



**AMBER VALLEY
BOROUGH COUNCIL**

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Date : 2nd September 2009
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Dear Sir/Madam

Statement of Gambling Licensing Policy - Consultation on revised Policy

Under the provisions of the 2005 Gambling Act the Council is required to produce a Statement of Principles, which sets out how we intend to administer the Act; this Statement lasts for a maximum of three years.

The existing Policy has been in force since January 2007. However, it requires revising in order for it to take effect from 31st January 2010 (when the new three year cycle begins).

The following revisions have been made to the existing Statement:

- Page 17: The last two paragraphs relating to Bingo premises have been added
- Page 18: The first paragraph relating to Gaming Machines has been added
- Page 19: The first five paragraphs relating to Applications and Plans have been added
- Page 20: Paragraphs 1-5, and item (c) have been added
- Page 22: The entire page has been added
- Page 25: Final bullet point in paragraph 3 relating to Prize Gaming Permits has been added
- Page 27: Paragraphs 1, 2 and 4 have been added

The Council is carrying out a consultation exercise on the revised statement between 4th September 2009 and 27th November 2009.

If you have any comments to make on the revised Statement, please put them in writing to the Licensing Section, Amber Valley Borough Council, Town Hall, Ripley, DE5 3XE no later than 27th November 2009.

Yours faithfully

Heather Adams
Licensing Manager

Caring and Working for Amber Valley





**AMBER VALLEY
BOROUGH COUNCIL**

Gambling Act 2005

Statement of Principles

DRAFT

AMBER VALLEY BOROUGH COUNCIL

STATEMENT OF PRINCIPLES

GAMBLING ACT 2005

Contents

Item	Page
Part A - General	
1. The licensing objectives	3
2. Introduction	3
3. Declaration	5
4. Responsible Authorities	5
5. Interested parties	5
6. Exchange of information	7
7. Enforcement	7
8. Licensing authority functions	8
Part B - Premises licences	
1. General Principles	10
2. Adult Gaming Centres	14
3. (Licensed) Family Entertainment Centres	15
4. Casinos	15
5. Bingo premises	16
6. Betting premises	17
7. Tracks	17
8. Travelling fairs	19
9. Provisional Statements	20
10. Reviews	21
Part C - Permits / Temporary and Occasional Use Notices	
1. Unlicensed Family Entertainment Centre gaming machine permits	23
2. (Alcohol) Licensed premises gaming machine permits	24
3. Prize Gaming Permits	25
4. Club Gaming and Club Machines Permits	25
5. Temporary Use Notices	27
6. Occasional Use Notices	27

Introductory Note

Note boxes provided alongside the Statement of Principles do not form part of the Statement. Notes are not intended to provide an authoritative or comprehensive statement of the law and do not constitute professional or legal advice.

PART A - GENERAL

1. The Licensing Objectives

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

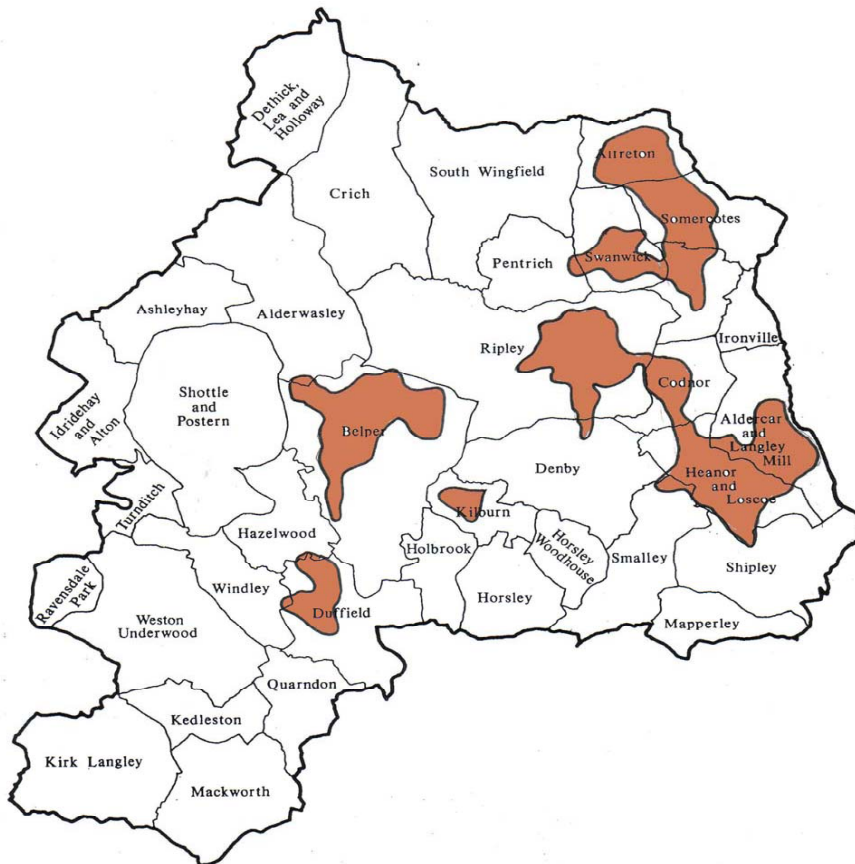
The licensing objectives are:

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

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

2. Introduction

Amber Valley Borough Council is situated in the County of Derbyshire, which contains 10 District Councils in total. The Council area has a population of 120,400 making it the second largest in the County in terms of population after Derby City Council. In terms of area it is the sixth largest, covering 102 square miles. The main towns are shaded on the plan.



The Council is 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 the any amended parts re-consulted upon. The statement must be then re-published.

In this statement Amber Valley Borough Council, as Council, is referred to as ‘the Council’. To avoid confusion, where the Council exercises other (non-licensing) statutory functions, reference is made to the particular department within the Council which is responsible.

Amber Valley Borough Council consulted widely upon this policy statement before finalising and publishing. A list of the persons we consulted is provided below.

The Gambling Act requires that the Council consults the following parties:

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

List of persons the Council consulted:

- The Police and other Responsible Authorities
- Social Services
- Parish Councils
- Amber Valley Housing Limited
- Housing Associations
- Amber Valley Partnership
- Chambers of Commerce

The consultation took place between ***** and ***** and the Council followed the Revised Code of Practice (which came into effect in April 2004) and the Cabinet Office Guidance on consultations by the public sector. These documents are available via:

<http://www.cabinetoffice.gov.uk/regulation/consultation-guidance/>

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

The full list of comments made and the consideration by the Council of those comments is available by request to:

The Licensing Section, P O Box 15, Amber Valley Borough Council, Town Hall, Ripley, Derbyshire DE5 3XE

or by e-mail to licensing@ambervalley.gov.uk.

The policy was approved at a meeting of the Full Council on ***** and was published on the Council’s website on *****. Copies were placed in the public libraries of the area as well as being available in the Town Hall.

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

Name: Heather Adams, Licensing Manager

Address: The Licensing Section, P O Box 15, Amber Valley Borough Council, Town Hall, Ripley, Derbyshire DE5 3XE

E-mail: licensing@ambervalley.gov.uk.

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.

3. Declaration

In producing the final licensing policy statement, the Council declares that it has had regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission, and any responses from those consulted on the policy statement.

4. Responsible Authorities

Responsible Authorities can make representations about licence applications, or apply for a review of an existing licence. The following are Responsible Authorities:

- a) a licensing authority in England and Wales in whose area the premises is wholly/partly situated;
- b) the Gambling Commission;
- c) Chief Constable of Derbyshire Constabulary
- d) Derbyshire Fire and Rescue Service;
- e) the local planning authority;
- f) the Council's Environmental Health Department;
- g) anybody designated in writing by the licensing authority as competent to advise about the protection of children from harm
- h) HM Revenue & Customs
- i) any other person prescribed in regulations by the Secretary of State

In exercising the Council's 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 following principles have been applied:

- the need for the body to be responsible for an area covering the whole of the Council's area
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group etc

In accordance with the Gambling Commission's Guidance the Council designates the Local Safeguarding Children Board for this purpose.

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

5. Interested parties

Interested parties can also make representations about licence applications, or apply for a review of an existing licence. The following are Interested Parties:

Persons who in the opinion of the Council:

- a) live sufficiently close to the premises to be likely to be affected by the authorised activities,
- b) have business interests that might be affected by the authorised activities, or

- c) represent persons in either of these two groups

The Council is required by regulations to state the principles it will apply in exercising its powers under the Act Gambling Act 2005 to determine whether a person is an interested party. The principles are: that each case will be decided upon its merits. The Council will not apply a rigid rule to its decision-making. It will however consider the following in accordance with the Gambling Commission's Guidance to local authorities:

- the size of the premises
- the nature of the premises
- the distance of the premises from the location of the person making the representation
- the potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment); and
- the nature of the complainant.

Note

'Nature of the complainant' is not referring to the personal characteristics of the complainant but the interests of the complainant, which may be relevant to the distance from the premises. For example, it could be reasonable for the Council to conclude that "sufficiently close to be likely to be affected" could have a different meaning for (a) a private resident (b) a residential school for children with truanting problems and (c) residential hostel for vulnerable adults.

- the 'catchment' area of the premises (i.e. how far people travel to visit); and
- whether the person making the representation has business interests in that catchment area, that might be affected."

The Gambling Commission has also recommended that the Council state that interested parties include trade associations and trade unions, and residents' and tenants' associations. The Council will not however generally view these bodies as interested parties unless they have a member who can be classed as one under the terms of the Gambling Act 2005 i.e. lives sufficiently close to the premises to be likely to be affected by the authorities activities.

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.

Interested parties can be represented by other persons (such as solicitors, councillors etc).

Note

Care should be taken when approaching councillors to ensure that they are not part of the Licensing Panel dealing with the licence as they will not be able to act. If there are any doubts then please contact the Licensing Manager on 01773 841602.

6. Exchange of Information

The Council is required to include in its policy statement the principles to be applied by the Council 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. These include:

- A constable or police force
- An enforcement officer
- A licensing authority
- Her Majesty's Commissioners of Customs and Excise
- The Gambling Appeal Tribunal
- The National Lottery Commission
- The Secretary of State
- The Director and staff of the Assets Recovery Agency
- The Charity Commission
- The Financial Services Authority
- The Director General and staff of the National Crime Squad
- The Director General and staff of the National Criminal Intelligence Service
- The Occupational Pensions Regulatory Authority
- The Office of Fair Trading
- The Serious Fraud Office

The principle that the Council 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 Council 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.

7. Enforcement

The Council is 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.

The Council's principles are that:

It will be guided by the Gambling Commission's Guidance for local 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

In accordance with the Gambling Commission's Guidance the Council will endeavour to avoid duplication with other regulatory regimes so far as possible.

The Council will adopt a proactive and reactive based inspection programme.

The main enforcement and compliance role for the Council in terms of the Gambling Act 2005 will be to ensure compliance with the Premises Licences and other permissions which is authorised.

Note

The Gambling Commission will be the enforcement body for the Operator 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 Council but will be notified to the Gambling Commission.

The Council 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.

Bearing in mind the principle of transparency, the Council's enforcement/compliance protocols/written agreements, when finalised, will be available upon request to the licensing department

The Licensing Section, P O Box 15, Amber Valley Borough Council, Town Hall, Ripley, Derbyshire DE5 3XE

or by e-mail to licensing@ambervalley.gov.uk.

8. Licensing Authority functions

The Council is 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) of 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 more than two machines are required
- 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 the Council would not be involved in licensing remote gambling at all. This will fall to the Gambling Commission via Operator Licences.

PART B – PREMISES LICENCES

Note

The following all require premises licences:

- Adult Gaming Centres
- Licensed Family Entertainment Centres
- Casinos
- Bingo
- Betting premises
- Tracks
- Travelling fairs

1. General Principles

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.

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

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

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

Definition of “premises” - Premises is defined in the Act as “any place”. Different premises licences cannot apply in respect of a single premises at different times. However, it is possible for a single building to be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. Whether different parts of a building can properly be 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.

The Council 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.

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 ensure that the authority can, if necessary, inspect it fully, as can other responsible authorities with inspection rights.

Location - The Council 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. In accordance with the Gambling Commission's Guidance, the Council 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.

Note

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 that they are not permitted to be in close proximity to gambling.

The Gambling Commission's Guidance states that 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. 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.

The Gambling Commission's Guidance states that if an application for a licence or permit is received in relation to premises that are in an area noted for particular problems with organised crime, for example, the Council should think about what (if any) controls might be appropriate to prevent those premises becoming a source of crime. These might include conditions being put on the licence, such as a requirement for door supervisors.

The Council will consider very carefully whether applications for premises licence in respect of certain gambling premises located very close to a school, or a centre for gambling addicts should be granted in light of the third licensing objective. Nevertheless each case will be decided on its merits, and will depend to a large extent on the type of gambling that it is proposed will be offered on the premises. If an applicant for a premises licence can show how licensing objective concerns can be overcome, that will be taken into account.

Duplication with other regulatory regimes - The Council will seek to avoid any duplication with other statutory / regulatory systems where possible, including planning. The Council 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.

Licensing objectives - Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, the Council has considered the Gambling Commission's Guidance to local 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 - The Council 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 the Council 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. The Council 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.

Ensuring that gambling is conducted in a fair and open way - The Council 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 17).

Protecting children and other vulnerable persons from being harmed or exploited by gambling - The Council has noted the Gambling Commission's Guidance states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The Council 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 gambling from areas frequented by children and supervision of gaming machines in non-adult gambling specific premises.

The Council 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 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.” The Council 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.

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

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

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures the Council 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. The Council will also expect the licence applicant to offer his/her own suggestions as to way in which the licensing objectives can be met effectively.

The Council 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.

The Council 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.

The Council 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. In accordance with the Gambling Commission's Guidance, the Council will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

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

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

Door Supervisors - 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. It is noted though that the door supervisors at casinos or bingo premises cannot be licensed by the Security Industry Authority (SIA).

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

Note

Adult Gaming Centres ('AGCs') are premises, which may make category B3, or B4 (a maximum of 4), C or D gaming machines only available to their customers. No-one under the age of 18 is permitted to enter an Adult Gaming Centre.

The Council 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.

Note

The Council will have particular regard to the location of entries to AGCs to minimise the opportunities for children to gain access. This may be of particular importance in areas where young people may be unsupervised and an AGC is in a complex, such as a shopping centre.

The Council 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:

Note

Licensed Family Entertainment Centres are premises, which make category C or D gaming machines available to their customers. No-one under the age of 18 is permitted to enter areas where category C machines are being used.

The Council 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.

Note

The Council will have particular regard to the location of entries to Licensed Family Entertainment Centres to minimise the opportunities for children to gain access to any adult-only areas.

The Council 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 / 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.
- 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.

The Council 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. The Council will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

4. Casinos

Note

Casinos are premises where people can participate in one or more casino games. These are games of chance which are not equal chance gaming (ie they may involve playing or staking against a bank and the chances may not be equally favourable to all participants. Casinos can also make category B, C or D gaming machines available to their customers.

The Council has passed a 'no casino' resolution to ensure the licensing objectives are met.

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"

The resolution was passed at a meeting of the Full Council on 1 November 2006 and reaffirmed at a further meeting of the Full Council on 20 December 2006, after full consultations had been taken in accordance with the Act. The decision was made on the grounds set out above and it comes into effect on 31 January 2007.

Potential licence applicants should note that as a 'no-casino' resolution has been passed by the Council no applications for casino premises licences will be considered. Any applications received will be returned with a notification that a 'no-casino' resolution is in place.

Casinos and competitive bidding - The Council 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. The Council will run such a competition in line with any regulations / codes of practice issued under the Gambling Act 2005.

Betting machines - The Council will, in accordance with 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

Note

Bingo Premises will be able to offer both cash and prize bingo. They will also be able to make category B3 or B4 (a maximum of 4), C or D gaming machines available to their customers.

The Council notes that the Gambling Commission's Guidance states:

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.

The Council will need to be satisfied 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.

The Council also notes the Guidance at paragraph 18.8 regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B3 machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

6. Betting premises

Note

Betting Premises are premises for off-course betting (historically called licensed betting offices). They will also be able to make category B2, B3, B4, C or D gaming machines (a maximum of 4 machine) available to their customers. They will also be able to provide betting machines (for use to bet on live or future events).

Betting machines - The Council will, in accordance with 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

Note

- 1 Tracks are sites (including horse racecourses and dog tracks) where races or other sporting events take place. There is no automatic entitlement to provide gaming machines but if the track operator holding the premises licence also holds a pool betting operators licence up to 4 gaming machines in categories B2, B3, B4, C or D may be provided.

Some tracks also qualify for an alcohol licence and as such they are automatically entitled under section 282 of the Act to two gaming machines of category C or D, activated by notifying the licensing authority and paying them the required fee.

- 2 Premises licences in relation to tracks are unusual in that, because the track operator does not need to have an operating licence (although he may have one), the premises licence will contain requirements on the premises licence holder about his responsibilities in relation to the proper conduct of betting. That is because, unless the occupier of the track wishes to offer pool betting (or general betting) facilities himself (for which he will need a licence), the betting that is provided upon the track will not be provided by him, but

will be provided by other operators who come on-course. Since those people will require the necessary operating licences, the Act allows the track operator to obtain a premises licence without also having to hold an operating licence. This track premises licence then authorises anyone upon the premises with an operating licence to offer betting facilities. Each individual operator who comes onto the track on race days does not need to hold a premises licence. Instead, he will be covered by the umbrella of the premises licence held by the track operator.

The Council 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. In accordance with the Gambling Commission's Guidance, the Council 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.

The Council 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.

The Council 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.

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.

Therefore, the Council needs to consider the location of gaming machines at tracks, and applications for track premises licences 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 gaming machines on a track.

Betting machines - The Council will, in accordance with 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.

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."

Applications and plans - 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 licensing authority to plan future premises inspection activity.

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.

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.

In 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.

The Council 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 so the Council can be satisfied 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.

The Council 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

Note

Travelling Fairs wholly or principally provide amusements on a site, which has been used for fairs for no more than 27 days in each calendar year. Travelling Fairs can also make category D gaming machines available to their customers.

It will fall to the Council to decide 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 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. The Council 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

Note

The intention behind part 8 of the Act is the reference to “the premises” are to premises in which gambling may now take place. Consequently, a licence to use premises for gambling should only be issued in relation to premises that are ready to be used for gambling. An applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed. The Act allows an operator to apply for a provisional statement if the building is not yet complete, needs alteration, or he does not yet have a right to occupy it

Once an operator has completed a building, the Council will be able to consider a premises licence application for it.

Requiring the building to be complete ensures that the authority can inspect it fully, as can other responsible authorities with inspection rights under Part 15 of the Act. Inspection will allow authorities to check that gambling facilities comply with all necessary legal requirements. For example, Category C and D machines in a licensed family entertainment centre must be situated so that people under 18 do not have access to the category C machines. The physical location of the machines will be an important part of this, and inspection will allow the authority to check that the layout complies with the operator’s proposals and the legal requirements. (in relation to Provisional Licences)

Developers may wish to apply to the Council for a provisional statement 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.

In terms of representations about premises licence applications, following 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:

- (a) which could not have been raised by objectors at the provisional licence stage;
- (b) which is in the authority's opinion reflect a change in the operator's circumstances
- (c) 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.

The Council 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:

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 the Council to wish alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for 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.

The licensing authority can also initiate a review of a 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 opens 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 (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 representation.

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

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

- the licence holder
- the applicant for review (if any)
- the 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 Notices

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).

Note

Unlicensed Family Entertainment Centres can make category D gaming machines available to their customers if they obtain a permit.

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)

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 Family Entertainment Centre ('FEC'), and if the chief officer of police has been consulted on the application.... Licensing authorities might wish to consider asking applications to demonstrate:

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

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

Statement of Principles The Council 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. The Council will also expect, in accordance with 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.

The Council's Statement of Principles will be available after 3 January 2010

- on the Council's website at www.ambervalley.gov.uk
- from the licensing section at the following address:
The Licensing Section, P O Box 15, Amber Valley Borough Council,
Town Hall, Ripley, Derbyshire DE5 3XE or
- by e-mail to licensing@ambervalley.gov.uk.

Renewals

With regard to renewals of these permits, a Council may refuse an application for renewal of a permit only on the grounds that an authorised local authority officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with pursuit of the licensing objectives.

2. (Alcohol) Licensed premises gaming machine permits - (Schedule 13 paragraph 4(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 Council. The Council 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 Council, 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

If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and "*such matters as they think relevant.*" The Council 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 - (Statement of Principles on Permits - Schedule 14 paragraph 8 (3))

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

The Council has adopted a Statement of Principles which is which is available

- on the Council’s website at www.ambervalley.gov.uk
- from the licensing section at the following address:
The Licensing Section, P O Box 15, Amber Valley Borough Council,
Town Hall, Ripley, Derbyshire DE5 3XE or
- by e-mail to licensing@ambervalley.gov.uk.

It states that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:

- that they understand the limits to stakes and prizes that are set out in Regulations;
- and that the gaming offered is within the law;
- Clear policies that outline 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 have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

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

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

4. Club Gaming and Club Machines Permits

Members Clubs and Miners’ welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B4, 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 B4, C or D).

Note

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 commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations."

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

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

There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). As the Gambling Commission's Guidance for local authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:

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

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

5. Temporary Use Notices

Note

Where the holder of an operating licence wishes to provide gambling on premises which do not have a premises licence, he can give a Temporary Use Notice to the Council. If there are no objections the gambling can take place. If objections are received a hearing will take place.

The Council can only grant a Temporary Use Notice to a person or company holding a relevant operating licence.

Regulations 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. 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."

The Council 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 Local Authorities.

6. Occasional Use Notices

Note

Where a licensed betting operator wishes to provide betting on a track which do not have a premises licence, he can give an Occasional Use Notice to the Council (a maximum of 8 days for each track in a calendar year).

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. The Council will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.