

# Public Document Pack

## Licensing Committee

Monday, 15th November, 2021

6.00 pm

Library Room 1 & 2

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### AGENDA

1. **Welcome & Apologies**
2. **Declaration of Interest**  
**Declarations of Interest - Licensing Committee** 2
3. **Minutes of the Previous Meeting**  
**Minutes of previous meeting held on 26th January 2021** 3 - 6
4. **Update on the work of Public Protection and Environmental Health Service**  
**Update on the work of Public Protection and Environmental Health Service** 7 - 8
5. **Consultation on Gambling Act 2005 - Revision of Statement of Policy 2022**  
**Consultation on Gambling Act 2005** 9 - 42  
**Gambling Policy 2022 - Consultation document**

### **PART II - THE PRESS AND THE PUBLIC MAY BE EXCLUDED DURING CONSIDERATION OF THE FOLLOWING ITEMS**

6. **Minutes of the Licensing Sub Committees**  
**GLSC Minutes - 8th June 2021** 43 - 48  
**GLSC Minutes - 13th July 2021**  
**GLSC Minutes - 10th August 2021**

Date Published: Friday, 05 November 2021  
Denise Park, Chief Executive

## DECLARATIONS OF INTEREST IN ITEMS ON THIS AGENDA

**Members attending a Council, Committee, Board or other meeting with a personal interest in a matter on the Agenda must disclose the existence and nature of the interest and, if it is a Disclosable Pecuniary Interest or an Other Interest under paragraph 16.1 of the Code of Conduct, should leave the meeting during discussion and voting on the item.**

**Members declaring an interest(s) should complete this form and hand it to the Democratic Services Officer at the commencement of the meeting and declare such an interest at the appropriate point on the agenda.**

MEETING:                    **LICENSING COMMITTEE**

DATE:

AGENDA ITEM NO.:

DESCRIPTION (BRIEF):

NATURE OF INTEREST:

DISCLOSABLE PECUNIARY/OTHER (delete as appropriate)

SIGNED :

PRINT NAME:

(Paragraphs 8 to 17 of the Code of Conduct for Members of the Council refer)

## LICENSING COMMITTEE

26<sup>TH</sup> JANUARY 2021.

PRESENT- Akhtar (in the Chair), Batan, Brookfield, Gee, Groves, Salton, Rawat, Hussain and Taylor.

Also Present: Denise Andrews, Donna Riding, Julie Fisher and Paul Conlon.

### Resolutions

1. **Welcome and Apologies**

The Chair welcomed those present to the meeting.

2. **Declaration of Interests**

There were no declarations made.

3. **Minutes of the Meeting held on 29<sup>th</sup> October 2019.**

**RESOLVED-** That the minutes of the meeting held on 29<sup>th</sup> October 2019 be approved as a correct record and signed by the chair.

4. **Department of Transport Statutory Taxi and Private Hire Vehicle Standards.**

The Committee received a report on informing them of the Department of Transport “Statutory Taxi and Private Hire Vehicles Standards” and proposals for working towards compliance with standards.

The Committee were aware that the Council was responsible for the licensing of Hackney carriage and private hire operators. The council has to have regard to the legislation in place including case law, relevant guidance best practice and its own policies and procedures. In 2020 the Department for transport has published “Statutory Taxi and Private Hire Vehicle Standards”. These standards were applied to Local Authorities having regards to the Policing and crime act 2017, which enabled the Secretary of State to issue statutory guidance to local authorities as to how taxi and private hire licensing should be undertaken to protect children and vulnerable adults when using taxis and private hire vehicles.

The council needed to review its taxi licensing policies and standards so that they meet the standards outlined by the department for transport whilst

ensuring that the standards adopted are appropriate for the for the Borough's local needs and the Council would need to be transparent in explaining the reason for these standards.

Members discussed the standards and how these would be implemented if adopted. Attention was drawn to the requirement for need to be proficient in both written and oral communication in English language and asked how this would be tested, how this would be managed with existing drivers and who would pay for this. In response it was stated that the requirement would be paid for by the applicants as it would be a licensing requirement and that it would only be for new applicants as it could not be implemented retrospectively. The test would be part of the licensing process. Members discussed the issue of CCTV in cabs to protect both the driver and the passengers. Issues relating to data protection were discussed and the requirements relating to how this would be managed with the council being the Data Protection Manager. A Member drew attention to the penalties relating to mobile use whilst driving which was 6points under the council's policy and whether this should be up to 6points to ensure that the panel had some leeway to consider applications on their individual merits.

Members discussed the current financial situation with relation to COVID19 the way that the trade was being severely affected and to impose financial requirements on drivers would cause increased hardship on them.

**RESOLVED-** That the discussions with the Trade Representatives take place regarding the Departments of Transport Standards in September with a view to the result of these discussions being reported back to the committee in the next year to take account of the current situation relating to COVID 19 and its effect on the trade.

5. **PART II - THE PRESS AND PUBLIC MAY BE EXCLUDED DURING CONSIDERATION OF THE FOLLOWING ITEMS**

**RESOLVED –** That the press and public be excluded from the meeting during consideration of the following item in view of the fact that the business to be transacted is exempt by virtue of paragraph 5 Schedule 12A to the Local Government Act 1972.

6. **Application for Licensing of Tuk Tuk Vehicles**

The committee considered an application for the registration of a Tuk Tuk as a Private Hire Vehicle. The application had been considered by the General Licensing Sub Committee in October who had adjourned the application as they did not feel that they had sufficient information on which to make an informed decision and therefore the application was adjourned until the next

Full Licensing Committee in January 2021 pending further investigation and consideration of the safety aspects of the applicant's vehicle.

Prior to the hearing on Tuesday 26<sup>th</sup> January, the applicant was provided with a copy of Appendix E: Enquiries and Observations by the Police Liaison Officer with Respect to the Licensing of Tuk Tuk type vehicles. He had been informed that the information contained in that report may considerably undermine his application, based on these safety concerns raised the applicant was invited to submit further representations in advance of the adjourned hearing in support of his application or to request an adjournment to enable him to fully respond. He stated that he did not require an adjournment and asked the Committee to make the decision based on the information provided.

The Applicant did not attend the virtual hearing on 26<sup>th</sup> January, the Committee took into consideration the representations which the applicant made to the Sub-Committee during the initial hearing on 20<sup>th</sup> October 2020. Section 48 of the Local Government (Miscellaneous Provisions) Act 1976 allows a Council to licence a private hire vehicle as long as they are satisfied that the vehicle is suitable in type, size and design for use as a Private Hire Vehicle. The Committee considered the available information at length following which a decision was made.

**RESOLVED-** That the Committee were not satisfied that the applicant's vehicle was suitable, therefore the application for a licence was refused. The applicant has a right of Appeal of the decision to the Magistrates Court within 21 days of receipt of the notification.

## **7. Minutes of the Licensing Sub Committees**

The Committee received the proceedings of the following Sub Committees:

Licensing Act Sub Committee held on 18th August 2020  
Licensing Act Sub Committee held on 17<sup>th</sup> November 2020  
Licensing Act Sub Committee held on 25<sup>th</sup> November 2020  
General Licensing Sub Committee held on 19<sup>th</sup> October 2019  
General Licensing Sub Committee held on 10<sup>th</sup> December 2019  
General Licensing Sub Committee held on 21<sup>st</sup> January 2020  
General Licensing Sub Committee held on 18<sup>th</sup> February 2020  
General Licensing Sub Committee held on 10<sup>th</sup> March 2020  
General Licensing Sub Committee held on 30<sup>th</sup> June 2020  
General Licensing Sub Committee held on 20<sup>th</sup> October 2020  
General Licensing Sub Committee held on 15<sup>th</sup> December 2020

**RESOLVED –** That the proceedings of the Sub Committees as outlined above were approved as a correct record and signed by the Chair

Signed:.....  
Date.....

Chair of the meeting  
At which the minutes were confirmed.

## DEPARTMENT OF ENVIRONMENT AND LEISURE

ORIGINATING SECTION: PUBLIC PROTECTION SERVICE

REPORT TO: LICENSING COMMITTEE 15 November 2021

TITLE : UPDATE ON THE WORK OF PUBLIC PROTECTION AND ENVIRONMENTAL HEALTH SERVICE

### 1. PURPOSE

The purpose of this report is to provide an update on the work of the Council's Public Protection and Environmental Health Service (PPS) where there is a connection with businesses and persons who require a licence from the Council. It also provides an update for members on national policy changes and proposals affecting licencing work.

### 2. RECOMMENDATIONS

That members note the report.

### 3. KEY ISSUES

#### 3.1 Taxi Forum

The latest meeting of the Taxi Forum was on 9 September 2021. The meeting was chaired by Cllr P Akhtar and in attendance were representatives from the hackney and private hire trade, Police and council licencing staff. The main issues discussed were:

- Stone throwing incidents. The Police confirmed that a small number of incidents had been reported. Trade were encouraged to report in all incidents to Police so that a picture can be established of the scale of the problem and affected areas.
- A member of staff from the Council's Community Safety Team attended to advise trade about reporting in hate related crimes.
- MOT testing provision and the fees for licences and testing. These are to be reviewed.

#### 3.2 Taxis

A joint operation with Police was carried out on 10 July 2021. All vehicles stopped were found to have the correct licences in place.

The system for accepting new applications for private hire and hackney carriage driver licences is now fully operational after being suspended during Covid 19 related restrictions. Additional driver training and knowledge test sessions have been made available to help accommodate any backlogs.

#### 3.3 Events

Licensing staff were involved in dealing with licence applications to cover the 2021 Darwen Live event in early October. Monitoring visits were also carried out during the event.

Work is taking place to ensure licences and safety procedures are in place for bonfire events.

### **3.4 Darwen venue complaints**

Over recent months there have been complaints about a small number of venues in Darwen. Complaints are mainly about noise disturbance, particularly as venues have been making more use of outdoor spaces to help to control the spread of covid 19. Licensing staff have worked with officers in Environmental Protection and planning to try to resolve the cause of the complaints.

### **3.5 Alcohol licences**

There has been an increase in the number of licence transfer and variation applications over recent months. This has come about as a number of businesses change hands and a small number of new businesses have opened up.

### **3.6 National Issues**

#### **Local Government Association Councillor Handbook**

In July 2021 the LGA issued an updated version of the *Councillor Handbook: Taxi and Private Hire Licensing*. It can be found in this link:

<https://www.local.gov.uk/publications/councillor-handbook-taxi-and-phv-licensing-2021>

The handbook has been updated to include new statutory standards published by the Department for Transport in July 2020.

## **4. POLICY IMPLICATIONS**

None.

## **5. FINANCIAL IMPLICATIONS**

None

## **6. LEGAL IMPLICATIONS**

None.

## **7. RESOURCE IMPLICATIONS**

None

## **8. CONSULTATIONS**

None

## **9. CONTACT OFFICER**

Denise Andrews – Business Compliance and Licensing Manager  
Telephone 01254 585585



**DEPARTMENT: ENVIRONMENT AND LEISURE**

**ORIGINATING SECTION : PUBLIC PROTECTION SERVICE**

**REPORT TO : LICENSING COMMITTEE**

**15/11/2021**

**TITLE : CONSULTATION ON GAMBLING ACT 2005 – REVISION OF STATEMENT OF POLICY 2022**

## **1. PURPOSE**

To inform members of the current consultation being undertaken about the revision of the Gambling Act 2005 Statement of Policy.

## **2. RECOMMENDATIONS**

That members note the report and put forward any recommendations that they may have for inclusion in the revised policy.

## **3. KEY ISSUES**

The Licensing Authority, on behalf of the Council, is currently consulting on a revised Policy Statement for the Gambling Act 2005. A copy of the proposed policy is at appendix 1.

The document is based on a template issued by the Local Government Association. The aim of this is to promote a nationwide consistent approach on Gambling policy.

The Public Protection Service is consulting on a national and local level with businesses and organisations affected by the policy. The residents of the Borough have been consulted via the Council's website and through Resident Associations.

The consultation is being undertaken from 5 November to 12 December 2021.

## **4. RATIONALE**

The Council is required to publish a Statement of Licensing Policy under the Gambling Act 2005, which is a statement of principles that the Licensing Authority must consider when determining a Premises Licence application. This policy must be reviewed every three years and the next date for agreement of the policy is January 2022.

The Statement of Licensing Policy is a comprehensive document which defines the principles in exercising:

- The powers to designate, in writing, a body which is competent to advise the Licensing Authority about the protection of children from harm
- The powers to determine whether a person is an interested person in relation to a premises licence, or an application for or in respect of a premises licence.
- The functions with respect to the exchange of information between the Licensing Authority and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of

information between the Licensing Authority and other persons listed in schedule 6 to the Act.

- The principles to be applied by the Licensing Authority in exercising the functions under part 15 of the Act with respect to the inspection of premises and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

The current Statement of Policy was agreed in 2019. The proposed new policy is in the draft at Appendix 1.

In addition to amendments of contact details, titles of legislation, updating links/references to new guidance and new figures the main change is at section 9 - Public Health and Gambling. This recognises that, whilst Public Health is not a responsible authority under the Act, they can still assist the Licensing Authority to address gambling-related harms in the area. Therefore it is proposed the Licensing Authority will consult with the Director of Public Health on premises licence applications. Also included is information and statistics from the Public Health team around gambling harm in the Borough.

The Government are currently carrying out a review of the Gambling Act 2005 – their call for evidence closed on 31<sup>st</sup> March 2021. Once the outcome of this review is published a further, more in-depth update to the policy may be required.

The licensing objectives are outlined below for information:

- 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.

## **5. POLICY IMPLICATIONS**

Approval of the policy is deemed a key decision and will be considered by Full Council at the meeting scheduled for 27 January 2022.

## **6. FINANCIAL IMPLICATIONS**

The financial costs incurred by the consultation and the publication of the revised document will be borne by the fees levied for gambling premises.

## **7. LEGAL IMPLICATIONS**

None.

## **8. RESOURCE IMPLICATIONS**

Existing staff in the Public Protection Service will undertake the associated work in revising and implementing the Statement of Gambling Policy.

## **9. CONSULTATIONS**

As detailed in Key Issues.

## **10 . CONTACT OFFICER**

Denise Andrews – Business Compliance and Licensing Manager  
Telephone - 01254 585585

# GAMBLING POLICY 2022

**POLICY STATEMENT**  
**Under Section 349 of the Gambling Act 2005**

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*This Statement of Licensing Principles was approved by Blackburn with Darwen Borough Council on DATE TO BE INSERTED.*  
*All references to the Guidance refer to the Gambling Commission's Guidance to Licensing Authorities, published April 2021 and updated in May 2021.*

## Introduction

This statement of Policy in relation to the Gambling functions that this Authority regulates sets out the approach that will be taken when dealing with permissions its grants and enforces thereafter.

It also identifies how the Authority will seek to promote the licensing objectives under the Act, namely:-

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

Partnerships are important to us and with this in mind we will be working closely with the Gambling Commission, the Police and the other responsible authorities named within the Act. We will also provide guidance and support, where possible, to the trade, residents and businesses.

All decisions that are made in relation to gambling will be made having taken into account the three objectives and each application will be dealt with on its merits.

This policy will come into effect on the 31<sup>st</sup> January 2022 and will be reviewed no later than the 31<sup>st</sup> January 2025.

In carrying out its gambling functions this Authority will have regard to its Policy and the Guidance issued by the Gambling Commission.

## **PART A**

### **1. The Licensing Objectives**

1.1. 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

1.2. 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”.

1.3. 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**

2.1 Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they proposed 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.

2.2 The Authority consulted widely upon this Policy from 5 November until 12 December 2021.

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

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

2.4 The full list of comments made and the consideration by the Council of those comments is available by request to The Principal Licensing Officer, [licensingteam@blackburn.gov.uk](mailto:licensingteam@blackburn.gov.uk).

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

**The Principal Licensing Officer, Public Protection Service, Blackburn with Darwen Council, White Dove Office, Davyfield Road Depot, Davyfield Road Blackburn BB21LX.**

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

2.7 Blackburn with Darwen Council is situated in the County of Lancashire. The Borough covers an area of approximately 13,700 hectares and contains a population of approximately 148,900 in 2018 people in 57,400 households within two compact towns and a number of small villages in the surrounding rural and moorland areas. The towns of Blackburn and Darwen are 4 miles apart, but the growth of both towns has resulted in an almost continuous urban conurbation along the A666. The vast majority of the population use the borough's shopping, leisure, employment and educational facilities.

2.8 In Autumn 2021 the number of licensed gambling premises is:

Premises type	Number of licences
Adult Gaming Centres	4
Bingo	2
Betting Shop	16
Track Betting	1

### **3. Declaration**

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

### **4. Responsible Authorities**

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

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

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

The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the Council's website at: <https://www.blackburn.gov.uk/licences-and->



**Licensing authority**  
**The Gambling Commission**  
**Police**  
**Fire**  
**Planning**  
**Health and Safety**  
**Child Protection**  
**H M Revenues and Customs**  
**Safeguarding Adults**

## 5. Interested parties

5.1. 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)”

5.2. 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:

5.2.1. Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission’s Guidance to Licensing Authorities at 8.12 to 8.17. It will also consider the Gambling Commission’s Guidance that “has business interests” should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

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

If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the licensing department [LicensingTeam@blackburn.gov.uk](mailto:LicensingTeam@blackburn.gov.uk)

## 6. Exchange of Information

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

S.350 of the Act allows licensing authorities to exchange information with other persons or bodies for use in the exercise of functions under the Act. Those persons or bodies are listed in Schedule 6(1) as:

a constable or police force  
an enforcement officer  
a licensing authority  
HMRC  
the First Tier Tribunal  
the Secretary of State  
Scottish Ministers.

6.2. The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the General Data Protection Regulation (GDPR) will not be contravened. It will also act in accordance with the freedom of information requirements. The licensing authority will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005 and will adopt the principles of better regulation.

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

## **7. Enforcement**

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

7.2. This licensing authority's principles are that:

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

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

7.3. 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.

7.4. This licensing authority has adopted and implemented a risk-based inspection

programme, based on;

- The licensing objectives
  - Relevant codes of practice
  - Guidance issued by the Gambling Commission, in particular at Part 36
  - The principles set out in this statement of licensing policy
- 7.5. The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the licensing authority but should be notified to the Gambling Commission.
- 7.6. This licensing authority also keeps itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.
- 7.7. Bearing in mind the principle of transparency, this licensing authority's enforcement/compliance protocols/written agreements are available upon request to the licensing department [LicensingTeam@blackburn.gov.uk](mailto:LicensingTeam@blackburn.gov.uk). Our risk methodology is also available upon request.
- 7.8. The Council will take account of the Gambling Commission's guidance document issued in April 2021 (or any subsequent amendments) [Test purchasing \(England and Wales only\) and age verification toolkit - Gambling Commission](#) 'when considering making test purchases at gambling premises. The Council will also follow its own policies and procedures regarding the use of underage test purchasers.
- 7.9. Where there is a Primary Authority scheme in place, the Council will seek guidance from the Primary Authority before taking any enforcement action.

Further information, including an index of all Primary Authority arrangements can be found at:

<https://primary-authority.beis.gov.uk/par>

## **8. Licensing authority functions**

- 8.1. Licensing authorities are required under the Act to:
- Be responsible for the licensing of premises where gambling activities are to take place by issuing *Premises Licences*
  - Issue *Provisional Statements*
  - Regulate *members' clubs* and *miners' welfare institutes* who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
  - Issue *Club Machine Permits* to *Commercial Clubs*
  - Grant permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*
  - Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
  - Issue *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines

- Register *small society lotteries* below prescribed thresholds
- Issue *Prize Gaming Permits*
- Receive and Endorse *Temporary Use Notices*
- Receive *Occasional Use Notices*
- Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
- Maintain registers of the permits and licences that are issued under these functions

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

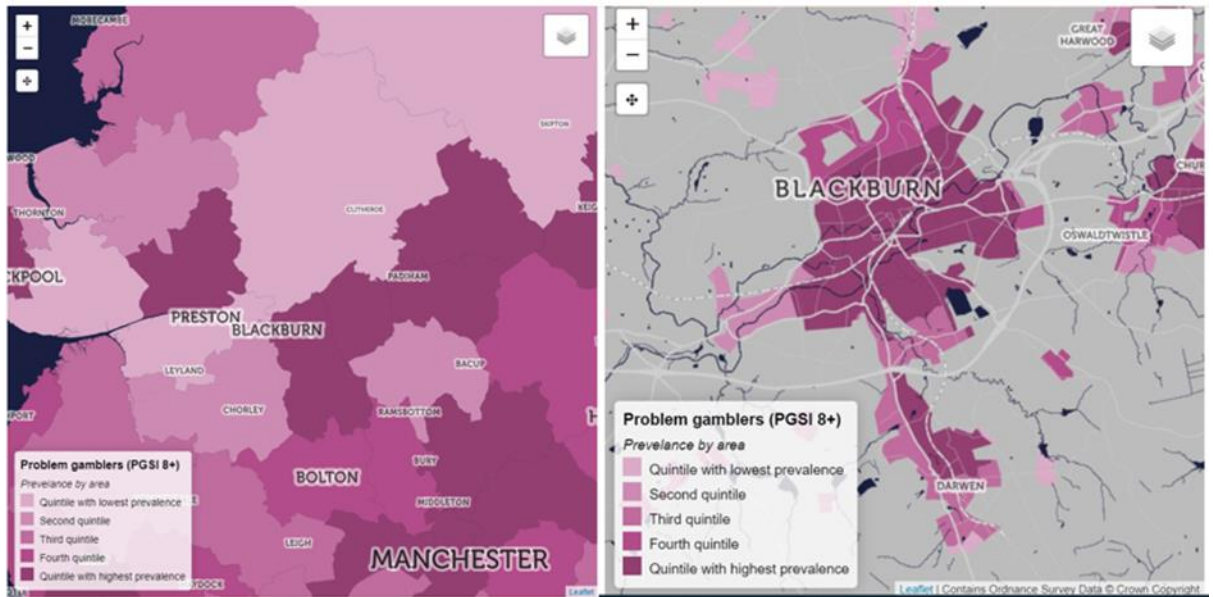
## 9. Public Health and Gambling

- 9.1. The Licensing Authority agrees with the Gambling Commission's position that gambling- related harm should be considered as a public health issue.
- 9.2. Gambling is a legitimate leisure activity enjoyed by many and the majority of those who gamble appear to do so with enjoyment, and without exhibiting any signs of problematic behaviour. There are however significant numbers of people who do experience significant harm as result of their gambling.
- 9.3. Blackburn with Darwen Borough Council Public Health Service have provided the following information about Gambling Harm

The data suggests there could be between **918** problematic gamblers aged 16+ using the Gambling Commission methodology and **1,982** problematic gamblers aged 18+ using the Northern Cities methodology who live in Blackburn or Darwen. These estimated figures have been calculated in two different ways by Leeds Beckett university (Northern cities, aged 18+ = prevalence rate of 1.8%) and by the Gambling Commission (national aged 16+ = prevalence rate of 0.8%). The different rates could be due to a higher concentration of problematic gambling in the more deprived northern towns (Leeds method), as opposed to a national rate including the more affluent areas, with less problematic gambling (Gambling Commission method).

This prevalence may now be higher after the pandemic and three lockdowns, furlough and redundancies.

New data from [Gamble Aware](#) shows problematic gambling prevalence at LA and ward level with Blackburn with Darwen Borough Council being in the quintile with the highest prevalence of problematic gambling:



9.4. For these problem gamblers, harm can include higher levels of physical and mental illness, debt problems, relationship breakdown and, in some cases, criminality and suicide. It can also be associated with substance misuse.

9.5. There can also be considerable negative effects experienced by the wider group of people around a gambler. The health and wellbeing of partners, children, and friends can all be negatively affected.

9.6. Therefore the Licensing Authority considers that Public Health teams, whilst not a responsible authority under the Act, can still assist the Licensing Authority to address gambling-related harms in its area. The licensing authority will consult the Director of Public Health on all premises licence applications and will advise the Director of Public Health to consider the use of the Gambling Commission’s toolkit for public health and safeguarding: <https://www.gamblingcommission.gov.uk/for-licensing-authorities/Licensingauthority-toolkit/Public-health-and-Safeguarding-toolkit.aspx>

9.7. The licensing authority would therefore like to engage with the local Public Health team in the future development of this Statement of Principles and the Local Area Profile. It is hoped that the Public Health team will be able to help the Licensing Authority:

- Identify and interpret health data and evidence to inform the review of the Statement and develop locally tailored local area profiles.
- Make decisions that benefit and protect the health and wellbeing of local communities.
- Be clear on issues which they can have regard to when deciding on licenses for a wide range of gambling activities.
- Identify and interpret health data and evidence to inform the review of the Statement;
- Conduct a health-impact assessment of gambling in the local area or assess any existing information.

The licensing authority recognises the work the public health team is already involved with to

reduce problem gambling, as part of Lancashire and South Cumbria Integrated Care System's priority of suicide prevention. A sub group of local authorities and debt advice service providers are mapping debt advice services across the footprint and the list will be shared with partners such as GPs, substance misuse services, mental health services, welfare advice services and then the licensing authority will share with staff in bookmakers, pubs and bingo halls.

## **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.

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

#### **(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.

In considering applications for new gambling licences, variations to existing licences and licence reviews the licensing authority will consider the following matters:

- the location of the premises
- the Local Area Profile
- the Local Risk Assessment (LRA)
- the views of responsible authorities
- the views of interested parties
- compliance history of current management
- the hours of operation
- the type of premises
- the operation of the premises in accordance with the expectations of the licensing authority, as set out in this policy
- the physical suitability of the premises
- the levels of crime and disorder in the area
- the level of deprivation and ill health in the area
- any other relevant factor

The location of the premises will be an important factor as it can impact on all three of the licensing objectives. The Licensing Authority will consider very carefully applications for premises licences that are located in close proximity to sensitive premises such as:

- Schools, including universities
- Parks, stations, other transport hubs and places where large numbers of school children might be expected
- other premises licensed for gambling
- premises licensed for alcohol
- children's and vulnerable persons' centres and accommodation
- youth and community centres
- health and treatment centres
- leisure centres used for sporting and similar activities by young persons and/or

vulnerable persons

- religious centres and public places of worship

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" nor are considerations about nuisance or the likelihood of gaining planning or building regulations approvals. In addition unmet demand is not a criterion for a licensing authority. The exception is with regard to any 'no casino resolution' - see section on Casinos - page 20). Each case will be decided on its own merits.

The Licence Conditions and Code of Practice (LCCP) issued by the Gambling Commission places further onus on premises to complete a risk assessment based on code 10, the social responsibility code.

The council will have regard to this code when considering applications. This is covered in detail in Part D of this statement.

**(ii) Definition of “premises”** – In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

The Gambling Commission states in its Guidance to Licensing Authorities that: “In most cases the expectation is that a single building / plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises.”

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

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not “drift” into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.



- Customers should be able to participate in the activity names on the premises licence.

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

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

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

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

#### **Casinos**

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

#### **Adult Gaming Centre**

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

#### **Betting Shops**

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

#### **Tracks**

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

#### **Bingo Premises**

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

## Family Entertainment Centre

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

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

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

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

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

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

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

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

More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.58-7.65 of the Guidance.

### **(iv) Location**

This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. As per the Gambling Commission's Guidance to Licensing Authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Each application will be considered on its own merits. Operators will be expected to demonstrate in their local risk assessment (LRA) the impact of the provision of gambling facilities in a particular area on the licensing objectives. From 6 April 2016 a new requirement was introduced requiring licensed operators of certain gambling establishments to undertake local risk assessments. This requirement was formalised in the Gambling Commission's Licence Conditions and Codes of Practice (LCCP) which were revised and published in April 2018. [Licence Conditions and Codes of Practice - Gambling Commission](#)

This authority has not adopted any specific policy in relation to areas where gambling premises should not be located. Should any such policy be decided upon, this policy statement will be updated. However this authority would expect an operator's local risk assessment (LRA) to consider, for example, the proximity of their premises in relation to schools, hospitals and centres where children or vulnerable groups may be present

It should be noted that any such future policy will not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant to show how any concerns can be overcome.

**(v) Planning:**

The Gambling Commission Guidance to Licensing Authorities states:

**7.58** In determining applications, the licensing authority should not take into consideration matters that are not related to gambling and the licensing objectives. One example would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal. Licensing authorities should bear in mind that a premises licence, once it comes into effect, authorises premises to be used for gambling. Accordingly, a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use. Equally, licences should only be issued where they are expected to be used for the gambling activity named on the licence. This is why the Act allows a potential operator to apply for a provisional statement if construction of the premises is not yet complete, or they need alteration, or he does not yet have a right to occupy them. Part [11](#) of this guidance gives more information about provisional statements.

7.65 – When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have to comply with the necessary planning or building consents. Nor should fire or health and safety risks be taken into account. Those matters should be dealt with under relevant planning control, building and other regulations, and must not form part of the consideration for the premises licence. S.210 of the Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally, the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.

**(vi) Duplication with other regulatory regimes**

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

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

**(vii) Licensing objectives**

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

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

**Ensuring that gambling is conducted in a fair and open way** - This licensing authority has noted that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section— 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 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.

Section 7 of the Gambling Commission Guidance to Local Authorities sets out considerations that an operator must make in order to protect children and young people from accessing gambling premises.

The Licence Conditions and Codes of Practice (LCCP) issued in 2015 prescribe how operators must prevent children from using age restricted gaming or gambling activities, particularly where gaming machines are licensed. In particular operators must ensure that;

- all staff are trained,
- that all customers are supervised when on gambling premises
- procedures are in place for identifying customers who are at risk of gambling related harm.

The Council will expect all operators to have policies and procedures in place as required by the LCCP codes on social responsibility to cover all aspects of the code, in particular staff training records and self-exclusion records.

Further provisions with regard to self-exclusion and marketing are included in the social responsibility code. The council will take all conditions and codes into account when considering applications or performing enforcement activities.

See Part D of this policy statement for further details and on the Council's requirements in relation to the LCCP.

As regards the term "vulnerable persons" it is noted that the Gambling Commission does not seek to offer a definition but states that "it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gambling beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs." This licensing authority will consider this licensing objective on a case by case basis.

#### **(viii)Conditions**

When considering an application the starting point will be that permission will be granted subject only to the mandatory and default conditions. Additional conditions will only be imposed where there is clear evidence of the risks to the licensing objectives. Any conditions attached to licences will be proportionate and will be:

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

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

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

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

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

These considerations will apply to premises including buildings where multiple premises licences are applicable.

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

enter.

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

- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated; and
- conditions in relation to stakes, fees, winning or prizes.

### **(ix) Door Supervisors**

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

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

## **2. Adult Gaming Centres**

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

Where gambling facilities are provided at premises as a supplementary activity to the main purpose of the premises; e.g. motorway service areas and shopping malls, the council will expect the gambling area to be clearly defined to ensure that customers are fully aware that they are making a choice to enter into the gambling premises and that the premises is adequately supervised at all times

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

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

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

## **3. (Licensed) Family Entertainment Centres:**

This licensing authority will specifically have regard to the need to protect children and

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

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

- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.
- Measures / training for staff on how to deal with suspected truant school children on the premises

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

This licensing authority will, as per the Gambling Commission's guidance, refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

#### **4. Casinos**

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

*Casinos and competitive bidding* - This licensing authority is aware that where a licensing authority area is enabled to grant a premises licence for a new style casino (i.e. the Secretary of State has made such regulations under Section 175 of the Gambling Act 2005) there are likely to be a number of operators which will want to run the casino. In such situations the local authority will run a 'competition' under Schedule 9 of the Gambling Act 2005. This licensing authority will run such a competition in line with any regulations / codes of practice issued under the Gambling Act 2005

#### **5. Bingo premises**

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

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

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

Details of the Code of Practice for Equal Chance Gaming in Pubs and Clubs can be found on the Gambling Commission website. This details maximum stakes and prizes without the need for a commercial Bingo Operators Licence.

## **6. Betting premises**

*Betting machines* - This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

## **7. Tracks**

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

This authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

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

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

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

*Gaming machines* - Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.

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



## **Applications and plans**

The Gambling Act 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 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 instances, 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 areas 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 is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

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

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

## **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.

S204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:

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

The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.

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

The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:

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

In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

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

## **10. Reviews:**

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

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

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

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

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

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

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

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

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

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

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

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

## **PART C**

### **Permits / Temporary & Occasional Use Notice**

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

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

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

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.

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

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

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

##### **Automatic entitlement: 2 machines**

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

merely need to notify the licensing authority and pay the prescribed fee.

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

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

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

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

This licensing authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harmed or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

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

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

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

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

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

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

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

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

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

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

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

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

Members Clubs and Miner's welfare institutes – and also Commercial Clubs – may apply for a Club Machine Permit. A Club Machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D). NB Commercial Clubs may not site category B3A gaming machines offering lottery games in their club.

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

**The LA has to satisfy itself that the club meets the requirements of the Act to obtain a club gaming permit. In doing so it will take account a number of matters as outlined in sections 25.45-25.48 of the Gambling Commission's Guidance. These include the constitution of the club, the frequency of gaming, and ensuring that there are more than 25 members.**

The club must be conducted 'wholly or mainly' for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulations and these cover bridge and whist clubs.

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).

**Commercial clubs cannot hold club premises certificates under the Licensing Act 2003 and so cannot use the fast-track procedure.**

As the Gambling Commission's Guidance to Licensing Authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:

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

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

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

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

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

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

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

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

This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

### **6. Occasional Use Notices:**

The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice. This licensing authority will also ensure that no more than 8 OUNs

are issued in one calendar year in respect of any venue.

## **7. Small Society Lotteries**

This licensing authority will adopt a risk based approach towards its enforcement responsibilities for small society lotteries. This authority considers that the following list, although not exclusive, could affect the risk status of the operator:

- submission of late returns (returns must be submitted no later than three months after the date on which the lottery draw was held)
- submission of incomplete or incorrect returns
- breaches of the limits for small society lotteries

Non-commercial gaming is permitted if it takes place at a non-commercial event, either as an incidental or principal activity at the event. Events are non-commercial if no part of the proceeds is for private profit or gain. The proceeds of such events may benefit one or more individuals if the activity is organised:

- by, or on behalf of, a charity or for charitable purposes
- to enable participation in, or support of, sporting, athletic or cultural activities.

Charities and community groups should contact this licensing authority on [licensingteam@blackburn.gov.uk](mailto:licensingteam@blackburn.gov.uk) to seek further advice.



## **PART D**

### **Licence Conditions & Codes of Practice (LCCP)**

The Gambling Commission released an LCCP in February 2015 with a commencement date of May 2015. The code strengthened the social responsibility code (SR) requirements. Details regarding the LCCP and SR code can be accessed via the Gambling Commission website at [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

The code requires operators:

- To supervise customers effectively on gambling premises and identify customers who are at risk of gambling related harm.
- With effect from April 2016 to have in place schemes to allow customers to self-exclude themselves from all operators of a similar type in the area where they live and work.
- To have a range of measures with regard to marketing to ensure social responsibility that are transparent and not misleading.
- With effect from April 2016 to produce a risk assessment on individual premises, and have policies and procedures and control measures in place to mitigate local risks to the licensing objectives.

#### **1) Risk Assessments**

Such risk assessments are required:

- When applying for a new premises licence;
- When applying for a variation of a premises licence;
- To take into account significant changes in local circumstances, for example those identified in the licensing authority's policy statement;
- When there are significant changes at a licensee's premises that may affect their mitigation of local risks

The code requires all operators of Casinos, AGCs, Bingo Premises, FECs, Betting shops and remote betting intermediaries to assess local risks to the licensing objectives, and to have policies, procedures and control measures in place to mitigate those risks.

Operators are required by the SR code to make the risk assessment available to licensing authorities when an application is submitted either for new premises licence or variation of a premises licence, or otherwise on request, and this will form part of the council's inspection regime and may be requested when officers are investigating complaints.

The code requires the Council to set out matters they expect the operator to take account of in the risk assessment in its statement of policy and this council expects the following matters to be considered by operators when making their risk assessment.

- Information held by the licensee regarding self-exclusions and incidences of underage gambling,

- Arrangement for localised exchange of information regarding self-exclusions and gaming trends.
- Urban setting such as proximity to schools, commercial environment, factors affecting footfall,
- The council expects the following matters to be considered by operators when making their risk assessment.
- Matters relating to children and young persons, including; Institutions, places or areas where presence of children and young persons should be expected such as schools, youth clubs, parks, playgrounds and entertainment venues such as bowling allies, cinemas etc.
- Recorded incidents of attempted underage gambling

Matters relating to vulnerable adults, including;

- Information held by the licensee regarding self-exclusions and incidences of underage gambling,
- Arrangement for localised exchange of information regarding self -exclusions and gaming trends.
- Proximity of premises which may be frequented by vulnerable people such as hospitals, residential care homes, medical facilities, doctor's surgeries, council housing offices, addiction clinics or help centres, places where alcohol or drug dependant people may congregate, etc.

This list is not exhaustive and other factors not in this list that are identified must be taken into consideration.

The Licensing Authority expects a copy of the local risk assessment to be available at each gambling premises.

### **Local Area Profile**

The Council has considered the local area profile and considers the main issues will be covered by the risk assessments required under the LCCP.

By virtue of paragraph(s) 2 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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