

Gambling Act 2005

Statement of Principles

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This Statement of Licensing Principles was published by Blaby District Council on
17 December 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

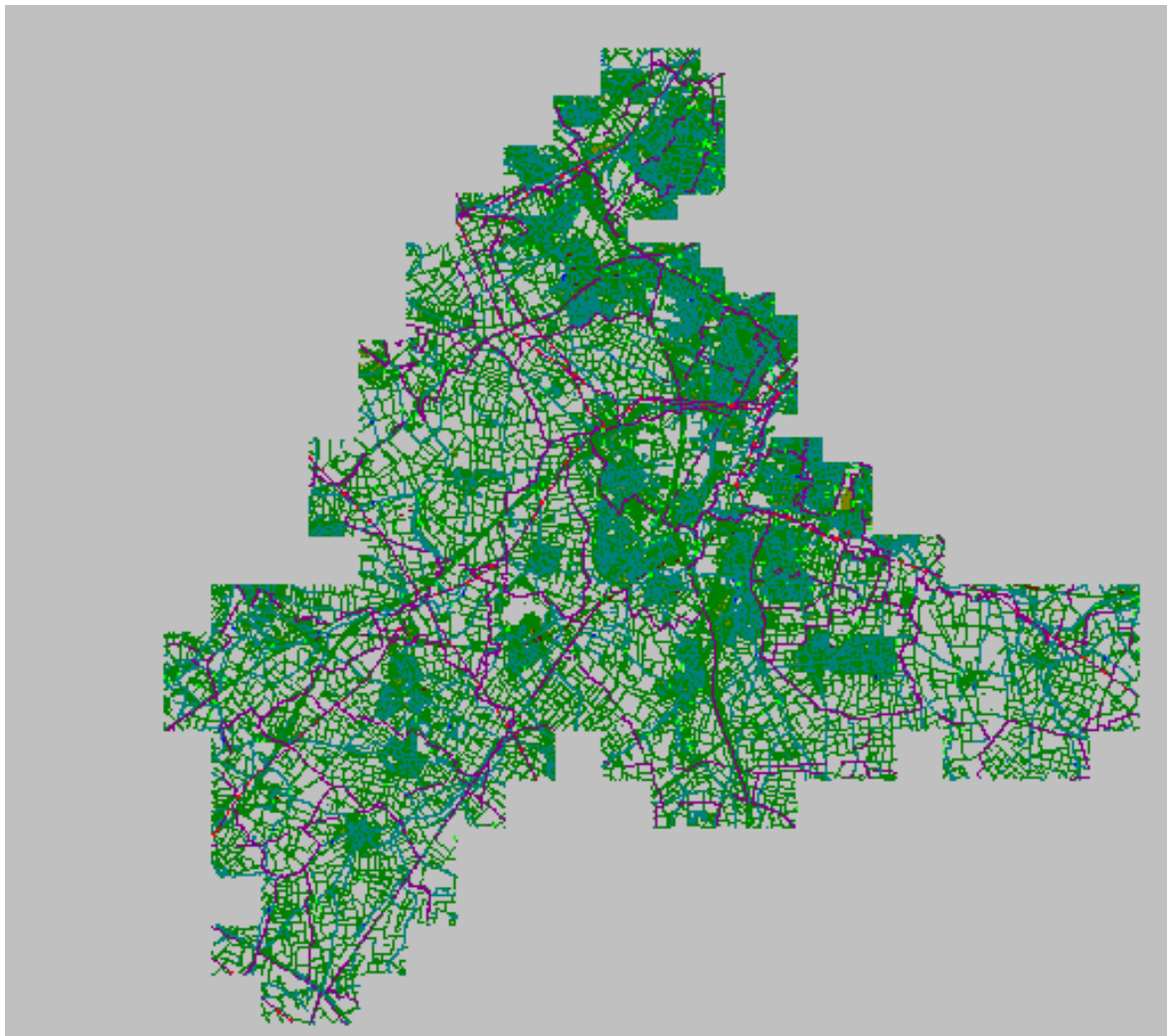
It should be noted that the Gambling Commission has stated: "The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling".

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 is;

- in accordance with any relevant code of practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- reasonably consistent with the Licensing Objectives and
- in accordance with the Authority's Statement of Licensing Principles

2. Introduction

Blaby District Council is situated in the County of Leicestershire, which contains 7 District/Borough Councils in total. The Council area has an estimated population of 92,900 (mid 2007. Source - Office for National Statistics). The northern most part of the District is predominantly urban in character, whereas the south of the District is more rural in its activities and character. The District of Blaby covers an area of 50 square miles and although not served by one principal town, there are 24 Parishes. A map of the Council area is shown below:



Licensing Authorities are required by the Gambling Act 2005 to publish a “Statement of Principles” which sets out the policies of the Council which will be generally applied in order to promote the Licensing Objectives when making decisions under the Act. 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.

Blaby District Council consulted widely upon this policy statement before finalising and publishing. A list of the persons we consulted is provided below. It should be noted that unsolicited comments were received from other persons but we have not listed all of these.

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

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

A list of all those persons consulted is attached at Schedule A.

Our consultation took place between 4 September 2009 and 27 November 2009 and referred to 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: The Licensing Section, Blaby District Council, Council Offices, Desford Road, Narborough Leicester or at licensing@blaby.gov.uk.

The policy was approved at a meeting of the Full Council on 15 December 2009 and was published via our website on 17 December 2009. Copies were made available at the Council's Offices in Narborough, Blaby and Braunstone Town.

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

The Licensing Section
Blaby District Council, Council Offices,
Desford Road, Narborough, Leicestershire LE19 2EP
E-mail: licensing@blaby.gov.uk

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

3. Declaration

In producing the final Statement, this Licensing Authority declares that it has had regard to the Licensing Objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission, and any responses 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 following principles have been applied:

- 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 Gambling Commission's Guidance for Licensing Authorities, this Authority designates the Local Safeguarding Children Board for this purpose.

The contact details of all the Responsible Bodies under the Gambling Act 2005 are available via the Council's website at: www.blaby.gov.uk

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 applications is made, the person:

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,

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

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 however, consider the following factors as stated in the Gambling Commission’s Guidance to Licensing Authorities. 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 MP’s. No specific evidence of being asked to represent an interested person will be required as long as the Councillor/MP represents the ward likely to be affected. Likewise, Parish Councils likely to be affected will be considered to be Interested Parties. Other than these however, this Authority will generally require written evidence that a person/body (e.g. an advocate/relative) ‘represents’ someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

If individuals wish to approach Councillors to ask them to represent their views then care should be taken that the Councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the Licensing Section:

- By telephone – 0116 272 7639/7645
- By email – licensing@blaby.gov.uk
- By post – The Licensing Section, Blaby District Council, Council Offices, Desford Road, Narborough, Leicestershire LE19 2EP.

6. Exchange of Information

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

The principle that this Licensing Authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. 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.

Blaby District Council requires personal information in order to provide access to services and facilities and to allow the public to participate in activities which form part of the democratic process.

The Council will process the information you provide in accordance with the Data Protection Act 1998. The information you provide will only be used for the purposes for which it was collected and the Council will only share information where we are permitted to do so by law.

Blaby District Council is subject to the obligations of the Freedom of Information Act 2000. This legislation requires public authorities to disclose certain types of information, subject to a number of exemptions, upon receipt of a written request. Information provided to the Council as part of an application made under the Gambling Act 2005 may be subject to these access provisions. However Blaby District Council will assess any request individually and consult with applicants, where necessary, on any requests made which may potentially disclose information given as part of the application process.

It should be noted that the provision of Licences is a public function, and as such some of the information provided as part of the application process must be made available to the public in order to allow fair and proper consultation and objection.

We will only hold such information for as long as there is a statutory or legitimate business reason and all information will then be securely destroyed.

7. Enforcement

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

This Licensing Authority's principles are that:

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

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

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

This Licensing Authority will also, as recommended by the Gambling Commission's Guidance for Local Authorities, adopt a risk-based inspection programme.

The main enforcement and compliance role for this Licensing Authority in terms of the Gambling Act 2005 will be to ensure compliance with the Premises Licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for the Operator and Personal Licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines will not be dealt with by the Licensing Authority but will be notified to the Gambling Commission.

Bearing in mind the principle of transparency, this Licensing Authority's enforcement protocols/written agreements, together with the risk Methodology will be available upon request from the Licensing Section:

- By email – licensing@blaby.gov.uk
- By post – Licensing Section, Blaby District Council, Council Offices, Desford Road, Narborough, Leicestershire LE19 2EP

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) of the use of two or fewer gaming machines
- Grant *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required
- Register *Small Society Lotteries* below prescribed thresholds
- Issue *Prize Gaming Permits*
- Receive and Endorse *Temporary Use Notices*
- Receive *Occasional Use Notices*
- Provide information to the Gambling Commission regarding details of licences issued (see section above on 'exchange of information')
- Maintain registers of the permits and licences that are issued under these functions

It should be noted that local Licensing Authorities will not be involved in licensing remote gambling at all. This will fall to the Gambling Commission via Operator Licences.

PART B PREMISES LICENCES

1. General Principles

Premises Licences will be 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.

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 is:

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the Licensing Objectives; and
- in accordance with the Authority's Statement of Principles.

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.

Part 7 of the Gambling Commission's Guidance to Licensing Authorities (3rd Edition) contains further guidance on relevant access provisions, which this Authority will also take into account in its decision-making.

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 in Part 7 of the Guidance (3rd Edition).

Location – The Licensing Authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the Licensing Objectives are relevant to its decision making.

In accordance with the Gambling Commission's Guidance, the Licensing 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.

This statement will be amended if the Council requires any specific policy about areas where gambling premises should not be located.

Such policies do not prevent submission of any application and each application will be decided on its merits, although the Licensing Authority will expect the applicant to show how potential concerns would be overcome.

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. There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section.**

Protecting children and other vulnerable persons from being harmed or exploited by gambling - 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, 3rd Edition).

2. Adult Gaming Centres (AGCS)

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

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

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.

5. Bingo premises

This Licensing Authority notes that the Gambling Commission's Guidance states:

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

This Authority also notes the Guidance 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.

The guidance states that "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. Tracks

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 especially consider the impact upon the third Licensing Objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

This 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 will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

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.

Gaming machines - Where the applicant holds a Pool Betting Operating Licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.

Betting machines - This Licensing Authority will, as per Part 6 of the Gambling Commission's Guidance (3rd Edition), take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator proposes to offer.

Applications and plans

The Gambling Act (s51) requires applicants to submit plans of the premises with their application, in order to ensure that the Licensing Authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the Licensing Authority to plan future premises inspection activity (see the Gambling Commission Guidance to Licensing Authorities on plans/defining the premises).

Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations (see the Gambling Commission Guidance to Licensing Authorities on plans/defining the premises).

Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track Premises Licence Holders may erect

temporary structures to restrict access to premises (see the Gambling Commission Guidance to Licensing Authorities on plans/defining the 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 boundary premises do not need to be defined (see the Gambling Commission Guidance to Licensing Authorities on plans/defining the premises).

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

8. Travelling Fairs

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

9. Provisional Statements

Developers may wish to apply to this Authority for Provisional Statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a Premises Licence. There is no need for the applicant to hold an Operating Licence in order to apply for a Provisional Statement.

Section 204 of the Gambling Act provides for a person to make an application to the Licensing Authority for a Provisional Statement in respect of premises that he or she:

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

The process for considering an application for a Provisional Statement is the same as that for a Premises Licence application. The applicant is obliged to give notice of the application in the same way as applying for a Premises Licence. Responsible Authorities and Interested Parties may make representations and there are rights of appeal.

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

The holder of a Provisional Statement may then apply for a Premises Licence once the premises are constructed, altered or acquired. The Licensing Authority will be constrained in the matters it can consider when determining the Premises Licence application, and in terms of representations about Premises Licence applications that follow the grant of a Provisional Statement, no further representations from relevant Authorities or Interested Parties can be taken into account unless:

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

In addition, the Authority may refuse the Premises Licence (or grant it on terms different to those attached to the Provisional Statement) only by reference to matters:

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

10. Reviews:

Requests for a Review of a Premises Licence can be made by Interested Parties or Responsible Authorities; however, it is for the Licensing Authority to decide whether the Review is to be carried-out. This will be on the basis of whether the request for the Review is relevant to the matters listed below;

- in accordance with any relevant Code of Practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the Licensing Objectives; and
- in accordance with the Authority's Statement of Principles.

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

The Licensing Authority can also initiate a Review of a particular Premises Licence, or a particular class of Premises Licence on the basis of any reason which it thinks is appropriate.

Once a valid application for a Review has been received by the Licensing Authority, representations can be made by Responsible Authorities and Interested Parties during a 28 day period. This period begins 7 days after the application was received by the Licensing Authority, who will publish notice of the application within 7 days of receipt.

The Licensing Authority must carry out the Review as soon as possible after the 28 day period for making representations has passed.

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

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

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

In particular, the Licensing Authority may also initiate a Review of a Premises Licence on the grounds that a Premises Licence Holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

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

- the licence holder
- the applicant for Review (if any)
- the Commission
- any person who made representations
- the Chief Officer of Police or Chief Constable; and
- Her Majesty's Commissioners for Revenue and Customs

PART C
Permits / Temporary & Occasional Use Notices

**1. Unlicensed Family Entertainment Centre (FEC) Gaming Machine Permits
(Statement of Principles on Permits – Schedule 10 para 7)**

Where a proprietor does not hold a Premises Licence but they wish to provide gaming machines, they may apply to the Licensing Authority for a 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.

It should be noted that a Licensing Authority cannot attach conditions to this type of permit.

For initial applications, the Licensing Authority does not have to have regard to the Licensing Objectives but does need to have regard to any Gambling Commission guidance.

The Gambling Commission's Guidance for Local Authorities also states: "In their three year licensing policy statement, Licensing Authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits...., Licensing Authorities will want to give weight to child protection issues."

The Guidance also states: "An application for a permit may be granted only if the Licensing Authority is satisfied that the premises will be used as an unlicensed FEC, and if the Chief Officer of Police has been consulted on the application. Unlicensed FECs, by definition, will not be subject to scrutiny by the Gambling Commission as no operating (or other) licences will be applied for and issued. Licensing Authorities might wish to consider asking applicants 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)

Statement of Principles

This Licensing Authority has adopted a Statement of Principles which consists of the following:

- The applicant will be required 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.)
- Staff training will be required covering how to deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises.

Criminal records checks for the applicants .

With regard to renewals of these permits, a Licensing Authority may refuse an application for renewal of a permit only on the grounds that an authorised Local Authority Officer has been refused access to the premises without reasonable

excuse, or that renewal would not be reasonably consistent with pursuit of the Licensing Objectives.

2. 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 regulations. A Club Gaming Machine Permit will enable the premises to provide gaming machines (3 machines of categories B,C or D).

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 regulations and these cover bridge and whist clubs, which will replicate the position under the Gaming 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."

This Licensing Authority is aware 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 .

It should be noted that there is a 'fast-track' procedure available for premises which hold a Club Premises Certificate under the Licensing Act 2003. As the Gambling Commission's Guidance for local authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced" and "The grounds on which an application under the process may be refused are:

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

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.

3. (Alcohol) Licensed premises gaming machine permits – (Schedule 13 Para 4(1))

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 (for example, the gaming machines have been made available in a way that does not comply with requirements on the location and operation of gaming machines)
- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises.

If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the Licensing Authority must consider that application based upon the Licensing Objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*” This Licensing Authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the Authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be of 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 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.

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

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

The Gambling Commission Guidance states: “In their three year licensing policy statement, Licensing Authorities should include a statement of principles that they propose to apply when exercising their functions in considering applications for permits. In particular, they may want to set out the matters that they will take into account in determining the suitability of the applicant. Given that the premises will particularly appeal to children and young persons, in considering what to take into account in the application process and what information to request from the applicant, Licensing Authorities will want to give weight to child protection issues.

This Licensing Authority will require applicants to set out the types of gaming that he or she is intending to offer and the applicant should be able to demonstrate:

- that they understand the limits to stakes and prizes that are set out in Regulations; and
- that the gaming offered is within the law. “

Statement of Principles

This Licensing Authority has adopted this statement of principles which consists of the following:

- The applicant will be required 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.)
- Staff training will be required covering how to deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises.

In making its decision on an application for this permit the Licensing Authority does not need to have regard to the Licensing Objectives but must have regard to any Gambling Commission guidance.

It should be noted that there are conditions in the Gambling Act 2005 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.

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 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. At present Temporary Use Notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.

There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities (3rd Edition). 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. The Licensing Authority will though need to consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

Schedule A

A List of the Persons/Bodies Consulted;

- Association of British Bookmakers (ABB)
- Bingo Association
- Blaby District Parish Councils
- British Amusement Catering Trade Association (BACTA)

- British Beer & Pub Association
- British Casino Association
- British Greyhound Racing Board
- British Horse Racing Board
- Business in Sport & Leisure (BISL)
- Casino Operators Association
- Club and Institute Union
- Departments (including Responsible Authorities) within the Council with an interest in the licensing of gambling.
- GamCare Ltd
- Gamblers Anonymous
- Help The Aged
- Holders of Premises Licences under the Gambling Act 2005 in Blaby District.
- HM Revenue & Customs
- Leicestershire Constabulary
- Leicestershire County Council - Social Services
- Leicestershire County Council – Trading Standards Service
- Leicestershire Fire & Rescue Service
- Licensed Victuallers Association
- Local Councillors
- Lotteries Commission
- Responsibility in Gambling Trust (RIGT)
- Small Society Lottery Registration holders
- The Gambling Commission