



**Northumberland**  
County Council

**PUBLIC PROTECTION SERVICE**  
**Northumberland County Council**  
**County Hall**  
**Morpeth**  
**Northumberland**

**DRAFT**  
**GAMBLING ACT 2005**  
**STATEMENT OF PRINCIPLES**  
**2019 to 2022**

**Approved by Northumberland County Council**  
**on 9th January 2019**

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## PART A

### GENERAL

#### 1. Introduction

Northumberland is England's most northerly county with a population of around 310,000 people living in rural and urban areas. It is the sixth largest county in England by size with a land area of 501,301 hectares (1,940 sq. miles), but is one of the smallest by population. The county is uniquely shaped by its border history, stretching from Tyneside in the south to the Scottish Borders in the north, west to the Cheviots and the Pennines, and bordered on the east by the North Sea. It is an area of exceptional environmental assets and this quality is recognised by the designation of the Northumberland National Park, the North Pennines and Northumberland Coast Areas of Outstanding Natural Beauty. 46% of the population live in an urban concentration in the South East corner which covers only 3% of the area of Northumberland. The principal towns of Ashington, Blyth and Cramlington are distinctly built up in character with modern housing developments and many industrial estates. In comparison, the rural districts of the county are very sparsely populated (0.34 people per hectare). The majority of the population live in the market towns of Alnwick, Berwick-upon-Tweed, Cramlington, Morpeth and Hexham together with a number of small towns and villages. These towns have become centres of activity for the rural areas of the county supplying services, job opportunities and community facilities.

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 reviewed and published at least every three years. The statement must also be reviewed from "time to time" and any amended parts re-consulted upon. The statement must be then re-published.

The Gambling Act requires that the following parties are consulted by Licensing Authorities:

1. The Chief Officer of Police
2. One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area
3. 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:

Northumberland County Council have consulted with:

- Councillors, Parish Councils, MPs and MEPs
- Association of British Bookmakers
- British Beer & Pub Association
- British Amusement Catering Trades Association
- Bingo Association
- Gamblers Anonymous, GamCare, The Gordon House Association
- Responsibility in Gambling Trust
- Responsible Authorities
- Holders of existing licences, permits and registrations

The consultation took place between 6th July 2018 and the 14th September 2018. Guidance issued by the Department for Business , Energy & Industrial Strategy and Home Office Guidance on Consultation Principles was followed.

The full list of comments made and the consideration by the Council of those comments is available by request to: Ms Tasmin Hardy, Licensing Manager, Business Compliance & Public Safety Unit, Housing and Public Protection Service, Northumberland County Council, Stakeford Depot, East View, Stakeford, NE62 5TR or via the Council's website at: [www.northumberland.gov.uk](http://www.northumberland.gov.uk)

The policy was approved at a meeting of the Full Council on the 9th January 2019.

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

Tasmin Hardy  
Licensing Manager  
Business Compliance & Public Safety Unit  
Housing and Public Protection Service  
Northumberland County Council  
Stakeford Depot  
East View  
Stakeford  
NE62 5TR

E-mail: [tasmin.hardy@northumberland.gov.uk](mailto:tasmin.hardy@northumberland.gov.uk)

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

## 2. The Licensing Objectives

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

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

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

The council will expect the applicant to have a good understanding of the local area in which they either operate, or intend to operate, gambling premises. As part of the application, the

applicant will provide evidence to demonstrate that in operating the premises they will promote this licensing objective.

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

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

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

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

Meaning of “child” and “young person”

(i) In this Act “child” means an individual who is less than 16 years old.

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

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

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

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

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

**Protection of vulnerable people** - It is difficult to define the term “vulnerable person”. The Gambling Commission, in its guidance to Local Authorities, does not seek to define ‘vulnerable persons’ but it does, 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, for example, mental health, a learning disability or substance misuse relating to alcohol or drugs.

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

- combating problem gambling
- access to gambling by children and young persons
- information on how to gamble responsibly and help for problem gamblers
- customer interaction
- self-exclusion
- employment of children and young persons
- Provision of credit by licensees and the use of credit cards
- Money lending between customers
- Identification of individual customers

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

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

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

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

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

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



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

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

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

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

### **3. Declaration**

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

### **4. Responsible Authorities**

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

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

In accordance with the Gambling Commission's Guidance for local authorities this authority designates the County's Safeguarding Children Board for this purpose.

### **5. Interested Parties**

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

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

- lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- has business interests that might be affected by the authorised activities, or
- represents persons who satisfy paragraphs 1 & 2 as above

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

- Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance to local authorities 8.9 - 8.17. It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.
- Interested parties referred to under S.158 of the Act in the opinion of the licensing authority also includes those individuals and organisations concerned with or involved with social welfare, addiction, public health, poverty and protection of the vulnerable. They will be deemed to represent those who live sufficiently close to the premises to be likely affected by the authorised activities.
- Interested parties can be people who are democratically elected such as Councillors and MPs, as persons representing individuals in the other categories. 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 in representing the interests of pupils or parents 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.

If individuals wish to approach Councillors to ask them to represent their views then care should be taken that the Councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the licensing section on 01670 623856 or via email: [licensing@northumberland.gov.uk](mailto:licensing@northumberland.gov.uk)

## **6. Exchange of Information**

Licensing authorities are required to include in their policy statement the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between 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 (Exchange of Information: Persons and Bodies) to the Act.

The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 2018 will not be contravened.

The licensing authority will also have regard to any guidance issued by the Gambling Commission to Local Authorities on this matter as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

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

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

## **7. Enforcement**

Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

This licensing authority's principles are that it will be guided by the Gambling Commission's Guidance for local authorities and as per that Guidance, it will endeavour to be:

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

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

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

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

This may include test purchasing activities to measure the compliance of licensed operators with aspects of the Gambling Act. When undertaking test purchasing activities,

Northumberland County Council will undertake to liaise with the Gambling Commission and the operator to determine what other, if any, test purchasing schemes may already be in place.

The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 will be to ensure compliance with the Premises Licences and other permissions which it authorises.

The Gambling Commission will be the enforcement body for the Operator and Personal Licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines will not be dealt with by the licensing authority but will be notified to the Gambling Commission.

This licensing authority will also keep itself informed of developments as regards the work of the Better Regulation Delivery Office in its consideration of the regulatory functions of local authorities.

Bearing in mind the principle of transparency, this licensing authority's enforcement/compliance protocols/written agreements will be available upon request to the Council's Licensing Manager, Tasmin Hardy, Business Compliance & Public Safety Unit, Housing and Public Protection Service, Northumberland County Council, Stakeford Depot, East View, Stakeford, NE62 5TR, Northumberland, NE61 2EF or via email: [tasmin.hardy@northumberland.gov.uk](mailto:tasmin.hardy@northumberland.gov.uk)

## **8. Licensing Authority functions**

Licensing Authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences
- Issue Provisional Statements
- Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue Club Machine Permits to Commercial Clubs
- Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where 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 above on information exchange)
- Maintain registers of the permits and licenses that are issued under these functions
- To exercise its powers of compliance and enforcement under the Act in partnership with the Gambling Commission and others

**It should be noted that local licensing authorities are not involved in licensing the National Lottery, remote gambling or spread betting. This will fall to the Gambling Commission via Operator Licences.**

It should be noted that licensing authorities are empowered to institute specified criminal proceedings under the Act and, by virtue of the powers under Part 15 of the Act, may designate an officer as an authorised person for the purposes of carrying out inspections of premises in accordance with Part 15 of the Act.

It is anticipated that the main enforcement and compliance role for licensing authorities under the Act will be to ensure compliance with the premises licences and other permissions which they will authorise.

Concerns about the manufacture, supply or repair of gaming machines will not be dealt with by this Licensing Authority, but will be notified to the Gambling Commission.

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

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

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

The Gambling Commission will be the enforcement body in relation to operating licences (which includes operating remote gambling facilities) and personal licences.

In undertaking any compliance or enforcement activities under the Act, this Licensing Authority shall:

- have regard to such guidance, as may be issued from time to time by the Gambling Commission, in particular, it will endeavour to be:
  - proportionate – it will only intervene when necessary; remedies will be appropriate to the risk posed; and costs will be identified and minimised;
  - accountable – with decisions being justifiable; and subject to public scrutiny;
  - consistent – rules and standards will be joined up and implemented fairly;
  - transparent – will be open in its actions; and licence conditions will be kept simple to understand; and
  - targeted – will be focused on problems;
- have regard to the principles set out in “The Regulators Code” by the Better Regulation Delivery Office, Department for Business, Energy & Industrial Strategy;

- have regard to any relevant guidance or best practice that may be published from time to time by other bodies; and
- have regard to any protocols that may be established from time to time for the purpose of undertaking compliance inspections and / or enforcement action.

## **PART B**

### **PREMISES LICENCES**

#### **1. General Principles**

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

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

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

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

#### **2. Location**

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

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

#### **3. Local Risk Assessment**

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

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

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

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

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

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

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

- The location of services for children such as schools, playgrounds, leisure/community centres and other areas where children will gather
- The demographics of the area in relation to vulnerable groups
- How vulnerable people, including people with gambling dependencies are protected.
- The location of educational establishments attended by persons under 18 years of age
- The location of any establishment frequented by vulnerable adults for the purpose of treatment and/or support
- The location of any establishment frequented by persons addicted to gambling for the purpose of treatment and/or support
- The layout of the local area and physical environment in which the premises are situated including any crime and disorder hotspots
- Any details of persons within Self exclusion schemes
- A register of persons under 18 who attempt to gamble
- Any test purchasing results
- An incident log of any anti-social behavior issues
- The sharing of information with nearby agencies for example treatment centres
- Protections in place for when footfall is at a highest
- Multi Operator Self Exclusions Scheme (MOSES) or similar

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

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

- the development of an educational establishment for persons under 18 years of age
- the development of an establishment at which vulnerable adults and/or persons addicted to gambling may attend for the purpose of treatment and/or support



- the licensee becoming aware of a particular risk to premises offering gambling facilities in the location of the premises
- the Licensing Authority, having received information and having consulted with the licensee upon the significance of that information, determines that this amounts to a change in local circumstances
- When there are significant changes at a licence holders premises that may affect their mitigation of local risks
- When applying for a variation of a premises licence

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

- The crime mapping website: [www.police.uk](http://www.police.uk)
- Neighbourhood statistics website: [www.neighbourhood.statistics.gov.uk](http://www.neighbourhood.statistics.gov.uk)
- Information made available by Northumberland County Council

Where concerns do exist, the council suggests that the licence holder considers consulting the most appropriate Responsible Authority for guidance before submitting an application for a licence or a variation of a licence, or where it is believed there has been a significant change in local circumstances.

When officers from the Council undertake an inspection of premises offering gambling facilities the Local Risk Assessment should be available for inspection. It is therefore a requirement that the Local Risk Assessment, or a copy, is kept on the premises at all times.

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

## 4. Decision Making

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

It is appreciated that as per the Gambling Commission's Guidance to Licensing Authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos - page 24) and also that unmet demand is not a criterion for a licensing authority.

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

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

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

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

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

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

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

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

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

## 5. Definition of “premises”

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

The Gambling Commission states in the 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 the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises.

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

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

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

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

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

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

#### **Casinos**

- The principal access entrance to the premises must be from a street (as defined at 7.23 of the Guidance).
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons.
- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence.

#### **Adult Gaming Centre**

- No customer must be able to access the premises directly from any other licensed gambling premises.

#### **Betting Shops**

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

#### **Tracks**

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

#### **Bingo Premises**

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

#### **Family Entertainment Centre**

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

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

## **6. Premises “ready for gambling”**

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

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

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

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

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

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

### **Application of the Licensing objectives**

Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission’s Guidance to Licensing Authorities and some comments are made below.

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

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

### **Ensuring that gambling is conducted in a fair and open way**

Northumberland County Council has noted that the Gambling Commission states that it

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

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

Northumberland County Council has noted the Gambling Commission's Guidance that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

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

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

### **Conditions**

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

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

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

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

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

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

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

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

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

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

## **7. Planning**

The Gambling Commission Guidance to Licensing Authorities states:

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

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

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

premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.”

## **8. Duplication with other regulatory regimes**

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

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

## **9. Door Supervisors**

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

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

## **10. Adult Gaming Centres**

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

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

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage



- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets/ helpline numbers for organisations such as GamCare

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

## **11. (Licensed) Family Entertainment Centres:**

Please note the difference between licensed and unlicensed Family Entertainment Centres. For the latter please refer to Part C of this Statement which commences at [page 39](#).

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

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

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

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

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

## **12. Casinos**

This licensing authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. However, the Council reserves the right to review this situation and may, at some time in the future, resolve not to permit casinos.

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.

### **13. Bingo premises**

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

Licensing authorities need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. An operator may choose to vary their licence to exclude a previously licensed area of that premises, and then apply for a new premises licence, or multiple new premises licences, with the aim of creating separate premises in that area. Essentially providing multiple licensed premises within a single building or site. Before issuing additional bingo premises licences, licensing authorities need to consider whether bingo can be played at each of those new premises.

#### **Protection of children and young persons**

Under the Act, children and young persons (anyone up to the age of 18) cannot be employed in providing any facilities for gambling on bingo premises, and children (under 16) cannot be employed, in any capacity, at a time when facilities for playing bingo are being offered. However, young persons, aged 16 and 17, may be employed in bingo premises (while bingo is being played), provided the activities on which they are employed are not connected with the gaming or gaming machines. Licensing authorities are able to find information about the restrictions that apply in Licence Conditions and Codes of Practice (LCCP).

Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed. Social Responsibility (SR) code 3.2.5(3) states that 'licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises' in order to prevent underage gambling.

### **14. Betting premises**

#### **Betting machines**

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

#### **Fixed Odds Betting Terminals (FOBTs)**

The Authority is concerned about the potential effects of excessive use of FOBTs by customers who may be least able to afford to lose money, coupled with the speed and ease with which they can gamble compared with other forms of gambling. Under this policy the

Council encourages operators to report vandalism of FOBTs on their premises so the council can obtain more information about the level of crime associated with the use of FOBTs within the County.

## **15. Tracks**

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

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

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

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

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

### **Gaming machines**

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

### **Betting machines**

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

### **Applications and plans**

The Gambling Act (s151) 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).

Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations. (See Guidance to Licensing Authorities, para 20.44).

Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises (See Guidance to Licensing Authorities, para 20.45).

In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined. (See Guidance to Licensing Authorities, para 20.46).

Northumberland County Council appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the “five times rule” (commonly known as betting rings) must be indicated on the plan. (See Guidance to Licensing Authorities, para 20.47).

## **16. Travelling Fairs**

Northumberland County Council is responsible for deciding whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

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

It is noted that the 27-day statutory maximum for the land being used as a fair applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land.

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

## **17. Provisional Statements**

Developers may wish to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth

taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

s204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:

- expects to be constructed;
- expects to be altered; or
- expects to acquire a right to occupy

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

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

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

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

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

- which could not have been raised by objectors at the provisional statement stage;
- which in the authority's opinion reflect a change in the operator's circumstances; or
- where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

## **18. Reviews**

Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the licensing authority to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below;

- in accordance with any relevant Code of Practice issued by the Gambling Commission;

- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the authority's statement of principles.

The request for the review will also be subject to the consideration by the authority as to whether the request is frivolous, vexatious, or whether it will certainly not cause this authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

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

Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.

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

A copy of the Council's Hearing procedure rules can be downloaded from its website or are available from the Licensing Team.

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:-

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

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

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

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

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

## PART C

### 1. Permits / Temporary & Occasional Use Notice

#### **Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits – Schedule 10 para 7)**

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

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. 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. " (24.8)

Guidance also states: "... An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application. Licensing authorities might wish to consider asking applications to demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act; and
- that staff are trained to have a full understanding of the maximum stakes and prizes. (24.9)

Applications for unlicensed FECs should be able to demonstrate:

- details of staff supervision and training
- that staff are easily identifiable
- a detailed plan of the premises
- that there is clear signage within the premises
- details of social responsibility policies

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

#### **Statement of Principles**

This licensing authority will expect the applicant to show that there are policies and procedures in place to promote the licensing objectives and may, on a case by case basis, impose assessment criteria. Harm in the context of "protecting children from harm" is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate 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. This licensing authority will also expect, as per Gambling Commission Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed 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.

With regard to renewals of these permits, a licensing authority may refuse an application for renewal of a permit only on the grounds that an authorised local authority officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with pursuit of the licensing objectives.

## **2. (Alcohol) Licensed premises gaming machine permits – (Schedule 13 Para 4(1))**

### **Automatic entitlement: 2 or less machines**

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

The licensing authority can remove the automatic authorisation in respect of any particular premises if:

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

### **Permit: 3 or more machines**

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

This licensing authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines.

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



regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would need to be applied for, and dealt with as an Adult Gaming Centre premises licence.

It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

It should also be noted that the holder of a permit to must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

### **3. Prize Gaming Permits – (Statement of Principles on Permits - Schedule 14 Para 8 (3))**

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”.

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

- that they understand the limits to stakes and prizes that are set out in Regulations;
- that the gaming offered is within the law; and
- clear policies that outline the steps to be taken to protect children from harm

In making its decision on an application for this permit the licensing authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission Guidance.

It should be noted that there are conditions in the Gambling Act 2005 with which the permit holder must comply, but that the licensing authority cannot attach conditions

The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

## 4. Club Gaming and Club Machines Permits

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

Members Clubs and Miners welfare institutes – and also Commercial Clubs – may apply for a Club Machine Permit. A Club Machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).

NB Commercial Clubs may not site category B3A gaming machines offering lottery games in their club.

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

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

The club must be conducted 'wholly or mainly' for purposes other than gaming, unless the gaming is permitted by separate regulations.

The Commission Guidance also notes that "licensing authorities may only refuse an application on the grounds that:

- the applicant does not fulfil the requirements for a members' or commercial club or miners welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- the applicant's premises are used wholly or mainly by children and/or young persons;
- an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- a permit held by the applicant has been cancelled in the previous ten years, or;
- an objection has been lodged by the Commission or the police.

There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). Commercial clubs cannot hold club premises certificates under the Licensing Act 2003 and so cannot use the fast-track procedure. As the Gambling Commission's Guidance to Licensing Authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:

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

There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

## **5. Temporary Use Notices**

Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Use Notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.

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

The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this Statement the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.

There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place".

In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.

Northumberland County Council expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

## **6. Occasional Use Notices**

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 though need to consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

Northumberland County Council will also ensure that no more than 8 OUNs are issued in one calendar year in respect of any venue.

## 7. Small Society Lotteries

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

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

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

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

Charities and community groups should contact Northumberland County Council on 01670 623856 to seek further advice.

## **Appendix A**

### **Glossary of Terms**

Within this Statement of Policy, the following words and terms are defined as stated:

Licensing Objectives: As defined in section 1 above

Council: Northumberland County Council

County: The area including Berwick upon Tweed, Wooler, Alnwick, Amble, Rothbury, Morpeth, Ponteland, Ashington, Bedlington, Blyth, Cramlington, Corbridge and Hexham administered by Northumberland County Council

Licences: Premises Licences; Temporary Use Notices; Permits as required under the Act; and Registrations as required under the Act

Applications: Applications for licences and permits

Notifications: Means notification of temporary and occasional use notices

Act: The Gambling Act 2005

Regulations: Regulations made under the Gambling Act 2005

Premises: Any place, including a vehicle, vessel or moveable structure

Code of Practice: Means any relevant code of practice under section 24 of the Gambling Act 2005

Mandatory Condition: Means a specified condition provided by regulations to be attached to a licence

Default Condition: Means a specified condition provided by regulations to be attached to a licence, unless excluded by Northumberland County Council

Responsible Authority: For the purposes of this Part, the following are responsible authorities in relation to premises:

- The Licensing Authority in whose area the premises are wholly or mainly situated ("Northumberland County Council");
- The Gambling Commission;
- Northumbria Police Constabulary;
- Northumberland Fire and Rescue Service;
- Sections of the Council which have functions in respect of minimising or preventing the risk of pollution of the environment or of harm to human health
- Safeguarding Children Board, Northumberland County Council;
- HM Customs and Excise
- The Planning Authority in whose area the premises are wholly or mainly situated ("Northumberland County Council");

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

- lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- has business interests that might be affected by the authorised activities, or
- represents persons who satisfy paragraphs 1 & 2 as above

## Annexe 1 - Delegation of Functions

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

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

## Responsible Authorities Contact Details list

RESPONSIBLE AUTHORITY	ADDRESS DETAILS
The Licensing Authority	The Licensing Section Northumberland County Council Stakeford Depot East View Stakeford NE62 5TR licensing@northumberland.gov.uk
The Gambling Commission	Gambling Commission Victoria Square House Victoria Square Birmingham B2 4BP info@gamblingcommission.gov.uk
Northumbria Police	Licensing Coordinator Northumbria Police Northumberland Area Command Bedlington Police Station Bedlington NE22 7LA
Northumberland Fire and Rescue Service	The Chief Fire Officer Northumberland Fire & Rescue Service, West Hartford Community Fire Station West Hartford Business Park, West Hartford NE23 3JP
Local Planning Authority	Head of Planning Northumberland County Council, County Hall Morpeth NE61 2EF



Environmental Health	Environmental Health Manager, Northumberland County Council, West Hartford Community Fire Station West Hartford Business Park, West Hartford NE23 3JP
Child Protection Body	Robin Harper-Coulson Local Safeguarding Children's Board Business Manager Wellbeing - Children's Safeguarding Northumberland County Council County Hall Morpeth NE61 2EF
HM Revenue and Customs	HM Revenue and Customs National Registration Unit Portcullis House 21 India Street Glasgow G2 4PZ nrubetting&gaming@hmrc.gsi.gov.uk