

AGENDA



- Committee - **COMMITTEE OF THE LICENSING AUTHORITY**
- Date & Time - Tuesday, 13 November 2012 at 6.35 pm or immediately following the conclusion of the Licensing Committee whichever is the later
- Venue - Council Chamber, Council Offices, Priory Road, Spalding

Membership of the Committee of the Licensing Authority:

Councillors: F Biggadike (Vice-Chairman), A Casson, M G Chandler (Chairman), P E Coupland, G K Dark, A Harrison, M Howard, C J Lawton, E J Sneath and D J Wilkinson

Persons attending the meeting are requested to turn mobile telephones to silent mode

Member Services
Council Offices, Priory Road
Spalding, Lincs PE11 2XE

Date: 5 November 2012

AGENDA

1. Apologies for absence.
2. Declaration of interests - (Members are no longer required to declare personal or prejudicial interests but are to declare any new Disclosable Pecuniary Interests that are not currently included in their Register of Interests.

Members are reminded that under the Code of Conduct they are not to participate in the whole of an agenda item to which they have a Disclosable Pecuniary Interest. In the interests of transparency, members may also wish to declare any other interests that they have, in relation to an agenda item, that supports the Nolan principles detailed within the Code of Conduct.)

3. Minutes - To sign as a correct record the minutes of the meeting held on:
 - a) 9 November 2011 (Pages 1 - 2)
 - b) 16 May 2012 (Pages 3 - 4)
4. Licensing Authority as Responsible Authority - To determine how the Licensing Authority will discharge its functions as a Responsible Authority under the Licensing Act 2003 (report of Assistant Director Commissioning enclosed). (Pages 5 - 8)
5. Live Music Act 2012 - To note the amendments to the Licensing Act 2003 via the Live Music Act 2012 in respect of live music entertainment and the provision of entertainment facilities (report of the Assistant Director Commissioning enclosed). (Pages 9 - 12)
6. Revised Statement of Principles Gambling Act 2005 - To consider the draft revised Statement of Principles and refer it to full Council for approval (report of the Assistant Director Commissioning enclosed). (Pages 13 - 60)
7. Any other items which the Chairman decides are urgent. -

NOTE: No other business is permitted unless by reason of special circumstances, which shall be specified in the minutes, the Chairman is of the opinion that the item(s) should be considered as a matter of urgency.

-142 -

Minutes of a meeting of the **COMMITTEE OF THE LICENSING AUTHORITY** held in Meeting Room 1, Council Offices, Priory Road, Spalding on Wednesday 9 November 2011.

PRESENT

Councillors:

M G Chandler (Chairman)
A Harrison (Vice-Chairman)

A Casson
H R Johnson
E Sneath

G K Dark
C J Lawton
D J Wilkinson

M Howard
R Rudkin

Jo Furner, Legal Services Lincolnshire, the Team Leader for Food Safety and Licensing and the Licensing Officer.

In attendance: Team Leader – Member Services

237. **MINUTES**

The minutes of the meetings held on 18 May 2011 were signed as a correct copy.

238. **CONSULTATION ON THE LICENSING ACT 2003.**

Copies of a consultation proposal to examine the deregulation of Schedule One of the Licensing Act had been circulated to Committee members prior to the meeting. The consultation sought views on a proposal to remove licensing requirements in England and Wales for most activities currently defined as “regulated entertainment” in Schedule One to the Licensing Act 2003. The closing date for receipt of responses was 3 December 2011.

The Committee discussed the consultation paper and all agreed that a response was required. The Committee agreed that it was an unrealistic vision for South Holland and it would be impossible to regulate non-regulatory events. The consultation document asked for responses to 30 questions and the Chairman invited the Committee to email through their responses to these questions to the Team Leader for Food Safety and Licensing – these responses would then be collated and form the final Committee response. Comments would also be added from Team Leader, Safety & Environment.

DECISION: That a response be submitted to the consultation from the Committee of the Licensing Authority;

(Meeting ended at 8.20pm)
(End of Minutes.)

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- 1 -

Minutes of a special meeting of the **LICENSING COMMITTEE (AND COMMITTEE OF THE LICENSING AUTHORITY)** held in the Council Chamber, Council Offices, Priory Road, Spalding on Wednesday 16 May 2012.

PRESENT

Councillors:

F Biggadike
A Casson
M G Chandler

A Harrison
C J Lawton
R M Rudkin

E J Sneath
D J Wilkinson

The Assistant Director - Democratic Services.

Apologies for absence were received from Councillors G K Dark and M Howard.

1. **ELECTION OF CHAIRMAN**

Nominations were invited for the election of the Chairman of the Licensing Committee (and Committee of the Licensing Authority) for the ensuing year.

DECISION: That Councillor M Chandler be elected Chairman for the ensuing year.

(Councillor A Casson in the Chair.)

2. **ELECTION OF VICE-CHAIRMAN**

The Chairman of the Committee invited nominations for the election of the Vice-Chairman for the ensuing year.

DECISION: That Councillor F Biggadike be elected Vice-Chairman for the ensuing year.

3. **LICENSING PANEL**

The Licensing Panel currently comprised 3 members chosen from a pool comprising all of the Licensing Committee members, and each Panel was selected by the Assistant Director – Democratic Services on a rotational basis as and when required, but to include either the Chairman or Vice-Chairman of the Licensing Committee where reasonably possible.

Members were invited to consider (i) whether the Panel should be re-established for the current municipal year; and (ii) whether any amendment should be made to the terms of reference or composition of the Panel.

DECISION: (a) That the Licensing Panel be re-established for the current municipal year.
(b) That no amendment be made to the composition or terms of reference of the Panel.

(Meeting ended at 7.25 pm.)

(End of minutes.)

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SOUTH HOLLAND DISTRICT COUNCIL

Report of: Rob Walker – Assistant Director of Commissioning

To: Licensing Committee

(Author: Fiona Inston – Licensing and Business Support Manager)

Subject: Licensing Authority as Responsible Authority under the Licensing Act 2003

Purpose: Determine how the Licensing Authority will discharge its function as a Responsible Authority under the Licensing Act 2003

Recommendation:

To agree the procedure under which the Licensing Authority will discharge its functions as a Responsible Authority under the Licensing Act 2003.

1.0 BACKGROUND

- 1.1 The Police and Social Responsibility Act 2011 came into effect on 25th April 2012. Section 103 of that Act amends the Licensing Act 2003 to make the Licensing Authority a Responsible Authority. This is in addition to the existing Responsible Authorities.
- 1.2 South Holland District Council is the Licensing Authority within the district. The Licensing Committee has responsibility for discharging licensing functions on behalf of the Licensing Authority. Therefore delegation from the Committee is requested to establish how the role of Responsible Authority will be carried out. Section 10 of the Licensing Act 2003 permits the Licensing Committee to discharge certain functions to an officer of the Licensing Authority.
- 1.3 All Responsible Authorities are entitled to make representations in relation to applications for grant, variation or review of a premises licence or club premises certificate. Representations must be relevant and relate to the promotion of one or more of the four licensing objectives. It is for the Licensing Authority to determine when there are appropriate grounds to make representations. For further information on determination of applications please refer to the Licensing Act 2003 and the Guidance issued under section 182 of the Licensing Act 2003.
- 1.4 The role of Responsible Authority needs to be separated from the role of Licensing Officer. For more information and explanation on Licensing Authorities acting as Responsible Authorities please see paragraphs 9.13 to 9.19 of the Guidance issued under section 182 of the Licensing Act 2003 (a link to this document can be found at the bottom of this report).

2.0 OPTIONS

2.1 The Licensing Committee are requested to consider:

- a) Delegation of the Responsible Authority function to the following officer posts: Licensing & Business Support Manager, Food, Health & Safety Manager and Environmental Protection Manager. These posts are shared between Breckland Council and South Holland District Council.
- b) Supporting the proposal to examine each application or problem premises on a case by case basis in conjunction with other Responsible Authorities if appropriate, taking into account the requirement to promote the licensing objectives and to have regard to the Council's Statement of Licensing Policy and the Guidance issued under section 182 of the Licensing Act 2003.

3.0 REASONS FOR RECOMMENDATION(S)

3.1 In order to protect the impartiality of the Licensing Authority, to reduce the possible conflict of interest and to ensure a fair hearing it is necessary to separate the role of Responsible Authority from the process of handling applications and servicing the Licensing Committee. These duties are currently carried out by the Licensing Officer and there is no further scope for separation of roles within the Licensing Team.

3.2 It is felt that the Environmental Health Managers provide the best available separation of roles and knowledge of Licensing and so are best placed to carry out the Responsible Authority duties on behalf of the Licensing Authority.

4.0 EXPECTED BENEFITS

4.1 The benefits of formalising the arrangement is that we have robust procedures and delegation in place to exercise the Council's duties under the Licensing Act 2003.

5.0 IMPLICATIONS

5.1 Carbon Footprint & Environmental Issues

5.1.1 None

5.2 Constitution & Legal

5.2.1 Decisions made by and on behalf of the Licensing Authority may be subject to challenge in the courts.

5.2.2 It is proposed to delegation of the Responsible Authority function to the following officer posts: Licensing & Business Support Manager, Food, Health & Safety Manager and Environmental Protection Manager.

5.3 **Contracts**

5.3.1 None

5.4 **Corporate Plan**

5.4.1 None

5.5 **Crime and Disorder**

5.5.1 None

5.6 **Equality and Diversity & Human Rights**

5.6.1 None

5.7 **Financial**

5.7.1 None

5.8 **Risk Management**

5.8.1 Failure to have clear distinction between the role of the licensing officer and the responsible authority in cases which require hearings etc could result in appeals or judicial review.

5.9 **Staffing**

5.9.1 None

5.10 **Stakeholders / Consultation**

5.10.1 None

5.11 **Other**

5.11.1 An amendment to South Holland's District Council Statement of Licensing Policy to reflect the Committee's decision would be necessary. The policy is to be updated in due course to reflect further legislative changes due in October 2012.

6.0 WARDS/COMMUNITIES AFFECTED

6.1 All

Background papers:-

Licensing Act 2003 www.legislation.gov.uk/ukpga/2003/17/contents

Police and Social Responsibility Act 2011 – Part 2
www.legislation.gov.uk/ukpga/2011/13/contents/enacted

Amended Guidance issued under Section 182 of the Licensing Act 2003
www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol/guidance-section-182-licensing

Lead Contact Officer

Name/Post: Fiona Inston – Licensing and Business Support Manager

Telephone Number: 01362 656893

Email: Fiona.inston@breckland-sholland.gov.uk

Appendices attached to this report:

None

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Assistant Director of Commissioning

To: Licensing Committee – 13 November 2012

Author: Fiona Inston – Licensing and Business Support Manager

Subject: Live Music Act 2012

Purpose: To note the amendments to the Licensing Act 2003 via the Live Music Act 2012 in respect of live music entertainment and the provision of entertainment facilities.

Recommendation: This report is for information only.

1.0 BACKGROUND

1.1 The Live Music Act received Royal Assent on 8th March 2012 and came into effect on 1st October 2012.

1.2 The Live Music Act 2012 (the Act) amends the Licensing Act 2003 in several areas as follows:

- Conditions related to live music will not apply if the following are met – there is a premises licence or club premises certificate in place authorising on sales of alcohol; the premises are open for the supply of alcohol for consumption on the premises; live music takes place between 8am and 11pm and, if the live music is amplified, the audience is of no more than 200 people. Conditions will apply outside of these hours and criteria.
- If the above criteria are met live music ceases to be classed as regulated entertainment.
- Live unamplified music provided anywhere is not classed as regulated entertainment between 8am and 11pm regardless of the number of people in the audience.
- The Act wholly removes the requirement to licence entertainment facilities.
- To protect local residents the Act has additional provisions. At a review of the premises licence or club premises certificate the Licensing Authority can determine that conditions relating to live music will apply during the hours of 8am and 11pm.
- In addition if there is not authorisation for live music the Licensing Authority can attach conditions to the premises licence / club premises certificate which can also apply between 8am and 11pm.
- The Licensing Authority can also decide that live music is a licensable activity at the premises and that live music cannot be provided without authorisation on a premises licence / club premises certificate or Temporary Event Notice.

1.3 Consultation has been undertaken by the Department of Culture, Media and Sport (DCMS - the central government department with responsibility for this Act) with a view to producing updated Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003.

- 1.4 This Guidance is expected on 31st October 2012, when the Live Music and other amendments will be incorporated.
- 1.5 It is important to state that all other legislative requirements still apply. The Live Music Act 2012 does not permit premises to cause noise nuisance.
- 1.6 There is also a totally separate consideration underway by the DCMS following another consultation on proposals to deregulate some activities currently classed as regulated entertainment under the Licensing Act 2003. The outcome of this is not yet known.

2.0 **OPTIONS**

- 2.1 The Licensing Committee is requested to consider the contents of this report and amend existing protocols and / or decision making criteria as necessary.

3.0 **REASONS FOR RECOMMENDATION**

- 3.1 It is essential that members of the Licensing Committee and Sub-Committees are fully aware of the changes to the Licensing Act 2003 via the Live Music Act 2012 and expected amended Guidance so that any decisions will withstand legal scrutiny in the event of a subsequent appeal.

4.0 **EXPECTED BENEFITS**

- 4.1 The benefit is to provide members of the Committee of the Licensing Authority an update on significant legislative changes, which may be relevant in further policy work or sub committee hearings associated with the Licensing Act 2003.

5.0 **IMPLICATIONS**

5.1 **Legal**

- 5.1.1 Decisions made by or on behalf of the Licensing Authority may be subject to challenge in the courts.

5.2 **Risks**

- 5.2.1 If consideration and changes are not made with modification to legalisation the licensing team would not be complying with its statutory duties as a licensing authority.

5.3 **Financial**

- 5.3.1 None

5.4 **Timescales**

- 5.4.1 The legislation came into effect on the 1st October 2012

5.5 **Equality and Diversity**

- 5.5.1 None

5.6 **Stakeholders / Consultation**

5.6.1 To update the licensing trade an update has been provided on the Council's website.

5.7 Contracts

5.7.1 None

5.8 Section 17, Crime & Disorder Act 1998

5.8.1 None

5.9 Other

5.9.1 An amendment to South Holland District Council's Statement of Licensing Policy to reflect these changes will be necessary. The policy is to be updated to reflect several legislative changes that have occurred throughout 2012.

6.0 WARDS/COMMUNITIES AFFECTED

6.1 All

Background papers:-

Live Music Act 2012: www.legislation.gov.uk/ukpga/2012/2/enacted

Licensing Act 2003: www.legislation.gov.uk/ukpga/2003/17/introduction

Regulated Entertainment – Technical Consultation on the proposed new Chapter 15 of the Section 182 Guidance issued under the Licensing Act 2003:
www.culture.gov.uk/consultations/9291.aspx

Lead Contact Officer

Name/Post: Fiona Inston - Licensing & Business Support Manager

Telephone Number: 01362 656893

Email: fiona.inston@breckland-sholland.gov.uk

Director/Officer who will be attending the Meeting

Name/Post: Fiona Inston – Licensing & Business Support Manager

Appendices attached to this report:

None

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SOUTH HOLLAND DISTRICT COUNCIL

Report of: Assistant Director of Commissioning

To: Licensing Committee – 13 November 2012

Author: Fiona Inston – Licensing and Business Support Manager

Subject: Revised Statement of Principles – Gambling Act 2005 policy

Purpose: Consider the draft revised Statement of Principles for the Gambling policy and refer it to Full Council for approval

Recommendation: The Licensing Committee and then full Council to consider then approve the revised Statement of Principles in order for South Holland District Council to act as the licensing authority to discharge its statutory duties under the Gambling Act 2005.

1.0 BACKGROUND

- 1.1 The Gambling Act 2005 came fully into effect on 1 September 2007 creating a new system of licensing and regulation for commercial gambling in this country. Local Authorities have regulatory responsibilities for licensing certain gambling activities. The Act also created an independent non-departmental public body the Gambling Commission sponsored by the Department for Culture, Media and Sport.
- 1.2 Under section 349 of the Gambling Act 2005 a licensing authority is required to prepare and publish a statement of the principles that it proposes to apply in exercising its functions under this Act before each successive period of three years. The current statement of principles was both published and came into effect in January 2010.
- 1.3 To assist local authorities the Act requires the Gambling Commission to issue statutory guidance to Licensing Authorities on the manner in which they are to exercise their functions under the Act and the principles to be applied by them in exercising those functions. Licensing Authorities are required to take into account such guidance. The statutory guidance is designed to ensure the spread of best practice and consistency of approach in decision making by local authorities, whilst not preventing them from properly exercising the discretion they have to take account of appropriate and relevant local issues.
- 1.4 A review of the current Statement of Principles has been completed and a revised draft prepared. This draft is based on the 4th Edition of the Guidance issued to licensing authorities published by the Gambling Commission and a template statement issued by the Local Government Association. This statement has amended the previous one and is in line with the national advice given. The proposed draft revised Statement of Principles is attached at Appendix A.

- 1.5 Final approval of the Statement of Principles must be made by Full Council. The Statement of Principles is scheduled to be published January 2013 and to come into effect 31st January 2013.
- 1.6 In accordance with the requirements the draft revised Statement of Principles was under consultation from 19th July 2012 until 11th October 2012. The consultation was carried out in accordance with guidance issued by the Gambling Commission and the HM Government Code of Practice on Consultation. There is a requirement under section 349(3) Gambling Act 2005 for the licensing authority to consult the following bodies on the Statement of Principles and subsequent revision to it:-
- The Chief Officer of Police for the authority's area;
 - one or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area; and
 - 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 this Act.
- 1.7 In accordance with this, we have consulted widely on the draft Statement of Principles with the Responsible Authorities under the Act (Lincolnshire Constabulary, Lincolnshire Fire Service, Environmental Health, Social Services, Planning, Gambling Commission, HM Revenue & Customs). All holders of South Holland District Council issued gambling permissions were consulted along with a variety of interested parties including Citizen's Advice Bureaus, Chamber of Commerce, Public Health Board, machine suppliers, industry bodies and problem gambling charities. The draft statement was also placed on the South Holland District Council website.
- 1.8 No responses to the draft Statement of Principles were received.
- 1.9 The revisions to the Statement of Principles include an updated introduction, updates to documents referred to, new information on test purchasing, information on gambling as a primary activity, updates on gaming machines and provision of updated Responsible Authority contact details.
- 2.0 **OPTIONS**
- 2.1 The options for the Licensing Committee are limited as the process is legislative and dictated by the Gambling Act 2005. The Council has no discretion as to making the Statement of Principles, although there is some discretion as to the content of the statement.
- The Licensing Committee is requested to:-
1. Consider the draft revised statement of principles and
 2. Refer the Statement of Principles to Full Council for approval
- 3.0 **REASONS FOR RECOMMENDATION**
- 3.1 To ensure South Holland District Council acting as the Licensing Authority can discharge its statutory duties under the Gambling Act 2005.

4.0 EXPECTED BENEFITS

- 4.1 The benefit of this report is that the Gambling Policy will be updated and revised in accordance with legislative framework which reduces the risk of legal challenge to the Council.

5.0 IMPLICATIONS

5.1 Legal

- 5.1.1 It is a statutory requirement that the Licensing Authority produces a Statement of Principles that it proposes to apply in exercising its functions under the Gambling Act 2005 and that it reviews it at least every three years.

5.2 Risks

- 5.2.1 If the Authority does not produce a revised statement of policy and related procedures within the statutory timescale, there is a risk that the Authority will not be in a position to process applications, leaving the Authority open to challenge by persons wishing to make such applications. Furthermore, the Authority will also have failed to comply with its legal obligations under the Act and could face challenge.

5.3 Financial

- 5.3.1 None

5.4 Timescales

- 5.4.1 Final approval of the Statement of Principles must be made by Full Council and the Statement of Principles is scheduled to be published January 2013 and to come into effect 31st January 2013.

5.5 Equality and Diversity

- 5.5.1 None

5.6 Stakeholders / Consultation

- 5.6.1 The policy was consulted on for 12 weeks. Details on consultation can be seen in 1.7 of this report

5.7 Contracts

- 5.7.1 None

5.8 Section 17, Crime & Disorder Act 1998

- 5.8.1 None

5.9 Other

5.9.1 None

6.0 **WARDS/COMMUNITIES AFFECTED**

6.1 All

Background papers:-

Gambling Act 2005 www.legislation.gov.uk/ukpga/2005/19/contents

Gambling Commission - Guidance to Local Authorities
www.gamblingcommission.gov.uk/pdf/GLA4%20September%202012.pdf

Lead Contact Officer

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Email: fiona.inston@breckland-sholland.gov.uk

Director/Officer who will be attending the Meeting

Name/Post: Fiona Inston – Licensing & Business Support Manager

Appendices attached to this report:

Appendix A: Draft Statement of Principles

SOUTH HOLLAND DISTRICT COUNCIL
DRAFT STATEMENT OF PRINCIPLES
Gambling Act 2005

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This Statement of Principles was approved by South Holland District Council on [tbc]

All references to the Guidance refer to the Gambling Commission's Guidance to Licensing Authorities 4th Edition, published July 2012.

The Gambling Act 2005 requires every Licensing Authority to publish a Gambling Policy (Statement of the Principles), which they propose to apply when exercising their licensing functions. This document is the Gambling Policy (Statement of Principles) of South Holland District Council.

Whilst all applications will be judged and determined on their individual merits the policy will be the basis of the Licensing Authority's decisions. The policy will be reviewed regularly to reflect the needs of the district of South Holland.

PART A

1. The Licensing Objectives

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

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

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

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

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

2. Introduction

South Holland District Council, is situated in the county of Lincolnshire, which contains 7 district councils in total. The district has a population of **82,600** **88,300 (census 2011 figure)** making it the second smallest district in the county in terms of population. South Holland District covers a geographical area of 74,238 hectares and is situated in the south eastern corner of Lincolnshire, which borders the counties of Cambridgeshire and Norfolk. The district is mainly rural and is comprised of 47 towns and villages including the main town of Spalding. **These areas are shown in the map attached at Appendix 1.**

The Licensing Authority has worked in partnership with the other councils in the county in preparing this statement of principles, which is based on the draft statement of principles guidance issued by the Department of Culture, Media and Sport (DCMS), the Gambling Commission (the commission) and The Local Authorities Coordinators of Regulatory Services (LACORS).

The Licensing Authority recognises its duties to consider the impact of all its’ functions and decisions on crime and disorder under the requirements of

Section 17 of the Crime and Disorder Act 1998 in adopting this statement of principles. The council acknowledges the benefits to the community of properly regulating gambling in the district.

The Licensing Act 2003 provides the delegated and procedural arrangements for the establishment of licensing authorities.

Licensing committees established under Section 6 of the Licensing Act 2003 are also relevant committees for the purpose of gambling functions. Therefore, the same committee that deals with applications and other issues in relation to the Licensing Act 2003 will also be responsible for Premise Licence applications and other issues (i.e. permits) in relation to gambling.

The proceedings of the Licensing Committee are regulated by Section 9 of the 2003 Act (and regulations made under that section). Particular provision can be made for proceedings in relation to just the 2003 Act functions or just the 2005 Act functions.

The functions of the Licensing Authority under the Act may be carried out by the licensing committee, by a sub-committee or by one or more officers acting under delegated authority. Delegated powers shall be in accordance with the table at Appendix 1 of this document.

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

The Licensing Authority consulted widely upon this statement before finalising and publishing. A list of those persons consulted is provided, at Appendix 2.

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

Our consultation took place between 19 July and 11 October 2012 and we followed the HM Government Code of Practice on Consultation (published July 2008), which is available at:

www.bis.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 Team. Contact details below.

The policy was approved at a meeting of the Licensing Committee on **XXX** and was subsequently submitted for approval at a meeting of the Full Council on **XXX**. It will be published via the council's website. Copies of the Statement of Principles were available for inspection from the Council Offices at Priory Road, Spalding, Lincs.

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

The Licensing Team, South Holland District Council, Priory Road,
Spalding, Lincolnshire, PE11 2XE
E-mail: Licensing@sholland.gov.uk or telephone 01775 761161.

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

3. Declaration

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

4. Responsible Authorities

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

- The need for the body to be responsible for an area covering the whole of the licensing authority's area;
- The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group; and
- That this body is experienced in dealing with the protection of children

In accordance with the suggestion in the Gambling Commission's Guidance for Licensing Authorities, this authority designates the Lincolnshire Safe Guarding Children Board for this purpose.

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) e.g. members of parliament and ward councillors”.

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:**

The Licensing Authority, in determining whether a person is an interested party, will consider each case on its merits. The Authority will not apply a rigid rule to its decision making. **It will consider the examples of considerations provided in the Gambling commission’s Guidance to licensing Authorities at 8.11 to 8.18.** In reaching its decision, the Licensing Authority will consider factors such as the likelihood of the person/business being affected by the licensable activities at the premises as well as the geographical proximity. Larger premises may affect people over a broader geographical area than smaller premises offering the same facilities.

“Business interests” will be given its widest possible interpretation and may include partnerships, charities, faith groups and medical practices.

Interested parties can be persons who are democratically elected such as councillors and MPs. This will include county, borough and parish councillors providing they represent the ward likely to be affected. Other than these persons, the Licensing Authority will generally require written evidence that a person/body **(e.g. advocate/relative)** ‘represents’ someone who either lives sufficiently close to the premises likely to be affected by the authorised activity/activities and/or business interests that might be affected by the authorised activity/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 team on 01775 761161 /email:licensing@sholland.gov.uk.

Or contact **Legal and** Member Services on 01775 761161

6. Exchange of Information

The Licensing Authority may share information received in the exercise of its functions **under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act. These include** a responsible authority as defined by the Act, a constable or police force, an authorised officer of another Licensing Authority, Her Majesty's Commissioners of Customs & Excise, The Gambling Appeal Tribunal, The National Lottery Commission or the Secretary of State.

The Licensing Authority will act in accordance with 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 to Local Authorities as well as any relevant regulations issued by the Secretary of State under powers provided in the Gambling Act 2005.

The Licensing Authority will inform the Gambling Commission without delay if:

- Information that causes the Licensing Authority to question the suitability of a person or business holding or applying to hold an operating licence is received.
- There are persistent or serious disorder problems that an operator could or should do more to prevent, so that the Commission may consider the continuing suitability of the operator to hold an Operating Licence.
- If it comes to the Licensing Authority's attention that alcohol-licensed premises, clubs or institutes are playing bingo during the course of a week which involves significant stakes and prizes that that make it possible that £2,000 in seven days is being exceeded.
- Any other reasonable and relevant information that the Licensing Authority is of the opinion the Gambling Commission should be made aware of.

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

The council is a signatory to the joint protocol on information exchange under the provisions of Section 115 of the Crime and Disorder Act 1998 with the Lincolnshire Police and the Lincolnshire County Council. The council will seek to use that provision as appropriate.

7. Enforcement **and Inspection**

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 instigate criminal proceedings in respect of the offences specified.

The 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 **consistent joined up and** implemented fairly;
- Transparent: regulators should be open, and keep regulations simple and user friendly; and
- Targeted: regulation should be focused on the problem, and minimise side effects

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

The Licensing Authority will implement a risk-based inspection programme based on;

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

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

This Licensing Authority may carry out risk based regular operations with other agencies including the Gambling Commission and the Police to ensure the objectives are being promoted. This includes test purchasing operations to ensure children and the vulnerable are being protected where required. **When undertaking test purchasing activities, this licensing authority will undertake to liaise with the Gambling Commission and the operator to determine what other, if any, test purchasing schemes may already be in**

place. Irrespective of the actions of an operator on their overall estate, test purchasing may be deemed to be an appropriate course of action.

As a general rule the licensing authority will consider formal action where there is evidence that the Licensing Objectives are being adversely affected.

Premises licence holders are advised that where following the receipt of a warning or warnings in relation to a Premises Licence breach or breaches, an operator subsequently breaches the licence conditions, the Licensing Authority will seek to review the premises licence.

The Licensing Authority keeps itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

In considering enforcement action, the Licensing Authority will bear in mind the Human Rights Act, in particular:

- Article 1, Protocol 1 – peaceful enjoyment of possessions
- Article 6 – right to a fair hearing
- Article 8 – respect for private and family life
- Article 10 – right to freedom of expression

8. Licensing Authority functions

South Holland District Council as the licensing authority is responsible for the licensing of premises and the issue of permits and authorisations under the Gambling Act 2005. The Authority's main functions under the 2005 Act are:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences
- Issue Provisional Statements
- Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue Club Machine Permits to Commercial Clubs
- Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- Register small society lotteries below prescribed thresholds
- Issue Prize Gaming Permits
- Receive and endorse Temporary Use Notices
- Receive Occasional Use Notices
- Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information

- exchange')
- Maintain registers of the permits and licences that are issued under these functions

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

This Policy is intended to provide clarity to applicants, interested parties and responsible authorities on how this Licensing Authority will determine applications. Guidance is available to assist applicants: the aforementioned guidance does not form part of this Policy.

PART B

PREMISES LICENCES: CONSIDERATION OF APPLICATIONS

1. General Principles

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

(i) Decision-making

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

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

It is appreciated that as per the Gambling Commission's Guidance to Licensing Authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" and also that unmet demand is not a criterion for a licensing authority.

Premises Licences authorise the provision of gambling facilities on the following:

- Casino premises
- Bingo premises

- Betting premises (including race tracks used by betting intermediaries)
- Adult Gaming Centres (AGCs)
- Family Entertainment Centres (FECs)

This licensing authority also notes Gambling Commission guidance on ensuring that betting is the primary activity of a licensed premises. Gaming machines may be made available for use in licensed betting premises only at times when there are also sufficient facilities for betting available. Operators will need to demonstrate that betting will continue to be the primary activity of the premises when seeking variations to licences.

In making this determination, this licensing authority will have regard to the six indicators of betting as a primary gambling activity.

- ***The offer of established core products (including live event pictures and bet range)***
- ***The provision of information on products and events***
- ***The promotion of gambling opportunities and products***
- ***The actual use made of betting facilities***
- ***The size of premises***
- ***The delivery of betting facilities***

(ii) Definition of ‘premises’ –

Premises is defined in the Act as “any place”. Different premises licences cannot apply in respect of a single premises at different times. However, it is possible for a single building to 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, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, the Licensing Authority will pay particular attention if there are issues about sub-division of a single building or plot and will ensure that mandatory conditions relating to access between premises are observed. Each case should be judged on its individual merits.

The Gambling Commission states in 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. That does not mean that 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 be properly 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 named 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 ~~place~~ **passageway**?
- Can the premises only be accessed from any other gambling premises?

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

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

Casinos

- The principal access entrance to the premises must be from a street (as defined at **7.25** of the Guidance)
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons
- No Customer must be able to enter a casino directly from any other premises which holds a gambling premises licence

Adult Gaming Centre

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

Betting Shops

- Access must be from a street (as per para 7.25 Guidance to Licensing Authorities) or from another premises with a betting premises licence.
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.

Tracks

- No customer should be able to access the premises directly from:
 - A casino
 - An adult gaming centre

Bingo Premises

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

Family Entertainment Centre

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

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

(iii) Premises 'ready for gambling'

The Gambling Commission's 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 the 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 can be made instead.

In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at the 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 example of the circumstances in which such a licence may be granted can be found at paragraphs 7.59-7.66 of the Gambling Commissions Guidance.

(iv) 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. As per the Gambling Commission's Guidance to Licensing Authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

(v) Planning:

The Gambling Commission Guidance to Licensing Authorities states:

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

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

When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under the relevant planning control and building

regulation powers and not form part of the consideration for the premises licence. Section 210 of the 2005 Act prevents Licensing Authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.

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

~~***In cases where an application for a transfer of a licence from one premises to another close by with some increase in the size of the customer area, the licensing authority may conclude that the grant of a transfer would not be inexpedient. This would be subject to ensuring that the regulations once published and other statutory regulations have been complied with.***~~

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 building 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, the 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 will be taking 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 such as 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 become 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 - see page 21).

Protecting children and other vulnerable persons from being harmed or exploited by gambling - This Licensing Authority has noted the Gambling Commission's Guidance states 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 are 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 door supervisors and 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 ways 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 - If there are concerns that premises may attract disorder or be subject to unauthorised access by children and young persons, then the Licensing Authority may require that Door Supervisors control entrances to the premises. The Licensing Authority recognises that each premises application shall be treated on its own merit. In addition, the Licensing Authority shall take into account the previous trading history of the type of

premises proposed and that any decision shall be necessary and proportionate.

Where door supervisors are imposed as a condition on a Premises Licence (except casino or bingo premises), Section 178 of the 2005 Act requires that any person employed in that capacity will hold a relevant licence issued by the Security Industry Authority (SIA). **There are however exemptions to this requirement i.e. 'in-house' employees working as door supervisors at casino and bingo premises.**

2. Adult Gaming Centres

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

The Licensing Authority may consider measures to meet the licensing objectives, such as:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas (eg use of door supervisors)
- Physical separation of areas
- Location of entry
- Notices / signage (including the statutory requirement in relation to the display of GamCare stickers)
- 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.

The Licensing Authority will expect applicants to adopt an approved proof of age scheme (such as Challenge 21/25), for staff to be suitably trained and aware of the gambling laws, social responsibility and statutory requirements relating to age restrictions.

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. Children and young persons are permitted to enter an FEC and may play on Category D machines. They are not permitted to play on Category C machines, and it is a requirement that

there is clear segregation between the two types of machine, to prevent access by children and young persons to Category C machines.

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

- CCTV
- Supervision of entrances / machine areas (eg use of door supervisors)
- Physical separation of areas
- Location of entry
- Notices / signage (including the statutory requirement for GamCare stickers)
- 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 statement of principles with details of that resolution. Any such resolution will be made by the Full Council.

5. Bingo premises

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

18.4 - Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. There 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 licence, for that or those excluded areas.

This authority also notes the Guidance at paragraph 18.8 regarding the unusual circumstances in which the splitting of a pre-existing premises into

two adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

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

In accordance with the Gambling Commission's Guidance, the Licensing Authority recognises that it is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on Category D machines. Where Category C or above machines are available in the bingo premises to which children are admitted, the Licensing Authority will seek to ensure that:

- all such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where the machines are located;
- access to the area where the machines are located is supervised;
- the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
- at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

Where Bingo is provided in alcohol-licensed premises and it reaches a certain threshold, it will no longer be authorised as equal chance gaming and a Bingo Operating Licence will need to be obtained from the Gambling Commission. The aim of this provision is to prevent bingo becoming a predominant commercial activity on such non-gambling premises.

6. Betting premises

The Licensing Authority is responsible for issuing and monitoring Premises Licences for all betting premises. Children and young persons are not permitted entry to a premise with a Betting Premises Licence. They may, however, be permitted entry to tracks and special rules will apply. The Licensing Authority recommends that an applicant for gaming machines in betting premises considers carefully the location of betting machines to ensure that they are not in sight of the entrance of the 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.

~~The licensing authority will however consider only putting a limit on the number of machines only where there is clear evidence that such machines have been or are likely to be used in breach of the licensing objectives. Where there is such evidence, this authority may consider, when reviewing the licence, the ability of staff to monitor the use of such machines from the counter.~~

7. Tracks

Note there are currently no tracks operating in the district, however this statement of principles contains provision for the event of such a premise.

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 (including the statutory requirement for GamCare stickers)
- 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 the Gambling Commission's Guidance, 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 wants to offer.

Applications and plans

The Gambling Act (section 151) 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 Guidance to Licensing Authorities, para 20.28)

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 Guidance to Licensing Authorities, para 20.29)

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 circumstances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises (See Guidance to Licensing Authorities, para 20.31).

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 Guidance to Licensing Authorities, para 20.32)

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 area subject to the "five times rule" (commonly known as betting rings) must be indicated on the plan (see Guidance to Licensing Authorities para 20.33)

8. Travelling Fairs

This Licensing Authority is responsible for deciding whether where category D machines and / or equal chance prize gaming without a permit are 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, applies on a per calendar year basis and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. The 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 the provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The Licensing Authority will be constrained in the matters it can consider when determining the 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;
- **A material change in the application; or**
- Where the premises have 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 appropriate.

Once a valid application for 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:

- Add, remove or amend a licence condition imposed by the Licensing Authority;

- Exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such a condition **an exclusion**;
- Suspend the premises licence for a period not exceeding three months; and
- 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 representation.

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 Gambling Commission
- Any person who made a representations
- The Chief Officer of Police or Chief Constable
- Her Majesty's Commissioners for Revenue and Customs.

11. Appeals

There is a right of appeal both for applicants and those who have made relevant representations or applied for a review. This appeal must be lodged within a period of 21 days from the day on which the applicant was notified by the Licensing Authority of the decision and must be made to the Magistrates' Court.

PART C

Permits / Temporary & Occasional Use Notice

1. Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on permits – Schedule 10 para 7)

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

The Gambling Act 2005 states that a licensing authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the

commission under section 25. The Gambling Commission's Guidance to licensing authorities also states: "In their three year licensing policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits..., licensing authorities will want to give weight to child protection issues". (24.6)

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

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

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

Statement of Principles - This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises. This licensing authority will also expect, as per Gambling Commission Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

2. (Alcohol) Licensed premises gaming machine permits and Notifications - (Schedule 13 paragraph 4(1))

Automatic entitlement: 2 machines ~~Notification of 2 or less machines~~ - There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority **and pay the prescribed fee**.

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

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

Permits: 3 or more machines

If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under section 25 of the Gambling Act 2005, and “such matters as they think relevant.” The 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 help. As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets and helpline numbers for organisations such as GamCare.

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

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

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

3. Prize Gaming Permits

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

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

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

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

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

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

4. Club Gaming and Club Machines Permits

Members clubs and miners' welfare institutes (**but not commercial clubs**) may apply for a Club Gaming Permit or a Club Gaming Machine Permit (Commercial Clubs cannot apply for a Club Gaming 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).

Gambling Commission Guidance states:

Members' clubs must have at least 25 members and be established and conducted 'wholly or mainly' for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made such regulations and these cover bridge and whist clubs. A members' club must be permanent in nature and established and conducted for the benefit of its members and not as a commercial enterprise. Examples include working men's clubs, branches of the Royal British Legion and clubs with political affiliations.

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

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

There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). As the Gambling Commission's Guidance 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.

5. Temporary Use Notices

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

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

The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this statement the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities for equal chance

gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.

There are a number of statutory limits as regards Temporary Use Notices. The meaning of “premises” in Part 8 of the Act is discussed in Part 7 of the Gambling Commission’s Guidance to Licensing Authorities. As with “premises”, the definition of “a set of premises” will be a question of fact in the particular circumstances of each notice that is given. In the Act “premises” is defined as including “any place”. In considering whether a place falls within the definition of a “set of premises” the Licensing Authority needs to look at, amongst other things, the ownership/occupation and control of the premises.

The 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 Commissions Guidance to Licensing Authorities.

6. Occasional Use Notices

The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will though consider the definition of a ‘track’ and whether the applicant is permitted to avail him/herself of the notice.

7. Small Society Lotteries

The Licensing Authority registers and deals with Small Society Lotteries. Promoting or facilitating a lottery falls within one of the following categories:

- Licensed Lotteries (requiring an Operating Licence from the Gambling Commission);
- Small Society Lotteries (registered with the Licensing Authority); and
- Exempt Lotteries

Lotteries permitted to be conducted without a licence from the Gambling Commission and these are:

- Small Society Lotteries (registered with the Licensing Authority);
- Incidental Non-Commercial Lotteries;
- Private Lotteries: (Private Society Lottery, Work Lottery, Residents’ Lottery);
- Customer Lotteries

Societies may organise lotteries if they are licensed by the Gambling Commission, registered with the Licensing Authority or fall within the exempt category. The Licensing Authority recommends those seeking to run lotteries take their own legal advice on which type of lottery category they fall within. However, guidance notes with regard to all lotteries, limits placed on small society lotteries and information setting out financial limits is available by contacting the Licensing Authority.

Applicants for lottery licences must apply to the Licensing Authority in the area where their principal office is located. Where the Licensing Authority believes that the Society's principal office is situated in another area it will inform the Society as soon as possible and where possible, will inform the other Licensing Authority.

The Licensing Authority will keep a Public Register of all applications and will provide information to the Gambling Commission on all lotteries registered by the Licensing Authority. As soon as the entry on the Register is completed, the Licensing Authority will notify the applicant of registration.

The Licensing Authority will ask applicants to set out the purposes for which the Society is established and will ask the Society to declare that they represent a bona fide non-commercial society and have no relevant convictions. The Licensing Authority may seek further information from the Society and in particular may require a copy of the society's constitution.

Where the Licensing Authority intends to refuse registration of a Society, it will give the Society an opportunity to make representations and will inform the Society of the reasons why it is minded to refuse registration and supply evidence on which it has reached that preliminary conclusion.

The Licensing Authority may revoke the registered status of a society if it thinks that they would have had to, or would be entitled to, refuse an application for registration if it were being made at that time. However, no revocations will take place unless the Society has been given the opportunity to make representations. The Licensing Authority will inform the society of the reasons why it is minded to revoke the registration and will provide an outline of the evidence on which it has reached that preliminary conclusion.

With regards to where Small Society Lottery tickets may be sold, the Licensing Authority applies the following guidance criteria to all Small Society Lotteries it registers:

- Tickets should not be sold in a street. Street includes any bridge, road, lane, footway, subway, square, court or passage (including passages through enclosed premises such as shopping malls); and
- Tickets may be sold from a kiosk, in a shop or door-to-door.

This approach is consistent with the operating licence conditions imposed by the Gambling Commission upon operators of large lotteries.

8. Review

The statement of principles will remain in existence for a period of three years and will be subject to review and further consultation before **December 2015**. However, following consultation, the licensing authority may make revisions to it as deemed necessary.

9. Glossary: A glossary of terms is attached at Appendix 3.

PART D

APPENDICES

APPENDIX 1

Summary of licensing authority delegations permitted under the Gambling Act

GAMBLING ACT 2005 – SCHEME OF DELEGATIONS

1. The power of the Licensing Authority
 - a. as a responsible authority, to make representations in respect of premises licences under Part 8 of the Act;
 - b. to propose to attach a condition to a premises licence in accordance with section 169(1)(a) of the Act in addition to the mandatory or default conditions;
 - c. to propose the exclusion of a default condition from a premises licence under S169(1)(b) of the Act;
 - d. as a responsible authority, to request a review of a premises licence under sections 197 or 200 of the Act;
 - e. to give a notice of objection to a temporary use notice under S221 of the Act;
 - f. to serve notification of intended refusal of any of the following:-
 - i. Family Entertainment Centre Gaming Machine Permit (Sch 10 Para 10)
 - ii. Prize gaming Permits (Sch 14 Para 11)
 - iii. Licensed Premises Gaming Machine Permits (Sch 13 Para 6)And also, in the latter case, notice of intention to grant the application but for a smaller number of machines than specified and/or a different category of machines from that specified in the application.
 - g. Serve notification of lapse of a Family Entertainment Centre Gaming Machine Permit (Sch 10 Para 14 and 15 (1)(b));
 - h. Serve notice of intention to cancel or vary any of the following:-
 - i. Club Gaming permit or Club Gaming Machine permit (Sch 12 Para 21)
 - ii. Licensed Premises Gaming Machine permits (Sch 13 Para 16)
 - i. Create and amend the Authority's application procedures in relation to applications for the following in accordance with any relevant legislation:-
 - i. Family Entertainment Centre Gaming Machine Permits (sch10 paras 5 and 7)
 - ii. Licensed Premises gaming Machine Permits (Sch 13 Para 2)
 - iii. Prize Gaming Permits (Sch 14 paras 6 and 8); and
 - j. to appoint authorised persons under s 304 of the Act

- k. determine that any representations received under Part 8 of the Act are vexatious, frivolous, or certainly will not influence the Authority's determination of an application; and
 - l. reject all or part of any application for a review of a premises licence in accordance with Section 198 of the Act
2. In relation to the following matters in the attached table the Authority will, in the majority of cases, adhere to the table of delegated functions set out below. This table indicates the lowest level of the Authority which will normally exercise the delegation though the Authority reserves the right, where appropriate, for any particular matter to be dealt with at a higher level whilst having due regard to statutory requirements. For example, an Officer may choose not to exercise their delegated power and refer the matter to the Sub-Committee or the Sub-Committee itself may choose to refer the matter to the Full Committee.

Matter to be dealt with	Full Council	Sub-committee of Licensing Committee	Authorised Officer of the Council
Final approval of three year licensing statement of principles	X		
Statement of principles not to permit casinos	X		
Fee setting (when appropriate)			X
Application for premises licenses (including application for re-instatement under S195)		<p>Where representations have been received and not withdrawn (S154 (4)(a)) and / or</p> <p>Where the Licensing Authority considers that a condition should be added to the licence under S169 (1)(a) or a default condition should be excluded under section 169 (1)(b) unless the applicant and any persons making representations agree to this course of action and that a hearing is unnecessary</p>	<p>Where no representations received/representations have been withdrawn</p> <p>The only representations received are vexatious, frivolous, or certainly will not influence the Authority's determination of the application</p>
Application for a variation to a licence		<p>Where representations have been received and not withdrawn (S154 (4)(b)) and/ or</p> <p>Where the Licensing Authority considers that a condition should be added to the licence under S169 (1)(a) or a default condition should be excluded under S169 (1)(b) unless the applicant and any</p>	<p>Where no representations received/representations have been withdrawn</p> <p>The only representations received are vexatious, frivolous, or certainly will not influence the Authority's determination of the application</p>

		<p>persons making representations agree to this course of action and that a hearing is unnecessary (S187(3))</p> <p>If the application for a variation is to remove a default condition and there are no reps and there are no proposals by the Authority to otherwise alter the conditions this could be dealt with at officer level without a hearing</p>	
Application for a transfer of a licence		<p>Where representations have been received from the Commission S154 (4)(c)</p> <p>Representations made and not withdrawn under S161</p>	<p>Where no representations received from the Commission</p> <p>Including cases where the only representations received are vexatious, frivolous, or certainly will not influence the Authority's determination of the application</p>
Application for a provisional statement		<p>Where representations have been received and not withdrawn S154 (4)(d) and/ or</p> <p>Where the Licensing Authority considers that a condition should be added to the licence under S169(1)(a) or a default condition should be excluded under S169(1)(b)</p>	<p>Where no representations received/representations have been withdrawn</p>
Revocation of a premises licence due to non-payment of an annual fee S193			X
Review of a premises licence		X	
Application for club gaming/club machine permits, renewals and variations (including those leading to cancellation of permit) under Sch12 para 15		<p>Where objections have been made and not withdrawn (Sch 12 Para 28(2))</p> <p>Refusal of permit proposed on the grounds listed in Sch12 para 6(1)(a)-(d), or para 10(3) as applicable unless Authority and all relevant parties agree that a hearing is unnecessary (Sch 12 para 7)</p>	<p>Where no objections made/objections have been withdrawn</p>

Cancellation of club gaming/club machine permits Sch12 para 21		X	
Applications for other permits, registrations and notifications		Where the officer serves notice of intention of refusal and representations are received or proposals to grant for lesser number of machines than applied for	X
Cancellation of licensed premises gaming machine permits Sch 13 para 16			X
Cancellation of licensed premises gaming machine permits for non payment of fee			X
Consideration of temporary use notice (including notices modified under S223)		Where an objection notice has been received unless each person who would be entitled to make representations agrees that a hearing is unnecessary All cases where a counter notice may be required (S232(3))	X
Decision to give a counter notice to a temporary use notice		X	
Registration of small society lotteries		Where officers believe there is a reason to refuse the application for registration	X
Cancellation of a small society lottery due to non-payment of annual fee			X

X Indicates at the lowest level to which decisions can be delegated.

APPENDIX 2

SOUTH HOLLAND DISTRICT COUNCIL STATEMENT OF GAMBLING STATEMENT OF PRINCIPLES – Gambling Act 2005

Persons consulted:

Lincolnshire County Council Highways	Boston and South Holland Division	West Street	Boston	Lincs	PE21 8QR
Lincolnshire County Council Trading Standards	Witham Park House	Units 1-10 Waterside South	Lincoln	Lincs	LN5 7JN
Lincolnshire County Council Director of Social Services	Central Office, Orchard House	Orchard Street	Lincoln	Lincs	LN1 1YL
John Hayes MP	10 Broad Street	Spalding	Lincs		PE11 1TB
British Institute of Innkeeping	Wessex House	80 Park Street	Camberley	Surrey	GU15 3PT
Mencap	123 Golden Lane	London		London	EC1Y 0RT
Help The Aged	Age UK	Tavis House,	1-6 Tavistock Square	London	WC1H 9NA
NSPCC	Weston House	42 Curtain Road	London		EC2A 3NH
Church of England Children's Society	Edward Rudolf House	69-85 Margery Street	London		WC1X 0JL
GAMCARE	2nd Floor	7-11 St Johns Hill	London		SW11 1TR
Alcoholics Anonymous	PO Box 1	10 Toft Green	York		YO1 7ND
Magistrates Clerk	Grantham Magistrates Court	Harlaxton Road	Grantham	Lincs	NG31 1SB
Association of Racecourse Bookmakers	19 Hurst Lane	Birmingham	West Midlands		B34 7HS
Citizens Advice Bureau	Myddelton House	115-123 Pentonville Road	London		N1 9LZ
British Beer and Pub Association	Ground Floor	Brewers Hall	Aldermanbury Square	London	EC2V 7HR
British Amusement Catering Trade Associated	134-136 Buckingham Palace Road	London			SW1W 9SA

Gamblers Anonymous	PO Box 88	London			SW10 0EU
Gala Bingo	Head Office	New Castle House	Castle Boulevard	Nottingham	NG7 1FT
MIND	16a North Street	Bourne	Spalding	Lincs	PE10 9AB
Relate Lincolnshire	138 High Street	Lincoln	Lincs		LN5 7PJ
Samaritans	PO Box 9090	Stirling	Scotland		FK8 2SA
Churches Together in England	27 Tavistock Square	London			WC1H 9HH
Parent Line Plus Lincolnshire	CAN Mezzanine	49-51 East Road	London		N1 6AH
National Probation Service	The Probation Office	1 English Grounds	London		SE1 2HJ
Community Care for the Elderly	4 St Catherines Road	Grantham	Lincs		NG31 6TS
Community Development	South Holland District Council	Council Offices	Priory Road	Spalding	PE11 2XE
ASBO Officer	South Holland District Council	Council Offices	Priory Road	Spalding	PE11 2XE
Salvation Army	Hall Street	Crowland	Lincs		PE6 0EW
Department for Culture Media & Sport	2-4 Cockspur Street	London			SW1Y 5DH
British Association of Social Workers	16 Kent Street	Birmingham	West Midlands		B5 6RD
British Casino Association	38 Grosvenor Gardens	London			SW1W 0EB
The National Association of Round Tables of GB and Ireland	Marchesi House	4 Embassy Drive, Calthorpe Road	Edgbaston	Birmingham	B15 1TP
Royal British Legion	48 Pall Mall	London			SW1Y 5JY
Bourne & District Lions Club	PO Box 57	Bourne	Lincs		PE10 9HB
United Lincolnshire Hospitals	Johnson Community Hospital	Spalding Road	Pinchbeck	Spalding, Lincs	PE11 3DT
Barnardo's Head Office	Tanners Lane	Barkingside	Ilford	Essex	IG6 1QG
International Children's Trust	67A Lincoln Road	Peterborough	Cambs		PE1 2SD
Christian Centre for Gambling Rehabilitation	59 Birkenhead Street	London			WC1H 8BB
Association of Remote Gambling	6th Floor, 52-54 High Holborn	High Holborn House	London		WC1V 6RL

Operators					
William Hill	Head Office	Greenside House, 50 Station Road	Wood Green	London	N22 7TP
The National Lottery	PO Box 251	Watford			WD18 9BR
Association of Head Teachers	1 Heath Square	Boltro Road	Haywards Heath	West Sussex	RH16 1BL
Ladbrokes Betting Shops	Imperial House	Rayners Lane	Middlessex		HA2 7JW
Citizens Advice Bureau	c/o South Holland District Council	Priory Road	Spalding	Lincs	PE11 2XE
Cathedral City Coins	14 Sandra Crescent	Washingborough	Lincoln	Lincs	LN4 1QZ
Hart-Marler Leisure	The Flaxmill	Flaxmill Lane	Pinchbeck	Lincs	PE11 3YP
Jolly Roger Ltd	College View	Manby Middlegate	Grimoldby	Louth	LN11 8HE
Lease Automatics	18 High Street	Boston	Lincs		PE21 8SH
Premier Amusements	70 Sunningdale Drive	Skegness	Lincs		PE25 1AU
Universal Logic Ltd	3 The Glebe	Upton	Gainsborough	Lincs	DN21 5PD
Eagle Enterprises	The Retreat	Harby Lane	Eagle Moor	Lincoln	LN6 9DS
Instance Assemblies	67 St Andrews Drive	Skegness	Lincs		PE25 1DJ
Spilsby Amusement Machines	17 Station Road	Halton Hologate	Spilsby	Lincs	PE23 5PB
Wakley Automatics Ltd	Unit 3, Alma Park Road	Grantham	Lincs		NG31 9SE
S & D Bookmakers Ltd	Head Office	29 Main Street	Yaxley	Peterborough	PE7 3LZ
Sound & Vision	29 Barton Road	Haslingfield	Cambridge	Cambs	CB3 7LL
Clover Leisure Ltd	Barcham Business Park	Barcham Road	Soham, Ely	Cambs	CB7 5TU
Peterborough Automatics Ltd	20 Godric Square	Peterborough	Cambs		PE2 7JL
Martin's Reel Games Ltd	1 London Lane	Great Paxton	St Neots	Cambs	PE19 6RH
Cherry Automatics	12 Pembroke Avenue	Waterbeach	Cambs		CB5 9QP
Shelford Coin Operated Machines	7 Watermead	Bar Hill	Cambridge	Cambs	CB23 8TJ
Micro Automatics	New Bridge House	Bridge Hill Road	Peterborough	Cambs	PE6 7SA
Leisurelink	3 The Maltings	Wetmore Road	Burton-Upon-Trent	Staffs	DE14 1SE
Coral Bookmakers	Glebe House	Vicarage Drive	Barking	Essex	IG11 7NS
Addaction	67-69 Cowcross Street	London			EC1M 6PU

Regent Bingo	83 Westlode Street	Spalding	Lincs		PE11 2AE
Harris Amusements	35-42 Lumley Road	Skegness	Lincs		PE25 3NG
Mr Paul Bellringer OBE	National Association for Gambling Care, Educational Resources and Training	1 Quarry Road	Rusper Road	Horsham	RH12 5QN
Civic Trust	Essex Hall	1-6 Essex Street	London		WC2R 3HU
Catholic Children's Society (East Anglia)	Park Lane	Peterborough	Cambs		PE1 5JW
The Lottery Syndicate Club	45 Arundel Crescent	Boston	Lincs		PE21 7QH
Gordon House Association	43-47 Maughan Street	Dudley			DY1 2BA
South Holland Community & Mental Health Services	Long Sutton Medical Centre	Trafalgar Square	Long Sutton	Spalding, Lincs	PE12 9HB

Responsible Authorities

Gambling Commission	Victoria Square House	Victoria Square	Birmingham		B2 4BP
Lincolnshire Police	Licensing (Alcohol)	Police Head Quarters	PO Box 999	Lincoln	LN5 7PH
Lincolnshire Fire and Rescue	Boston Resource Centre	Robin Hood's Walk	Boston	Lincs	PE21 9ES
Planning Department	South Holland District Council	Priory Road	Spalding	Lincs	PE11 2XE
Lincolnshire Safeguarding Children's Services	Block B	Orchard House	Orchard House	Lincoln	LN1 1BA
HM Revenue and Customs	National Registration Unit	Portcullis House	21 India Street	Glasgow	G2 4PZ

APPENDIX 3

GLOSSARY OF TERMS UNDER THE GAMBLING ACT 2005

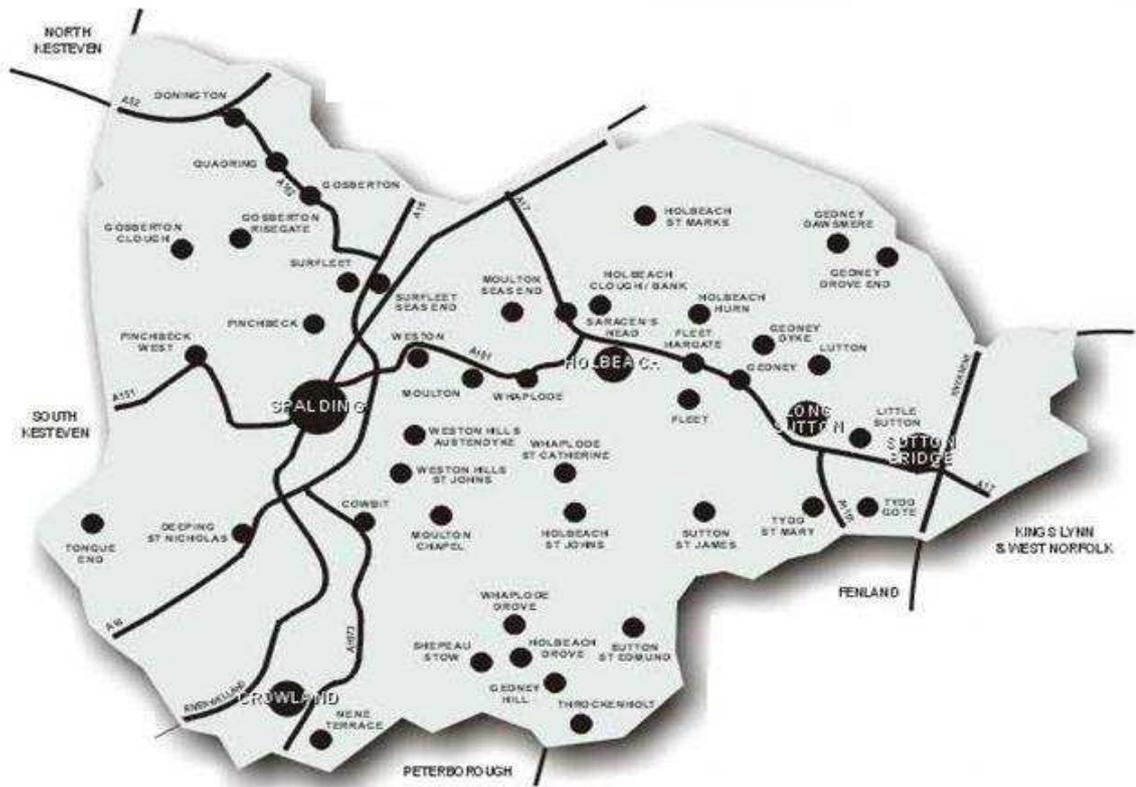
Council:	South Holland District Council
Applications:	Applications for licences and permits as stated in the Statement of Principles
Notifications:	Notifications of temporary and occasional use notices
Act:	The Gambling Act 2005
Regulations:	Regulations made under the Gambling Act 2005
Premises:	Any place, including a vehicle, vessel or moveable structure
Premises Licence	Issued by the Licensing Authority to authorise premises to be used for the activities as defined by Section 150 of the Gambling Act
Operator Licence	Issued by the Gambling Commission to organisations and individuals who are providing facilities for gambling as defined by Section 65 of the Gambling Act
Personal Licence	Issued by the Gambling Commission to certain categories of people working in the gambling industry as defined by Section 127 of the Gambling Act
Family Entertainment Centre	The Act creates two classes of Family Entertainment Centres – Licensed: which provide category C and D gaming machines and require a premises licence Unlicensed: which provide category D gaming machines in reliance on a Gaming machine Permit
Adult Gaming Centre	Premises which provide category B, C and D gaming machines and require an operating licence and a premises licence
Gaming Machine	A machine which is designed or adapted for use by individuals to gamble as defined by Section 235 of the Gambling Act
Money Prize Machine	A machine in respect of which every prize which can be won as a result of using the machine is a money prize as defined in regulation 3(7) of the Categories of Gaming Machine (Amendment) Regulations 2009. Maximum stake 10p and the maximum prize must be no more than £5
Non- Money Prize Machine	A machine in respect of which every prize which can be won as a result of using the machine is a non-money prize as defined in regulation 3(7) of the Categories of Gaming Machine (Amendment) Regulations 2009. For non-money prize machines in general, the maximum stake (charge for use) must be no more than 30 pence, and the maximum prize value must be no more than £8.
Crane Machine	Grab A crane grab machine is defined as a non-money prize machine in respect of which two conditions are satisfied. The first is that every prize which can be won as a result of using the machine consists of an individual physical object (such as a stuffed toy). The second is that whether or not a person using the machine wins a prize is determined by the person's success or failure in manipulating a device forming part of the machine so as to separate and keep separate one or more physical objects from a group of such objects. The maximum stake may be anything up

	to and including £1, and the maximum prize value may be anything up to and including £50
Coin Pusher or Penny Fall Machine	These machines are commonly found in seaside arcades and are defined in regulation 2(3) of the Categories of Gaming Machine Regulations 2007 with the additional requirement that the machine be neither a money-prize nor a non-money prize machine. The maximum stake may be anything up to and including 10 pence, and the maximum prize value may be anything up to and including £15.
Categories of Gaming machines	A – Maximum Stake: unlimited, Maximum Prize: unlimited B1 – Maximum Stake: £2, Maximum Prize: £4000 B2 – Maximum Stake: £100 (in multiples of £10), Maximum Prize: £500 B3 – Maximum Stake: £2, Maximum Prize: £500 B4 – Maximum Stake: £1, Maximum Prize: £250 C – Maximum Stake: £1, Maximum Prize: £70 D – Maximum Stake: 10p or 30p when non-monetary prize, Maximum Prize: £5 cash or £8 non-monetary prize
Betting Machine	A machine designed or adapted for use to bet on future real events as defined by Section 235(2) (c) of the Gambling Act
Remote Gambling	Gambling in which persons participate by the use of remote communication as defined by Section 4 of the Gambling Act
Remote Communication	Communication using – The internet Telephone Television Radio, or Any other type of electronic or other technology As defined by Section 4(2) of the Gambling Act.
Travelling Fair	A fair wholly or principally providing amusements and that has been provided wholly or principally by persons who travel from place to place for the purpose of providing fairs, and On a site used for fairs for no more than 27 days per calendar year As defined by Section 286 of the Gambling Act
Code of Practice:	Means any relevant code of practice under section 24 of the Gambling Act 2005
Responsible Authority:	For the purposes of this Act, the following are responsible authorities in relation to premises: <ol style="list-style-type: none"> 1. The Licensing Authority in whose area the premises are wholly or mainly situated South Holland District Council); 2. The Gambling Commission; 3. Lincolnshire Police; 4. Lincolnshire Fire and Rescue; 5. Planning Department, South Holland District Council; 6. Head of Community and Neighbourhood Services, Building Control and Environmental Health Manager, South Holland District Council 7. Lincolnshire Safe Guarding Children’s Board, Lincolnshire County Council; 8. HM Revenue and Customs. 9. Any other person/body prescribed by regulations.
Interested Party:	For the purposes of this Act, a person is an interested party in relation to a premises licence if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, the person:-

- a) Lives sufficiently close to the premises to be likely to be affected by the authorised activities;
- b) Has business interests that might be affected by the authorised activities;
- c) Represents persons who satisfy a) or b) above.

Vulnerable Persons	Whilst there is no statutory definition this authority considers that this group includes 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 due to a mental impairment, alcohol or drugs.
Disorder	An angry, possibly violent, expression of dissatisfaction by an individual(s) or crowd of people. Linked with the crime and disorder licensing objective.
Nuisance	An activity or event which causes annoyance or disturbance to an affected individual(s).
Self-barring	A scheme to enable individuals to request exclusion from premises licensed for gambling activities.

APPENDIX 4



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