambling premises in the vicinity
 - The gambling operation, including but not restricted to: what gambling products it provides in the premises, the staffing levels within the

premises; the level and requirement for staff training; whether loyalty or account cards are used or not; the security and crime prevention arrangements it has in place; how it advertises locally and on the premises, the marketing material within the premises; the display and provision of information.

- The design and layout of the premises, including but not restricted to: whether the staff have obstructed views of gaming machines or entrances; whether the design is such that gambling can't take place.
- Measures that could be considered to be put in place to mitigate the risks where necessary could be for example the use of CCTV cameras, the provision of magnetic door locks, employment of door supervisors, employing a challenge 25 scheme, number of trained staff.

12.12 Operators are required to review their local risk assessments if significant changes in local circumstances occur, when there are significant changes at a licensee's premises that may affect their mitigation of local risks and when applying for the variation of a licence. The following list sets out what are considered to be significant changes in local circumstances-

- Any substantial building development or conversion of existing premises in the local area which may increase or decrease the number of visitors.
- A new pay day loan or pawn broker opening in the local area.
- An increase in educational facilities in the local area, e.g. the opening of new schools, colleges or the extension of an existing establishment.
- The local area is identified as a crime hotspot by the police and/or Licensing Authority
- Venues serving or supporting vulnerable groups are opened in proximity to the gambling premises.
- New gambling premises open in the local area.

12.13 An operator submitting a variation application to the licensing authority will be expected to provide a copy of the reviewed local risk assessment with the application.

12.14 When a completed assessment is provided with a new application or with a variation application, the licensing authority will consider the assessment in the course of determining whether to grant the application or not. Some control mechanisms identified in the assessment may be added to the licence as conditions to address any significant local concerns. The licensing authority is particularly concerned –

- to ensure that staff are trained and supported to identify and work with problem gamblers.
- to ensure that measures are in place to prevent underage gambling

12.15 The list above is not exhaustive and every risk assessment should be based on the individual premises and the issues in the local area.

12.16 The Council will expect a copy of the risk assessment to be kept on the premises when open for business and made available for inspection by an authorised officer upon reasonable request.

Definition of 'premises'

12.18 In the Act, "premises" is defined as including "any place". Section 152 of the act 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.

12.19 This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, we will pay particular attention if there are issues about sub-divisions of a single building or plot and we will ensure that mandatory conditions relating to access between premises are observed.

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

12.21 The licensing authority takes particular note of the Gambling Commission's Guidance to Licensing Authorities which states that: licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling (with the exception of the access and permitted use of Category D machines in UFEC's and FEC's), but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not "drift" into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers should be able to participate in the activity named on the premises licence.

12.22 The Guidance also gives a list of factors which we 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?

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

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

Casinos

- The principal access entrance to the premises must be from a street (as defined at 7.23 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 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 a betting shop cannot be located at the back of a café – the whole area would have to be licensed.

Tracks

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

Bingo Premises

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

The Gambling Commission's Guidance to Licensing Authorities contains further guidance on this issue, which the licensing authority will also take into account in its decision-making.

Premises 'ready for gambling'

- 12.25 In determining applications, the licensing authority will not take into consideration matters that are not related to gambling and the licensing objectives. One example would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal. We will bear in mind that a premises licence, once it comes into effect, authorises premises to be used for gambling. Accordingly, a licence to use premises for gambling will 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. (Equally, licences should only be issued where they are expected to be used for the gambling activity named on the licence). This is why the Act allows a potential operator to apply for a provisional statement if construction of the premises is not yet complete, or they need alteration, or he does not yet have a right to occupy them.
- 12.26 As the Court has held in a 2008 case, operators can apply for a premises licence in respect of premises which have still to be constructed or altered, and licensing authorities are required to determine any such applications on their merits. Such cases will be considered in a two stage process; first, we will decide whether, as a matter of substance after applying the principles in s.153 of the Act, the premises ought to be permitted to be used for gambling; second, in deciding whether or not to grant the application we will need to consider if 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.
- 12.27 For example, where the operator has still to undertake final fitting out of the premises but can give a reasonably accurate statement as to when the necessary works will be completed, it may be sufficient to simply issue the licence with a future effective date, as is possible under the Regulations. The application form allows the applicant to suggest a commencement date and the notice of grant allows the licensing authority to insert a date indicating when the premises licence comes into effect. In other cases, it may be appropriate to issue the licence subject to a condition that trading in reliance on it shall not commence until the premises have been completed in all respects in accordance with the scale plans that accompanied the licence application. If changes to the pre-grant plans are made, then parties who have made representations will be able to comment on the changes made.
- 12.28 If the plans submitted at the time of the application for a premises licence are changed in any material respect during the fitting out of the premises after the grant of the licence, then the applicant will be in breach of the licence. If the applicant wishes to change the proposed plans after grant then, in order to avoid breaching the licence, it will be necessary for the applicant to either make a fresh application under s.159 or seek an amendment to a detail of the

licence under s.187 of the Act. If there are substantive changes to the plans then this may render the premises different to those for which the licence was granted. In such a case, variation of the licence under s.187 is not possible. For this reason it would be more appropriate in the case of any material post grant change, for the applicant to make a fresh application under s.159 to preserve the rights of interested parties and responsible authorities to make representations in respect of the application.

- 12.29 If faced with an application in respect of uncompleted premises which it appears are not going to be ready to be used for gambling for a considerable period of time, we will consider whether – applying the two stage approach advocated above – we should grant a licence or whether the circumstances are more appropriate to a provisional statement application. For example, the latter would be the case if there was significant potential for circumstances to change before the premises opens for business. In such cases, the provisional statement route would ensure that the limited rights of responsible authorities and interested parties to make representations about matters arising from such changes of circumstance are protected. We may choose to discuss with individual applicants which route is appropriate, to avoid them having to pay a fee for an application that we did not think was grantable.

Location

- 12.31 The 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.
- 12.32 As per the Gambling Commission's Guidance to Licensing Authorities, we 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.
- 12.33 The statement will be updated if the licensing authority designates any part of the Borough as unsuitable for gambling premises. It should be noted however that any such policy does not preclude an application being made in respect of such locality and each application will be decided on its merits, with the onus being upon the applicant to show how potential concerns can be overcome.

Planning

- 12.34 The Gambling Commission Guidance to Licensing Authorities states:
- “7.56 – 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”.
- 12.35 The licensing authority will not take into account irrelevant matters as per the above guidance. In addition the licensing authority notes the following excerpt from the Guidance:
- 7.63 - 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.

- 12.36 Section 210 of the 2005 Act prevents licensing authorities taking into account the likelihood of 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.

Duplication with other regulatory regimes

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

- 12.38 When dealing with a premises licence application for finished buildings, the licensing authority will not take into account whether those buildings comply with the necessary planning or buildings consents. Fire or health and safety risks will also not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations.

Licensing Objectives

- 12.37 Premises licences 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 –

- 12.39 The 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.

- 12.40 Therefore, where an area has known high levels of organised crime the Licensing 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

12.41 The licensing authority notes that the Gambling Commission 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 by operating and personal licences. *For Local Authorities with tracks:* There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section– see page 28).

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

12.42 The licensing authority has noted the Gambling Commission's Guidance that this objective means preventing children from taking part in gambling (save for the use of Category D machines in FEC's, UFEC's, etc.)

12.43 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.

12.44 Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

12.45 We will also take into account the codes of practice as regards to this licensing objective, in relation to specific premises.

12.46 The term “vulnerable persons” is not defined by the Gambling Commission or statute law does, but the Commission states that “it will for regulatory purposes assume that this group includes:

- people who gamble more than they want to;
- people who 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.”

12.48 The licensing authority will consider promotion of this licensing objective on a common sense, case by case basis. Should this term be further defined the Commission or case law in the future then this policy statement will be updated accordingly.

Conditions on Premises Licences

12.49 Any conditions we attach to licences will be proportionate and If additional conditions are to be imposed, they will be imposed in response to evidence of risk to the licensing objectives not already addressed by the mandatory and default conditions. Any conditions imposed 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.

12.50 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of conditions the licensing authority will consider utilising should there be a perceived need, such as the use of door

supervisors, appropriate signage for adult only areas etc., There are specific comments made under some of the licence types below. The licensing authority will also expect the licence applicant to offer their own suggestions about how the licensing objectives can be met effectively.

- 12.51 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.
- 12.52 We will, where considered necessary, also consider specific measures for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances, segregation of gambling and non-gambling areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises, in accordance with Gambling Commission Guidance.
- 12.53 The licensing authority will 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 these 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 years of age.
- 12.54 These considerations will apply to premises including buildings where multiple premises licences are applicable.
- 12.55 We are aware that tracks may be subject to one or more premises licences, provided that each licence relates to a specified area of the track.
- 12.56 We will, in accordance with the Gambling Commission's Guidance, consider the impact upon the third licensing objective and the need to ensure that the entrances to each type of premises are distinct from each other and that children are excluded from gambling areas where they are not permitted by law or condition, to enter.
- 12.57 It is noted that there are conditions which the licensing authority cannot by law attach to premises licences which are:
- any condition on the premises licence which makes it impossible to comply with an operating licence condition
 - conditions relating to gaming machine categories, numbers, or method of operation;
 - conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs) and
 - conditions in relation to stakes, fees, winning or prizes

Door Supervisors

- 12.58 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.
- 12.59 Where it is decided that supervision of entrances/machines is appropriate we will consider whether the supervisors 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).
- 12.60 This licensing authority therefore has specific requirements for door supervisors working at casinos or bingo premises which are that a book is maintained in which is recorded:-
- the identity of the door staff deployed
 - the time they commenced duty and left duty, and
 - any incidents that they dealt with
- each day, and such a book shall be maintained and available for inspection for a period of 3 months from the date of the record entry.
- 12.61 This is in recognition of the nature of the work in terms of searching individuals, dealing with potentially aggressive, young and vulnerable persons, etc.

13. Adult Gaming Centres

- 13.1 The 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 it that there will be sufficient measures in place to, for example, ensure that under 18 year olds do not have access to the premises.
- 13.2 The licensing authority may consider imposing conditions 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 exhaustive, and is merely indicative of possible conditions.

14. (Licensed) Family Entertainment Centres

- 14.1 The 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 it, for example, that there will be sufficient measures in place to ensure that under 18 year olds do not have access to the adult only gaming machine areas.
- 14.2 The licensing authority may consider imposing conditions to meet the licensing objectives such as:
- CCTV
 - supervision of entrances / machine areas
 - physical separation of areas
 - location of entry
 - notices / signage
 - specific opening hours
 - self-exclusion schemes
 - provision of information leaflets / helpline numbers for organisations such as GamCare.
 - measures / training for staff on how to deal with suspected truant school children on the premises

This list is not exhaustive, and is merely indicative of possible conditions.

- 14.3 The licensing authority will consider any conditions published from time to time on the Gambling Commission's website in respect of the way in which the area containing the category C machines should be delineated.
- 14.4 The licensing authority will also take account of any mandatory or default conditions on these premises licences, when they have been published.

15. Casino

Proposal for a casino

- 15.1 This licensing authority does not have an existing licensed casino within the Borough. We did not submit a proposal for a premises licence for any new type of casino to the Independent Casinos Advisory Panel.

No Casino Resolution

- 15.2 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.

Casinos and competitive bidding

- 15.3 This licensing authority is aware that where a licensing authority is enabled to grant a premises licence for a new style casino (i.e. the Secretary of State has made such regulations under Section 175 of the Gambling Act 2005) there are likely to be a number of operators which will want to run the casino.

- 15.4 Should these circumstances arise, we will address the matter by running a 'competition' in line with any Regulations and/or Code of Practice under the Gambling Act 2005.

Licence considerations/conditions

- 15.5 This Licensing Authority will attach conditions to casino premises licenses according to principles set out in the Gambling Commissions Guidance at paragraph 9, bearing in mind the mandatory conditions listed in paragraph 17 of the Guidance, and the licence conditions and Codes of Practice published by the Gambling Commission.

Betting machines

- 15.6 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 or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

16. Bingo Premises

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

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 premises.

S.172(7), as amended, provides that the holder of a bingo premises licence may make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines on the premise. For example, a premises with a total of 25 gaming machines available for use can make five or fewer category B3 gaming machines available on that premises. Premises that were licensed before 13 July 2011 are entitled to make available eight category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. There are no restrictions on the number of category C or D machines that can be made available. Regulations state that category B machines at bingo premises are restricted to sub-category B3₄₆ (but not B3A) and B4 machines.

- 16.2 The licensing authority also notes the Commissions Guidance at paragraph 18.9 regarding the unusual circumstances in which the splitting of 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.
- 16.3 Children and young people are allowed into bingo premises; however they are not permitted to participate in 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.

- 16.4 Gaming machines on Bingo premises – There is a requirement that gaming machines are only made available in combination with the named non – remote activity of the operating licence. So unless a bingo operator offers substantive facilities for non- remote bingo it should not be making gaming machines available for use on the premises in question. To control the risk to the licensing objectives associated with gaming machines, premises which offer machines must be appropriately supervised.
- 16.5 In carrying out our functions under the act the Licensing Authority will satisfy ourselves that a premise applying for, or licensed for bingo is operating or will operate in a manner which a customer would reasonably be expected to recognise as a premise licensed for the purpose of providing facilities for bingo. The Licensing Authority will always aim to ensure that a premise that is licensed for the purpose of providing facilities for bingo is operating as such and is not merely a vehicle to offer high stake and prize gaming machined.
- 16.6 In exercising our functions under the Act the licensing authority will take account of the relevant code of practice on ‘controlling where gaming machines may be played’. The Licensing Authority is specifically obliged to do so when exercising its functions under section 153 of the Act. In circumstance where the licensing authority considers that an existing premise is not compliant with these general requirements, we will report the matter to the Gambling Commission.
- 16.7 Both the Commission and the licensing authority have the power to attach specific conditions to premise or operator licences where additional assurance is required. However the licensing authority is aware that the Commission favours the approach of general conditions for all supplemented by operator specific conditions where contentious operating models are used which include the provision of gaming machines. The approach of adding case specific conditions can equally be deployed in the respect of an existing unit where concerns arise or when changes are made to the operating model.
- 16.8 The licensing authority may consider imposing conditions 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.

17. Betting Premises

- 17.1 Anyone wishing to operate a betting office will require a betting premises licence from the licensing authority. Children and young persons will not be able to enter premises with a betting premise licence.

Betting/Gaming machines

- 17.2 Betting premises will be able to provide a limited number of gaming machines and some betting machines
- 17.3 Gaming machines may be made available for use in licensed betting premises only at times when there are also sufficient facilities for betting available. The Gambling Commission have introduced some social responsibility codes and the one in relation to the provision of gaming machines in licensed betting premises is set out below:-
- 17.4 **Social responsibility code provision 9.1.1 Gaming machines in gambling premises – betting**

All non-remote general betting operating licences, except where betting is offered under a 2005 Act casino premises licence

- 1 Gaming machines may be made available for use in licensed betting premises only where there are also substantive facilities for non-remote betting, provided in reliance on this licence, available in the premises.
- 2 Facilities for gambling must only be offered in a manner which provides for appropriate supervision of those facilities by staff at all times.
- 3 Licensees must ensure that the function along with the internal and/or external presentation of the premises are such that a customer can reasonably be expected to recognise that it is a premises licensed for the purposes of providing betting facilities.

- 17.5 B2 gaming machines (commonly referred to as fixed odds betting terminals (FOBT'S), where provided, should be situated in locations where they can be effectively supervised at all times.

Leaflets and posters aimed at customers and their families/friends. These posters and leaflets must give advice about identifying signs of problem gambling and pathways to advice and assistance e.g. helpline number and information about online counselling facility and shall be provided in close proximity to the location of any FOBT'S.

Number, type and availability of betting machines

The licensing authority has the power to restrict the number of betting machines, their nature and the circumstances in which they are made available (as per s181 Gambling Act 2005). This may be done by attaching a licence condition to a betting premise, licence or to a casino premises licence. By virtue of S172(8) of the Gambling Act 2005 the holder of a Betting Premise Licence may make available for use up to 4 gaming machines.

In determining whether the application meets the licensing objectives or other policies consideration will be given to appropriate measures/licensing conditions to address the matters listed below.

- size of the premises
- the physical layout of the premise

- the number of counter positions available for person to person transactions
- the ability of staff to monitor the use of machines by vulnerable persons
- proof of age schemes
- CCTV
- entry control system
- supervision of entrances/ machine areas
- physical separation of areas
- location of entry
- notices/ signage
- specific opening hours
- self-barring schemes
- provision of information leaflets / helpline numbers for organisations such as GamCare

This list is not exhaustive, and is merely indicative of examples of measures and possible licence conditions the licensing authority will expect applicants to offer their own measures to meet the licensing objectives:

18. Tracks

- 18.1 S.353 of the Act defines a track as a horse racecourse, greyhound track or other premises on any part of which a race or other sporting event takes place or is intended to take place.
- 18.2 The licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specific area of the track.
- 18.3 When dealing with applications relating to tracks this licensing authority will give particular attention to the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 18.4 The licensing authority will expect the premises licence applicants to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities.
- 18.5 Children and young persons will by law be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, although they are still prevented from entering areas where gaming machines (other than category D machines) are provided.
- 18.6 The licensing authority may consider measures/licence conditions 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 exhaustive, and is merely indicative of example measures/possible licence conditions.

Gaming machines on tracks

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

Betting machines on tracks

- 18.8 Licensing authorities have a power under the Gambling Act 2005 to restrict the number of betting machines, their nature and the circumstances in which they are made available, by attaching a licence condition to a betting premise licence.
- 18.9 Similar considerations apply in relation to tracks, where the potential space for such machines may be considerable, bringing with it significant problems in relation to the proliferation of such machines, the ability of track staff to supervise them if they are scattered around the track and the ability of the track operator to comply with the law and prevent children betting on the machines.
- 18.10 The licensing authority will, as per Part 6 of the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

Condition on rules being displayed

- 18.11 A condition will normally be attached to track premises licences requiring the track operator to ensure that the rules relating to tracks which are contained in the Act are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race card or made available in leaflet form from the track office.

Applications and plans

- 18.12 The Gambling Act (s51) requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity. (See Guidance to Licensing Authorities, para 20.43).
- 18.13 Plans for tracks do not need to be to a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations.

18.14 We appreciate that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information to enable the licensing authority to satisfy itself that the plan indicates the main areas where betting might take place.

19. Travelling Fairs

19.1 Where category D machines and / or equal chance prize gaming without a permit is to be made available at travelling fairs, the licensing authority will determine whether the facilities for gambling amount to no more than an ancillary amusement.

19.2 The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

For the purposes of the Act –

(a) “fair” means a fair consisting wholly or principally of the provision of amusements, and

(b) a fair held on a day in a calendar year is a “travelling fair” if provided-

(i) wholly or principally by persons who travel from place to place for the purpose of providing fairs, and

(ii) at a place no part of which has been used for the provision of a fair on more than 27 days in that calendar year.

19.3 The 27-day statutory maximum for the land being used as a fair, is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. The licensing authority will work with other departments of the Council and its neighbouring authorities to ensure that land which crosses its boundaries is monitored so that the statutory limits are not exceeded.

20. Provisional Statements

20.1 Developers may wish to apply to the authority for provisional statements before entering into a contract to buy or lease property. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

20.2 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.

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

- 20.4 In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.
- 20.5 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement and 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.
- 20.6 In addition, the licensing 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 licensing authority's opinion reflect a change in the operator's circumstances; or
 - where the premises have not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and the licensing authority may discuss any concerns it has with the applicant before making a decision

21. Reviews

- 21.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the licensing authority to decide whether the review is to be carried-out.
- 21.2 This will be on the basis of whether the request for the review is relevant to the matters listed below;
- in accordance with any relevant Code of Practice issued by the Gambling Commission;
 - in accordance with any relevant guidance issued by the Gambling Commission;
 - reasonably consistent with the licensing objectives; and
 - in accordance with the licensing authority's statement of principles.
- 21.3 The licensing authority, whether the request is frivolous, vexatious, or whether it will certainly not cause it to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.
- 21.4 Section 200 of the Act provides that licensing authorities may initiate a review in relation to a particular class of premises licence or in relation to particular premises. Officers may be involved in the initial investigations of complaints leading to a review, or may try informal mediation or dispute resolution techniques prior to a full scale review being conducted, but the review itself, if necessary will be heard by elected members.

- 21.5 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.
- 21.6 The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.
- 21.7 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 (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.
- 21.8 In determining what action, if any, should be taken following a review, the licensing authority will have regard to the principles set out in section 153 of the Act, as well as any relevant representations.
- 21.9 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.
- 21.10 Once the review has been completed, the licensing authority will, as soon as possible, notify its decision to:
- the licence holder
 - the applicant for review (if any)
 - the Commission
 - any person who made representations
 - the chief officer of police or chief constable; and
 - her Majesty's Commissioners for Revenue and Customs

PART C

Permits / Temporary & Occasional Use Notice

22. Unlicensed Family Entertainment Centre gaming machine permits

- 22.1 Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. The applicant must show that the premises will be wholly or mainly used for making gaming machines available for use as required by Section 238 of the act.
- 22.2 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 24 of the act.

- 22.3 The Gambling Commission's Guidance for local authorities also states: "In their three year licensing policy statement, licensing authorities may include a statement of 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". (para 24.8)
- 22.4 The 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. (para 24.7)

Statement of Principles

- 22.5 The licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm and will expect the applicant to satisfy it that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Notices and signage on the machines or in the premises may also be help. Applicants may also wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.
- 22.6 The efficiency of such policies and procedures will each be considered on their merits, but policies and procedures may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises.
- 22.7 Applicants must also 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.
- 22.8 The licensing authority when considering a permit application for an unlicensed family entertainment centre, may request further information from an applicant regarding any matters of concern which may include:
- the suitability of the applicant
 - the suitability of members of staff
 - the location and plan of the premises
 - evidence that a premises will only operate as an unlicensed family entertainment centre

- the applicant's understanding of the maximum stakes and prizes of the gambling that is permissible in an unlicensed family entertainment centre
- confirmation of intended opening hours
- details of procedures for entry to the premises
- CCTV provisions at the premises and surveillance of the premises
- evidence that members of staff are appropriately trained and fully understanding the maximum stakes and prizes of the gambling that is permissible in an unlicensed Family Entertainment Centre
- evidence of policy and procedures in respect of unsupervised very young children on the premises, or children causing perceived problems on/or around the premises
- Display of posters and information leaflets about organisations set up to assist people wishing to seek help and advice regarding gambling related issues such as GamCare
- Any other factors that are within the control of the permit holder or designated management.

22.9 The licensing authority will give significant weight to issues relating to the protection of children and young persons.

22.10 A permit will only be issued if the licensing authority is satisfied that there are no matters of concern.

22.11 The licensing authority will not refuse an application for a permit unless it has notified the applicant of its intentions to refuse the application and of its reasons and given the applicant an opportunity to make representations.

22.12 The licensing authority can grant or refuse a licence but cannot attach conditions to this type of permit

23. (Alcohol) Licensed premises gaming machine permits

Automatic entitlement: 2 machines

23.1 Section 282 of the Act provides an automatic entitlement to make available up to two gaming machines (of category C or D) for use in alcohol licensed premises.

23.2 To take advantage of this entitlement, the person who holds the on-premises licence must pay the prescribed fee and give notice to the licensing authority of their intention to make up to 2 Category C or D gaming machines available for use.

23.3 The automatic entitlement ceases if the holder of Licensing Act 2003 premises licence changes or ceases

23.4 We are not permitted by law to reject such a valid application or engage discretion in such an authorisation, but we 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

- 23.5 If a premises licence holder wishes to have more than 2 machines, they are required to apply for a permit. A licence holder can apply for any number of machines, but the number of machines granted in a permit will be in addition to the automatic entitlement under Section 282.
- 23.6 We will determine any such 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.*”
- 23.7 Each case will be decided on its merits, but the licensing authority will 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 it that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. This may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage on the machines or in the premises may also be help. Applicants may also wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.
- 23.8 The licensing authority will take account of an applicants intended compliance with the Gambling Commission publication “Licence Conditions and Code of Practice”
- 23.9 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would normally need to be applied for, and dealt with as an Adult Gaming Centre premises licence.
- 23.10 The licensing authority may grant a licence for a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached to a permit.
- 23.11 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.
- 23.12 Where there are no representations, permits for up to 4 additional machines will be granted by officers under delegated powers.

24. Prize Gaming Permits

- 24.1 Schedule 14 Paragraph 8 of the Gambling Act 2005 states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority propose to consider in determining the suitability of the applicant for a permit”.

- 24.2 In this regard the licensing authority has determined that the applicant must set out the types of gaming that he or she is intending to offer and must be able to demonstrate:
- that they understand the limits to stakes and prizes that are set out in regulations
 - and that the gaming offered is within the law
 - clear policies that outline the steps to be taken to protect children from harm.
- 24.3 In making its decision on an application for this permit the licensing authority does not need to have regard to the licensing objectives, but must have regard to any Gambling Commission guidance. (Gambling Act 2005, Schedule 14 paragraph 8(3).
- 24.4 There are conditions in the Gambling Act 2005 with which the permit holder must comply, but that the licensing authority cannot attach further 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

25. Club Gaming and Club Machine permits

- 25.1 Bona fide members clubs and miners' welfare institutes (but **not** commercial clubs) may apply for a club gaming permit or a clubs gaming machines permit.
- 25.2 The club gaming permit will enable the premises to provide gaming machines (3 machines of categories B, C, or D), and equal chance gaming.
- 25.3 The 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 restricted to bridge or whist".
- 25.4 The Gambling Commission's Guidance states:
- "The LA has to satisfy itself that the club meets the requirements of the Act to obtain a club gaming permit. In doing so it will take account a number of matters as outlined in sections 25.44 - 25.48 of the Gambling Commission's Guidance. These include the constitution of the club, the frequency of gaming, and ensuring that there are more than 25 members.

The club must be conducted 'wholly or mainly' for purposes other than gaming, unless the gaming is restricted to bridge and whist.

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."

- 25.5 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.
- 25.6 As the Gambling Commission's Guidance for local authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the 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."
- 25.7 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.

26. Temporary Use Notices

- 26.1 Part 9 of the Act sets out the position in relation to temporary use notices. These allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a temporary use notice would include hotels, conference centres, and sporting venues.

- 26.2 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.
- 26.3 The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and 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 for equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.
- 26.4 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".
- 26.5 In considering whether a place falls within the definition of "a set of premises", the licensing authority will consider, amongst other things, the ownership/occupation and control of the premises.
- 26.6 The 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 Commission's Guidance to Licensing Authorities

27. Occasional Use Notices

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

APPENDIX A

SCHEDULE OF CONSULTEES TO THIS DRAFT POLICY STATEMENT INCLUDES

- All Elected Councillors, Hyndburn Borough Council
- Gambling Commission, Regional Compliance Manager
- Gambling Commission, Regional Inspector
- Chief Constable, Lancashire Constabulary, Police Headquarters, Hutton, Preston.
- Licensing Officer, Lancashire Constabulary, East Division Licensing, Clitheroe Police Station
- Lancashire Fire and Rescue Service, E71 Blackburn Fire Station, Fire Safety Department, Blackburn
- Lancashire Area Child Protection Committee, Lancashire County Council
- H M Revenue & Customs
- Blackburn with Darwen Borough Council
- Burnley Borough Council
- Ribble Valley Borough Council
- Rossendale Borough Council
- The British Casino Association
- Casino Operator's Association of the UK
- Racecourse Association Ltd
- British Holiday & Home Parks Association
- GA05 Licence Holders in the Borough
- All Small Lottery Licence Holders

The following officers of Hyndburn Borough Council

- Chief Executive
- Deputy Chief Executive

- Executive Director (Legal & Democratic Services)
- Head of Environmental Services
- Head of Human Resource
- Team Leader - Public Health and Housing
- Head of Planning and Transportation
- Waste Services Manager

In addition the draft policy and invitation to submit views on that policy have been available on the Council's website to facilitate observations from other persons

**APPENDIX B
GAMBLING ACT 2005
SCHEDULE OF RESPONSIBLE AUTHORITIES**

LICENSING DEPARTMENT & AUTHORITY

Hyndburn Borough Council Licensing Authority, Scaitcliffe House, Ormerod Street, Accrington, BB5 0PF
Tel: 01254 380616/380140

THE GAMBLING COMMISSION

The Gambling Commission, Victoria Square House, Victoria Square, Birmingham, B2 4PB
Tel: 0121 230 6500 Fax: 0121 230 6720

POLICE

Lancashire Constabulary, East Division Licensing, Clitheroe Police Station, King Street, Clitheroe, Lancashire. BB7 2EU

FIRE AUTHORITY

Lancashire Fire and Rescue Service, E71 Blackburn Fire Station, Fire Safety Department, Byrom Street, Blackburn, Lancashire, BB2 2LE

PLANNING

Planning and Transportation Department, Hyndburn Borough Council, Scaitcliffe House, Ormerod Street, Accrington, BB5 0PF

CHILD PROTECTION

Lancashire Safeguarding of Children Board
Room B52
County Hall
Preston PR1 8RJ

H M REVENUE AND CUSTOMS

H M Revenue & Customs
Boundary House
Cheadle Point, Cheadle
Cheshire
SK8 2JZ

APPENDIX C

SUMMARY OF THE DELEGATION OF POWERS UNDER THE GAMBLING ACT 2005

Matter to be dealt with	Full Council	Sub-committee of licensing committee	Officers
Final approval of three year licensing policy	X		
Policy not to permit casinos	X		
Fee setting (when appropriate)			X
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence		X	
Application for club gaming/ club machine permits		Where objections have been made (and not withdrawn)	Where no objections made/ objections have been withdrawn
Cancellation of club gaming/ club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

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