



## **GAMBLING ACT 2005**

### **POLICY FOR THE ISSUE OF GAMING AND GAMING MACHINE PERMITS**

**Dated : 7 June 2007**

## **1.0 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 ("LPs") and prize gaming permits (together referred to as "Permits").

In exercising this function, the Licensing Authority will also have regard to the Act, any relevant Codes of Practice or Guidance issued by the Secretary of State or the Gambling Commission, and also to Gateshead Council's Statement of Principles that was first published on 3 January 2007 as amended from time to time. This document is supplemental to that Statement of Principles, and should be read in conjunction with it.

This document 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.

## **2.0 Consultation**

Before adopting this Policy, the Licensing Authority consulted the following:

- All Responsible Authorities relevant to Gambling licensing issues in the Borough
- Gateshead Council's Legal & Corporate Services
- Gateshead Council's Education & Welfare Services
- Gateshead Council's Portfolio Holders
- The Policy was also open to general consultation by being placed on Gateshead Council's website as follows –  
<http://www.gateshead.gov.uk/Business%20and%20Industry/licenses/home.aspx>

Proper weight was given to the views of all those who were consulted prior to the date of implementation of the Policy.

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

### **3.0 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 insofar as it is consistent with the Codes of Practice, the Guidance and the licensing objectives.

## **4.0 Licensing Objectives**

There are three 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

*It is the policy of this Licensing Authority that it will take these Licensing Objectives into consideration in its decision making in respect of all Permits.*

## **5.0 Matters to be taken into consideration**

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 6 – 10 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.

## 6.0 General principles

6.1 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 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

6.2 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.*

## **7.0 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 cater for families, including unaccompanied children and young people. Within the Borough it is anticipated that FECs 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.

*It is this Licensing Authority's policy that, in addition to the documents set out above, 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 or referred to the Sub Committee for determination, 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 not approved by the Licensing Officer, then the applicant may request the decision to approve or refuse the application to be determined at a hearing by the Sub Committee.

## 8.0 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 or referred to the Sub Committee for determination, 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 not approved by the Licensing Officer, then the applicant may request the decision to approve or refuse the application to be determined at a hearing by the Sub Committee.

## 9.0 Licensed Premises Gaming Machine Permits

Premises licensed under the Licensing Act 2003 for on-premises sale of alcohol (not being Clubs, which 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. *It is the policy of this Licensing Authority that if, prior to the introduction of the Act, the license holder has been permitted to have more than two such machines at those premises, 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, and the permit has not been surrendered, cancelled or forfeited.

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 or referred to the Sub committee for determination, having due consideration to the relevant circumstances.

As above, if an application is not approved by the Licensing Officer, then the applicant may request the decision to approve or refuse the application to be determined 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
4. any game played at one LP must not be linked to a game played at any other LP.

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.

## **10.0 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.

## 11.0 Contact details

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

Licensing and Enforcement Manager  
Regulatory Services  
Gateshead Council  
Civic Centre  
Regent Street  
Gateshead  
Tyne & Wear  
NE8 1HH

Telephone : 0191 4333000  
Email : [licensing@gateshead.gov.uk](mailto:licensing@gateshead.gov.uk)

This Policy 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 Policy is not intended to undermine the right of any person to make representations about an application or to seek a review of a permit or licence where provision has been made for them to do so.

The Council reserves the right to amend this Policy from time to time, following proper consultation where appropriate.

If you have a hard copy of this document, to ensure that it is current, please contact the Licensing Manager as above, or refer to the Council's website as follows :

<http://www.gateshead.gov.uk/Business%20and%20Industry/licenses/home.aspx>