

Council – 6th November 2006

The Gambling Act 2005 - Draft Statement of Principles

Service Area: Public Protection

Wards: All

Summary of report

The Gambling Act 2005 received Royal Assent on 7th April 2005. It puts in place a comprehensive new framework for the regulation of gambling. The Act will be fully in force by September 2007. The Government will be issuing further regulations regarding the issuing of licences in January 2007 including the proposed fee levels. The Council will be able to accept advance applications for licences on the 30th April 2007.

Walsall Council needs to implement the Gambling Act 2005 to ensure that it is ready to start issuing premises licences for bingo, betting, adult game centres, family entertainment centres, casinos, horse racing and dog tracks; permits for gaming machines in alcohol licensed premises and members clubs; other gaming activities in members clubs; category D machines in unlicensed family entertainment centres and prize gaming. The Council will also register and issue small society lotteries, occasional and temporary use notices, and provisional notices.

The Act places a duty on the Local Authority to determine its statement of principles with respect to the exercise of its functions, and publish that policy before it starts the exercise of those functions. The Council publicly consulted on the draft statement of principles between 26th July 2006 and 16th October 2007, and have incorporated some proposed amendments within the statement of principles. This statement has to be reviewed from time to time and be published at least every three years.

In considering all applications under the gambling Act the Council will have to have regard to the three objectives under the Act which are:

- Keeping gambling crime free
- Making sure that gambling is fair and open
- Protecting children and vulnerable adults

Recommendations

That Council be recommended to:

- (1) Adopt the draft Statement of Principles
- (2) Delegate to the Licensing and Safety Committee the exercise of powers contained in the Gambling Act 2005.

Resource and legal considerations

The Government is yet to establish fee levels for applications under the Act, it is anticipated that these will be issued between January 2007 and April 2007 following a

period of consultation. However the Government will look to ensure that those fees provide full cost recovery for the licensing functions, including the preparation and publication of the statement of principles.

There remains a concern however that the proposed fees will not fully cover the costs of the licensing functions, and therefore some costs may need to be absorbed by the Council.

The Council's gambling policy is governed by the Gambling Act 2005, statutory guidance and secondary legislation that may be issued from time to time by the Secretary of State for the Department of Culture, Media and Sport.

Citizen impact

The new legislation could potentially affect everyone in the borough.

The Council will work in partnership with the responsible authorities to ensure that we promote the objectives under the Gambling Act 2005 and seek full integration with local policies for crime and prevention, community safety, Safer Walsall Partnership, planning, transport and tourism.

Community safety

One of the three key principles under the Act is to prevent gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime. West Midlands Police, the Health Authority, the PCT and the Fire Service have all been consulted about the statement principles to be applied by the Council in determining applications, and the Council will continue to work in partnership with the responsible authorities and the community to minimise the impact of gambling on community safety. The Council will also liaise with the Gambling Commission.

A further objective under the Act is to protect children and other vulnerable people from being harmed or exploited by gambling, and all applications have to be determined with the due consideration of the objectives under the Act.

Environmental impact

None arising from this report

Performance and risk management issues

In order to manage the increased number of applications within the licensing section, the Council will keep the levels of applications under review, and consider whether or not current staffing levels are sufficient to deal with the anticipated increase in work.

The implementation of the Gambling Act 2005 is a statutory function imposed on the Council by central government, therefore the Council will have to approve the statement of gambling principles and grant applications in accordance with the relevant regulations to ensure it acts in a lawful manner. Failure to do this could lead to the risk of legal challenge with the risks of costs being incurred.

Equality implications

All applications will be considered in accordance with the legislation the interests of natural justice, fairness and Human Rights legislation.

Consultation

Consultation on the statement of principles commenced on the 26th July 2006. Adverts were placed in the local community paper, and the draft principles have been made available on the Council's website. In addition to this the Draft Statement of Principles has been sent to the responsible authorities for comment as required by the Act. The Council has also consulted with the health authority's representatives from the gambling industry itself, and bodies concerned with the treatment and care of problem gamblers, such as Gamcare.

Vision 2008

The policy supports the priorities of Vision 2008 by ensuring that gambling in the borough is properly regulated in accordance with primary and secondary legislation, in an open and transparent manner. The policy also aims to make services more accessible to people by making it possible to communicate with the council on-line, and make applications including the payment of fees online. People will also be able to access the register of all applications and notices made to the council, both via the internet and by attending Council offices.

The Council will work with local crime prevention and enforcement bodies and health authorities with the aim of making Walsall people safe and secure, and by working with the various interested groups and the gambling industry itself the council will look to promote tourism and strengthen the local economy.

Background papers

1. Report to Licensing and Safety Committee 26th July 2006
2. Statement of Principles
3. New Gambling Act Explained –DCMS Document
4. Gambling Act 2005

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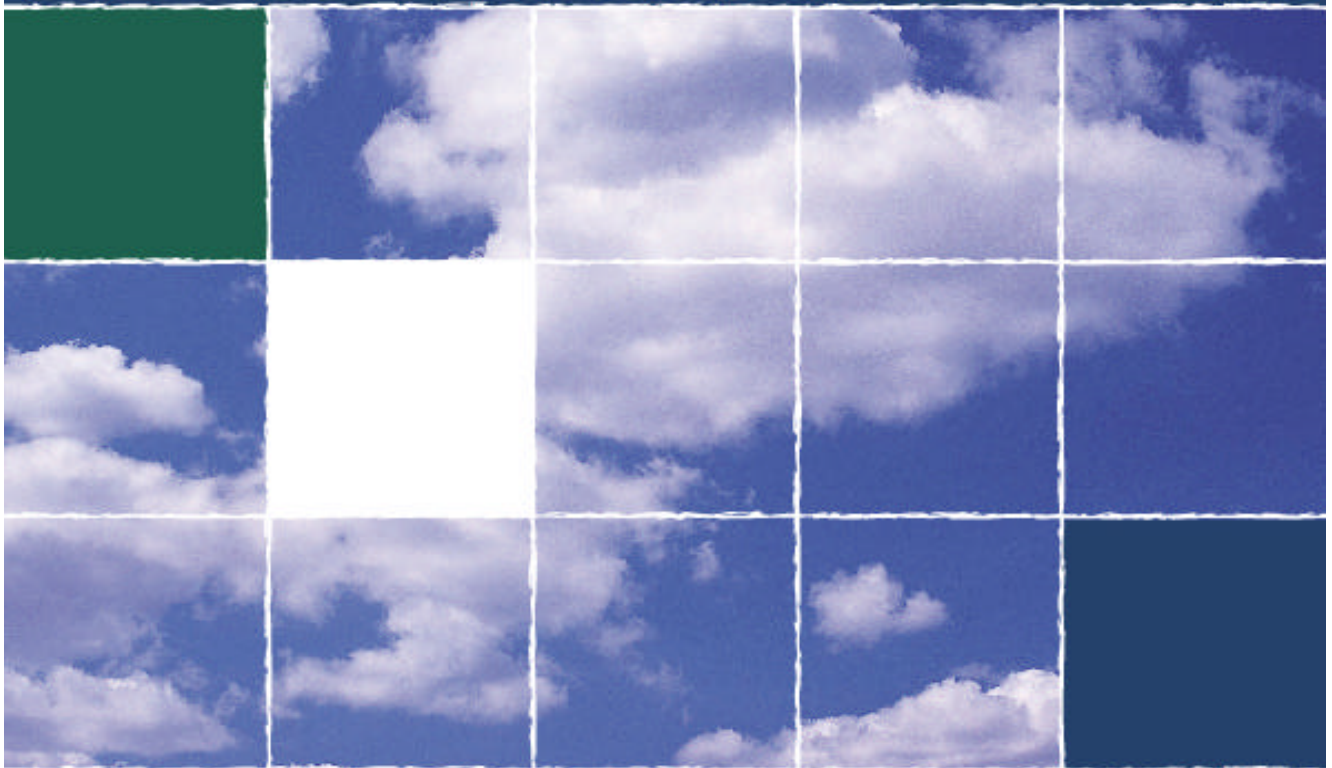
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Gambling Act 2005

Draft Statement of Principles

Published June 2006



Walsall Council

Gambling Act 2005

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This Statement of Principles has been drafted at a time when a number of regulations, Operating Personal Licence conditions, Codes of Practice and guidance are not yet published. Should anything in these impact upon the content of this document it will need to be borne in mind and amended at a later stage, bearing in mind resource implications for the authority. All references to the Gambling Commission's Guidance for local authorities refer to the Guidance published in April 2006.

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".

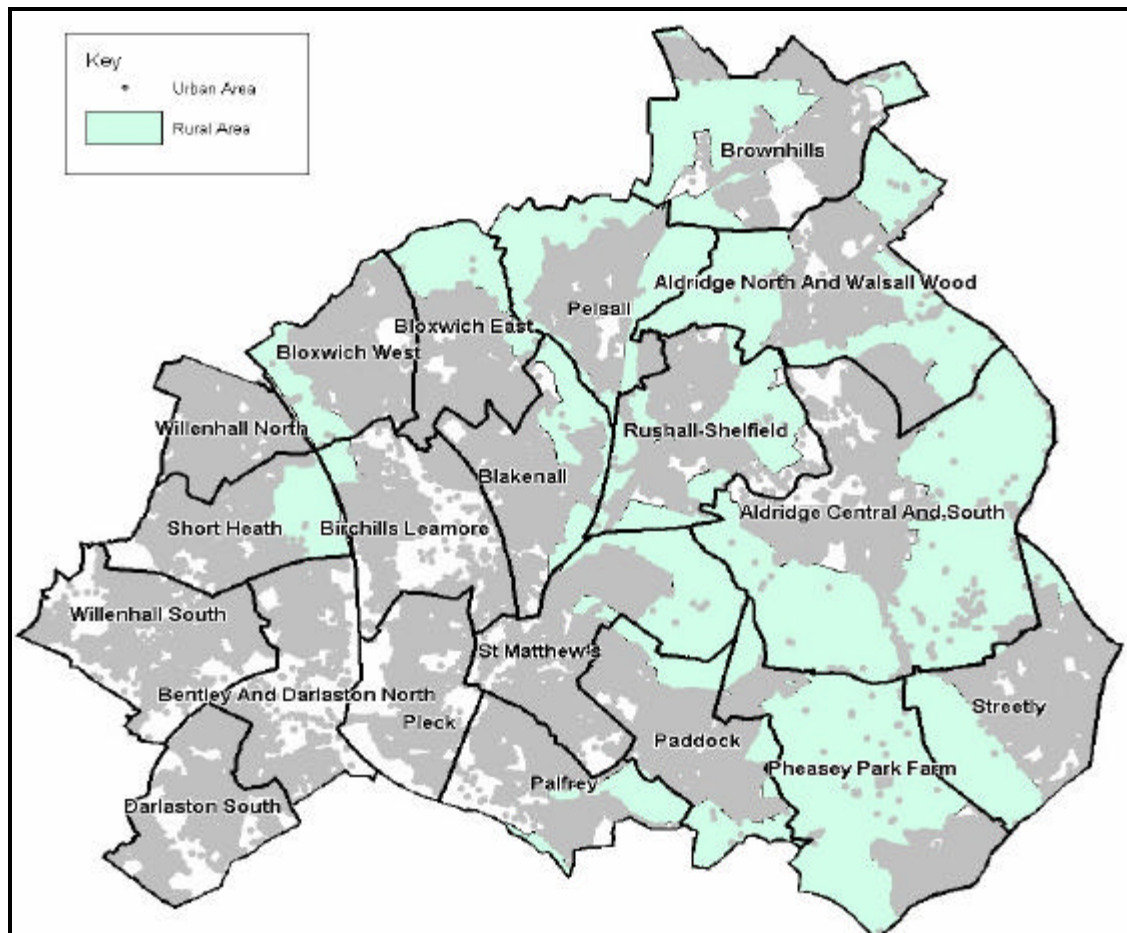
1.3 This licensing authority is aware that, as per Section 153, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it:

- 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 Walsall Council is situated in the West Midlands, which contains seven District Councils in total. The Council area has a population of 253,499 (2001 Census) making it the third largest in the County in terms of population. In terms of

area Walsall, covers 40.02 square miles meaning it is neither the largest or smallest district in the West Midlands. The Council area is mainly urban covering an area of 24.83 square miles. These areas are shown in the map below.



2.2 Industry and infrastructure

The Black Country towns of Willenhall and Darlaston, west of the M6, contrast with the eastern parts of the borough, which are more residential and in parts agricultural in character. Traditional and growth industries are spread throughout the borough. Walsall benefits from its position at the cross-roads of the motorway network and communications have been improved further by the M6 Toll Road; Birmingham Airport and the National Exhibition Centre are within easy reach, and frequent trains to Birmingham provide links to the Inter-City network. Regeneration projects focussing on Walsall town centre, the district and local centres, and key transport corridors are transforming the borough's economic well-being.

2.3 Art, Leisure and Environment

Walsall offers inspiring museums and galleries, relaxing walks in parks and open spaces throughout the borough, and a network of canals. The Walsall Museum, the Leather Museum, and the Jerome K. Jerome Museum tell the history of the borough and its people. Walsall's New Art Gallery offers a changing programme of events and exhibitions showcasing local and international artists, alongside the permanent Garman Ryan collection including works by Epstein, Rembrandt, Turner and Constable. There is an annual programme of events, activities and festivals, including the Walsall Illuminations, theatre, concerts, craft fairs and street events.

2.4 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.

2.5 Walsall Metropolitan Borough Council consulted widely upon this statement before finalising and publishing. A list of those persons consulted is provided below.

2.6 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.

2.7 List of persons this authority consulted:

- *see appendix A*

2.8 Our consultation took place between 18th July 2006 and 18th October 2006 and we followed the Revised Code of Practice (which came into effect in April 2004) and the Cabinet Office Guidance on consultations by the public sector.

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,

These documents are available via:

<http://www.cabinetoffice.gov.uk/regulation/consultation/code/index.asp>

<http://www.cabinetoffice.gov.uk/regulation/consultation/documents/pdf/code.pdf>

2.9 The full list of comments made, and the consideration by the Council of those comments, is available by request to: John Beavon, Head of Trading Standards, Walsall Council, Challenge Building, Hatherton Road, Walsall, WS1 1YG. E-mail: beavonj@walsall.gov.uk or via the Council's website at: www.walsall.gov.uk

2.10 The policy was approved at a meeting of the Full Council on **X date (to be approved post consultation)** and was published via our website. Copies were placed in the public libraries of the area as well as being available in the Town Hall.

2.11 Should you have any comments as regards this policy statement please send them via e-mail or letter to the following contact: John Beavon, Head of Trading Standards, Walsall Council, Challenge Building, Hatherton Road, Walsall, WS1 1YG. E-mail: beavonj@walsall.gov.uk

2.12 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.

the guidance 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 for local authorities, this authority designates the Local Safeguarding Children Board for this purpose.

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

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:

5.3 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 for local authorities at 8.14 and 8.15. 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.

5.4 The Gambling Commission has recommended that the licensing authority states

that interested parties include trade associations and trade unions, and residents' and tenants' associations (Gambling Commission Guidance for local authorities 8.17). This authority will not however generally view these bodies as interested parties unless they have a member who can be classed as an interested person under the terms of the Gambling Act 2005 i.e. lives sufficiently close to the premises to be likely to be affected by the activities being applied for.

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

5.6 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, Walsall Council, Challenge Building, Hatherton Road, Walsall, WS1 1YG.

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 respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

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 Data Protection Act 1998 will

not be contravened. The licensing authority will also have regard to any Guidance issued by the Gambling Commission to local authorities on this matter when it is published, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

6.3 Should any protocols be established as regards information exchange with other bodies then they will be made available. Discussions with the Gambling Commission and LACORS as regards information exchange between the Commission and local authorities are, at the time of writing, at an early stage.

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 for local authorities 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.
- Consistent with the authority's enforcement policy

7.3 As per the Gambling Commission's Guidance for local authorities, this licensing authority will

endeavour to avoid duplication with other regulatory regimes so far as possible.

7.4 This licensing authority will also, as recommended by the Gambling Commission's Guidance for local authorities, adopt a risk-based inspection programme.

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

7.6 This licensing authority will also keep 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 will be available upon request to: The Licensing Department, Walsall Council, Challenge Building, Hatherton Road, Walsall, WS1 1YG.

7.8 The authority recognises that certain bookmakers have a number of premises within its area. In order to ensure that any compliance issues are recognised and resolved at the earliest stage, operators are requested to give

the authority a single named point of contact, who should be a senior individual, and whom the authority will contact first should any compliance queries or issues arise.

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

8.2 It should be noted that local licensing authorities will not be involved in licensing remote gambling at all. This will fall to the Gambling Commission via operating licences.

PART B PREMISES LICENCES

1. General Principles

1.1 Premises Licences will be subject to the requirements set-out in the Gambling Act 2005 and regulations as well as specific mandatory and default conditions which will be 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.

1.2 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 practise 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.

1.3 It is appreciated that as per the Gambling Commission's Guidance for local authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos below - page 15) and also that unmet demand is not a criteria for a licensing authority.

1.4 **Definition of "premises"** - Premises is defined in the Act as "any place". Different premises licences cannot apply in respect of a single premise at different times. However, it is possible for a single building to be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. Whether different parts of a building can be properly regarded as being separate premises will always be a question of fact in the circumstances. However, the Gambling Commission does not consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.

1.5 This licensing authority takes particular note of the Gambling Commission's Guidance for local 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 that entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area.
- Licensing authorities should pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). Clearly, there will be specific issues that authorities should consider before granting such applications, for example, whether children can gain access; compatibility of the two establishments; and ability to comply with the requirements of the Act. But, in addition an overriding consideration should be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act.

1.6 It should also be noted that an applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed. The Gambling Commission has advised that reference to "the premises", are to the premises in which gambling may now take place. Thus a licence to use premises for gambling will only be issued in relation to premises that are ready to be used for gambling. This authority agrees with the Gambling Commission that it is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence. The Gambling Commission emphasises that requiring the building to be complete ensures that the authority can, if necessary, inspect it fully, as can other

responsible authorities with inspection rights.

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

1.8 Duplication with other regulatory regimes - This licensing authority will seek to avoid 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.

1.9 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 local authorities and some comments are made below.

1.10 Preventing Gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime - This licensing authority is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors.

There is no evidence that the operation of betting offices has required door supervisors for the protection of the public. The authority will make a door supervision requirement only if there is clear evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.

This licensing authority is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction. Issues of nuisance cannot be addressed via the Gambling Act provisions.

1.11 Ensuring that gambling is conducted in a fair and open way - This licensing authority has noted that the Gambling Commission has stated that it would generally not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section below (page 16).

1.12 Protecting children and other vulnerable persons from being harmed or exploited by gambling - This licensing authority has noted the Gambling Commission's Guidance for local authorities states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances/machines, segregation of areas etc.

1.13 This licensing authority will also make itself aware of the Codes of Practice which the Gambling Commission issues as regards this licensing objective, in relation to specific premises such as casinos. As regards the term "vulnerable persons" it is noted that the Gambling Commission is not seeking 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

gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs." This licensing authority will consider this licensing objective on a case by case basis. Should a practical definition prove possible in future then this policy statement will be updated with it, by way of a revision.

1.14 Conditions - Any conditions attached to licences will be proportionate and will be:

- Relevant to the need to make the proposed building suitable as a gambling facility;
- Directly related to the premises and the type of licence applied for;
- Fairly and reasonably related to the scale and type of premises; and
- Reasonable in all other respects.

1.15 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 ways in which the licensing objectives can be met effectively.

1.16 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.

1.17 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.

1.18 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.

1.19 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.

1.20 Door Supervisors - The Gambling Commission advises in its Guidance for local authorities that licensing authorities may consider whether there is a need for door supervisors in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime.

1.21 It is noted though that the door supervisors at casinos or bingo premises cannot be licensed by the Security Industry Authority (SIA). This licensing authority therefore has specific

requirements for door supervisors working at casinos or bingo premises which are to be published and made available on request. This is in recognition of the nature of the work in terms of searching individuals, dealing with potentially aggressive persons, etc.

1.22 For premises other than casinos and bingo premises, operators and licensing authorities may decide that supervision of entrances/machines is appropriate for particular cases but it will need to be decided whether these need to be SIA licensed or not. It will not be automatically assumed that they need to be.

2. Adult Gaming Centres

2.1 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.

2.2 This licensing authority will expect applicants to offer their own measures to meet the licensing objectives. However appropriate measures/licence conditions may cover issues 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 barring 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

3.1 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.

3.2 The licensing authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures/licence conditions may cover issues such as:

- CCTV
- Supervision of entrances
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours

- Self barring 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.

3.3 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

4.1 This licensing authority has not submitted a proposal for a premises licence for a small/large/regional casino, to the Independent Casinos Advisory Panel.

4.2 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.

4.3 This licensing authority is aware that where a licensing authority area is enabled to grant a premises licence for a newly styled 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 1005.

This licensing authority will run such a competition in line with any regulations /codes of practice issued under the Gambling Act 2005.

4.4 *Licence considerations/conditions* - The Gambling Commission has stated that "further guidance" will be issued in due course about the particular issues that licensing authorities should take into account in relation to the suitability and layout of casino premises" (Gambling Commission Guidance for local authorities - 17.30). This guidance will be considered by this licensing authority when it is made available.

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

5. Bingo Premises

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

5.2 It is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted licensing authorities should ensure that:

- All such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which

is effective to prevent access other than through a designated entrance;

- Only adults are admitted to the area where the machines are located;

- Access to the area where the machines are located is supervised;
- The area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
- At the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

5.3 This licensing authority is also aware that the Gambling Commission is going to issue further guidance about the particular issues that licensing authorities should take into account in relation to the suitability and layout of bingo premises. This guidance will be considered by this licensing authority once it is made available.

6. Betting Premises

6.1 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

7.1 This licensing authority is aware that tracks may be subject to one or more 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.

7.2 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.

7.3 This licensing authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures/licence conditions may cover such issues as:

- Proof of age schemes
- CCTV
- Supervision of entrances machine areas
- Physical separation of areas
- Location of entry
- Notices/signage

6.2 While the authority has discretion as to the number, nature and circumstances of use of betting machines, there is no evidence that such machines give rise to regulatory concerns. This authority will consider limiting the number of machines only where there is clear evidence that such machines have been or are likely to be used in breach of the licensing objectives. Where there is such evidence, this authority may consider, when reviewing the licence, the ability of staff to monitor the use of such machines from the counter.

- Specific opening hours
- Self-barring 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.

7.4 Gaming machines - Further guidance from the Gambling Commission is awaited as regards where such machines may be located on tracks and any special considerations that should apply in relation, for example, to supervision of the machines and preventing children from playing them. This licensing authority notes the Commission's Guidance that licensing authorities therefore need to consider the location of gaming machines at tracks, and applications for track premises licenses will need to demonstrate that, where the applicant holds a pool betting operating licence and is going to use his entitlement to four gaming machines, these machines are located in areas from which children are excluded. Children and young persons are not prohibited from playing category D machines on a track.

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

take note of the Gambling Commission's suggestion that licensing authorities will want to consider restricting the number and location of such machines in respect of applications for track betting premises licences.

7.6 Condition on rules being displayed - The Gambling Commission has advised in its Guidance for local authorities that "...licensing authorities should attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office.

7.7 Applications and plans - This licensing authority awaits regulations setting out any specific requirements for applications for premises licences but is in accordance with the Gambling Commission's suggestion "To ensure that licensing authorities gain a proper understanding of what they are being asked to license they should, in their licensing policies, set

out the information that they will require, which should include detailed plans for the racetrack itself and the area that will be used for temporary "on-course" betting facilities (often known as the "betting ring") and in the case of dog tracks and horse racecourses fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities" and that "Plans should make clear what is being sought for authorisation under the track betting premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence."

7.8 This licensing authority also notes that in the Commission's view, it would be preferable for all self-contained premises operated by off-course betting operators on track to be the subject of separate premises licences, to ensure that there is clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

8. Travelling Fairs

8.1 It will fall to this licensing authority to decide 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.

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

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

9. Provisional Statements

9.1 This licensing authority notes the Guidance for the Gambling Commission which states that "It is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence" and that "Requiring the building to be complete ensures that the authority could, if necessary, inspect it fully".

9.2 In terms of representations about premises licence applications, following the grant of a

provisional statement, no further representation 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:

a) Which could not have been raised by

objectors at the provisional licence stage; or b) Which in the authority's opinion reflects a change in the operator's circumstances.

9.3 This authority has noted the Gambling Commission's Guidance that "A licensing

authority should not take into account irrelevant matters. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal."

10. Reviews

10.1 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, as well as consideration as to whether the request is frivolous, vexatious, 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 a review.

- 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.

10.2 The licensing authority can also initiate a review of a licence on the basis of any reason which it thinks is appropriate.

PART C

Permits / Temporary & Occasional Use Notice

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

1.1 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).

1.2 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 for local authorities also states "In their three year licensing policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits..., licensing authorities will want to give weight to child protection issues." (24.6)

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

- A full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;

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

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

11.4 Statement of Principles - This licensing authority will expect the applicant to show 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))

2.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines of categories C and/or D. The premises merely need to notify the licensing authority. The licensing authority can remove the automatic authorisation in respect of any particular premises if:

- Provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- Gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (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.

2.2 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 being harmed or exploited from 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 gaming 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 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.

2.3 It is recognised that some alcohol licensed premises may apply for a premises licence for the 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.

2.4 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.

2.5 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 - (Statement of Principles on Permits - Schedule 14 paragraph 8(3))

3.1 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".

3.2 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 the Regulations;
- And that the gaming offered is within the law.

3.3 In making its decision on an application for this permit the licensing authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission Guidance.

3.4 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 a 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

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

4.2 Gambling Commission Guidance states "Members' clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make profit, and controlled by its members equally. Examples include working men's clubs, branches of the Royal British Legion and clubs with political affiliations.

4.3 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 youngsters;
- 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.

4.4 There is also a 'fast track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). As the Gambling Commission's Guidance for local authorities states: "Under the fast track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds 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."

4.5 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

5.1 There are a number of statutory limits as regards temporary use notices. Gambling Commission Guidance is noted that "The meaning of "premises" in part 8 of the Act is discussed in Part 7 of this guidance. 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, licensing authorities will need to look at, amongst other things, the ownership/occupation and control of the premises. This is a new permission and licensing authorities should be ready 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.

6. Occasional Use Notices

6.1 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

Appendix A

Consultees

The Law Society
Chief Superintendent B Gilbert OBE, West Midlands Police
Chief Superintendent Munroe, West Midlands Police
West Midlands National Probation Service
Messrs Walker & Co (Solicitors)
Messrs Hadens (Solicitors)
Walsall Teaching Primary Care Trust
West Midlands Fire Service
Kathy McAteer, Assistant Director - Adult Services
Pauline Pilkington, Assistant Director - Childrens' Services
NSPCC
Gamaid
Gam-Anon
GamCare
CAB
Gambling Commission
WBSF
Walsall Tenants and Residents Federation
Walsall VA
BH&HPA, (British Holiday & Home Parks Assoc)
The British Association of Leisure Parks, Piers & Attractions Limited
British Amusement Catering Trade Organisation (BACTA)
British Beer & Pub Association (BBPA)
CAMRA
Working Mens Club & Institute Union
Bloxwich Royal British Legion
Beechdale Social Club
The Social
Aldridge Conservative & Unionist Club
Birchills Liberal Club
Rushall Labour Club
Racecourse Association Ltd
Bond Pearce Ltd (On behalf of ABB)
Bet 365 Ltd
Dave Beckett Racing
Needwood Racing Ltd
Williams Bookmakers
Tote Bookmakers Ltd
Ladbrookes
William Hill
Rank Group
Association of Casino Operators
British Casino Association
Leisure Automatics
Gala Bingo Clubs
Mercury Amusements
Playtime Amusements
Playland Holdings
Blue Chip Casinos
Grosvenor Casino
Leisure Automatics
Mr K R Whalley BA, Walsall Football Club
Walsall Residents via Walsall Pride