

# LICENSING COMMITTEE AGENDA



**Wednesday 21 October 2009**

**at 2.00 p.m.**

**in Committee Room B,  
Civic Centre, Hartlepool**

**MEMBERS: LICENSING COMMITTEE:**

Councillors Aiken, S. Akers-Belcher, Atkinson, R W Cook, Fleet, Fleming, Griffin, Hall, Jackson, Laffey, London, McKenna, Morris, Rogan and Tumilty.

- 1. APOLOGIES FOR ABSENCE**
- 2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**
- 3. MINUTES**
  - 3.1 To confirm the minutes of the meeting held on 29 July 2009.
- 4. ITEMS REQUIRING DECISION**
  - 4.1 Executive Private Hire Vehicles – *Head of Procurement, Property and Public Protection*
  - 4.2 Gambling Act 2005 Statement of Licensing Principles - *Head of Procurement, Property and Public Protection*
- 5. ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT**

# LICENSING COMMITTEE

## MINUTES AND DECISION RECORD

29<sup>th</sup> July 2009

The meeting commenced at 2.00pm in the Civic Centre, Hartlepool

### **Present:**

Councillor George Morris (In the Chair)

Councillors: Martyn Aiken, Reuben Atkinson, Rob Cook, Mary Fleet,  
Tim Fleming, Sheila Griffin, Gerard Hall, Frances London,  
Chris McKenna and Victor Tumilty

Also Present: In Accordance with Council Procedure Rule 4.2 (ii)  
Councillor Christopher Akers-Belcher as substitute for  
Councillor Stephen Akers-Belcher

Officers: Alison Mawson, Head of Community Safety and Prevention  
Sylvia Pinkney, Consumer Services Manager  
Ian Harrison, Principal Licensing Officer  
Tony Macnab, Solicitor  
David Cosgrove, Principal Democratic Services Officer  
Jo Wilson, Democratic Services Officer

Also Present: Inspector Peter Knights

### **1. Apologies for Absence**

Apologies were received from Councillors Stephen Akers-Belcher and Peter Jackson.

### **2. Declarations of interest by members**

None

### **3. Confirmation of the minutes of the meeting held on Wednesday 29<sup>th</sup> July 2009**

The minutes were confirmed as a true record.

## **4. Licensing Committee Sub Committee Memberships** (Assistant Chief Executive)

### **Purpose of report**

To re-appoint and fill vacancies in the Licensing Act Sub Committees and Hackney Carriage and Private Hire Sub Committees.

### **Issue(s) for consideration by the Committee**

Following recent changes to the membership of the Licensing Committee some amendments to the sub-committee memberships were required. There were five Licensing Act Sub-Committees comprising three members on each and three Hackney Carriage and Private Hire Licensing Sub-Committees comprising five members on each. Details of the proposed Sub-Committee memberships had been circulated prior to the meeting.

### **Decision**

- (a) That the chairs and memberships of the Licensing Act Sub-Committees be confirmed as follows:

Licensing Act Sub Committee 1 – Councillors Morris (Ch.), Aiken and Laffey

Licensing Act Sub Committee 2 – Councillors Tumilty (Ch.), Fleet and McKenna

Licensing Act Sub Committee 3 – Councillors R Cook (Ch.), Atkinson and Griffin

Licensing Act Sub Committee 4 – Councillors Hall (Ch.), S Akers-Belcher and Fleming

Licensing Act Sub Committee 5 – Councillors Rogan (Ch.), Jackson and London

- (b) That the Chairs and memberships of the Hackney Carriage and Private Hire Licensing Sub-Committees be confirmed as follows:

Hackney Carriage and Private Hire Licensing Sub Committee 1 – Councillors Tumilty (Chair) Aiken, Fleet, McKenna and Morris

Hackney Carriage and Private Hire Licensing Sub Committee 2 – Councillors Hall (Chair), S Akers-Belcher, Fleming, Laffey and London

Hackney Carriage and Private Hire Licensing Sub Committee 3 – Councillors R Cook (Chair), Atkinson, Griffin, Jackson and London

## **5. Gambling Act 2005 Statement of Licensing Principles** (*Head of Procurement, Property and Public Protection*)

### **Purpose of report**

To consider a draft Statement of Licensing Principles as required by the Gambling Act 2005.

### **Issue(s) for consideration by the Committee**

Members were advised that the Gambling Act 2005, which had come into force in 2007, had transferred a range of licensing responsibilities to local authorities and the newly formed Gambling Commission. Activities within Council control included bingo halls, betting shops, amusement arcades and casinos. Under the requirements of the Gambling Act licensing authorities must publish a statement of the principles that they propose to apply in exercising their functions under the Act – commonly referred to as a licensing policy. This must be done every three years and as Hartlepool's first policy was published in January 2007 a new policy was due for publication no later than January 2010.

A draft policy was appended to the report. In order to meet the Government's suggested three month consultation period the draft policy had been circulated amongst a range of consultees with a closing date for responses of 18<sup>th</sup> September 2009. While there were no substantive changes to the policy approved in 2007 it was now a requirement for licensing authorities to give reasons for adopting a 'No Casino' resolution. This would give members an opportunity to consider whether this resolution should remain, if so reasons would need to be given.

Members felt it would be preferable to delay debate on this issue until the deadline for consultation responses.

### **Decision**

- I. That the contents of the report be noted
- II. That consideration of the draft Statement of Licensing Principles be deferred to the next meeting

## **6. Licence Applicants with Previous Criminal Convictions** (*Head of Procurement, Property and Public Protection*)

### **Purpose of report**

To update Members on the effect of a change to the procedure for the consideration of taxi applicants who have previous criminal convictions.

### **Issue(s) for consideration by the Committee**

In July 2008 members had approved a change to the procedure for the consideration of hackney carriage and private hire drivers who had previous criminal convictions whereby in certain circumstances their suitability would be considered by a panel of officers representing Adult and Community Services, Children's Services and Public Protection. Previously applicants with any criminal convictions had automatically been referred to a licensing sub-committee for consideration but members had felt that in some cases this was unnecessary. Decisions as to who should be considered by the officer panel and who should be brought to a licensing sub-committee were based on the guidance used by members when considering the relevance of previous convictions.

As this policy had been in place for a year details were provided of those drivers approved by the officer panel and those forwarded onto a licensing sub-committee following consideration by the officer panel. Ten drivers had had their licences granted without reference to a licensing sub-committee with one being referred to the sub-committee following consideration by the officer panel. In this case the licence had subsequently been granted by the sub-committee.

Concerns were raised at the nature of some of the offences which had been deemed 'insignificant' by the officer panel, such as theft and assault. However the Principal Licensing Officer advised that the length of time since the offence occurred and whether police had issued a caution for it were taken into consideration when deciding the relevance of offences. It was also suggested that anyone with a previous history of indecency offences should be barred from transporting children. The Solicitor expressed reservations at a complete ban of this nature, however Members felt that the policy was only there for guidance, with individual sub-committees making the ultimate decision. The Principal Licensing Officer felt the wording of the policy could be strengthened to preclude consideration of these cases for 8-10 years. This was supported by members.

With reference to the decision to consider some cases using an officer panel rather than through sub-committee a Member queried whether this practice could be extended to Licensing Act sub-committees as in some cases he felt members were given no option other than to allow a licence application. These comments were noted however the majority of members felt that it was better to hear these cases in front of public objectors. If cases were heard behind closed doors this would give the wrong impression. In addition the Solicitor indicated that under the terms of the Licensing Act there had to be a public hearing unless the interested parties were able to reach agreement.

### **Decision**

- I. That the report be noted

- II. That the policy for the consideration of previous criminal convictions for indecency offences be amended to preclude consideration for 8-10 years.

## **7. Designated Public Places Order – Borough Wide Coverage** *(Head of Community Safety and Prevention)*

### **Purpose of report**

To provide the Licensing Committee with evidence of anti-social drinking and nuisance across the Borough, in order that the introduction of a Borough wide Designated Public Places Order could be considered.

### **Issue(s) for consideration by the Committee**

In September 2008 members received a report on the legal implications of introducing a town-wide Designated Public Places Order (DPPO). Two DPPOs had previously been introduced covering various areas across the town including residential streets, shopping parades and parks and it had been felt by officers that there were a number of additional areas where a third DPPO could be considered. However Members had requested that evidence be sought from the Police and Anti-Social Behaviour Unit of alcohol fuelled anti-social behaviour in all areas of Hartlepool to assist in achieving a town-wide designation.

The Head of Community Safety and Prevention gave this evidence in the form of a power-point presentation which showed a map of the Borough with instances of alcohol-fuelled anti-social behaviour superimposed upon it. Inspector Knights commented that although the evidence showed most incidents occurred in populated areas, a town-wide DPPO would be beneficial to the police as it could sometimes be difficult to be sure whether they were policing a designated area or not. This would provide another tool for them to use in appropriate circumstances. However the Solicitor advised that in order to justify a town-wide DPPO there would need to be evidence of drink fuelled anti-social behaviour in every street in Hartlepool. Members debated the merits of a town-wide DPPO as against expanding the current areas. It was noted that whatever decision the Committee made based on the evidence, a full consultation would still need to be undertaken and the results brought back to the Licensing Committee for consideration, before a DPPO can be made.

### **Decision**

That areas showing evidence of incidents of alcohol-fuelled anti-social behaviour as identified during the meeting be included in a third Designated Public Places Order.

## **8. Local Government (Access to Information) Act 1985**

Under Section 100(A)(4) of the Local Government Act 1972, the press and

public be excluded from the meeting for the following items of business on the grounds that it involves the likely disclosure of exempt information as defined in the paragraphs referred to below of Part 1 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information)(Variation) Order 2006

Minute 9 – Any Other Items which the Chairman considers are urgent - This item contains exempt information under Schedule 12A Local Government Act 1972 (as amended by the Local Government (Access to Information) (Variation) Order 2006 namely, information relating to the financial or business affairs of any particular person (including the authority holding that information (para 3)

## **9. Any Other Items which the Chairman considers are urgent**

At the previous Licensing Committee Members had requested officers schedule a meeting with representatives of the Magistrates Court in order to discuss recent examples of sub-committee decisions which had overturned or reduced by Magistrates on appeal. The Chair informed those present that the clerk to the Magistrates had been contacted and had agreed to a future meeting with the Chair and Vice-Chair of the Committee and the Solicitor in order to discuss the issues raised. Members queried why only the Chair and Vice-Chair had been invited to attend this meeting, feeling it might be preferable that the whole committee take part. However the Chair suggested that the initial meeting be on a smaller scale with magistrates' representatives approached to take part in a larger meeting after that. Members also asked that former members of the Committee who had been involved in the cases under consideration be invited to any future meetings of this nature. A request for confirmation of a formal approach to the Magistrates was made.

The meeting concluded at 3.00pm.

CHAIRMAN

**Report of:** Head of Procurement, Property and Public Protection

**Subject:** EXECUTIVE PRIVATE HIRE VEHICLES

---

## **1. PURPOSE OF REPORT**

- 1.1 To consider an amendment to the Hackney Carriage and Private Hire Licensing Policy so as to remove the requirement for certain vehicles to display identification plates when carrying out contract work.

## **2. BACKGROUND**

- 2.1 Prior to a change to the law in January 2008, vehicles that were used for hire on a contract-only basis, such as 'executive' type cars used exclusively to transport business clients, were exempt from the requirement to be licensed by a local authority as private hire vehicles. Such vehicles were not required to undergo mechanical testing, drivers did not need police checks and there was no requirement to display licence plates.
- 2.2 The removal of the exemption resulted in such vehicles and their drivers falling within the general licensing system and, as such, both drivers and vehicles were subject to the standard checking and vetting procedures and were required to display private hire signage such as licence plates and 'roundals'.
- 2.3 Whilst it is fully recognised that it is essential for all drivers and vehicles to continue to be vetted and monitored, there is a recognition that in some circumstances there is no benefit to a vehicle displaying signage that implies it is available for hire by the general public when in fact it is not i.e. because it is exclusively available for executive contract work only.
- 2.4 It is proposed that those vehicles that operate within a specific commercial environment and which are not made available for hire to the general public should be exempted from the requirement to display private hire signage.

## **3. ISSUES**

- 3.1 The Local Government (Miscellaneous Provisions) Act 1976 requires that private hire vehicles display an identification plate but also allows licensing authorities to exempt vehicles from the requirement where considered appropriate.



- 3.2 It is proposed that, in certain limited circumstances, ‘executive’ type vehicles that are made available for hire on a contract basis only be exempted from the requirement to display licence plates and ‘roundals’.
- 3.3 Appendix I details the proposed amendment to the current Hackney Carriage and Private Hire Licensing Policy and details the restrictions that would be placed on the granting of such exemptions.
- 3.4 As such vehicles would not be made available for hire to the general public it is not anticipated that an amendment to the policy would have a detrimental impact on the protection of the public.

#### **4. RECOMMENDATIONS**

- 4.1 That Members approve the new and amended conditions as contained in Appendix I.

## **PROPOSED EXEMPTION FROM THE REQUIREMENT TO DISPLAY IDENTIFICATION PLATES**

Vehicles that satisfy all requirements for the licensing of a private hire vehicle may apply for an exemption from the requirement to display identification plates if the following additional conditions are met: -

1. Exemptions from the requirement to display identification plates (vehicle licence plates and roundals) may be in respect of individual vehicles only. Applications for exemptions relating to a fleet of vehicles are not permitted.
2. Each application will be assessed on its own merits and each vehicle will be inspected by an authorised council officer to ensure it is fit for purpose.
3. Applications for exemption from the requirement to display external identification plates will be considered where all of the following conditions are met: -
  - i. Vehicle models must be four door saloons
  - ii. Vehicles must be under three years old when first licensed
  - iii. Vehicles must be of a standard comfort and equipped to a level equal to or above luxury brands of vehicles such as 'S' and 'E' class Mercedes, 7 series BMW, Lexus 'GS' or 'LS' models, Audi A8 series, Rolls Royce and Bentley saloons. (The highest specification executive type vehicles from other manufacturers will also be considered)
  - iv. The vehicle must be in pristine condition with no visible defects, dents or blemishes to the external bodywork or internal trim and seating.
  - v. The vehicle must be used exclusively to provide transport under a written contract lasting not less than 7 consecutive days.
4. Applications may only be made by a person holding a private hire operators licence issued by Hartlepool Borough Council.
5. Where a proprietor wishes to make an application for a vehicle to be exempt from the requirement to display identification plates an appropriate application form must be completed and supported by the required documentation as detailed elsewhere in Hartlepool Borough Council's Hackney Carriage and Private Hire Licensing Policy.
6. The council may require applicants to provide any additional documentation, such as evidence of a written contract, as reasonably necessary to allow the council to make an informed decision. Where such documentation is not provided to the satisfaction of the Council the application will be refused.
7. Where an application is granted and a vehicle is exempted from the requirement to display identification plates an exemption notice will be issued as soon as practicable after the decision is made.

8. Vehicles exempted from the requirement to display identification plates are required to display a licence plate, issued by Hartlepool Borough Council, on the underside of the boot lid. The plate when so affixed must be readily visible when the boot lid is raised.
9. Irrespective of when an exemption notice is granted the initial exemption notice will expire on the same day as the expiration of the vehicles current private hire licence, unless it is otherwise surrendered or revoked. Thereafter any renewed exemption notice will last for a period of time that is cotemporary with that vehicle's private hire licence unless either the licence or notice is otherwise surrendered or revoked.
10. Exemption notices may be renewed annually subject to the vehicle undergoing, and passing, a re-inspection by an authorised officer to ensure it continues to be fit for purpose.
11. Whilst working, drivers of exempted vehicles must, at all times, be of smart appearance i.e. a uniform, collar and tie etc.
12. Drivers of exempted vehicles must carry their private hire drivers badge with them at all times but shall not be required to display it unless requested to do so by an authorised officer or customer.
13. In the event of an applicant being dissatisfied with the decision of an officer, the applicant may make a written application for a review of the decision by the Council's Licensing Committee.

**Report of:** Head of Procurement, Property & Public Protection

**Subject:** GAMBLING ACT 2005 STATEMENT OF LICENSING PRINCIPLES

---

## **1. PURPOSE OF REPORT**

- 1.1 To consider a draft Statement of Licensing Principles as required by the Gambling Act 2005.

## **2. BACKGROUND**

- 2.1 The Gambling Act 2005 came into force in 2007 and transferred a range of licensing responsibilities from the Gaming Board and local Magistrates Courts to local authorities and the newly formed Gambling Commission.
- 2.2 Licensable activities that fall within local authority control include bingo halls, betting shops, amusement arcades and casinos.
- 2.3 The Gambling Act 2005 also requires licensing authorities to publish, every three years, a statement of the principles that they propose to apply in exercising their functions under the Act – commonly referred to as a licensing policy.
- 2.4 Hartlepool's first licensing policy was published in January 2007 and, as such, a new policy must be published no later than January 2010.
- 2.5 A draft policy has been prepared that meets the requirements of the Act's statutory guidance and follows closely a best practice licensing policy produced by the Local Authority Co-ordinating Body for Regulatory Services (LACORS). The draft policy is attached as Appendix I.
- 2.6 In order to meet the Government's suggested 3 month consultation period and to meet Council deadlines the draft policy was circulated amongst a range of consultees at both a local and national level with a closing date for responses of 18<sup>th</sup> September 2009. The list of consultees is attached as Appendix II.
- 2.7 At its meeting on 29<sup>th</sup> July 2009 the Licensing Committee determined that consideration of the draft policy would be made following the conclusion of the consultation period in order to allow for any submissions to be considered.

### **3. ISSUES**

- 3.1 The consultation closing date was 18<sup>th</sup> September 2009 and no submissions have been received. This is likely to be due to there being no substantive changes to the 2007 policy and that the draft is based around a nationally accepted framework that was produced after extensive consultation at a national level.
- 3.2 Whilst the draft policy follows a nationally accepted framework, licensing authorities are permitted to adopt a 'local' policy on the provision of casinos. A licensing authority may, if it considers it appropriate, adopt a 'No Casino' resolution which, in effect, prevents applications for casino licences from being granted.
- 3.3 Hartlepool's 2007 gambling policy contained a 'No Casino' resolution and Members are required to consider whether such a resolution should continue.
- 3.4 Revised guidance issued by the Gambling Commission states that any licensing authority that adopts a 'No Casino' resolution should include in its licensing policy a statement detailing the reasons for its adoption.
- 3.5 The draft policy, once approved by Licensing Committee, will be recommended to full Council for approval and adoption on 10<sup>th</sup> December 2009.

### **4. RECOMMENDATIONS**

- 4.1 That Members consider the draft Statement of Licensing Principles as detailed in Appendix I.
- 4.2 That Members consider whether a 'No Casino' resolution should be incorporated into the draft Statement of Licensing Principles and, if so, detail their reasons for doing so.



## STATEMENT OF PRINCIPLES Gambling Act 2005 (To be Published January 2010)

### Contents

Item	Page
<b>Part A</b>	
1. The licensing objectives	4
2. Introduction	4
3. Declaration	5
4. Responsible Authorities	5
5. Interested parties	6
6. Exchange of information	6
7. Enforcement	7
8. Licensing authority functions	7
<b>Part B - Premises licences</b>	
1. General Principles	9
2. Adult Gaming Centres	14
3. (Licensed) Family Entertainment Centres	14
4. Casinos	15
5. Bingo	15
6. Betting premises	15
7. Travelling fairs	16
8. Provisional Statements	16
9. Review s	17
<b>Part C - Permits / Temporary and Occasional Use Notices</b>	
1. Unlicensed Family Entertainment Centre gaming machine permits	19
2. (Alcohol) Licensed premises gaming machine permits	19
3. Prize Gaming Permits	20
4. Club Gaming and Club Machines Permits	21
5. Temporary Use Notices	22
6. Occasional Use Notices	22

*This Statement of Licensing Principles was approved by Hartlepool Borough Council on [date]*

*All references to the Guidance refer to the Gambling Commission's Guidance to Licensing Authorities, 3<sup>rd</sup> Edition, published May 2009.*

## PART A

### 1. The Licensing Objectives

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

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

It should be noted that the Gambling Commission has stated: “The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”.

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

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

### 2. Introduction

Hartlepool is situated on the North East coast of England. The Borough consists of the town of Hartlepool and a number of small outlying villages. The total area of the Borough is 9,390 hectares.

Hartlepool is a unitary authority, providing a full range of services. It adjoins Easington District Council to the north, Sedgefield District Council to the west and Stockton on Tees Borough Council to the south. The residential population is 90,161 of which ethnic minorities comprise 1.2% (2001 census).

Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they propose to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from “time to time” and any amended parts re-consulted upon. The statement must be then re-published.

Hartlepool Borough Council consulted widely upon this statement before finalising and publishing. A list of those persons consulted is contained in Appendix I.

The Gambling Act requires that the following parties are consulted by licensing authorities:

- The Chief Officer of Police;
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority’s area;
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority’s functions under the Gambling Act 2005.

Our consultation took place between 19<sup>th</sup> July and 18<sup>th</sup> September 2009 and we followed the HM Government Code of Practice on Consultation (published July 2008), which is available at:

<http://www.berr.gov.uk/files/file47158.pdf>

The full list of comments made and the consideration by the Council of those comments is available by request to: Principal Licensing Officer, Hartlepool Borough Council, Civic Centre, Hartlepool, TS24 8AY or via the Council's website at: [www.Hartlepool.gov.uk/licensing](http://www.Hartlepool.gov.uk/licensing).

The policy was approved at a meeting of the Full Council on [X] date and was published via our website on [x date]. Copies were placed in the public libraries of the area as well as being available in the Town Hall.

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

Principal Licensing Officer  
Hartlepool Borough Council  
Civic Centre  
Hartlepool  
TS24 8AY

[lan.Harrison@Hartlepool.gov.uk](mailto:lan.Harrison@Hartlepool.gov.uk)

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

### 3. Declaration

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

### 4. Responsible Authorities

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

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

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

The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the Council's website at: [www.Hartlepool.gov.uk/licensing](http://www.Hartlepool.gov.uk/licensing)



## 5. Interested parties

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

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

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

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

Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance to Licensing Authorities at 8.11 to 8.19. It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

Interested parties can be persons who are democratically elected such as councillors and MPs. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the licensing department at the Civic Centre, Hartlepool.

## 6. Exchange of Information

Licensing authorities are required to include in their statements the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The licensing authority will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

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

## 7. Enforcement

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

This licensing authority's principles are that:

It will be guided by the Gambling Commission's Guidance to Licensing Authorities and will endeavour to be:

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

As per the Gambling Commission's Guidance to Licensing Authorities this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

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

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

The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the licensing authority but should be notified to the Gambling Commission.

This licensing authority also keeps itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

Bearing in mind the principle of transparency, this licensing authority's enforcement/compliance protocols/written agreements are available upon request to the licensing department, Hartlepool Borough Council, Civic Centre, Hartlepool, TS24 8AY. Our risk methodology is also available upon request.

## 8. Licensing authority functions

Licensing authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing *Premises Licences*
- Issue *Provisional Statements*
- Regulate *members' clubs* and *miners' welfare institutes* who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue *Club Machine Permits* to *Commercial Clubs*

- Grant permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- Issue *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- Register *small society lotteries* below prescribed thresholds
- Issue *Prize Gaming Permits*
- Receive and Endorse *Temporary Use Notices*
- Receive *Occasional Use Notices*
- Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
- Maintain registers of the permits and licences that are issued under these functions

It should be noted that licensing authorities are not to be involved in licensing remote gambling at all, which is regulated by the Gambling Commission via operating licences.

## PART B

### PREMISES LICENCES: CONSIDERATION OF APPLICATIONS

#### 1. General Principles

Premises licences are subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

#### (i) Decision-making

This licensing authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:

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

It is appreciated that as per the Gambling Commission's Guidance to Licensing Authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos - page 12) and also that unmet demand is not a criterion for a licensing authority.

**(ii) Definition of "premises"** – In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure 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 third 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."

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

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or

- closely observe gambling where they are prohibited from participating.
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not “drift” into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers should be able to participate in the activity names on the premises licence.

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

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

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

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

7.25:

#### **Casinos**

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

#### **Adult Gaming Centre**

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

#### **Betting Shops**

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

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

**(iii) Premises "ready for gambling"**

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

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

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

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

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

More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.59-7.66 of the Guidance.

**(iv) Location** - This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. As per the Gambling Commission's Guidance to Licensing Authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

**(v) Planning:**

The Gambling Commission Guidance to Licensing Authorities states:

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

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

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

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

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

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

**Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** - This licensing authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels 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. This licensing authority is aware of the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction.

**Ensuring that gambling is conducted in a fair and open way - This licensing authority has noted that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences.**

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

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

As regards the term "vulnerable persons" it is noted that the Gambling Commission does not seek to offer a definition but states that "it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who 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." This licensing authority will consider this licensing objective on a case by case basis.

**Conditions** - Any conditions attached to licences will be proportionate and will be:

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

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

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

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

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where 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.



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

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

- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, 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.

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

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

## 2. Adult Gaming Centres

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

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

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

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

## 3. (Licensed) Family Entertainment Centres:

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

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

- CCTV
- Supervision of entrances / machine areas
- Physical separation of 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 operating licences covering the way in which the area containing the category C machines should be delineated. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

**4. Casinos (Hartlepool Council adopted a No Casino Resolution in 2007. Whether the resolution will be retained will be discussed by the Council during and following the conclusion of the consultation process)**

This licensing authority has passed a 'no casino' resolution on the basis that..... ***(insert details of how the decision was arrived at and on what basis)*** and it comes into effect on ... ***(insert date)***.

Potential licence applicants should note that as a 'no-casino' resolution has been passed by this authority no applications for casino premises licences will be considered. Any applications received will be returned with a notification that a 'no-casino' resolution is in place.

**5. Bingo premises**

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

18.4 Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.

This authority also notes the Guidance at paragraph 18.8 regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

18.7 Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.

**6. Betting premises**

**Betting machines** - This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for

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

### **7. Travelling Fairs**

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

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

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

### **8. 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.

### 9. Reviews:

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

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

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

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

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

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

The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:-

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

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

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

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

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

**PART C**  
**Permits / Temporary & Occasional Use Notice**

**1. Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits - Schedule 10 paragraph 7)**

Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).

The Gambling Act 2005 states that a licensing authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25. The Gambling Commission's Guidance to Licensing Authorities also states: "In their three year licensing policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits...., licensing authorities will want to give weight to child protection issues." (24.6)

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

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act; and
- that staff are trained to have a full understanding of the maximum stakes and prizes. (24.7)

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

Statement of Principles This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate 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.

**2. (Alcohol) Licensed premises gaming machine permits - (Schedule 13 paragraph 4(1))**  
**Automatic entitlement: 2 machines**

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

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

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

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

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

This licensing authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harmed 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 help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

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

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

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

### **3. Prize Gaming Permits**

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

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

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

In making its decision on an application for this permit the licensing authority does not need to (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance. (Gambling Act 2005, Schedule 14 paragraph 8(3)).

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

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

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

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

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

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

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

There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). As the Gambling Commission's Guidance to Licensing Authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:

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



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

### **5. Temporary Use Notices**

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

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

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

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

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

This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling 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. This licensing authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

**PART D****SUMMARY OF LICENSING AUTHORITY DELEGATIONS PERMITTED UNDER THE GAMBLING ACT**

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

**CONTACT DETAILS/ADVICE & GUIDANCE**

Further details regarding the licensing application process, including application forms, can be obtained from:

The Licensing Team  
Hartlepool Borough Council  
Civic Centre  
Victoria Road  
Hartlepool  
TS24 8AY

Tel No: 01429 523354  
Fax No: 01429 523308  
Email: [licensing@hartlepool.gov.uk](mailto:licensing@hartlepool.gov.uk)  
Web Site: [www.hartlepool.gov.uk/licensing](http://www.hartlepool.gov.uk/licensing)

## CONSULTATION

The following organisations were consulted prior to the publication of this Gambling Policy. Consultation was carried out between 19<sup>th</sup> July and 18<sup>th</sup> September 2009.

Local licensed premises  
Local premises engaged in gambling activities  
Local Parish Councils  
Local Licensing Solicitors  
GAMCARE  
Gamblers Anonymous  
National Institute for Health and Clinical Excellence  
Mencap  
Sompriti  
The Salvation Army  
Hartlepool Mencap  
Hartlepool CAB  
Hartlepool Magistrates Court  
Hartlepool Primary Care Trust  
Association of British Bookmakers  
The Bingo Association  
Remote Gambling Association  
Responsibility in Gambling Trust  
BACTA  
British Pub and Beer Association  
NSPCC  
National Association of Local Councils  
Working Men's Club and Institute Union  
Federation of Licensed Victuallers Association  
Hartlepool Licensees Association  
Internet Gambling, Gaming and Betting Association  
Camerons Brewery  
Rubicon Pastimes  
Mason Organisation Limited  
Arthur Turner Limited  
Ladbrokes Betting & Gaming Limited  
All Responsible Authorities detailed under the Gambling Act