



## **GAMBLING ACT 2005**

# **STATEMENT OF PRINCIPLES**

**Jan 2010 – Dec 2012**

**Draft for Consultation**

## **1.0 Introduction**

Gateshead is a constantly changing borough, combining an exciting future with a fascinating heritage. It is, always has been, and probably always will be, an area of contrasts. Half of the borough is rural in comparison with a large urban centre with significant business and residential areas. It includes areas of attractive countryside, areas with a legacy from our industrial past and regeneration and cultural initiatives that have captured the nation's attention. A local economy that was once heavily reliant on industry is now becoming more and more diverse whilst entrepreneurship within the borough is on the increase.

## **2.0 Consultation**

Before adopting this Statement of Principles, the Licensing Authority shall consult with the following:

- Northumbria Police
- Tyne and Wear Fire and Rescue Service
- Gateshead Council Planning Authority
- Gateshead Council Environmental Health Authority
- Gateshead Local Safeguarding Children Board
- Gateshead Council Community Based Services (Protection of Vulnerable Adults)
- HM Revenue and Customs
- Gambling Commission
- Gateshead Council Members
- Local Members of Parliament
- All Premises Licence and Club Premises Certificate Holders in Gateshead
- Gateshead Council Legal and Corporate Services
- Gateshead Primary Care Trust
- Gateshead Drug and Alcohol Team
- North East Council on Addictions
- Gateshead Magistrates' Court
- Gateshead Citizens Advice Bureau
- Gateshead Tourist Information Centre
- Gateshead Youth Ministry
- British Casino Association
- BACTA
- Casino Operators Association
- Business in Sport and Leisure
- The Salvation Army
- GAMCARE
- Gamblers Anonymous (UK)
- Gordon House Central Office
- National Institute for Mental Health

- Federation of Small Businesses
- Disability Gateshead
- Gateshead Access Panel
- Federation of Licensed Victuallers Associations
- Association of British Bookmakers
- The Bingo Association
- Responsibility in Gambling Trust
- British Beer and Pub Association
- Mencap
- NSPCC
- National Association of Local Councils
- Working Men's Club Institute

Proper weight will be given to the views of all those who are consulted prior to the date of implementation of the Statement of Principles.

Our consultation will place between 20 July 2009 and 16 October 2009 and will be carried out in accordance with the Cabinet Office Code of Practice on Consultation.

A full list of comments made in response to the consultation will be available on request to the Environmental Health, Licensing and Enforcement Manager whose details are listed below.

### **3.0 Gambling Act 2005**

This Statement of Principles is intended to meet the Council's obligations under Section 349 of the Gambling Act 2005 (referred to in this Statement as "the Act").

Except for those matters specified in the Act which require the decision of the full Council, the functions of the Licensing Authority under the Gambling Act will be delegated to the Licensing Committee which may delegate some or all of its functions to sub committees and officers.

In carrying out its licensing functions under the Act, particularly with regard to premises licences, the Licensing Authority will generally aim to permit the use of premises for gambling as long as it is considered to be:

- in accordance with any relevant Codes of Practice issued by the Gambling Commission
- in accordance with any relevant Guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives, interpreted in accordance with the Codes of Practice and Guidance and,

- in accordance with this Statement of Principles in so far as it is consistent with the Codes of Practice, the Guidance and the licensing objectives

There are 3 licensing objectives which are central to the regulatory regime created by the Act. These are:

- preventing gambling from being a source of crime and 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

The Act provides for 3 categories of licence:

- operating licences
- personal licences
- premises licences

The Licensing Authority will be responsible for issuing premises licences. The Gambling Commission will be responsible for issuing operating and personal licences.

#### **4.0 The Gambling Commission**

The Gambling Commission regulates gambling in the public interest. It does so by keeping crime out of gambling; by ensuring that gambling is conducted fairly and openly; and by protecting children and vulnerable people.

The Commission provides independent advice to the government about the manner in which gambling is carried out, the effects of gambling, and the regulation of gambling generally.

The Commission has issued Guidance under Section 25 regarding the manner in which local authorities exercise their licensing functions under the Act and, in particular, the principles to be applied by local authorities.

The Commission will also issue one or more codes of practice under Section 24 of the Act about the manner in which facilities for gambling are provided, which may also include provisions about the advertising gambling facilities.

The Gambling Commission can be contacted at:

[www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

## **5.0 Authorised Activities**

'Gambling' is defined in the Act as either gaming, betting, or taking part in a lottery.

- gaming means playing a game of chance for a prize
- betting means making or accepting a bet on the outcome of a race, competition, or any other event ; the likelihood of anything occurring or not occurring; or whether anything is true or not
- a lottery is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance

The main functions of the Licensing Authority are to:

- licence premises for gambling activities
- grant permits for gambling and gaming machines in clubs
- regulate gaming and gaming machines in alcohol licensed premises
- grant permits to family entertainment centres for the use of certain lower stake gaming machines
- grant permits for prize gaming
- consider notices given for the temporary use of premises for gaming
- consider occasional use notices for betting at tracks
- register small societies lotteries

Spread betting is regulated by The Financial Services Authority

Remote Gambling is dealt with by the Gambling Commission

The National Lottery is regulated by The National Lottery Commission

## **6.0 General Statement of Principles**

The Licensing Authority recognises the wide variety of premises that will require a licence or a permit. These include casinos, betting shops, bingo halls, pubs, clubs and amusement arcades.

In carrying out its licensing functions the Licensing Authority will have regard to any guidance issued by the Gambling Commission from time to time.

The Licensing Authority will not seek to use the Act to resolve matters more readily dealt with under other legislation.

To ensure the licensing objectives are met the Licensing Authority will establish a close working relationship with the Police, the Gambling Commission and, where appropriate, other responsible authorities.

Where children, young persons and other vulnerable people are allowed access to premises where gambling takes place, the Licensing Authority may take whatever steps are considered necessary, where it receives representations to that effect and following a hearing, to either limit access generally or by introducing measures to prevent under age gambling where it believes it is right to do so, for the prevention of their physical, moral or psychological harm.

The Licensing Authority considers it important that written material, which gives information on how to receive advice and support in dealing with gambling problems, is prominently displayed in all licensed premises.

Applicants seeking premises licences are encouraged to propose any prohibitions or restrictions of their own in circumstances where it is felt that the presence of children would be undesirable or inappropriate.

However, the overriding principle is that, where representations are received or the Authority is considering imposing or excluding a condition on the premises licence all applications and the circumstances prevailing at each premises will be considered on their own individual merits.

## **7.0 Preventing gambling from being a source of crime and disorder**

The Gambling Commission will play a leading role in preventing gambling from being a source of crime and will maintain rigorous licensing procedures that aim to prevent criminals from providing facilities for gambling.

Anyone applying to the Licensing Authority for a premises licence will have to hold an operating licence from the Commission before a licence can be issued. Therefore, the Licensing Authority will not generally be concerned with the suitability of an applicant and where concerns about a person's suitability arise the Licensing Authority will bring those concerns to the attention of the Commission.

If an application for a licence or permit is received in relation to premises which are in an area noted for particular problems with crime, the Licensing Authority will, in consultation with the police and other relevant authorities, consider whether specific controls need to be applied to prevent those premises from being a source of crime. If representations are made or the Authority considers it necessary to impose or exclude a condition on the licence then a hearing will be held and specific conditions may then be imposed. This could include, but is not limited to, a requirement for door supervisors.

As far as disorder is concerned, there are already powers in existing anti-social behaviour and licensing legislation to deal with measures designed to prevent nuisance, whether it arises as a result of noise

from a building or from general disturbance once people have left a building. The Licensing Authority does not therefore intend to use the Act to deal with general nuisance issues, for example, parking problems, which can easily be dealt with using alternative powers.

Issues of disorder should only be dealt with under the Act if the disorder amounts to activity which is more serious and disruptive than mere nuisance, and it can be shown that gambling is the source of that disorder. A disturbance might be serious enough to constitute disorder if police assistance was required to deal with it. Another factor which could be taken into account is how threatening the behaviour was to those who could see or hear it, and whether those people live sufficiently close to be affected or have business interests that might be affected.

When making decisions in this regard the Licensing Authority will give particular weight to any representations made by the police.

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

The Gambling Commission does not expect local authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will either be a matter for the management of the gambling business or will relate to the suitability and actions of an individual. Both issues will be addressed by the Commission through the operating and personal licensing regime.

Because betting track operators do not need an operating licence from the Commission the Licensing Authority may, in certain circumstances require conditions of licence relating to the suitability of the environment in which betting takes place.

## **9.0 Protecting children and other vulnerable people from gambling**

Apart from one or two limited exceptions, the intention of the Act is that children and young persons should not be allowed to gamble and should therefore be prevented from entering gambling premises which are 'adult-only' environments.

In practice, where either a representation has been made, or the Licensing Authority has decided to make a representation because it wishes to see such restrictions imposed, or is minded to impose or exclude a condition, steps will be taken to prevent children from taking part in, or being in close proximity to, gambling, especially with regard to premises situated in areas where there may be a high rate of reported truancy.

There may also be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children. In relation to casinos

only, the Gambling Commission will be issuing a code of practice about access to casino premises for children and young persons.

When considering whether to grant a premises licence or permit following the receipt of a representation, the Licensing Authority will consider whether any measures are necessary to protect children or vulnerable people, such as the supervision of entrances, the segregation of gambling from areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises, such as pubs, clubs, betting tracks etc.

In seeking to protect vulnerable people the Licensing Authority will include people who gamble more than they want to, people who gamble beyond their means, and people who may not be able to make informed or balanced decisions about gambling, perhaps due to a mental impairment, alcohol or drugs.

The Licensing Authority will always treat each case on its own individual merits and when considering whether specific measures are required to protect children and other vulnerable people will balance its considerations against the overall principle of aiming to permit the use of premises for gambling.

## **10.0 Premises Licences**

A premises licence can authorise the provision of facilities at the following :

- casino premises
- bingo premises
- betting premises, including betting tracks
- adult gaming centres
- family entertainment centres

Premises can be 'any place' but the Act generally prevents more than one premises licence applying to any one place. A single building could be subject to more than one premises licence provided they are different parts of the building and those parts can be genuinely regarded as being separate 'premises'.

Where the owner of premises intends to apply to the licensing authority for more than one premises licence within the same building they should contact the licensing authority in the first instance so that individual circumstances can be considered.

A particular requirement might be for entrances and exits from parts of a building covered by one or more licences to be separate and identifiable so that the separation of the premises is not compromised and that people are not allowed to 'drift' accidentally into a gambling area.

Where the Licensing Authority has concerns about the use of premises for gambling these will generally be addressed through licence conditions.

Other than an application for a betting premises licence in respect of a track, the Licensing Authority is not able to issue a premises licence unless the applicant holds the relevant operating licence from the Gambling Commission.

When considering applications for premises licences the Licensing Authority will not take into consideration either the expected 'demand' for facilities or the likelihood of planning permission being granted.

The Licensing Authority will maintain a register of premises licences issued and will ensure that the register is open for public inspection at all reasonable times.

A person should only apply for a premises licence where the premises are ready for use by them for the purposes of gambling. Where this is not the case eg if construction is not yet complete, or if they need an alteration, or if the applicant does not yet have a right to occupy them, then the person can apply to the licensing authority for a provisional statement. In this case there is no need for an applicant to hold an operators licence, however this will be required if and when the applicant goes on to apply for a premises licence.

## **11.0 Responsible Authorities**

These are generally public bodies that must be notified of all applications and who are entitled to make representations to the Licensing Authority if they are relevant to the licensing objectives.

Section 157 of the Act defines those authorities as:

- The licensing authority in whose area the premises is situated
- The Gambling Commission
- The Chief Officer of Police for a police area in which the premises is situated
- The Fire and Rescue Authority for an area in which the premises is situated
- The local planning authority for an area in which the premises is situated
- The authority which has functions in respect of minimising or preventing the risk of pollution of the environment or of harm to human health in an area in which the premises is situated
- The body, designated in writing by the Licensing Authority for an area in which the premises is situated, as competent to advise the authority about the protection of children from harm
- Her Majesty's Commissioners of Customs and Excise

- Any other prescribed person

Any concerns expressed by a responsible authority in relation to their own functions cannot be taken into account unless they are relevant to the application itself and the licensing objectives. In this regard the Licensing Authority may disregard representations that it thinks are irrelevant i.e.

- there are too many gambling premises in the locality
- the premises are likely to be a fire risk
- the location of the premises is likely to lead to traffic congestion
- the premises will cause crowds to congregate in one area causing noise and nuisance

Each representation will, however, be considered on its own individual merits.

## **12.0 Interested Parties**

An interested party is someone who:

- lives sufficiently close to the premises to be likely to be affected by the authorised activities, or
- has business interests that might be affected by the authorised activities, or
- represents persons in either of the two groups above

In determining whether someone lives sufficiently close to a particular premises so as to be affected, the Licensing Authority will take into account, among other things:

- the size of the premises
- the nature of the premises
- the distance of the premises from the person making the representation
- the potential impact of the premises

In determining whether a person has a business interest which could be affected the Licensing Authority will consider, among other things:

- the size of the premises
- the nature of the premises
- the catchment area of the premises, and
- whether the person making the representation has business interests in the catchment area that might be affected

If an existing gambling business makes a representation that it is going to be affected by another gambling business starting up in the area the Licensing Authority would not consider this, in the absence of other

evidence, as a relevant representation as it does not relate to the licensing objectives and instead relates to demand or competition.

The Licensing Authority may, in certain circumstances, disregard a representation if it thinks it is frivolous or vexatious or that it will certainly not influence the authorities determination of the application. This will generally be a matter of fact given the circumstances of each individual case but, before coming to a decision the Licensing Authority will normally consider:

- who is making the representation and whether there is a history of making representations that are not relevant,
- whether it raises a 'relevant' issue or not, or
- whether it raises issues specifically to do with the premises which are the subject of the application

### **13.0 Conditions of licence**

The Authority may impose conditions or exclude conditions on a premises licence under s169 of the Act if it considers it necessary to do so. Such decisions will normally follow a hearing of the relevant application after representations have been received or the authority has notified the applicant that it is minded to impose or exclude such conditions. All parties may agree that a hearing is not necessary.

Conditions imposed by the Licensing Authority may be general in nature by applying to all licences, or those of a particular type, or they may be specific to a particular licence.

The Licensing Authority will not impose conditions that limit the use of premises for gambling unless it is deemed to be necessary as a result of the requirement to act in accordance with the Gambling Commission's guidance, any codes of practice issued by the Commission, this Statement of Principles or in a way that is reasonably consistent with the licensing objectives.

Any conditions imposed by the Licensing Authority will be proportionate to the circumstances they are intended to address. In particular, the Licensing Authority will ensure that any conditions are:

- relevant to the need to make the premises 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
- reasonable in all other respects

Examples of some conditions which are likely to be attached in certain circumstances include those relating to opening hours, age limits, or keeping children and young persons away from gaming machines.

The Licensing Authority will not consider imposing conditions:

- which make it impossible to comply with an operating licence condition imposed by the Gambling Commission
- relating to gaming machine categories or method of operation
- which specify that membership of a club or other body is required
- in relation to stakes, fees, winnings or prizes

Duplication with other statutory or regulatory regimes will be avoided as far as possible. Each case will be assessed on its own individual merits

#### **14.0 Casinos**

There are no casinos in Gateshead and in order for there to be any there would need to be a change in National legislation. If that should happen during the currency of this Statement of Principles a further amendment will be issued.

#### **15.0 Betting**

Anyone wishing to operate a betting office will require a betting premises licence from the Licensing Authority. Children and young persons will not be able to enter premises with a betting premises licence.

Betting premises will be able to provide a limited number of gaming machines and some betting machines.

The Licensing Authority has the power to restrict the number of betting machines, their nature and the circumstances in which they are made available. It will not generally exercise this power though unless there are good reasons to do so taking into account, among other things, the size of the premises and the level of management and supervision especially where vulnerable people are concerned.

Each application will be considered on its own individual merits.

Only one premises licence can be issued for any particular premises at any time unless the premises is a 'track'. A track is a site where races or other sporting events take place.

Track operators are not required to hold an 'operators licence' granted by the Gambling Commission. Therefore, premises licences for tracks, issued by the Licensing Authority are likely to contain requirements for premises licence holders about their responsibilities in relation to the proper conduct of betting. Indeed, track operators will have an important role to play, for example in ensuring that betting areas are properly administered and supervised.

Although there will, primarily be a betting premises licence for the track there may be a number of subsidiary licences authorising other gambling activities to take place. Unlike betting offices, a betting premises licence in respect of a track does not give an automatic entitlement to use gaming machines.

When considering whether to exercise its power to restrict the number of betting machines at a track the Licensing Authority will consider the circumstances of each individual application and, among other things will consider the potential space for the number of machines requested, the ability of track staff to supervise the machines, especially if they are scattered around the site, and the ability of the track operator to prevent children and young persons and vulnerable people betting on the machines.

## **16.0 Bingo**

The holder of a bingo operating licence will be able to provide any type of bingo game including cash and prize bingo.

Commercial bingo halls will require a bingo premises licence from the Licensing Authority

Amusement arcades providing prize bingo will require a prize gaming permit from the Licensing Authority.

In each of the above cases it is important that where children are allowed to enter premises licensed for bingo, in whatever form, they are not allowed to participate in any bingo game. When considering applications of this type the Licensing Authority will therefore take into account, among other things, the location of the games or machines, access to those areas, general supervision of the premises and the display of appropriate notices.

A limited number of gaming machines may also be made available at bingo-licensed premises.

Bingo is a class of equal chance gaming and will be permitted in alcohol licensed premises and in clubs provided it remains below a certain threshold, otherwise it will be subject to a bingo operating licence which will have to be obtained from the Gambling Commission.

## **17.0 Gaming**

A gaming machine can cover all types of gambling activity that can take place on a machine, including betting on 'virtual' events.

The Act itself prescribes the number and category of gaming machines that are permitted in each type of gambling premises.

Subject to the provisions of the Act, gaming machines can be made available in a wide variety of premises, including:

- casinos
- bingo premises
- betting premises, (including tracks)
- adult gaming centres
- family entertainment centres
- clubs
- pubs and other alcohol licensed premises
- travelling fairs

A machine is not a gaming machine if the winning of a prize is determined purely by the player's skill. However, any element of 'chance' imparted by the action of the machine would cause it to be a gaming machine.

The Licensing Authority will, where appropriate, seek to encourage permit and premises licence holders to adopt any codes of practice that may be introduced by the amusement industry from time to time.

## **18.0 Lotteries**

All lotteries are unlawful unless they are run in accordance with an operating licence issued by the Gambling Commission or it is an 'exempt' lottery as defined by the Act.

One of those exemptions is in respect of what are termed "small societies lotteries" and the Licensing Authority is responsible for registering these 'small' lotteries.

A society will be allowed to register with the Licensing Authority if it is a 'non-commercial' lottery, in other words, it is established and conducted:

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

The Licensing Authority will maintain a register of small societies lotteries that it has registered.

## **19.0 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.

Suitable premises might include hotels, conference centres and sporting venues.

## **GAMING AND GAMING MACHINE PERMITS**

### **20.0 Introduction**

As part of Gateshead Council's licensing function under the Gambling Act 2005 ("the Act"), the Licensing Authority will have responsibility for the issue of permits for licensed premises and club gaming machines, club gaming, gaming machines in unlicensed Family Entertainment Centres ("FECs") and for prize gaming.

Club gaming and club gaming machine permits are dealt with separately under the Act, and are not subject to this Policy.

This Policy relates to the exercise of the Licensing Authority's functions in respect of FEC permits, licensed premises gaming machine permits ("LP") and prize gaming permits (together referred to as "Permits") and is intended to enable persons who are considering making an application to the Licensing Authority for a Permit to understand the measures that the Licensing Authority will expect applicants to have addressed when making an application. These measures will be applied by the Licensing Authority in determining whether an application for a Permit should be granted.

### **21.0 Exercise of functions**

The Licensing Committee will determine applications in respect of permits as follows -

#### Licensing Officers under powers delegated to the Head of Regulatory Services –

- (1) Determination of applications for permits for FECs, prize gaming and LPs;
- (2) Cancellation of LPs and / or entitlement to hold equal chance gaming; and
- (3) Determination of applications for club gaming / club machine permits where no objection(s) made, or objection(s) made but then withdrawn (which are not the subject of this Policy, but are referred to for the sake of completeness).

#### Sub Committee -

- (1) Review of determination by Licensing Officers where an application for a permit is not granted / an LP is cancelled / entitlement to hold equal chance gaming is withdrawn;

- (2) Determination of applications for club gaming / club machine permits where objection(s) made (and not withdrawn); and
- (3) Cancellation of club gaming / club machine permits (which, as above, are not the subject of this Policy).

In carrying out its licensing functions under the Act the Licensing Authority will generally aim to permit the use of Permits insofar as they are considered to be:

- in accordance with any relevant Codes of Practice issued by the Gambling Commission;
- in accordance with any relevant Guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives, interpreted in accordance with the Codes of Practice and Guidance; and
- in accordance with this Policy in so far as it is consistent with the Codes of Practice, the Guidance and the licensing objectives.

Where the Licensing Authority receives an application for a Permit it may only accept or reject the application.

The Licensing Authority will aim to grant applications for Permits where the applicant satisfies the Licensing Authority that :

- The applicant has a legal right to occupy the premises for which the Permit is sought;
- The applicant is a fit and proper person to hold a Permit; and
- The applicant has considered and will implement suitable measures to promote the Licensing Objectives.

It may be that measures appropriate to one application would not be suitable in other circumstances. Each application will be dealt with on its own merits.

Sections 22 – 26 below set out the measures that applicants will be expected to address. Section 6 applies to all Permit applications, and sections 7 – 10 apply to applications for specific types of permit application. Applicants should consider each section of this document that is relevant to their application.

## 22.0 General principles

22.1 Where the Licensing Authority receives an application for a Permit, in order for the application to be duly considered the Authority should receive the following –

- (1) The prescribed application notice completed in full clearly and legibly
- (2) The prescribed fee
- (3) Proof of the applicant's identity (and where the applicant is an individual, his / her age)
- (4) Proof of the applicant's right to occupy the premises for which the Permit is sought
- (5) (Where the applicant is an individual) a basic Criminal Records Bureau check report no more than three calendar months old
- (6) Insurance certificate (or a certified copy duly stamped and signed by a solicitor / commissioner for oaths or notary public) confirming the availability of public liability insurance covering the proposed activity
- (7) A standard scale plan of the premises for which the Permit is sought showing –
  - (a) the boundary of the premises including any internal and external walls, entrances, exits, doorways and windows, and indicating the points of access available to the public
  - (b) the location of any fixed or temporary structures in the premises, including columns, stages, balconies and stairs
  - (c) the location of any counters, booths, offices or other locations from which staff may monitor the activities of persons on the premises
  - (d) the location of any public toilets within the boundary of the premises
  - (e) the location of fire extinguishers and smoke detectors
  - (f) the location of any ATM machines or other cash machines or change machines or other facilities by

which persons may obtain monies to participate in the activities to be permitted under the Permit

(g) the proposed location of the machines for which the Permit is sought, and any other gaming machines, specifying the nature of each machine

(h) the location of any prize gaming paraphernalia including tables, seats, screens and prizes

22.2 The Licensing Authority will also expect the applicant to demonstrate effective policy and procedure for the protection of children and other vulnerable people from being harmed or exploited by gambling.

Applicants may wish to address the following issues, which are not an exhaustive list, and which may be more or less relevant depending on individual circumstances –

- (1) training for staff to seek appropriate proof of age and identity
- (2) maintenance of contact details for local schools, education authorities and the Gateshead Protection of Vulnerable Adults Multi Agency Committee
- (3) policy and procedure for liaison with appropriate responsible bodies including Northumbria Police, Tyne & Wear Fire and Rescue Service, and local community representatives and Neighbourhood Watch / Pubwatch
- (4) maintenance of records of local school term times
- (5) training in the reporting of truant children to appropriate bodies
- (6) training in dealing with the problems associated with the attendance or attempted attendance of truant children
- (7) policy and procedure to address any problems that may arise from increased numbers of children during non-term time, including to ensure that sufficient competent staff are on duty
- (8) maintenance of a register of incidents including refusals, attendance of truant children, excessive gambling by children and other vulnerable people, and anti-social behaviour, and training to be able to identify such incidents
- (9) policy and procedure to address such incidents including referral to management, consideration of response to patterns of incidents, and reporting incidents to relevant bodies

- (10) policy and procedure for the display of appropriate signage in relation to bodies offering assistance and advice, for instance GamCare and Child Line
- (11) training to ensure that all young children are accompanied by a responsible adult
- (12) policy and procedure to deal with attendance by unaccompanied young children
- (13) policy and procedure to regularly obtain enhanced Criminal Records Bureau checks for all staff working in the proximity of children
- (14) maintenance of staffing records including the names, dates of birth, National Insurance numbers and current addresses of all persons working in the proximity of children, and recording who is on duty at all times when the premises are open to the public
- (15) design, installation and maintenance in good working order of a CCTV system ensuring coverage of the interior and exterior of the premises and providing continuous recording facilities to support the incidents register as above
- (16) consideration of the layout of exterior areas to deter the congregation of young people.

*Not all of these issues will be relevant to all premises; however this list is intended to be indicative of the issues you may need to consider. Equally, there may be issues that are relevant to particular premises that are not referred to above.*

### **23.0 Family Entertainment Centre Gaming Machine Permits**

FECs that require permits are defined in the Act as premises that are permitted to provide Category D gaming machines, but which do not have a Family Entertainment Centre Premises Licence.

The fact that a family entertainment centre is 'unlicensed' does not mean that it is unregulated. Rather, a premises licence is not required to operate as a FEC. Such FECs still require permits in order to provide Category D gaming machines.

Any premises wishing to provide any gaming machines outside Category D cannot qualify for a FEC Permit.

FECs will generally cater for families, including unaccompanied children and young people. Within the Borough it is anticipated that

UFECs will generally be located at transport service centres, however this does not preclude FECs being located in other areas, and each application will be dealt with on its own merits.

The Licensing Authority will only grant a permit to a FEC where it is satisfied that the premises will be operated as a bona fide FEC.

*In addition to the documents set out above, it is this Licensing Authority's policy that applicants for a FEC permit must provide the Licensing Authority with evidence that the machines that are to be provided under the permit are to be supplied by a person holding a valid Gaming Machine Technical Operating Licence issued by the Gambling Commission.*

Where the Licensing Authority receives an application for a FEC permit, it will either be approved or refused by a Licensing Officer having due consideration to the relevant circumstances.

The Licensing Authority will only grant an application following consultation with the Chief Officer of Police for the area in which the premises are situated, and will take into account any representations made.

As above, if an application is refused then the applicant may request that decision to be reviewed at a hearing by the Sub Committee.

#### **24.0 Prize Gaming Permits**

The Act defines 'prize gaming' as gaming where the nature and size of the prize that can be won is not determined by –

- the number of people participating in the gaming or
- the amount of money paid to participate or amount of money raised by the gaming.

For instance, 'prize gaming' may include bingo where participants pay a fixed amount to have the opportunity to win a fixed prize (regardless of the number of other participants); however this would not constitute 'prize gaming' if the size of the prize varied depending on how many people participated in that particular game.

A prize gaming permit will authorise the provision of facilities for prize gaming at specified premises.

The Act requires prize gaming providers to comply with the following –

- Limits on participation fees as set by Regulations from time to time;

- All chances to participate in the gaming must be acquired or allocated on the day and in the place which the gaming is taking place;
- The game must be played entirely on that day;
- The result of the game must be made public in the premises as soon as reasonably practicable and in any event on the day that the game is played;
- The prize for which the game is played must not exceed the prescribed amount (if a monetary prize) or prescribed value (if a non-monetary prize) set out in Regulations from time to time; and
- Participation in the gaming must not entitle the participant to take part in any other gambling.

Where the Licensing Authority receives an application for a prize gaming permit, it will either be approved or refused by a Licensing Officer having due consideration to the relevant circumstances.

The Licensing Authority will only grant an application following consultation with the Chief Officer of Police for the area in which the premises are situated, and will take into account any representations made.

As above, if an application is refused then the applicant may request that decision to be reviewed at a hearing by the Sub Committee.

## **25.0 Licensed Premises Gaming Machine Permits**

Premises licensed under the Licensing Act 2003 for on-premises sale of alcohol (not being Clubs are referred to in section 10 below) are entitled to provide equal chance gaming and gaming machines subject to certain conditions as follows –

### Gaming machines

LPs are automatically entitled to operate two Category C / D machines. *If, prior to the introduction of the Act, the licence holder has been permitted to have more than two such machines at those premises, then it is the policy of this Licensing Authority that they will be entitled to retain that number of machines unless and until that entitlement is reduced by surrender or cancellation.*

The Act does not limit the number of machines that LPs may have under gaming machine permits, however it is this Licensing Authority's policy that generally the number of machines that a LP is automatically entitled to should be sufficient. This does not preclude further machines being permitted where it is considered appropriate; *however*

*it is the general view of this Licensing Authority that there should be no more than four such machines in operation on LPs. Each case will be determined on its merits.*

There are no requirements for such permits to be renewed, as they are of indefinite duration. The permit will continue as long as the premises licence remains in existence, the premises licence holder continues to hold the licence, and the permit has not been surrendered, cancelled or forfeited.

Permits are not transferable. If the premises licence holder changes then the new licence holder must apply for a new permit.

Where the Licensing Authority receives an application for a gaming machine permit from premises licensed under the Licensing Act 2003, it will either be approved or refused by a Licensing Officer having due consideration to the relevant circumstances.

As above, if an application is refused then the applicant may request that decision to be reviewed at a hearing by the Sub Committee.

#### Exemption - Equal chance gaming

LPs may provide equal chance gaming where the following conditions are satisfied –

1. the limits on the prizes and amounts staked that are prescribed by the Secretary of State must be adhered to;
2. there must be no fee charged to participate in the gaming, nor any monies taken from the monies staked or won;
3. children and young people must not be permitted to participate in the gaming; and
4. any game played at one pub must not be linked to a game played at any other pub.

This is not an absolute entitlement – it may be lost if high turnover bingo is played during a high turnover period. This means that if during a period of seven days the combined total of stakes or prizes for bingo played at the LP is more than an amount prescribed by the Secretary of State (currently £2,000), a 'high turnover period' is deemed to have begun from the start of that seven day period. If, during that high turnover period, the combined total of stakes or prizes for bingo played at the LP exceeds the prescribed amount again, then 'high turnover bingo' is deemed to have taken place, and the entitlement is lost.

If this happens and the LP fails to notify the Gambling Commission then an offence under the Act is committed.

Also, the Licensing Authority may withdraw the entitlement of a LP to hold equal chance gaming if it is considered that –

- an offence under the Act has been committed at the LP (for instance as above);
- the LP is (or will be) solely or mainly used for gaming;
- if equal chance gaming is permitted to be held it would be inconsistent with the licensing objectives as above; or
- gaming has taken place in breach of a condition of section 284 of the Act.

Where this is the case, the Licensing Authority may remove the LP's entitlement to provide equal chance gaming. However, the Licensing Authority will only do so where it has given the premises licence holder at least 21 days notice of its intention to consider doing so. The Licensing Authority will take into account any representations made by the premises licence holder in making its determination. If the Licensing Officer determines that this entitlement to provide equal chance gaming should be removed, the applicant may request that the matter be considered at a hearing by the Sub Committee.

If an order is made by the Licensing Authority preventing equal chance gaming from being provided, that order will be provided to the premises licence holder with the Licensing Authority's reasons for reaching that decision. The order may be appealed to the Magistrates Court within 21 days of receipt of notification of the decision.

## **26.0 Clubs - Gaming and Gaming Machine Permits**

As stated above, club gaming permits and club gaming machine permits are dealt with differently to Permits under the Act, and this Policy is not applicable to applications received by the Licensing Authority for such permits from Members Clubs or Miners' Welfare Institutes.

Applications from commercial clubs **will** fall under the remit of this Policy, and will be dealt with as applicable under the relevant sections as above.

## **27.0 Exchange of information**

Subject to the provisions of the Data Protection Act 1998 the Licensing Authority will share any information it receives, through the application process with the Gambling Commission and other persons or bodies with functions under the Act as set out in Schedule 6. In doing so the Licensing Authority will have regard to the Act itself, any guidance

issued by the Commission from time to time and any Regulations issued by the Secretary of State.

## **28.0 Enforcement Protocols**

In general, the Gambling Commission will take the lead role on the investigation and, where appropriate, the prosecution of illegal gambling.

The Licensing Authority will work with the Commission, the police and other enforcing authorities to provide for the targeting of agreed problem or high-risk premises. A lighter touch will be applied to those premises that are shown to be well managed and maintained.

The overall aim is to permit the use of premises for gambling. With that in mind it is intended that action will generally be taken against 'problem' premises through the review process.

In cases where more formal action is considered to be appropriate, the key principles of consistency, transparency and proportionality will be observed.

## **29.0 The licensing process**

The Licensing Authority's licensing functions under the Act will be carried out by the Licensing Committee, supported by a number of sub-committees and by officers acting under the delegated authority of the committee.

Where there are no areas of contention it is considered that many of the functions will be largely administrative. In the interests of efficiency and effectiveness these will, for the most part, be carried out by officers.

Where there are relevant representations in respect of an application the matter will be determined by the Licensing Committee or one of its sub-committees, as will any application for the review of a licence.

## **30.0 Contact details**

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

Environmental Health and Licensing and Enforcement Manager  
Regulatory Services  
Gateshead Council  
Civic Centre  
Regent Street  
Gateshead  
Tyne & Wear

NE8 1HH

Telephone : 0191 4334741

Email : [licensing@gateshead.gov.uk](mailto:licensing@gateshead.gov.uk)

This Statement is not intended to override the right of any person to make an application under the Act, and to have that application considered on its merits. Equally, this Statement of Principles is not intended to undermine the right of any person to make representations about an application or to seek a review of a licence where provision has been made for them to do so

The Council reserves the right to amend this Statement should it be necessary to do so following Regulations issued by the Secretary of State or further Guidance from the Gambling Commission.