



Report of:	Meeting	Date
Councillor David Henderson, Leader of the Council and Garry Payne, Chief Executive	Council	2 December 2021

## Gambling Act 2003 - Statement of Gambling Policy 2022-2025

### 1. Purpose of report

- 1.1 To consider the recommendation of the Licensing Committee to adopt the Statement of Gambling Policy for 2022-2025.

### 2. Outcomes

- 2.1 To adopt a policy to support the effective regulation of gambling in the Borough and the efficient administration of the Council's licensing functions to deliver the objectives set out in Section 1 of the Gambling Act 2005, namely:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
  - Ensuring that gambling is conducted in a fair and open way.
  - Protecting children and vulnerable adults from being harmed or exploited by gambling.

### 3. Recommendation

- 3.1 That the Statement of Gambling Policy v05 (**Appendix 1**) be formally adopted by the Council to cover the period 1 January 2022 to 31 December 2024.

### 4. Background

- 4.1 The Gambling Act 2005 established the Gambling Commission, a statutory body which is responsible for issuing operating licences and personal licences to organisations and individuals who wish to provide gambling activities under the Act. The Commission is also responsible for regulating remote (on-line) gambling businesses in the UK.

- 4.2 Local authorities such as Wyre Council are responsible under the Act for issuing premises licences, permits and temporary use notices, in respect of premises where gambling takes place, such as betting shops. It is also responsible for maintaining a register of small society lotteries.
- 4.3 The council, as the relevant Licensing Authority, is required by section 349 of the Gambling Act to prepare and publish a statement of licensing policy that it proposes to apply when carrying out its functions under the Act at least every three years.
- 4.4 The policy sets out how Wyre council intends to manage and regulate local gambling provision and the expectations it places on those authorised to facilitate gambling in the Borough.

**5. Key issues and proposals**

- 5.1 Section 349(3) of the Gambling Act 2005 set out the requirements for consultation where the licensing authority intends to revise their Statement of Licensing Policy.
- 5.2 The current Gambling Policy was formally adopted by Wyre Council in October 2019 after a wide ranging public consultation exercise on the revisions made during the 2018 review.
- 5.3 The latest review has concluded that the policy does not require amending at this time and the Licensing Committee have resolved to recommend it unchanged for adoption for a further three years (Minute LIC 31 refers).
- 5.4 Most of the decisions required under the Gambling Act 2005 can be delegated either to officers or to the Licensing Committee, however the Statement of Policy must be considered and adopted by full Council.

<b>Financial and legal implications</b>	
Finance	There are no financial implications arising directly from this report with the exception of the cost of statutory advertising, which can be met from within existing budgets.
Legal	Members must take into account the Authority’s published Statement of Licensing Policy when determining licensing decisions about the provision of gambling.

**Other risks/implications: checklist**

If there are significant implications arising from this report on any issues marked with a ✓ below, the report author will have consulted with the appropriate specialist officers on those implications and addressed them in the body of the report. There are no significant implications arising directly from this report, for those issues marked with an x.

<b>risks/implications</b>	<b>✓ / x</b>
community safety	✓
equality and diversity	x
sustainability	x
health and safety	x

<b>risks/implications</b>	<b>✓ / x</b>
asset management	x
climate change	x
ICT	x
data protection	x

### **Processing Personal Data**

In addition to considering data protection along with the other risks/ implications, the report author will need to decide if a 'privacy impact assessment (PIA)' is also required. If the decision(s) recommended in this report will result in the collection and processing of personal data for the first time (i.e. purchase of a new system, a new working arrangement with a third party) a PIA will need to have been completed and signed off by Data Protection Officer before the decision is taken in compliance with the Data Protection Act 2018.

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<b>List of background papers:</b>		
name of document	date	where available for inspection
None		

### **List of appendices**

Appendix 1 - Statement of Gambling Policy v05



# Statement of Gambling Policy 2022 - 2024

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## **PART A – GENERAL MATTERS**

### **1. The Licensing Objectives**

1.1 In exercising their functions under the Gambling Act 2005, (the Act) Wyre Council as the Licensing Authority will have regard to the following three licensing objectives as set out in section 1 of the Act.

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

The Gambling Commission play a leading role in preventing gambling from being a source of crime, through maintaining rigorous procedures that aim to prevent criminals from providing facilities for gambling, or being associated with doing so, as a result of the operating licensing procedure.

The Licensing Authority will take into account any local considerations that may impact on this licensing objective, particularly in respect to the location of the premises.

When considering whether a disturbance was serious enough to constitute disorder, the Licensing Authority will have regard to the individual merits of the situation, including but not limited to whether police assistance was required and how threatening the behaviour was to those who could see or hear it.

We acknowledge that the Gambling Commission guidance to local authorities indicates that “disorder is intended to mean activity that is more serious and disruptive than mere nuisance”.

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

The Licensing Authority expects the management of a gambling business to ensure that all gambling is conducted in a fair and open way. Concerns or complaints that arise under this objective will be referred to the Gambling Commission in their role as the regulators of operators and personal licences.

The Licensing Authority however will concern itself with matters arising under this objective in respect of tracks, where the track operators will not necessarily have an operating licence. In those circumstances the Licensing Authority will consider whether conditions are required on the premises licence to ensure that the environment in which betting takes place is suitable.

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

In relation to children this requirement is explicitly to protect them from being “harmed or exploited by gambling”. In practice that means not just preventing them from taking part in gambling, but restricting advertising so that gambling products are not aimed at children, or advertised in such a way that makes them particularly attractive to children.

## 2. Introduction

- 2.1 Wyre Council recognises that gambling is a legitimate past time of many of its residents and visitors to the Borough, but also understands the problems that can be caused by debt as a result of gambling. It is therefore necessary to ensure that the necessary safeguards are in place to protect the young and vulnerable. It will, accordingly, regulate gambling in the public interest.
- 2.2 In accordance with section 153 of the Act, in making decisions about premises licences and temporary use notices the Licensing Authority will aim to permit the use of premises for gambling in so far as it considers that it is:-
- in accordance with any codes 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 this Gambling Policy Statement
- 2.3 The Borough of Wyre is situated in the north west of Lancashire and covers an area of almost 283 square miles. To the west of the River Wyre, from which the Borough took its name in the 1974 Local Government reorganisation, is the urban area which incorporates the four main townships of Poulton-le-Fylde, Thornton, Cleveleys and Fleetwood. To the east of the River Wyre is the rural area known colloquially as Over Wyre. With the exception of the fair trade town of Garstang, the communities in the Over Wyre area are centred around villages including: Hambleton; Knott End; Preesall, Pilling and Stalmine.
- 2.4 A map showing the geographical boundaries of the Borough can be found at Appendix 1.
- 2.5 <sup>1</sup>There is a thriving tourism trade within Lancashire with 67.63 million tourism visits, and day visits generate £2.06 billion for the local economy in 2017. Of this, 7% of the visitors were to Wyre (over 4.9 million) generating £372.93 million within the local economy through visitor and tourism business expenditure.
- 2.6 Wyre has a number of premises that are licensed to provide facilities for gaming, including betting shops, Adult Gaming Centres and Family Entertainment Centres. These are mostly situated on the high streets of the main towns, with a number of entertainment centres providing slot machines in Fleetwood and Cleveleys to cater for visitors to the towns. The M6 Services at Lancaster also has a betting shop, adult gaming centres and permitted centres.
- 2.7 <sup>2</sup>The total population of Wyre was estimated at 110,426 mid-2017, a 2.4% increase on the 2011 census total. That is a population density across the 282km<sup>2</sup> of Wyre being 391 people per km<sup>2</sup>. This makes Wyre the fourth most populated borough in the L-12. The most prevalent age group in Wyre is the 50-54 age group followed closely by the 55-59 age group. Wyre has a significantly higher percentage of over 50's than the NW and England.

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<sup>1</sup> [http://www.wyre.gov.uk/downloads/download/1155/state\\_of\\_wyre](http://www.wyre.gov.uk/downloads/download/1155/state_of_wyre)

<sup>2</sup> [http://www.wyre.gov.uk/downloads/download/1155/state\\_of\\_wyre](http://www.wyre.gov.uk/downloads/download/1155/state_of_wyre)

- 2.8 Population estimates and records of deaths and births show that there have been more deaths than births in Wyre (i.e. 491 less persons); despite this the population is set to increase steadily. Net migration of residents from other areas of England, Scotland, Northern Ireland and Wales into Wyre will contribute the most to the increase, with Wyre seeing the fourth largest yearly internal migration flow of 6,316 persons in the L-12 area.
- 2.9 Currently the median age population for Wyre is 49.2 years which is higher than the North West median age of 40.4 years and the Great Britain median age of 40.1. Only Fylde in the Lancashire-14 has a higher median age of 49.9.
- 2.10 The Public Health Authority report that Wyre has an above the national average for Employment and Support Allowance claimants with mental health and behavioural disorders. Two thirds of ESA claimants were likely to have common mental health disorder (CMD) compared with one in six not in receipt of the benefit. When exploring gender four in five women in receipt of ESA have CMD (81%). Of the working age population, those who are unemployed/economically inactive are more likely to experience CMD compared to those employed/active. Whilst generally it is females that present as more likely to have CMD than males, there is generally a third of economically inactive 16-64 year olds that have CMD compared to 10.9% males and 14.1% of females who are employed full time. People can have more than one CMD and the highest recorded category for those economically inactive and unemployed is general anxiety disorder followed by depressive episodes. It is worth noting that unemployment puts a person at a major disadvantage with regards to health and wellbeing, with higher rates of mortality, morbidity and lower quality of life especially for those from the lower socioeconomic groups, those socially isolated and for those whose unemployment is due to poor health.
- 2.11 There are around 51,600 dwellings in Wyre of which 92.5% are owner occupied or privately rented. On the whole larger proportions of Wyre's housing stock fall within the higher council tax bands compared to the County average, with a lower proportion in band A than other Lancashire districts.
- 2.12 2016/17 saw the highest net increase of 460 additional dwellings, recorded in the Borough this century.
- 2.13 A household is considered to be fuel poor if it has higher than typical energy costs and would be left with a disposable income below the poverty line if it met those energy costs. The measure of fuel poverty suggests that 10.8% or 5,303 households are considered to be in fuel poverty (L-12, 10.5%). This is an increase of 817 households on the 2014 figures but is below the Lancashire and England averages with Wyre ranked 137th out of 326 authorities (1st being the worst). The majority of urban fuel poor households are clustered in Fleetwood - Pharos, Warren and Mount ward, and in the rural areas they are in Pilling, Out-Rawcliffe, Winmarleigh, Forton, Nether Wyresdale and Bleasdale.
- 2.14 Wyre was ranked as the 167th (1st being most deprived) authority out of 326 districts according to the 2015 indices of multiple deprivation when measured by the rank of average rank with the 5th lowest deprivation scores in Lancashire. However, Wyre has seen the highest decline in score across Lancashire compared to the 2010 results. Wyre has 9 smaller areas in the top 10% of England's most deprived area with Pharos seeing the sharpest change for the worst. Wyre also



has 12 areas in the top 20% of least deprived areas. The distribution between the most and least affluent wards is apparent, with wards in Fleetwood recording the lowest results. Whilst less than 13% of the population of Wyre live in the most deprived areas, there are 6 small areas that fall in the worst 10% in the country and these are concentrated in Fleetwood, with Mount ward being ranked as 588th out of 32,482 smaller areas nationally (1st being most deprived in England). At the other extreme Carleton was ranked as being 31,242 out of 32,482 (one of the best rankings in the country).

- 2.15 Wyre has 55 schools; 44 primary, 8 secondary (includes 1 private school), 3 special education schools and 1 pupil referral unit and 7 children's centres.
- 2.16 Wyre has the seventh lowest percentage of children on child protection plans in the L-12 (52.2 per 10,000). The highest number of plans are in the Fleetwood wards of Rossall, Pharos, Park and Mount followed by Carleton and Bourne ward.
- 2.17 Wyre has the 6th lowest overall crime rate in the Lancashire-14 area (Sep 2017 to Aug 2018). There has been a 31% increase in all crime reported (Sep 2017 to Aug 2018) compared to the same period 2016/17, that is, 1,835 more crimes. This was similar to the Lancashire-14 area average increase, 30%. The Crime Survey for England and Wales 2018 states that an increase in crimes reported to the Police does not necessarily mean the level of crime has increased. These statistics only cover crimes that come to the attention of the police and can be affected by changes in policing activity and recording practice and by willingness of victims to report. Lancashire Constabulary had a crime data integrity inspection by HMICFRS in July 2017 which estimated that only 84% of crimes were recorded. Violent crime recording was particularly poor with only 78% of crimes recorded. Measures were put in place to improve the recording rate which will have impacted on the figures this year.
- 2.18 Pharos, Rossall and Mount wards in Fleetwood have more than double the borough average number of recorded crimes, with Rossall seeing the 4th highest increase (60.2%) in the 12 months ending August 2018 compared with the same 12 months a year earlier.
- 2.19 Applications for Premises licences falling within deprived wards will have to satisfy the Licensing Authority that the granting of a licence would not further contribute to existing deprivation levels, or otherwise undermine the protection of children and other vulnerable persons from being harmed or exploited by gambling.
- 2.20 The Gambling Act specifies a number of statutory consultees (listed below) which must be consulted when Licensing Authorities draft a revised statement of policy:-
  - 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 Act.

- 2.21 This policy was reviewed in 2021 and no changes were deemed necessary at that time.
- 2.22 The policy was approved at a meeting of the Full Council on 2 December 2021 and is adopted for three years from 1 January 2022. It is published on the Council's website and copies are available from the Licensing Office at the Civic Centre.
- 2.23 This policy does 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 application will be considered on its own merits in accordance with the statutory requirements of the Gambling Act 2005.

### **3. Licensing Authority Functions**

3.1 This policy covers all the functions of the Licensing Authority, which are:-

- Responsibility for the licensing of premises where gambling activities take place by issuing premises licences;
- Issue of provisional statements;
- Regulation of members clubs and miners welfare institutions who may wish to undertake certain gaming activities via issuing club gaming permits and/or club machine permits;
- Issue of club machine permits to commercial clubs;
- Granting of permits for the use of certain lower stake gaming machines at unlicensed family entertainment centres;
- Receiving notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of one or two gaming machines;
- Granting of licensed premises gaming machine permits for premises licensed to sell/supply alcohol for consumption on the premises where three or more machines are requested;
- Registering small society lotteries;
- Issuing prize gaming permits;
- Receiving and endorsing temporary use notices;
- Receiving occasional use notices;
- Providing information to the Gambling Commission regarding details of licences issued;
- Maintaining registers of the permits and licences that are issued under these functions;

3.2 The Licensing Authority does not have a role in the licensing of remote gambling. This is the responsibility of the Gambling Commission via Operator Licences.

#### 4. Local Risk Assessments

- 4.1 In accordance with the Gambling Commission's Licence Conditions and Codes of Practice (LCCP), licensed operators must consider local risks. The requirements for formal local risk assessments apply to all non-remote casino, adult gaming centre, bingo, family entertainment centre, betting and remote betting intermediary (trading room only) licences.
- 4.2 Licensees are required to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and develop and implement policies, procedures and control measures to mitigate those risks. In undertaking these risk assessments, they must take into account any relevant matters.

This licensing authority considers the following matters are relevant:

- Proximity of schools, youth clubs and parks to the premises
  - Population density of 0-24 year olds
  - Location of local support groups and services (if any)
  - Location of pay day loan companies (if any)
  - Location of food banks (if any)
  - Location of substance abuse treatment facilities (if any)
  - The prevalence of alcohol related hospital admissions ([www.localhealth.org.uk](http://www.localhealth.org.uk))
  - Unemployment levels ([www.nomisweb.co.uk](http://www.nomisweb.co.uk))
  - Location of homeless shelters (if any)
- 4.3 Licensees must review (and update as necessary) their local risk assessments:
- a) To take account of significant changes in local circumstances, including, but not limited to:
- New pay day loan or pawnbrokers opening in the local area
  - New educational facilities, or other facilities for young people start to operate in the local area.
  - The police advise the Licensing Authority that the area is identified as a crime hotspot. All such notifications will be shared with relevant gambling premises operators.
  - New venues relating to vulnerable groups are opened in the local area, i.e. homeless hostels, gambling or mental health care/support facilities.

Operators are also advised to refer to the Responsible Gambling Trust's guidance for reducing harm.<sup>3</sup>

b) When there are significant changes at a licensee's premises that may affect their mitigation of local risks;

c) When applying for a variation of a premises licence; and

d) In any case, when applying for a new premises licence.

4.4 The social responsibility provision is supplemented by an ordinary code provision that requires licensees to share their risk assessment with licensing authorities when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise at the request of the licensing authority.

4.5 The licensing authority expects all local risk assessments to take into account the local social profile of the area where the premises is situated.

4.6 The licensing authority expects all operators to clearly publicise their self-exclusion schemes within gambling licensed premises and provide information on national and local groups and services that offer support in relation to gambling addiction and debt.<sup>4</sup>

## **5. Declaration**

5.1 In producing this statement of policy, the 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 responses from consultees.

## **6. Responsible Authorities**

6.1 In accordance with Section 157(h) of the Act and the Gambling Commission's Guidance for Local Authorities, Wyre Council designates the Local Safeguarding Children Board as the competent authority to advise it on matters relating to the protection of children from harm.

6.2 A current list of addresses for the Responsible Authorities can be obtained from the council's licensing office.

## **7. Interested Parties**

7.1 Interested parties are invited to make representations about licence applications, or apply for a review of an existing licence. Section 158 of the Act defines interested parties as being those persons who in the opinion of the Licensing Authority:

a. "live 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

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<sup>3</sup> <https://about.gambleaware.org/>

<sup>4</sup> <https://www.gamblersanonymous.org.uk/>

- c. represent persons who satisfy paragraph (a) or (b)”
- 7.2 In determining whether someone lives sufficiently close to particular premises so as to be affected the Licensing Authority will take into account among other things:
- the size of the premises
  - the nature of the premises
  - the proposed activities at the premises
  - the distance from the premises of the person making the representation;
  - the nature of the complaint
- 7.3 In determining whether a person has a business interest which would qualify them as an interested party the Licensing Authority will consider, among other things:
- the size of the premises;
  - the catchment area of the premises, and
  - whether the person making the representation has business interest in the catchment area that would potentially be affected by the gambling activities under consideration.
- 7.4 The authority will not apply a rigid rule to its decision making and every representation will be considered on its own merits. The Licensing Authority in determining whether a person is an interested party will always have regard to the Gambling Commission’s published current Guidance to Local Authorities and this Policy.
- 7.5 The authority would generally view trade associations, trade unions, residents’ and tenants’ associations, faith groups and charities as representing interested parties, only where they can demonstrate at least one of their members meets the criteria in 7.2 or 7.3 above.
- 7.6 Interested parties can be persons who are democratically elected such as Councillors and MP’s. No specific evidence of being asked to represent an interested person will be required as long as the Councillor/MP represents a ward likely to be affected. Likewise Parish Councils likely to be affected will be considered to be interested parties.
- 7.7 Other than these persons, this authority will require written evidence that a person ‘represents’ someone who either lives sufficiently close to the premises to be likely to be affected by the authorities activities and / or business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.
- 7.8 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 Wyre’s Licensing Unit.

## 8. Exchange of Information

- 8.1 The Licensing Authority will, in accordance with Sections 29 and 30 of the Act exchange information with Gambling Commission where the request does not conflict with the Authority's duties under the Data Protection Act 2018.
- 8.2 The Licensing Authority will, in accordance with Sections 350 of the Act exchange information with other persons or bodies identified in Schedule 6 of the Act where the request does not conflict with the Authority's duties under the Data Protection Act 2018.
- 8.3 The council does not currently have any specific protocols with Schedule 6 bodies; however it will keep this position under review and establish suitable protocols where it is deemed necessary or advantageous to do so.
- 8.4 Details of persons making representations will be made available to applicants to facilitate negotiation and, in the event of a hearing being necessary, will form part of the public report. Any one making representations or applying for a review of a premises licence will be advised that their details will be disclosed.

## 9. Enforcement

- 9.1 When exercising its functions under Part 15 of the Act in respect of the inspection of premises and its powers under section 346 of the Act to instigate criminal proceedings in respect of offences, the Licensing Authority will act in accordance with the following principles and also follow the Code for Crown Prosecutors:
- **Consistency:** to ensure that similar issues are dealt with in the same way whilst taking into account
    - the attitude and actions of management;
    - the history of previous incidents or breaches
    - the likely effectiveness of the action taken.
  - **Fairness:** to ensure a fair and even handed approach that promotes decisions which are not influenced by gender, ethnic origin, religious or political beliefs or sexual preferences or by contractual or other relationships to the Licensing Authority its members or officers.
  - **Transparency:** to ensure that any enforcement action taken by the Licensing Authority is easily understood by individuals and that clear distinctions are made between legal requirements and that which is desirable.
  - **Targeting:** to ensure that any enforcement action taken is focused primarily on those activities which give rise to the most serious risk or where the risks are considered to be inadequately controlled.
  - **Proportionality:** any actions taken will reflect what is seen as necessary to achieve compliance with legislation and relate directly to the actual or potential risk to the consumer or business. Enforcement activities will be focused on those businesses or activities where:

- intelligence from partners or complainants indicate concerns  
and/or
  - evidence is found indicating deliberate breaches of the law and/or attempts to mislead officers.
- **Helpfulness:** Enforcement officers will be courteous and identify themselves by name and if requested will provide a contact telephone number. In most circumstances officers will seek to help businesses and those adversely affected by licensable activities through education in terms of regulatory requirements and procedures.
  - **Accountable:** The Licensing Authority has responsibility to the public for its actions and will provide clear, accessible policies and a fair and efficient complaints procedure.
- 9.2 The Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible, however, it will work in partnership with other regulators when issues with licensed premises are identified, to deliver a multi-agency approach to audit, compliance and complaints work.
- 9.3 The Licensing Authority intends that the regulatory burden imposed by it will be the minimum consistent with the carrying out of its statutory duties. Accordingly its approach to ensuring compliance with licence conditions and codes of practice will be to apply a lighter touch to operators deemed to be low risk and a heavier more intrusive touch to higher risk operators.
- 9.4 The Licensing Authority will adopt a risk-based inspection programme based on;
- The Licensing Objectives
  - Relevant Codes of Practice
  - Guidance issued by the Gambling Commission
  - The principles set out in this statement of licensing policy
  - Any identified local area risks
- 9.5 The primary enforcement and compliance role for the Licensing Authority is to ensure compliance with the Premises Licences and other gambling activity that it issues. It will also investigate complaints against licensed premises in respect of matters for which it has responsibility.
- 9.6 The Gambling Commission remains the appropriate enforcement body for Operating and Personal Licences, along with the supply or repair of gaming machines. The Licensing Authority will therefore refer any concerns or complaints about this area of regulated activity to the Gambling Commission.
- 9.7 There may be occasions in which particular circumstances give rise to breaches of both a premises and an operating licence. In such circumstances, it may be appropriate for the Licensing Authority and the Gambling Commission to each

review the licences for which they are responsible, with the Gambling Commission being a responsible authority in the premises licence review.

- 9.8 Where an interested party makes either a valid representation about licensed premises or a valid application for a licence to be reviewed, the Authority may initially arrange a conciliation meeting to address and clarify the issues of concern. This process will not override the right of any interested party to ask that the licensing committee consider their objections, or for any licence holder to decline to participate in a conciliation meeting.
- 9.9 The Licensing Authority will also have regard to any developments in terms of the work of the Better Regulation Executive in respect of the regulatory functions of local authorities.

## **10. Human Rights**

- 10.1 Section 6 of the Human Rights Act 1998 makes it unlawful for a local authority to act in a way which is incompatible with a Convention right (“the Convention”).
- 10.2 The Licensing Authority will ensure that it will act in accordance with the Convention when determining any application pursuant to the Act. In particular it will have regard to the following:-
- Article 1 of the First Protocol – every person is entitled to the peaceful enjoyment of his or her possessions. A licence is considered a possession in law and people should not be deprived of their possessions except in the public interest
  - Article 6 – The right to a fair hearing
  - Article 8 – The right to respect for home and family life
  - Article 10 – Right to freedom of expression

## **11. Equality**

- 11.1 The Licensing Authority shall act in accordance with its duties under the Equality Act 2010 and in particular the legal obligation placed on it to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity.

## **12. Administration, Exercise and Delegation of Functions**

- 12.1 The Licensing Committee shall deal with matters under the Gambling Act 2005.
- 12.2 To facilitate an efficient and cost-effective service to all parties involved in the licensing process, the delegation of decisions and functions is set out in the table in Appendix 3.
- 12.3 The scheme of delegation does not preclude an Officer of the Licensing Authority from referring any matter to the Licensing Committee, if it is considered appropriate in the individual circumstances to do so.



- 12.4 Decisions in respect of contested applications will be made by the Licensing Committee.
- 12.5 The applicant or any person making a relevant representation has a right of appeal to the Magistrates Court if they are aggrieved by the decision of the licensing authority.
- 12.6 Any application for an appeal has to be submitted to the magistrate's court within 21 days of being notified in writing of the decision.

## **PART B - PREMISES LICENCES**

### **13. General Principles**

- 13.1 A Premises Licence is required from the Licensing Authority where an individual or company with a valid operator's licence, issued by the Gambling Commission, wishes to offer gambling at premises located within the local authority's area.
- 13.2 A premises licence may only authorise one primary gambling activity. The types of gambling premises licences which will be considered by the Licensing Authority are:
- (a) Casino
  - (b) Bingo
  - (c) Betting
  - (d) Adult Gaming Centre
  - (e) Family Entertainment Centre
- 13.3 'Premises' is defined in the Act as "any place" and whilst Section 152 of the Act prevents more than one premises licence being in force for any 'place', it does not prohibit a single building being subject to more than one Premises Licence. Every application will be judged on its merits, but in general this authority will consider a single building to be a single premises, unless it can be shown that the parts are truly separate. Such as where different floors of a building are distant and separate or where shopping centres have discrete trading units.
- 13.4 The Authority will not support the artificial separation of premises by temporary or artificial means where it is believed that the purpose of such separation is to circumvent the intention of the Act to limit the number of gaming machines allowable at that particular type of premises. The Authority will expect all separations between different premises to be clearly defined permanent structures.
- 13.5 Before the Licensing Authority will grant multiple licences for a single building it must be satisfied that the 'places' to be licensed can reasonably be regarded as being separate premises. In so satisfying itself, the Licensing Authority will consider among other things:
- The postal address of the premises.
  - The means of access to the premises i.e. directly from the street.
  - The occupancy and ownership rights of the applicants
  - The means of assessment for business rates payable for each 'premises' and who is liable for such payments.
  - The permanency of any structures used or proposed to be used to separate 'premises'

- Whether other areas within the building are being used for non-gambling activities and their proximity to the proposed 'premises'. This is particularly persuasive when the non-licensed areas might reasonably be frequented by children or vulnerable people.
- Whether access to one licensed premises may be gained directly from another licensed premises.

The Licensing Authority will consider access provisions for individual types of licensed premises in line with the latest guidance from the Gambling Commission.

13.6 The proper application of section 152 of the Act also means that, with the single exemption of tracks (i.e. a horse race course, dog track or other premises where races or sporting events take place), different premises licences cannot apply in respect of a single premises at different times. There is no temporal element to a premises licence, therefore premises will not, for example, be licensed as a bingo hall on week days and a betting shop at weekends.

13.7 In considering applications for multiple licences for a building or for a discrete part of a building used for other non-gambling purposes the Authority will consider the following:

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from being in close proximity to gambling. Therefore the Authority will expect the premises to 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.

13.8 The Authority will expect that any premises licensed for activities such as betting or bingo, will provide that activity as the primary gambling activity and any gaming machines authorised to be provided under this licence must be subsidiary to the main activity.

### **Casinos**

- The principal access entrance to the premises must be from a street
- 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 betting shop to another premises used for the retail sale of merchandise or services.

### **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
  - A betting premises, other than a track

### **Family Entertainment Centre**

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

13.9 The Licensing Authority will consider applications for a Premises Licence in respect of any premises that it is satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building work or alterations required, before they can be brought into use.

Where the construction of a premises is not yet complete, or substantial alterations are necessary, or where the applicant does not yet have a right to occupy them, an application for a provisional statement should be made instead.

When deciding if a Premises Licence can be granted in respect of premises that requires construction or alteration works, the Licensing Authority will, apply a two stage consideration process:

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

Applicants should note that whilst the Licensing Authority is entitled to decide that it would be appropriate to grant a licence subject to conditions, it is not obliged to do so.

### **13.10 Location**

This Licensing Authority will not take into account whether or not there is a demand for gambling premises when considering applications for premises licences. It also recognises that moral objections to gambling are not a valid reason to reject applications for premises licences.

It will however pay particular attention to the need to protect children and vulnerable persons from being harmed or exploited by gambling when considering the location of premises.

It will also consider whether there is evidence that the locality suffers from incidents of crime and disorder and in these circumstances may consider it appropriate to grant a licence subject to conditions in accordance with Section 169 of the Act.

### **13.11 Planning**

The Licensing Authority will not consider whether the applicant has or is likely to obtain planning permission or building regulations approval for their proposal. These matters must be dealt with under relevant planning control and building regulations powers.

Applicants are advised that when the Council, as the local Planning Authority, considers its position under planning or building law, it will not be prejudiced by any decision of the Licensing Authority to grant a premises licence, or otherwise be prevented from taking appropriate action under those areas of legislation.

### **13.12 Duplication with other Regulatory Regimes**

The Licensing Authority will not concern itself with matters already provided for in other statutory or regulatory regimes. It will however consider any concerns that gambling conditions are not able to be met by licensees due to planning restrictions, should such a situation arise.

The Licensing Authority expects applicants to comply with their duties under the Fire Safety Regulatory Reform Order, which requires that any premises that is subject of a Licence must have a documented Fire Risk Assessment.

### **13.13 The Licensing Objectives**

When considering applications, the Licensing Authority is directed to aim to permit where the granting of a licence would be reasonably consistent with the licensing objectives.

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

If there is evidence that the premises under consideration is in a locality which suffers from problems with organised crime, or general crime and disorder, the Licensing Authority will consider firstly whether it is appropriate to grant a licence to permit gambling premises in that location. If it is satisfied that it is, it will then consider whether in the circumstances it should attach conditions to the licence in accordance with Section 169 of the Act.

Where an application is received for a premises licence in an area which has high levels of organised crime or a history of crime and disorder the Licensing Authority will pay particular attention to the proposed location of the gambling premises in terms of this licensing objective.

This Licensing Authority is aware of the distinction between disorder and nuisance and will only seek to address issues of disorder under the Act if the disorder amounts to activity that is more serious and disruptive than mere nuisance. A disturbance could be serious enough to constitute disorder if police assistance was required to deal with it.

Another factor this Authority will take into account is how threatening the behaviour was to those who could see or hear it, whether those people live sufficiently close to be affected or have business interests that might be affected.

As it is a requirement for any applicant for a premises licence to also hold an operating licence, this Authority will not investigate the suitability of an applicant. However, if any information becomes apparent during the course of the processing an application which causes concern, the details will be forwarded to the Gambling Commission.

This Licensing Authority places a considerable importance on the prevention of crime and disorder, and will fulfil its duty under s17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the Borough. A high standard of control by the licensee is expected to be exercised over licensed premises. Applicants will be encouraged to discuss any necessary crime prevention procedures in their premises with the Authority's Licensing Officers and Lancashire Constabulary before making a formal application.

This Authority will take into account any representations made by responsible authorities, including the police, when deciding if a particular application would be detrimental to this licensing objective and potentially result in an increase in crime and disorder.

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

The Licensing Authority expects the management of all gambling business will ensure that all gambling is conducted in a fair and open way. Concerns or complaints that arise under this objective will be referred to the Gambling Commission in their role as the regulators of operators and personal licences.

The Licensing Authority however will concern itself with matters arising under this objective in respect of tracks, where the track operators will not necessarily have

an operating licence. In those circumstances the Licensing Authority will consider whether conditions are required on the premises licence to ensure that the environment in which betting takes place is suitable.

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

In relation to children this requirement is explicitly to protect them from being “harmed or exploited by gambling”. In practice that means not just preventing them from taking part in gambling, but restricting advertising so that gambling products are not aimed at children, or advertised in such a way that makes them particularly attractive to children. The Licensing Authority will therefore consider whether specific measures are required at particular premises with regard to this licensing objective.

The Authority will consult with the Lancashire Safeguarding Children’s Board on any application that indicates there may be concerns over access for children or vulnerable persons.

Each separate application will be judged on its merits before a decision is taken as to whether conditions to protect children are imposed on particular premises. These may include such requirements as:-

- supervision of entrances,
- segregation of gambling from other areas where children are admitted
- supervision of gaming machines in non-adult gambling specific premises
- the introduction of ‘proof of age’ schemes

The Licensing Authority will pay particular attention to any Codes of Practice which the Gambling Commission issues as regards this licensing objective in relation to specific premises such as casinos.

- specify steps that the premises licence-holder must take to ensure that children and young persons (that is those under the age of 18) do not enter casino premises, or in the case of the regional casino do not enter the gambling area;
- amongst those specified steps, ensure that each entrance to the casino or gambling area is supervised by at least one person (“the supervisor”) who is responsible for compliance with the code of practice; and
- require that, unless the supervisor is certain that a person seeking admittance is an adult, evidence of age must be required of all those seeking to enter the casino or gambling area.

The term “vulnerable persons” is not defined by the Gambling Commission or the legislation. For regulatory purposes this policy assumes that this group includes:

- people who gamble more than they want to;

- people who gamble beyond their means;
- people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.

The Licensing Authority will consider this licensing objective on a case by case basis and seek to balance the need to introduce measures to protect vulnerable adults against the overall aim to permit the use of premises for gambling.

### 13.14 **Conditions**

The Act allows for conditions to be attached to premises licences:-

- automatically, having been prescribed in the Act
- being attached by virtue of a Regulation made by the Secretary of State
- at the discretion of the Licensing Authority

The Licensing Authority is specifically precluded from conditions on licences which:-

- make it impossible to comply with an operating licence condition;
- relate to gaming machine categories, numbers, or methods of operation;
- provide that membership of a club or body is necessary to participate in the gambling facilities;
- relate to stakes, winnings or prizes.

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

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;
- fair and reasonable in relation to the scale and type of premises; and
- reasonable in all other respects

13.15 The Licensing Authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling



from non-gambling areas frequented by children and the supervision of gaming machines in non-adult gambling premises in order to pursue the licensing objectives.

13.16 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 machines are located;
- access to the area where the machines are located is supervised;
- the area where the machines are located is arranged so that it can be observed by the staff of the licence holder;
- 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.

13.17 The Licensing Authority is aware that tracks may be subject to one, or more than one premises licence, provided each licence relates to a specified area of the track. The Licensing Authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling in areas where they are not permitted to enter.

#### 13.18 **Door Supervisors**

Where the Licensing Authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access, for example by children or vulnerable persons, it may require that the entrances to the premises are controlled by door supervisors. In such circumstances the Licensing Authority will impose a condition on the premises licence to this effect.

Where it is decided that supervision of entrances/machines is appropriate for particular cases, the Licensing Authority will also consider whether it is appropriate for such supervisors to be SIA licensed. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary.

### 14. **Adult Gaming Centres**

14.1 These premises are entitled to provide gaming machines which pay out higher jackpots. The numbers and categories of higher jackpot machines that can be placed in adult gaming centres are specified in regulations made by the Secretary of State.

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 the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises. Matters such as the position of entrances, supervision and the use of any other parts of the premises will be relevant. Appropriate licence conditions may cover issues such as:

- Proof of age schemes
- CCTV
- Door supervisors
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Training for staff on how to deal with suspected truant school children on the premises
- Self-exclusion schemes
- Provision of information leaflets/helpline numbers for organisations such as Gam Care.

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

## **15. Licensed Family Entertainment Centres**

- 15.1 Licensed family entertainment centres are permitted to provide category C and D gaming machines. Unlicensed family entertainment centres may only provide category D machines. No limits are set on the numbers of machines in these categories.

Children and young persons are permitted in family entertainment centres but are not permitted to use any category C machines. In determining applications the Licensing Authority will consider any guidance issued by the Gambling Commission regarding the marking and segregation of such machines and the level of supervision required to protect children.

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 the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas. Appropriate licence conditions may cover issues such as:

- Proof of age schemes
- CCTV
- Door supervisors
- 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
- Staff training
- 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.

- 15.2 The Licensing Authority will inform itself as to the presence of any conditions that apply to operator licences covering the way in which the area containing the category C machines should be delineated, along with any mandatory or default conditions relevant to these premises licences.

## **16. Casinos**

- 16.1 No Casinos resolution – The Licensing Authority has not passed a ‘no casino’ resolution under Section 166 of the Gambling Act 2005. Should the Licensing Authority decide in the future to pass such a resolution, it will update this policy statement accordingly.
- 16.2 If the Secretary of State, by regulation, enables the Authority to issue a new casino licence it is aware that there may be a number of operators wishing to run such a casino. In such circumstances, this Licensing Authority will determine who the successful bidder is by following the procedure laid out in Schedule 9 of the Act and in line with any regulations or codes of practice issued under the Gambling Act 2005
- 16.3 Betting machines – The Licensing Authority will 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 and circumstances of betting machines that an operator may wish to offer.

## **17. Bingo Premises**

- 17.1 This Licensing Authority acknowledges that children and young people may enter bingo premises, but are not permitted to take part in bingo or use category B and C machines that are on the premises. This Authority will wish to ensure that sufficient measures are in place to prevent children participating in these activities.

The Licensing Authority will satisfy itself that bingo may be played in any bingo premises for before they issue a Premises Licence. This will be a relevant consideration where the operator of an existing bingo premises applies for a new premises licence.

The Licensing Authority will take into account guidance or codes of practice from the Gambling Commission on the suitability and layout of bingo premises when determining any applications for premises licences, including the requirement that:-

- all category B and C gaming machines are located in an area of the premises 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 the machines are located;
- access to the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
- at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

## **18. Betting Premises**

- 18.1 Children are not permitted to enter premises licensed for betting and therefore this Licensing Authority will carefully consider the measures an applicant for a premises licence will be taking to prevent this.

- 18.2 Betting machines – The Licensing Authority will 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 vulnerable people, when considering the number, nature and circumstances of betting machines an operator may wish to offer.

- 18.3 The Licensing Authority recognises that certain bookmakers may have a number of premises within the area. In order to ensure that any compliance issues are recognised and resolved at the earliest stage, operators are requested to give the authority a single named point of contact, who should be a senior individual, and whom the authority will contact first should any compliance queries or issues arise.

## **19. Tracks**

- 19.1 The Licensing Authority is aware that tracks may be subject to one or more than one Premises Licence, provided each licence relates to a specified area of track. The Licensing Authority will particularly consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed

or exploited by gambling) to ensure that entrances to each type of premises are distinct and that children are excluded from licensed areas that they are not permitted to enter.

19.2 The Authority 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 are permitted to enter the 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.

19.3 The Licensing Authority will consider measures to meet the licensing objectives such as:

- Proof of age schemes
- CCTV
- Door supervisors
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- The location of gaming machines
- 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.

19.4 This Authority will attach a condition to any track premises licences issued requiring the track operator to ensure that the rules 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.)

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

19.6 Betting machines – The Licensing Authority will 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 and circumstances of betting machines an operator proposes to offer.

- 19.7 This Licensing Authority accepts the Commission’s view that it would be preferable for all self-contained premises operated by off-course betting operators on track, to be the subject of separate premises licences. This will ensure that there is clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

## 19.8 Applications and plans

Section 51 of the Gambling Act 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 may also be used for the Licensing Authority to plan future premises inspection activity.

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 all the information required by regulations.

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.

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 premises boundary does not need to be defined.

This Licensing Authority requires applicants to provide:

- detailed plans for the racetrack itself and the area that will be used for temporary “on-course” betting facilities (often known as the “betting ring”). Such plans should make clear what is being sought for authorisation under the track betting premises licence and any other areas that are subject to a separate application for a different type of premises licence.
- in the case of dog tracks and horse racecourses - fixed and mobile pool betting facilities operated by the Tote or track operator
- any other proposed gambling facilities

## 20. Travelling Fairs

- 20.1 The Act defines a travelling fair as wholly or principally providing amusements, this Licensing Authority will decide, in each case, whether this the statutory definition is met on the evidence available. The Licensing Authority will also consider whether the statutory requirement that any facilities for gambling provided, amount to no more than an ancillary amusement at the fair, is met.

20.2 It is recognised that land may only be used for a travelling fair up to a maximum of 27 days in any calendar year and that such use applies to the piece of land in question, regardless of whether it is the same or different travelling fairs occupying the land. This Licensing Authority will monitor whether land is used in excess of the statutory limit and will work with its neighbouring authorities to ensure that land that crosses its boundaries is similarly monitored so that the statutory limits are not exceeded.

## **21. Provisional Statements**

21.1 The Licensing Authority considers that it is a question of fact and degree whether premises are finished to the extent that they can be considered for a Premises Licence.

21.2 Developers may wish to apply to the 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

21.3 Section 204 of the Gambling Act 2005 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 and the applicant is obliged to give notice of the application in the same way. Responsible Authorities and interested parties may make representations and there are rights of appeal.

Unlike a 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 the provisional application is made.

21.4 The holder of the 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 subsequent premises licence application. Representations about premises licence applications that follow the grant of a provisional statement will be disregarded 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

21.5 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:

- a) Which could not have been raised by objectors at the provisional licence stage; or
- b) Which in the authority's opinion, reflect a change in the operator's circumstances; or
- c) Where the premises has not been constructed in accordance with the plan submitted with the application.

## **22. Reviews**

22.1 The review of a premises licence may be instigated by this Licensing Authority or at the request of a responsible authority or interested party.

A request for review will not be granted by this Authority unless it is: is "relevant"

- 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

22.2 The Licensing Authority will similarly not hold a review if, in the opinion of the authority, the grounds:-

- are frivolous
- are vexatious
- 'will certainly not' cause the authority to revoke or suspend a licence or to remove, amend or attach conditions on the premises licence.
- are substantially the same grounds cited in a previous application for a review relating to the same premises
- are substantially the same as representations made at the time of an application for a premises licence.

22.3 The Licensing Authority may initiate a review of a particular premises licence, or a particular class of premises licences, if complaints are made against the use made of those premises or the measures put in place by licensees to comply with licence conditions.

22.4 Or it may decide to initiate a review of a licence or a class of premises licences on the basis of any reason relevant to its duties and functions under the Act, which it thinks is appropriate.

22.5 The Licensing Authority may also initiate a review of a premises licence on the grounds that the 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.

- 22.6 Once a valid application for a review has been received by the Licensing Authority, representations may be made by responsible authorities and interested parties during a 28 day consultation period. This period begins 7 days after the application is received by the Licensing Authority, who will publish notice of the application within 7 days of receipt.
- 22.7 The Licensing Authority will carry out the review as soon as possible after the 28 day period for making representations has passed.
- 22.8 The purpose of the Review is to determine whether the Licensing Authority should take any action in relation to the licence. If action is deemed necessary, the options available to the Licensing Authority are:
- a) Add, remove or amend a licence condition imposed by the Licensing Authority;
  - b) Exclude a default condition imposed by the Secretary of State or Scottish Ministers (e.g. opening hours) or remove or amend such an exclusion;
  - c) suspend the premises licence for a period not exceeding three months;
  - d) revoke the premises licence
- 22.9 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 Gambling Act 2005, as well as any relevant representations.
- 22.10 Following the completion of a review, the Licensing Authority will notify its decision as soon as possible to:
- the licence holder
  - the applicant for review (if any)
  - the Gambling 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 AND OCCASIONAL USE NOTICES**

### **23. General Principles**

The Act permits a number of gambling activities to take place outside of the licensing regime. These are authorised by permits issued by the Authority and are:-

- Unlicensed family entertainment centres
- Alcohol licensed premises gaming machine permits
- Prize gaming permits
- Club gaming permits and club machine permits

### **24. Unlicensed Family Entertainment Centre (UFEC) Gaming Machine Permits**

24.1 The Licensing Authority will consider applications for a permit where the applicant does not hold a Premises Licence but wishes to provide gaming machines. The applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.

24.2 When determining the suitability of an applicant for a permit the Licensing Authority will have regard to the licensing objectives and any relevant guidance issued by the Gambling Commission.

24.3 The Licensing Authority will place considerable weight on child protection issues given the appeal that these types of premises have for children and young persons.

24.4 The Licensing Authority will only grant a permit, if it is satisfied that the premises will be used as an unlicensed FEC and that the chief officer of police has been consulted on the application and has no objections.

24.5 **Statement of Principles** – The Licensing Authority expects all applicants to demonstrate

- Suitable and sufficient policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits;
- Appropriate measures and training for staff in respect of suspected truanting school children on the premises;
- Appropriate measures and training for staff in dealing with children causing perceived problems on/around the premises;
- That the applicant and all staff have a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FEC's;
- That the applicant has no relevant convictions;

- A scale plan of the premises must be provided by all applicants.

24.6 The Licensing Authority may refuse to renew a permit if an authorised local authority officer has been refused access to the premises without reasonable excuse, or where renewal would not be reasonably consistent with pursuit of the licensing objectives.

## **25. Alcohol Licensed Premises Gaming Machine Permits**

25.1 There is provision in the Act for the licence holder of premises licensed to sell alcohol for consumption on the premises under the Licensing Act 2003, to be entitled, on notification and subject to the relevant fee, to provide two gaming machines, of categories C and/or D.

The automatic entitlement to have two such gaming machines ceases, when the holder of the premises licence gives up their interest in the licence.

Any subsequent holders of the premises licence are required to notify the Licensing Authority of their intention to make the gaming machines available for use and pay the prescribed fee.

The Licensing Authority may remove the automatic authorisation in respect of any particular premises where:

- The provision of such machines is not reasonably consistent with the pursuit of the licensing objectives; or
- Gaming has taken place on the premises that breaches a condition of Section 282 of the Act; or
- The premises are mainly used for gaming; or
- An offence under the Act has been committed on the premises.

25.2 Where a premises wishes to have more than two machines, it must apply for a Licensed Premises Gaming Machine Permit. The Licensing Authority must consider that application based upon the licensing objectives, any relevant guidance issued by the Gambling Commission and “such matters as it thinks relevant”.

The Licensing Authority considers that “such matters” will be decided on a case by case basis, but primarily there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling. It will expect the applicant to satisfy the Authority that there will be sufficient measures in place, to ensure that children under 18 years do not have access to the adult only gaming machines which must be operated in accordance with the Gambling Commission’s Code of Practice.

25.3 Applications for permits for between two and four machines will ordinarily be granted by officers under delegated powers, unless the nominated Director considers that due to the circumstances in a particular case, the matter should be determined by the Licensing Committee.

- 25.4 Applications for five or more machines will be determined by the Licensing Committee
- 25.5 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. In these circumstances applicants would have to apply for an Adult Entertainment Centre Premises Licence.
- 25.6 The Licensing Authority reserves the right to grant any application with a smaller number of machines and, or a different category of machines than applied for.

## **26. Prize Gaming Permits**

- 26.1 The Gambling Act 2005 states that a Licensing Authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the Licensing Authority proposes to consider in determining the suitability of the applicant for a permit”.
- 26.2 **Statement of Principles** - The applicant should set out the types of gaming that he or she is intending to offer and demonstrate that in each case:
- they understand the limits to stakes and prizes prescribed in Regulations;
  - any gaming offered is lawful;
  - there are clear policies that outline the steps to be taken to protect children from harm
- 26.3 In determining an application for a Prize Gaming Permit the Licensing Authority will have regard to any relevant Gambling Commission guidance and may have regard to the licensing objectives.
- 26.4 The Licensing Authority will not attach conditions to a permit other than those contained in the Act, which are:
- 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) 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.

## **27. Club Gaming and Club Machines Permits**

- 27.1 Members Clubs and Miners’ welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Club Gaming Machine Permit.

A Club Gaming Permit will enable the premises to provide no more than a total of 3 gaming machines from category B3A B4, C or D, (but max 1 B3A), equal chance gaming and games of chance in accordance with Regulations.

A Club Gaming Machine Permit will enable the premises to provide up to 3 gaming machines from categories B3A, B4, C or D).

27.2 Before granting a Club Gaming Permit or a Club Gaming Machine Permit, the Licensing Authority must be satisfied that the club meets the requirements of the Act to be eligible for a Gaming Permit, or a Gaming Machine Permit.

These include that members' clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. (This may cover bridge and whist clubs). A members' club must be permanent in nature, not established to make commercial profit, and be controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations

27.3 The Licensing Authority will only refuse an application where:

- 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.

27.4 Under the 'fast-track' procedure available for premises which hold a Club Premises Certificate issued under the Licensing Act 2003 the only grounds on which an application under the process may be refused are:

- that the club is established primarily for gaming, other than gaming prescribed by regulation under section 266 of the Act;
- 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".

27.5 Club Gaming Permits will be issued subject to statutory conditions that:

- no child uses category B or C machines on the premises

- the holder complies with any relevant provision of a code of practice about the number, category, location and operation of gaming machines.

The Gambling Commission has issued a Code of Practice under S24 of the Act in respect of exempt equal chance gaming the provisions, which should be followed to ensure good practice measures are adopted for the provision of gaming.

## **28. Temporary Use Notices (TUNs)**

28.1 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 TUN, could include hotels, conference centres and sporting venues.

28.2 The Licensing Authority will only grant a TUN to a person or company holding a relevant operating licence.

28.3 Restrictions on what form of gambling can be authorised by TUNs is set out in SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007, in summary TUN's may only be used to authorise:

- Gambling that is authorised by the applicants Operating Licence
- Gambling for a maximum of 21 days in any 12 month period for any or all of a named set of premises
- Facilities for equal chance gaming where the gaming in each tournament is intended to produce a single overall winner

28.4 TUN may not be used to authorise the provision of gaming machines.

28.5 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. A large exhibition centre, would be likely to come within the definition, as it is properly one premises, and should not be granted a temporary use notices for 21 days in respect of each of its exhibition halls. But in relation to other covered areas, such as shopping centres, this Authority will consider whether different units are in fact different “sets of premises”, given that they may be occupied and controlled by different people.

28.6 This Authority is likely to object to notices where it appears that their effect would be to permit regular gambling in a place that could be reasonably be considered to be one set of premises.

28.7 The Licensing Authority will hold a hearing if an objection notice is served unless all parties agree that a hearing is unnecessary. In determining at a hearing whether to allow a temporary use notice to have effect the Licensing Authority will aim to permit the provision of gambling facilities in so far as it considers that it is :-

- In accordance with any code of practice or guidance issued by the Gambling Commission;
- Reasonably consistent with the licensing objectives; and

- In accordance with this Gambling Policy Statement

## **29. Occasional Use Notices**

29.1 The Licensing Authority has very little discretion as regards these notices but will ensure that the statutory limit of 8 days in a calendar year is not exceeded. It will also give careful consideration to the definition of a “track” and whether the applicant is entitled to avail themselves of such a notice.

## **30. Small Society Lotteries**

30.1 This Licensing Authority will take account of any guidance issued by the Gambling Commission in registering and controlling non-commercial societies which are established and conducted:-

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

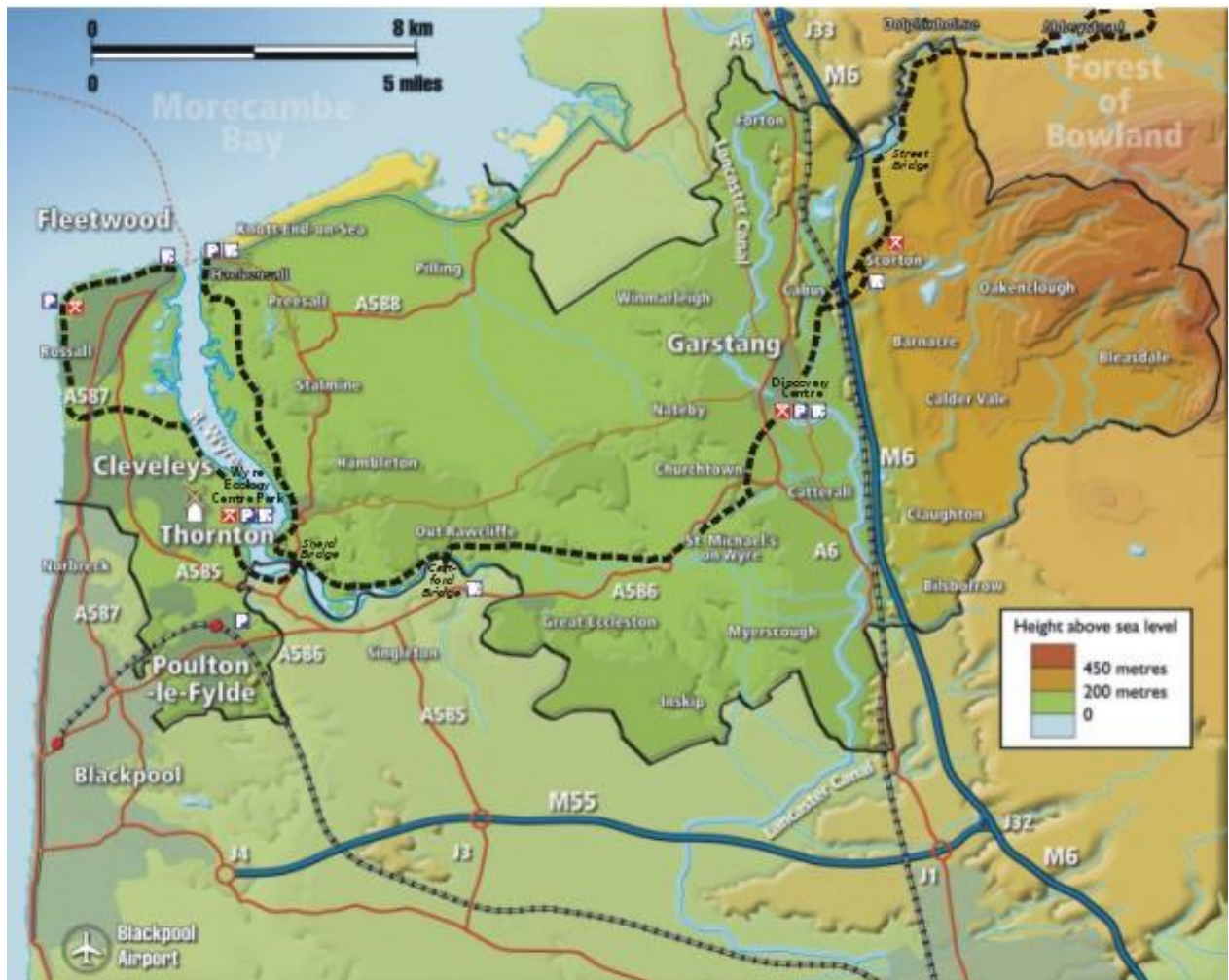
30.2 The Licensing Authority will adopt a risk based approach towards its enforcement responsibilities for small society lotteries and considers that the following list, although not exclusive, is likely to affect the risk status of the operator:

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

30.3 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 when 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

Map of Wyre Borough



Wyre Council Licensing  
 Civic Centre  
 Breck Road  
 Poulton-le-Fylde  
 Lancashire  
 FY6 7PU

licensing@wyre.gov.uk



## Summary of Licensing Authority delegations permitted under the Gambling Act

Matter to be dealt with	Full Council	Licensing Committee	Delegated to Officers
Policy	X		
Policy not to permit casinos	X		
Discretionary fees		X	
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Gambling Commission	Where no representations received from the Gambling Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Review of a premises licence		X	
Application for club gaming or club machine permits		Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Cancellation of club gaming or club machine permits		X	
Applications for gaming machine permits in premises licensed under the Licensing Act 2003		For more than 4 machines	For up to 4 machines
Applications for other permits			X
Decisions as whether representations are frivolous, vexatious or likely to have no influence on a decision			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	

### Summary of Gaming Machine Categories

Category of machine	Maximum Stake	Maximum Prize
A	Unlimited	Unlimited
B1	£5	£10,000
B2	£2	£500
B3	£2	£500
B3A	£2	£500
B4	£2	£400
C	£1	£100
D - non-money prize	30p	£8
D - non-money prize (crane grab machines only)	£1	£50
D - money prize	10p	£5
D - combined money and non-money prize	10p	£8 (of which no more than £5 be a money prize)
D - combined money and non-money prize (coin pusher or penny falls machine)	20p	£20 (of which no more than £10 may be a money prize)

**NB** The figures quoted above may periodically be changed by secondary legislation