

# **NORTH TYNESIDE COUNCIL'S STATEMENT OF LICENSING POLICY (GAMBLING)**

**Draft 2012**



**North Tyneside Council**

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1. Statement of Principles

## Part A General

### 1. Introduction

1.1 North Tyneside Council (the Council) is the Licensing Authority under the Gambling Act 2005 for the Borough of North Tyneside. As such the Council is responsible for undertaking licensing and regulatory functions in relation to gambling premises in the Borough. The main function of the Council will be to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing *Premises Licences*
- Be responsible for dealing with applications for renewal, variation, transfer, revocation, reinstatement and review of *Premises Licences*
- Issue *Provisional Statements*
- Regulate *members' clubs* and *miners' welfare institutes* that 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*, consider objections where necessary and endorse the Notice or give a Counter-Notice as appropriate
- Receive *Occasional Use Notices*
- Provide information to the Gambling Commission regarding details of licences issued (see section below on Exchange of Information)
- Maintain registers of the permits and licences that are issued under these functions

North Tyneside Council will not be involved in the licensing of remote gambling. This responsibility will fall to the Gambling Commission via Operating Licences.

### 2. The Licensing Policy (Gambling)

2.1 The Act requires that the Licensing Authority carry out its licensing functions in relation to gambling premises having regard to the three licensing objectives as set out in Section 1 of the Act. These objectives are central to the new regulatory regime created by the Act and 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; and**
- **protecting children and other vulnerable persons from being harmed or exploited by gambling.**

The Act requires that the Licensing Authority publish a Statement of Licensing Policy in relation to gambling that sets out the principles they propose to apply in exercising their functions under the Act.

- 2.2 In dealing with the grant, renewal, variation, transfer, revocation, reinstatement and review of premises licences, and in considering whether to permit premises to be used for gambling under a Temporary Use Notice where objections have been made, the Licensing Authority is required to aim to permit the use of premises for gambling in so far as the Authority thinks it is
- 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, subject to the matters set out in the above two bullet points; and
  - in accordance with the Authority's Statement of Licensing Policy (Gambling), subject to the matters set out in the above three bullet points.

This requirement does not, however, apply to the Licensing Authority's power to resolve not to grant a casino licence, see clause 9.1 of Part B below (and it does not apply to other functions of the Licensing Authority, and in particular the grant of permits for gambling (see clause 1.1 Part C below)). In some cases the Act provides for specific matters that the Authority should (or may) consider in dealing with applications for permits and these are set out in the relevant sections of this policy.

- 2.3 This Policy applies to applications, renewals, transfers, variations and reviews of the Premises Licences and permits issued by the Licensing Authority.
- 2.4 This Policy takes effect on 31<sup>st</sup> January 2013 and will remain in force for a period of not more than three years but the Licensing Authority may review and alter the Policy during this period. Any revision of the Policy will only take place after consultation. This Statement will then be re-published.
- 2.5 In order to achieve the licensing objectives the Licensing Authority will actively promote partnership working with other local authorities, the police, fire service, local businesses, local people and those involved with child protection in addition to the Gambling Commission.
- 2.6 The Policy reflects the aim of the Council Strategic Plan 2012-2015.
- 2.7 Subject to the requirements imposed on the Licensing Authority in connection with Premise Licences which have been set out in paragraph 2.2 above this Policy will be integrated with local planning, transport, tourism and equality and cultural strategies, and any other plans introduced for the management of the Borough and night-time economy. The Licensing Authority will work in partnership with the agencies referred to in paragraph 14.1 below and through joint working and cross reporting the Council will ensure as far as possible that this Policy integrates with the policies of its partner agencies.

2.8 Regard has been paid in the preparation of this Policy to the Council's responsibilities under the Human Rights Act 1998.

### 3. Geographical Area and Impact

3.1 North Tyneside is one of five metropolitan districts that comprise the County of Tyne and Wear. It covers an area of 8,367 hectares and has a growing population of around 197,000. North Tyneside has met the challenge of regional decline and deprivation by rebuilding and stabilising communities. New high-tech industries have been attracted to the area and shipbuilding and the marine industry have made a partial revival. There are around 85,000 households in the Borough. A third of these households consist of a single person, with 25% of households comprised of persons of pensionable age. The total labour force of the Borough is 92,000 people working in industrial and international companies alongside the traditional industries that still exist connected with the fish quay.

3.2 The evening economy of the Borough is principally centred around Whitley Bay. Activity is also centred in areas such as Tynemouth, North Shields and Wallsend. These activities support the cultural diversity of the Borough and contribute to its economy. However, they may have a negative impact in some areas where crime and disorder can affect residents.

### 4. Consultation

4.1 North Tyneside Council consulted widely in producing this Statement of Licensing Policy (Gambling) including with the following:-

- Northumbria Police
- Owners of premises where gambling activities occur on the premises
- Representatives of persons carrying on gambling businesses
- Tyne and Wear Fire and Rescue Service
- Environmental Health
- Social Services (Adult Services and Children's Services)
- Local Planning Authority
- Her Majesty's Revenue and Customs
- All holders of current gaming permits
- CIU Clubs
- CIU Regional Office
- Local Solicitors
- Primary Care Trust
- Chambers of Trade
- Citizen's Advice Bureau
- Disability Organisations
- All residents in North Tyneside through North Tyneside Council's internet site; the Public Notice Boards at Council offices and local libraries; and through the local press
- Residents Panel
- All North Tyneside Councillors
- Local MPs
- Local MEPS
- Colleges / Education Welfare
- Probation Service

- Residents Associations
- Trade Unions
- Gamblers Anonymous
- Gamcare
- Trade Associations connected with the Licensing and Gambling Industry

- 4.2 Consultation took place between 21 May and 10 August 2012 and the Licensing Authority followed the best practice as set out by the Department for Business, Innovation and Skills (BIS) including allowing 12 weeks for responding to the consultation.
- 4.3 The full list of comments made and the consideration by the Council of those comments is available by request to: Licensing, The Killingworth Site, Harvey Combe, Killingworth, Newcastle upon Tyne, NE12 6UB, or via the Council's website at: [www.northtyneside.gov.uk](http://www.northtyneside.gov.uk).
- 4.4 Publication of the policy is advertised on the Council's website, local newspapers as well as by way of Notices at public libraries.  
The Policy was approved by the Council on xx and was published via our website on xx.

Should you have any comments as regards this Policy statement please forward these via e-mail or letter to the following contact:

Name: Joanne Lee

E-mail: [Joanne.lee@northtyneside.gov.uk](mailto:Joanne.lee@northtyneside.gov.uk)

It should be noted that this Policy statement will not override the right, where conferred by the Gambling Act, 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.

## 5. Declaration

In producing the Licensing Policy Statement, this Licensing Authority has had regard to the licensing objectives of the Gambling Act 2005, the Guidance issued by the Gambling Commission in particular Chapter 5, and any responses received from those consulted during the consultation period.

## 6. Responsible Authorities and Interested Parties

### 6.1 Responsible Authorities

The 2005 Act defines certain 'Responsible Authorities' in relation to premises. These are given certain rights of involvement and consultation in relation to applications for Premise Licences (and other procedures in relation to Premise Licences e.g. review). The following are Responsible Authorities

- A Licensing Authority in whose area the premises are wholly or partially situated. If premises are wholly or partly within North Tyneside's area then it will be a "Responsible Authority". If the premises are also partly situated in another licensing authority's area, that authority will also be a "Responsible Authority"

- The Gambling Commission
- The Chief Officer of Police for any police area in which the premises are wholly or partly situated
- The Fire and Rescue Authority for an area in which the premises are wholly or partly situated
- The Local Planning Authority for an area in which the premises are wholly or partly situated
- Environmental Health Authority (i.e. an authority which has functions in relation to pollution of the environment or harm to human health) for an area in which the premises are wholly or partly situated
- A body designated in writing by the Licensing Authority for an area in which the premises are wholly or partly situated as competent to advise the authority about the protection of children
- Her Majesty's Revenue and Customs
- Any other body prescribed by the Secretary of State

The Responsible Authorities will be provided with a Notice of any application for a licence received by the Licensing Authority and may make representations on such applications. In certain defined circumstances a premise licence may be granted for a vessel and if the premises is a vessel then Responsible Authorities would also include:

- (a) the Navigation Authorities within the meaning of Section 221(1) of the Water Resources Act 1991 that have statutory functions in relation to the waters where the vessel is usually berthed or moored or any waters where it is proposed to be navigated at a time when it is used for licensable activities.
- (b) The Environment Agency
- (c) The British Waterways Board
- (d) The Secretary of State (in particular the Secretary of State for Transport who acts through the Maritime and Coastguard Agency).

6.2 The principles that have been applied in exercising the powers under Section 157(h) of the Act to designate a body that is competent to advise the Licensing Authority about the protection of children from harm are:

- the need for the body to be responsible for an area covering the whole of the Licensing Authority's area
  - the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group
- to be multi – disciplinary in it's composition

The Licensing Authority has therefore determined that the body competent to advise them on the protection of children is the Local Safeguarding Children Board. This body is made up of professionals representing the Health Authority, the Police, Education Services and Social Services. The expertise that the Local Safeguarding Children Board has as a result of agencies working together from different fields of expertise is deemed by the Licensing Authority to be the most appropriate body to give competent advice regarding the protection of children from harm in relation to gambling issues.



### 6.3 Interested Party

An “Interested Party” is entitled to make a relevant representation in relation to a Premises Licence application or to apply for a review of an existing licence. A person is an “Interested Party” if in the view of the Licensing Authority that person:

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities; or
- b) has business interests that might be affected by the authorised activities; or
- c) represents persons who satisfy a) or b).

In determining if a person is an Interested Party the Licensing Authority will reach such a decision on a case by case basis judging each case on its own particular facts.

6.4 Persons who represent Interested Parties for this purpose will include residents’ or tenants’ associations, trade associations or trade unions. These bodies will ordinarily only be permitted to make representations on behalf of interested parties if they can demonstrate that they represent members who meet the criteria in paragraph 6.3 (a) or (b) above and have written confirmation to that effect.

6.5 In determining whether an Interested Party lives “sufficiently close” to the premises the Licensing Authority will consider the following factors on a case by case basis:-

- the size of the premises
- the nature of the premises
- the distance of the premises from the location of the person making a representation
- the potential impact of the premises (for instance numbers of customers, routes likely to be taken by those visiting the establishment)
- the nature of the complainant. This refers not to the personal characteristics of the complainant, but rather to the interests of the complainant which may be relevant to the distance from the premises. For example, it could be reasonable for the Licensing Authority to conclude that “sufficiently close to be likely to be affected” could have a different meaning for a) a private resident, b) a school for children with truancy problems and c) a residential hostel for vulnerable adults.

### 6.6 Persons with Business Interests that could be affected

To satisfy the test of being “a person with business interests that might be affected by the premises” the Licensing Authority would normally expect that person to show that the relevant business is likely to be affected. It would not usually be sufficient for a person to lodge a representation in relation to an application made by a rival business simply because they are in competition within the same gambling sector. Factors that the Licensing Authority may consider to be relevant in determining the test include:-

- the size of the premises;
- 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.

## 6.7 Democratically Elected Representatives

Interested Parties can be persons who are democratically elected such as Councillors and MPs. No specific evidence of being asked to represent an Interested Party will be required as long as the Councillor/MP represents the ward likely to be affected.

If individuals wish to approach Councillors to ask them to represent their views then care should be taken that the Councillor in question is not a member of the Licensing Committee/Sub-Committee dealing with the licence application. If there are any doubts then please contact the Licensing Team.

## 6.8 Representations

All representations made in relation to an application must be “relevant”. For a representation to be relevant it must relate to issues raised under the Gambling Commission’s Codes of Practice or Guidance, relate to the three licensing objectives or raise issues regarding the Authority’s own Licensing Policy Statement.

6.9 The Licensing Authority will be aware at all times that moral objections to gambling are not a valid reason to reject applications for premises licences as they would not relate to any of the licensing objectives or to the matters which the Authority are required to consider set out at clause 2.2 above.

6.10 The Licensing Authority will not act as a Responsible Authority on behalf of other parties (for example local residents, local councillors or community groups) although there may be occasions when the Licensing Authority does so. This is because such parties can make representations or applications in their own right and it is reasonable for the Licensing Authority to expect them to make such applications or representations should they wish to do so. If such parties however fail to take action and the Licensing Authority is aware of relevant grounds to make a representation it may choose to do so in its capacity as a Responsible Authority.

6.11 In cases where the Licensing Authority is also acting as a Responsible Authority the Licensing Authority will allocate different licensing officers within the Licensing Authority to ensure a proper separation of responsibilities. The officer advising the licensing committee/sub-committee will be a different individual to the officer who is acting for the Responsible Authority. The officer acting for the Responsible Authority will not be involved in the licensing decision process and will not discuss the merits of the case with those involved in making the determination by the Licensing Authority or the officer acting for the Licensing Authority. Any communication that there has to be between such officers will remain professional and will be consistent with communication with other Responsible Authorities.

## 7. Enforcement

7.1 Prior to the grant of a Premises Licence the Police and any authorised person as defined by the Act may at any reasonable time enter the premises to which the application relates to assess the effect of the grant of the licence on the Licensing Objectives.

7.2 Once premises are licensed it is essential that they are maintained and operated so as to ensure the continued promotion of the Licensing Objectives, compliance with the Act and any conditions attached to the licence. The Licensing Authority will make arrangements to risk assess licensed premises and take appropriate enforcement action.

7.3 The Licensing Authority will be guided by the Gambling Commission's Guidance for licensing authorities in the exercise of its functions under the Gambling Act. In accordance with that Guidance, in relation to exercising its 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 therein, it will endeavour to be:

- Proportionate: regulators should only intervene when necessary; remedies should be appropriate to the risk posed, and costs identified and minimised;
- Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
- Consistent: rules and standards must be 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 for local authorities this Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

7.4 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. 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. .

7.5 This Licensing Authority will also keep itself informed of developments in relation to the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

7.6 The Licensing Authority's enforcement protocols will be available upon request to the Licensing department. Our risk methodology will also be available upon request. The Licensing Authority will also have regard to good practice in regulation contained in The Regulator's Compliance Code introduced by BIS.

7.7 This Licensing Authority will also, as recommended by the Gambling Commission's Guidance for Licensing Authorities, adopt a risk-based inspection programme. The Council will liaise with Northumbria Police, Tyne and Wear Fire and Rescue Service and Planning and Regulatory Services to co-ordinate and maximise the effect of inspection and enforcement under the Act. This protocol will provide for the targeting of resources towards problem and high risk premises.

7.8 The Council will risk rate all premises and inspection will be carried out on the following basis:-

<u>Type of Premises</u>	<u>Frequency of Inspections</u> *
Bingo premises	Once a year
Betting premises	Once a year
Adult gaming centres	Once a year
Family entertainment centres	Once a year

\*This column only gives an indication of the likely frequency of inspections. The frequency may vary depending on factors such as the Licensing Authority's confidence in the management of the premises, the number of complaints received and any other relevant factor.

Inspections will be carried out through co-ordination between the Licensing Authority and other authorised persons as defined by the Act.

At the date of publication of this Statement of Policy there are no existing casinos in North Tyneside. If this should change the Council will review this part of the policy to determine what inspection regime should apply in the case of casinos.

## 8. Complaints against Licensed Premises

8.1 The Licensing Authority will investigate complaints about licensed premises where appropriate. In the case of a valid complaint the Licensing Authority where appropriate will endeavour to seek a resolution through mediation.

8.2 Where considered appropriate, the Licensing Authority may pass any complaint on for investigation by any other statutory agency under whose enforcement responsibility the complaint falls.

## 9. Exchange of Information

9.1 In respect of exchange of information between the Licensing Authority and the Gambling Commission under Sections 29 and 30 of the Gambling Act and the exchange of information under Section 350 of the Act with the other persons listed in Schedule 6 of the Act, the Licensing Authority will act in accordance with the provisions of the Gambling Act 2005 and the Data Protection Act 1998. The Licensing Authority will have regard to any guidance issued by the Gambling Commission and / or Secretary of State on this matter. Should any protocols be established as regards the exchange of information with other bodies then they will be made available.

9.2 Details of those persons making representations in relation to applications will ordinarily be made available to applicants to allow mediation to take place if appropriate, and, in the event of a hearing being held, will form part of a public document. Anyone making representations or applying for the review of a premise licence will be informed that their details will be disclosed save in exceptional circumstances.

9.3 If a person feels unable to make a representation on their own behalf then that person should consider approaching another relevant body such as the Police, if for example that person has concerns about the gambling at the premises being a source of crime or disorder.

## 10. Administration, Exercise and Delegation of Functions

- 10.1 Under the Act all decisions relating to Premises Licences, temporary use notices, occasional use notices and the issuing of permits for gaming machines and prize gaming are to be exercised by the Licensing Committee of the Council.
- 10.2 Appreciating the need to provide a speedy, efficient and cost effective service to all and in line with the Act it is proposed that the Licensing Committee will delegate certain decisions and functions and will establish a number of sub-committees to deal with them.
- 10.3 Further, with many of the decisions and functions under the Act being administrative in nature it is proposed that the grant of non-contentious applications, including for example those licences and permits where no representations have been made, are delegated to the Council's Licensing Officers. It is proposed that all matters dealt with by officers will be reported for information and comment to the following meeting of the Licensing Committee.
- 10.4 The table shown at Part D 2. sets out the proposed scheme of delegation of decision making and functions of the Licensing Committee, Sub-Committee and officers.
- 10.5 This form of delegation will be without prejudice to officers referring an application to a Sub-Committee, or to a Sub-Committee referring an application to the full Committee, if considered appropriate in the circumstances of a particular case.

## 11. Licensing Committee

- 11.1 The Council's Licensing Committee is composed of a membership between 10 and 15 Councillors. The Committee will be responsible for discharge by the Licensing Authority of the licensing functions under the Act.

## 12. Hearings

- 12.1 A Sub-Committee consisting of three members of the Licensing Committee will be convened to hear every application where:
- a) an Interested Party or Responsible Authority has made representations about an application; or
  - b) the Licensing Authority proposes to attach a condition to the licence under Section 169(1)(a); or
  - c) the Licensing Authority proposes to exclude under Section 169(1)(b) a condition that would otherwise be attached to a licence under Section 168 of the Act.
  - d) a review has been made by a Responsible Authority or Interested Party under Section 197 of the Gambling Act 2005 or a review has been initiated by the Licensing Authority under Section 200 Gambling Act 2005
- 12.2 See Part D 2. for full list of matters to be dealt with by the Licensing Committee.

### 13. Integrating Strategies and Avoiding Duplication

- 13.1 In determining applications the Licensing Authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.
- 13.2 Section 210 of the 2005 Act prevents Licensing Authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.
- 13.3 The Licensing Authority seeks to avoid any duplication with other statutory/regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it.
- 13.4 When dealing with a premises licence application for finished buildings, this authority will not take into account whether those buildings have to comply with the necessary planning or building consents. Fire or health and safety will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.
- 13.5 As referred to in Section 2.8 the Council has a duty under the Human Rights Act 1998 and under Article 8 of the European Convention of Human Rights not to breach the rights of individuals to respect for their private and family life. Similarly under Article 1 of the First Protocol of the Convention individuals should not be deprived of peaceful enjoyment of possessions, should have the right to a fair hearing under Article 6 and a right to freedom of expression under Article 10.
- 13.6 The Council acknowledges the right of businesses in the Borough to operate, and this consideration must be balanced against the rights of others such as residents.

### 14. Partnership Working

- 14.1 The Council will work in partnership with the following agencies and individuals to promote the licensing objectives:-
- Northumbria Police
  - Tyne and Wear Fire and Rescue Service
  - Planning Authority
  - Environmental Health Authority
  - Crime & Disorder Reduction Partnership
  - Town Centre Managers
  - Local businesses
  - Agencies involved in child protection
  - Local residents
  - Organisations concerned with safeguarding the interests of vulnerable adults.
- 14.2 The Licensing Authority will consider any relevant protocols made with Northumbria Police. The Police have the right to make representations in relation to licence

applications and reviews of licences and make reference to relevant strategies and protocols adopted by them under that Act.

- 14.3 The Licensing Authority will have regard to the Community Safety Plan where appropriate.

## 15. Fees

The maximum level of fees to be charged by the Licensing Authority for exercising its licensing functions has been set nationally by the Secretary of State for Culture, Media and Sport. An annual fee will apply to all licences.

## 16. Equal Treatment

- 16.1 The Council is working to eliminate discrimination, promote equality of opportunity and good community relations through its employment practices and through its service delivery.

- 16.2 To achieve the above standard the Licensing Authority is aware of its duties under the Equality Act 2010 and the Human Rights Act 1998.

- 16.3 To achieve this duty the Licensing Authority will consult on and monitor the impact of this Policy to ensure that those making applications receive equal treatment.

- 16.4 When considering applications and taking enforcement the Licensing Authority is also subject to the Regulatory Compliance Code.

## 17. Lotteries

- 17.1 A lottery will be illegal under the Act unless it is either a licensed lottery or an exempt lottery. The Act does not apply to the National Lottery which is governed separately by the National Lottery Act 1993.

- 17.2 A licensed lottery will either be a large society lottery or a lottery run for the benefit of a Local Authority. In each case the Gambling Commission will regulate such lotteries and an Operating Licence will be required. The Licensing Authority does not as such have functions with respect to licensed lotteries. However among the "exempt lotteries" provided by the Act are "Small Society Lotteries". Societies running such lotteries are required to be registered with the local authority for the area in which the principal premises of the society are situated. North Tyneside Council will accordingly be the relevant local authority for the registration of such societies.

- 17.3 In determining lottery registration applications and other matters involving lotteries the Licensing Authority will have regard to the Gambling Act 2005, the licensing objectives, Guidance issued by the Gambling Commission, any Code of Practice issued by the Gambling Commission and this Statement of Licensing Policy (Gambling).

- 17.4 To qualify for registration a Society must be "non-commercial". To be considered non-commercial the Society must be established and conducted for :-
- charitable purposes; or

- the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity; or
  - any other non-commercial purpose other than that of private gain.
- 17.5 If the total value of tickets that a Society puts on sale in any one lottery exceeds £20,000, or tickets in separate lotteries in one calendar year are to exceed £250,000 in aggregate, the lottery is a large lottery and the Society will require an Operating Licence from the Gambling Commission.
- 17.6 The promoting Society of a small lottery must be registered with the Licensing Authority throughout the period of the lottery being promoted. The details of the Society will be kept in the Register and in accordance with the recommendation of the Gambling Commission the Licensing Authority will make the Register available for inspection by the public on request. Once a Society is registered the Society will be notified by the Licensing Authority accordingly and the Licensing Authority will inform the Gambling Commission of the Registration.
- 17.7 An application by a Society to register a small lottery must be refused by the Licensing Authority if:-
- During the period of five years ending with the date of the application an Operating Licence held by the applicant for registration has been revoked under section 119(1); or
  - An application for an Operating Licence made by the applicant for registration has also been refused within the same five year period.
- 17.8 The Licensing Authority may refuse an application for registration if it considers that:-
- The applicant is not a non-commercial society,
  - A person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence; or
  - Information provided with or in the application for registration is false or misleading.
- 17.9 If the Licensing Authority is minded to refuse an application for registration of a small lottery the applicant will be given an opportunity to make either written or oral representations that will be considered by a Licensing Sub-Committee before any refusal is determined.
- 17.10 The Licensing Authority may revoke the registration if the Licensing Authority consider that they would have had to do so or would be entitled to refuse an application for Registration if it were being made at that time. If the Licensing Authority is minded to revoke the registration the Society will have an opportunity to make oral or written representations for consideration by a licensing sub-committee before any revocation takes place.
- 17.11 An applicant for registration of a small lottery which is refused, or where revocation takes place has a right of appeal to the Magistrates' Court within 21 days of the decision.
- 17.12 Within three months of any small Society lottery draw the promoting Society will send to the Licensing Authority a return signed by two members of the Society that gives the prescribed information set out in the Act. If after receipt of the return it is apparent that the ticket sales are above the permitted limits for a small Society



lottery, the Licensing Authority will notify the Gambling Commission. A copy of that notification will be provided to the Society.

- 17.13 In addition to small lotteries, there are three other types of exempt lottery being an incidental non-commercial lottery, a private lottery and a customer lottery. To determine if a lottery is an exempt lottery, the promoter of any such lottery is recommended to contact the Licensing Officer of North Tyneside Council if they are in any doubt. (Contact details appear at section D of this Statement.) It is an offence to promote or facilitate a non-exempt lottery.
- 17.14 If for any reason the Licensing Authority suspects that there has been an offence committed under the Act in relation to lotteries the Licensing Authority may commence an investigation and along with the Gambling Commission and the Police, have the authority to prosecute any suspected offender.

## Part B

### Premises Licences

#### 1. Types of Licences

The Act creates three new types of licence as follows:-

- Operating Licence

Such a licence is issued to an individual, company or association of persons by the Gambling Commission and authorises them to operate or provide facilities for gambling. The Council as a Licensing Authority does not issue such licences.

- Personal Licence

Such a licence is issued to individuals by the Gambling Commission to enable them to perform the specified functions of a specified management office or to perform a specified operational function to facilitate gambling. The Council as a Licensing Authority does not issue such licences.

- Premise Licence

Such a licence is issued by Licensing Authorities to authorise the use of premises for various forms of gambling. There are five different kinds of premise licence authorising premises to be used as casino premises, bingo premises, adult gaming centre premises, family entertainment centre premises and betting premises.

#### 2. General Principles – Premises Licences

2.1 Premises Licences will be subject to the permissions/restrictions set out in the Gambling Act 2005 and Regulations, as well as specific mandatory and default conditions which will also be detailed in Regulations issued by the Secretary of State. Licensing Authorities are able to exclude default conditions and also attach other conditions, where it is considered to be appropriate.

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

- in accordance with any relevant code of practice issued by the Gambling Commission; and
- in accordance with any relevant guidance issued by the Gambling Commission; and
- reasonably consistent with the licensing objectives subject to the matters set out in the above two bullet points; and
- in accordance with the Authority's Statement of Licensing Policy (Gambling) subject to the matters set out in the above three bullet points.

### 3. Definitions

- 3.1 In the Act, “premises” is defined as including “any place”. Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.
- 3.2 The guidance from the Gambling Commission states “In most cases the expectation is that a single building / plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises.”
- 3.3 This licensing authority takes particular note of the Gambling Commission’s Guidance which states that: licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:
- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.
  - Entrances to and exists from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not “drift” into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
  - Customers should be able to participate in the activity in the activity names on the premises licence.
- 3.4 The Guidance also gives a list of factors which the licensing authority should be aware of, which may include:
- Do the premises have separate registration for business rates?
  - Is the premises’ neighbouring premises owned by the same person or someone else?
  - Can each of the premises be accessed from the street or a public passageway?
  - Can the premises only be accessed from any other gambling premises?

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

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

#### **Adult Gaming Centre**

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

#### **Betting Shops**

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

#### **Tracks**

- No customer should be able to access the premises directly from a Casino or an Adult Gaming Centre

#### **Bingo Premises**

No customer must be able to access the premises directly from:

- A casino
- An adult gaming centre
- A betting premises, other than a track

#### **Family Entertainment Centre**

No customer must be able to access the premises directly from:

- A casino
- An adult gaming centre
- A betting premises, other than a track

#### 4. Location

- 4.1 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. In accordance with the Gambling Commission's Guidance for Licensing Authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any

application being made and each application will be decided on its own merits, with the onus upon the applicant showing how potential concerns can be overcome.

## 5. Licensing Objectives

5.1 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 and some comments are made below.

### 5.2 **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime -**

This Licensing Authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware that disorder is intended to mean activity that is more serious than mere nuisance. In deciding whether disturbance is serious enough to constitute disorder consideration will be given to issues 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.

### 5.3 **Ensuring that gambling is conducted in a fair and open way -**

This Licensing Authority has noted that the Gambling Commission's Guidance has stated in Chapter 5 that "Generally the Commission would not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be a matter for either the management of the gambling business, and therefore subject to the Operating Licence, or will be in relation to the suitability and actions of an individual and therefore subject to the Personal Licence."

This Licensing Authority also notes, however, that the Gambling Commission also states in Chapter 5 "In relating to the licensing of tracks the licensing authorities' role will be different from other premises in that track operators will not necessarily have an operating licence. In those circumstances the premises licence may need to contain conditions to ensure that the environment in which betting takes place is suitable".

### 5.4 **Protecting children and other vulnerable persons from being harmed or exploited by gambling -**

This licensing authority has noted the Gambling Commission's Guidance that this objective means preventing children from taking part in gambling (as well as there being restrictions on advertising so that gambling products are not aimed at or are, particularly attractive to children). The licensing authority will therefore consider whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

The Licensing Authority may consider the use of proof of age schemes or restricting access at certain times.

This Licensing Authority will pay particular attention to any Codes of Practice which the Gambling Commission issues as regards this licensing objective in relation to specific premises such as bingo premises.

As regards the term “vulnerable persons” it is noted that the Gambling Commission is not seeking to offer a definition but states in the Guidance in Chapter 5 that “it does for regulatory purposes assume that this group includes people who gamble more than they want to; people who are gambling beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental health needs, learning disability or substance misuse relating to alcohol or drugs.” This licensing authority will consider this licensing objective on a case-by-case basis. Should a suitable definition of “vulnerable person” prove possible in future whether under legislation, code of practice or otherwise, the Licensing Authority may adopt this in future under this Policy.

## 6. Conditions

6.1 Conditions may be attached to Premise Licences in a number of ways:

- They may attach automatically, having been set out on the face of the Act;
- They may attach through regulations made by the Secretary of State; or

6.2 Any conditions attached to licences by the Licensing Authority 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

6.3 Decisions upon the application of any individual condition imposed by the Licensing Authority will be made on a case by case basis, although there will be a number of control measures this Licensing Authority will consider utilising should there be a perceived need, such as the use of door supervisors, supervision of adult gaming machines, appropriate signage for adult only areas etc. There are specific comments made in this regard under each of the licence types below. This Licensing Authority will also expect the licence applicant to offer his/her own suggestions as to way in which the Licensing Objectives can be met effectively.

6.4 It is noted that there are conditions that 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.

Premises Licences will have mandatory conditions attached as well as default conditions as specified in Regulations issued by the Secretary of State.

- 6.5 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.
- 6.6 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
  - 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.

- 6.7 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.
- 6.8 Given the fact that the mandatory conditions have been set by the Secretary of State with the intention that no further regulation in relation to that matter is required it will be extremely unlikely that the Licensing Authority will need to impose conditions that would create a more restrictive regime in relation to matters already dealt with by the mandatory conditions. The Licensing Authority will however consider imposing such conditions where there are regulatory concerns of an exceptional nature.
- 6.9 In relation to the default conditions the Licensing Authority may exclude a condition and substitute it with a more or less restrictive condition following a licensing hearing. Each application will be determined on its own merits in terms of any need to exclude and/or substitute any of the default conditions. The Licensing Authority

will however have to have clear regulatory reasons for excluding default conditions which are replaced with more restrictive ones.

- 6.10 The Licensing Authority can, as noted above, impose specific conditions on any premises licence. In determining whether or not to do so will have regard to the relevant code of practice issued by the Gambling Commission; the Guidance issued by the Gambling Commission; the need to be reasonably consistent with the Licensing Objectives and this Statement of Licensing Policy (Gambling).
- 6.11 Where relevant objections are made to an application for a Premise Licence the Licensing Authority will consider whether the objections can be dealt with adequately through the use of conditions.
- 6.12 The Gambling Commission advises in its Guidance that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a premises licence to this effect.

## 7. Adult Gaming Centres

- 7.1 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 in place to ensure that under 18 year olds do not have access to the premises. Appropriate licence conditions may cover such issues as:

- Proof of age schemes
- CCTV
- Door supervisors
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours.

This list is not exhaustive.

- 7.2 As regards the protection of vulnerable persons, this Licensing Authority will consider measures such as the use of self-barring schemes, provision of information leaflets / helpline numbers for organisations such as GamCare.

## 8. Licensed Family Entertainment Centres

- 8.1 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 in place to ensure that under 18 year olds do not have access to the adult only gaming machine areas. Appropriate licence conditions may cover issues such as:

- Proof of age schemes
- CCTV
- Door supervisors



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

This list is not exhaustive.

8.2 With regard the protection of vulnerable persons, this Licensing Authority will consider measures such as the use of self-barring schemes, provision of information leaflets / helpline numbers for organisations such as GamCare.

8.3 This Licensing Authority will, in accordance with the Gambling Commission's Guidance to Licensing Authorities, have regard to the conditions that apply to Operating Licences dealing with preventing access to Category C machines by under 18's. This Licensing Authority will also make itself aware of any mandatory or default conditions on these Premises Licences.

## 9. Casinos

9.1 At the date of the publication of this Statement of Policy there are no casinos in North Tyneside. 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 Full Council.

## 10. Credit

10.1 This Licensing Authority has noted that the Gambling Commission has stated in its Guidance at Chapter 9 that "section 177 (which provides that Casino and Bingo Premise Licences are to be subject to a condition prohibiting the giving or facilitating of credit for gambling) does not prevent the licensee from permitting the installation of cash dispensers (ATMs) on the premises, which may accept both credit cards and debit cards. Such an arrangement is subject to a requirement that the licensee has no other commercial connection in relation to gambling with the provider of the ATMs (aside from the agreement to site the machines) does not profit from the arrangement, and does not make any payment in connection with the machines."

## 11. Bingo Premises

11.1 This Licensing Authority notes the Gambling Commission's Guidance at Chapter 18 which states that "Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas."

## 12. Betting Premises

12.1 It is noted that the Gambling Commission's Guidance at Chapter 16 and Chapter 19 that: "Section 181 contains an express power for licensing authorities to restrict the

number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence or to a casino premises licence (where betting is permitted in the casino). When considering whether to impose a condition to restrict the number of betting machines in particular premises, the licensing authority, amongst other things, should 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 persons.” Gaming machines may be made available or use in licensed betting premises only at time when there are also sufficient facilities for betting available.

### 13. Tracks

13.1 A track is defined under the Act as a horse racecourse, greyhound track or other premises or any part of which a race or other sporting event takes place or is intended to take place.

13.2 The Act does not give a list of premises that are officially recognised as ‘tracks’ but there are a number of venues where sporting events do or could take place, and accordingly could accommodate the provision of betting facilities. Examples of racks include:

- a horse racecourse (referred to in this Guidance as ‘racecourses’)
- a greyhound track
- a point-to-point horserace meeting
- football, cricket and rugby grounds
- an athletics stadium
- a golf course
- venues hosting darts, bowls, or snooker tournaments
- a premises staging boxing matches
- a section of river hosting a fishing competition
- a motor racing event.

This list is not exhaustive.

13.3 There may be some specific considerations with regard to the protection of children and vulnerable persons from being harmed or exploited by gambling and this Authority would expect Premises Licence applicants 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, although they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

13.4 Appropriate licence conditions may be:

- Proof of age schemes
- CCTV
- Door supervisors
- Supervision of entrances / machine areas

- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- The location of gaming machines.

This list is not exhaustive.

13.5 With regard to the protection of vulnerable persons, this Licensing Authority will consider measures such as the use of self-barring schemes, provision of information leaflets / helpline numbers for organisations such as GamCare.

#### 14. Travelling Fairs

14.1 It will fall to this Licensing Authority to decide if category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs. It is a statutory requirement that the facilities for gambling must amount to no more than an ancillary amusement at the fair.

14.2 The Licensing Authority will also consider whether the fair falls within the statutory definition of a travelling fair under the Act.

14.3 It has been noted by the Licensing Authority 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.

#### 15. Provisional Statements

15.1 Developers may wish to apply for provisional statements before they enter into a contract to buy or lease property or land or judge whether a development is worth taking forward in light of the need to obtain a premise licence.

15.2 The Act allows a potential operator to apply for a provisional statement if construction of premises is not yet complete, or they need alteration.

15.3 If a potential operator does not have a right to occupy premises then an application for a provisional statement should be considered.

15.4 The Licensing Authority notes from the Gambling Commission's Guidance at Chapter 7 that "operators can apply for a premise licence in respect of premises which have still to be constructed or altered, and licensing authorities are required to determine any such applications on their merits. Such cases should be considered as a two stage process; first, local authorities must decide whether, as a matter of substance after applying the principles in Section 153 of the Act whether the premises ought to be permitted to be used for gambling; secondly, in deciding whether or not to grant the application a licensing authority will need to consider if appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place."

- 15.5 In terms of representations about a Premises Licence application, following the grant of a Provisional Statement, no further representations from Responsible Authorities or Interested Parties can be taken into account unless they concern matters which could not have been addressed at the time of the application for 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 or conditions not included in the Provisional Statement) only by reference to matters:
- a) which could not have been raised by objectors at the application for the provisional licence stage; or
  - b) which in the Authority's opinion reflect a change in the applicant's circumstances; or
  - 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 licensing authorities can discuss any concerns they have with the applicant before making a decision.

15.5 This Licensing Authority has noted the Gambling Commission's Guidance at Chapter 11 that "A Licensing authority must not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with planning or building law."

## 16. Reviews

16.1 Application for a review of a Premise Licence can be made by Interested Parties or Responsible Authorities. In addition the Licensing Authority itself may in certain circumstances decide to conduct a review. Where application for a review is made by an Interested Party or Responsible Authority it is for the Licensing Authority to decide whether the review is to be undertaken. This will be determined on the basis of whether the request for the review is relevant to the matters listed below, as well as consideration being given as to whether the request is frivolous, vexatious or repetitious, or will certainly not cause the Authority to wish to take action of a kind open to it on completing a review, or are substantially the same as grounds specified in an earlier application for a review or in relation to the application for the relevant Premise Licence. In determining any request for a review application the Licensing Authority will determine the matter as far as the Authority think 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 subject to the matters set out in the above two bullet points and
- in accordance with the authority's statement of licensing policy subject to the matters set out in the above three bullet points

16.2 If the Licensing Authority intend to undertake a review of the Premises Licence notice of such review will be given in accordance with the Regulations.

16.3 Any Interested Party or Responsible Authority (other than the Licensing Authority) will need to state their reasons for seeking a review and produce supporting information or documents.

- 16.4 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.
- 16.5 The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.
- 16.6 It will be for the Licensing Authority to determine what action to take, if any, following a review hearing in accordance with Section 202 of the Act. The Authority may:
- Add, remove or amend a condition imposed by the Licensing Authority
  - Exclude a default condition or remove or amend an exclusion
  - Suspend the licence for up to three months
  - Revoke the licence
- 16.7 In determining what action if any, should be taken following a review, the licensing authority must have regard to the principles set out in Section 153 of the Act, as well as any relevant representations.
- 16.8 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 matter without intending to use them.
- 16.9 Once the review has been completed, the licensing authority must, as soon as possible, notify the 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 Revenue and Customs

## 17. Appeals

- 17.1 Where a Premises Licence application is refused the Applicant may appeal against the decision of the Licensing Authority. Where a Premises Licence is granted an Applicant and any Interested Party or Responsible Authority who made relevant representations can appeal. Appeal is to the Magistrates Court within 21 days of receipt of the decision notice.
- 17.2 Following a review application, either a licensee, a person or a Responsible Authority who made representations in relation to the review, the person (if any) who applied for the review and Gambling Commission have a right of appeal to the Magistrates' Court within 21 days of receipt of the decision notice.
- 17.3 In relation to a transfer application and decision the licensee and the applicant for transfer have a right of appeal to the Magistrates' Court within 21 days of a decision notice.

17.4 In relation to an Application for a Temporary Use Notice either the applicant or person entitled to receive a copy of such notice has a right of appeal to the Magistrates' Court within 21 days of a decision notice.

## Part C

### Permits / Temporary and Occasional Use Notice

#### 1. General Principles – Permits

- 1.1 The Gambling Act 2005 introduces a range of permits which are granted by Licensing Authorities. Permits as opposed to Premises Licences are required when premises provide a gambling facility but either the stakes and prizes are very low or gambling is not the main function of the premises. The permits regulate gambling and the use of gaming machines in a specific premises.
- 1.2 This Licensing Authority has adopted a Statement of Principles which is found at Part E of this Statement in relation to applications for certain Permits

#### 2. Unlicensed Family Entertainment Centre Gaming Machine Permits (Schedule 10)

- 2.1 These permits relate to unlicensed Family Entertainment Centres (FECs) that can only offer category D gaming machines. Any number of such gaming machines can be offered under the permit (subject to fire regulations and health and safety regulations). If the Application for a permit is made by an individual that person must be over 18 years of age.

The Chief Officer of Police will be consulted in relation to such applications. Any permit issued will last for 10 years unless it lapses or is surrendered or forfeited.

- 2.2 Where premises do not hold a Premise Licence but wishes to provide gaming machines, application may be made to the Licensing Authority for a 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.
- 2.3 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. Relevant considerations to take into account would be the applicant's suitability, such as any convictions that they may have that would make them unsuitable to operate a FEC; and the suitability of the premises in relation to their location and issues about disorder.
- 2.4 In making its decision on an application for this permit the Licensing Authority may have regard to the licensing objectives. It must have regard to any Gambling Commission Guidance.
- 2.5 This Licensing Authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations.
- 2.6 It should be noted that a licensing authority cannot attach conditions to this type of permit.
- 2.7 With regard to renewals of these permits, a Licensing Authority 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 the pursuit of the licensing objectives.

### 3. Alcohol Licensed Premises Gaming Machine Permits – (Schedule 13)

- 3.1 The holder of a Premises Licence issued under the Licensing Act 2003 which entitles the holder to supply alcohol will automatically be entitled to up to 2 gaming machines on those premises of categories C or D. To take advantage of this entitlement the licence holder must give notice of their intention to make gaming machines available for use to the Licensing Authority and pay the prescribed fee. The Licensing Authority has no discretion to refuse this entitlement if notification is satisfactory.

A premises alcohol licence holder may apply to the Licensing Authority for a Licensed Premises Gaming Machine Permit. That application will state the category and number of gaming machines being sought under the permit. The Licensing Authority in determining the application will have regard to the licensing objectives. If the Licensing Authority are minded to refuse an application or grant it but with a different category or number of machines sought the applicant will be notified of the reasons and be given an opportunity to make representations either orally or in writing or both. The permit will cease to have effect if the premises alcohol licence ceases to have effect for those premises, the permit holder ceases to be the holder of the premises alcohol licence or is surrendered cancelled or forfeited.

- 3.2 The Licensing Authority can remove the automatic authorisation in respect of any particular premises by way of order 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.
- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises

- 3.3 Before making such an Order however the licence holder will be given at least 21 days notice of the intention to make the Order. The Licensing Authority will consider any representations made by the licence holder and hold a hearing before the sub-committee if they request this.

- 3.4 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, the Guidance issued by the Gambling Commission issued under Section 25 of the 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 harm or being exploited by gambling and the Authority 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 helpful. As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.



3.5 It is recognised that some alcohol licensed premises may apply for a Premises Licence for their non-alcohol licensed areas. Any such application would need to be applied for, and dealt with as a Family Entertainment 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.

3.6 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 machines.

#### 4. Prize Gaming Permits – (Schedule 14)

4.1 An application for a Prize Gaming Permit cannot be made if there is Premises Licence or Club Gaming Permit in force in relation to the premises. Any individual who applies must be over 18 years. The application will specify the nature of the gaming for which the permit is sought. The Chief Officer of Police will be consulted in relation to such applications. If the Licensing Authority are minded to refuse an application then reasons for the refusal will be given to the applicant who will be given an opportunity to make oral or written representations or both before any decision is formally taken to refuse the application or not. Upon receipt of such representations a Licensing Sub-Committee will determine the matter.

4.2 A permit will last for 10 years unless it lapses, is surrendered or is forfeited.

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

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

#### 5. Club Gaming and Club Machines Permits (Schedule 12)

5.1 Members Clubs and Miners' Welfare Institutes (but not Commercial Clubs) may apply for a Club Gaming Permit. Members Clubs, Miners' Welfare Institutes and Commercial Clubs may apply for a Club Gaming Machines Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B3A, B4, C or D), equal chance gaming and games of chance as set out in forthcoming Regulations. A Club Machine Permit will enable the premises to provide gaming machines (3 machines of categories B4, C or D).

5.2 The Licensing Authority is the relevant authority for the grant of permits for clubs whose premises are wholly or partly in its area. In exercising its functions the

Licensing Authority will have regard to the Gambling Commission Guidance and, subject to the Guidance, the Licensing Objectives. A copy of the application must be given to the Gambling Commission and the Chief Officer of Police. Failure to do so will render any permit issued void. If the applicant is the holder of a Club Premises Certificate under Section 72 of the Licensing Act 2003 then the applicant need not inform the Gambling Commission or the Chief Officer of Police of the application and a permit shall be granted unless the matters listed in Paragraph 10(3) of Schedule 12 of the Act apply. Before refusing an application for a permit the Licensing Authority will arrange for a hearing of the application before a Licensing Sub-Committee. The permit will be issued for 10 years unless it lapses, is surrendered, cancelled or forfeited. If a club does not wish to have the full range of facilities permitted by a club gaming permit or is a commercial club not permitted to provide non machine gaming they may apply for a club machine permit. Such a permit would allow up to 3 machines of category B4, C or D.

5.3 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.

5.4 This Licensing Authority is aware that the Licensing Authority 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 or a breach of a permit condition 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 Gambling Commission or the police

5.5 It should be noted that there is a ‘fast-track’ procedure available for premises which hold a Club Premises Certificate under the Licensing Act 2003. As the Gambling Commission’s Guidance for Licensing Authorities states at paragraph 25.29: “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 at paragraph 25.30 “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.”

## 6. Temporary Use Notices

- 6.1 A Temporary Use Notice is not as such granted by the Licensing Authority. Rather the person seeking to rely on the Temporary Use Notice serves the Notice on the Licensing Authority (and on certain specified authorities) and the Licensing Authority will endorse the Notice (provided it complies with the requirements of the Act) or, where there are objections to the Notice, will hear the objections and then either serve a Counter-Notice that the Temporary Use Notice should not have effect, or should have effect subject to modifications, or dismiss the objections and endorse the Temporary Use Notice. A Temporary Use Notice may only be given by the holder of a relevant Operating Licence. Where a Temporary Use Notice has effect it allows the use of a “set of premises” for gambling where there is no Premises Licence but where the gambling operator wishes to use the premises only temporarily for providing gambling facilities.
- 6.2 The holder of an Operating Licence will give the Temporary Use Notice to the Licensing Authority and will specify in that Notice:
- the gambling activities to be carried on
  - the premises where it will take place
  - the dates and times that gambling will take place
  - the period of time during which the Notice is to have effect
  - specify any periods during the previous 12 months that a Temporary Use Notice had had effect for the same premises
  - specify the date on which the Notice is given
  - contain any other information that the Secretary of State prescribes.
- 6.3 The same set of premises may not be the subject of a Temporary Use Notice for more than 21 days in any 12 months period but may be subject to several Notices provided that the total does not exceed 21 days. The Licensing Authority must issue a Counter Notice if the above limit of 21 days is exceeded. However, the Licensing Authority will, where the Notice could have effect for part of the period in the Notice, after consultation with the Applicant to issue a Counter-Notice limiting the number of days under the Notice to bring it within the 21 days permitted.
- 6.4 The Applicant must give the Temporary Use Notice with the Licensing Authority not less than three months and one day before the day on which the gambling event will begin. The Notice must be copied to:
- the Gambling Commission
  - the Police
  - HM Revenues and Customs; and, if applicable
  - any other Licensing Authority in whose area the premises are situated.
- 6.5 If there are no objections (see below) the Licensing Authority must endorse the Notice whereupon it will become valid.
- 6.6 Within 14 days of being given the Temporary Use Notice the Licensing Authority and the Authorities to which the Notice has been copied can give a Notice of Objection, if they think that having regard to the licensing objectives the Notice should not have effect, or should have effect only with modification. Any Notice of Objection (not given by the Licensing Authority) is copied to the Licensing Authority. Upon receipt of any Notice of objection there will be a hearing before the Licensing

Sub-Committee (unless all relevant parties agree in writing that a hearing is unnecessary). Following consideration of the objections the Licensing Authority may either give a Counter-Notice that the Temporary Use Notice should not have effect, or should have effect only with specified modifications or dismiss the objections. If the objections are dismissed they will endorse the Temporary Use Notice.

7. Occasional Use Notices

7.1 This type of Notice permits betting on a track on eight days or less in a calendar year without the need for a Premises Licence.

7.2 A “track” does not just include a horse racecourse or dog track, but also any other premises on any part of which a race or other sporting event takes place or is intended to take place, (eg agricultural land upon which a point to point meeting takes place).

7.3 Any such Notice must be served by a person responsible for the administration of events on the track or by an occupier of the track. The Notice must be served on the Council and the Chief Officer of Police containing the prescribed information. A Counter Notice can only be issued if the overall limit of eight days will be exceeded.

## **Part D**

### 1. **Contact and Applications**

For further information on this Statement of Licensing Policy as well as information about the application process please contact:

Joanne Lee  
Licensing  
Harvey Combe  
Killingworth  
Newcastle upon Tyne  
NE12 6UB

The Licensing Section can be contacted on the following telephone number:  
(0191) 643 2175

E-mail address: [Joanne.lee@northtyneside.gov.uk](mailto:Joanne.lee@northtyneside.gov.uk)

2. **Summary of Licensing Authority delegations permitted under the Gambling Act.**

Matter to be dealt with	Full Council	Sub-committee of licensing committee	Officers
Three year licensing policy	X		
Policy not to permit casinos	X		
Fee setting (when appropriate)			X
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission and / or Responsible Authorities	Where no representations received from the Commission and / or Responsible Authorities
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of premises licence		X	
Application for club gaming/club machine permits		Where objections have been made (and not withdrawn)	Where no objections made/ objections have been withdrawn
Cancellation of club gaming/ club machine permits		X	
Applications for other permits		If there is an initial decision to possibly refuse a permit application and oral or written representations are received	Where no objections made/ objections have been withdrawn

		from the applicant	
Cancellation of licensed premises gaming machine permits		If requested by applicant	If no request received
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	
Order disapplying Section 279 or Section 282(1) of a specified premises holding an on premises alcohol licence		X	
Refusal to register a Small Lottery and representations are received from the Society		X	
Revocation of Small Lottery Registration and representations are received from the Society		X	
Any other Licensing functions under the Gambling Act 2005 except those not capable of such delegation			X

X indicates the lowest level to which decisions can be delegated

## **Part E**

### **STATEMENT OF PRINCIPLES APPLIED BY NORTH TYNESIDE LICENSING AUTHORITY WHEN APPLICATIONS ARE RECEIVED FOR PERMITS FOR FAMILY ENTERTAINMENT CENTRE, GAMING MACHINE PERMITS AND PRIZE GAMING PERMITS**

1. This Statement of Principles has been prepared in order to provide guidance to applicants, the Responsible Authorities, members of the public, Members and Officers. The Statement of Principles will assist applicants with the preparation of their applications for permits and state the documentation and information which they are required to produce in support of their application and assist Responsible Authorities in making any representations as well as setting out the matters which members and officers will take into consideration when determining such applications.
2. This Statement of Principles relates to applications made for the following types of permit:-
  - i) Applications for Family Entertainment Centre Gaming Machine Permits.
  - ii) Applications for Prize Gaming Permits.
3. This Statement of Principles does not apply to Club Gaming Permits, Club Machine Permits or Licensed Premises Gaming Machine Permit applications as the Gambling Act 2005 sets out different requirements in relation to applications for those types of permit.
4. The Licensing Officer has the delegated authority to consider all applications for permits and can either grant an application for a permit or make an initial decision to refuse to grant any such permit.
5. As soon as reasonably practicable after the initial decision to refuse an application for a permit is made, the Licensing Officer will write to the Applicant notifying him of the refusal and provide reasons for that decision.
6. In such circumstances the Licensing Officer will invite an applicant to make oral representations, written representations or both within 28 days of receipt of notification of the refusal. If such representations are received they will be referred to a Licensing Sub-Committee for consideration and the Applicant if they wish to do so can request a hearing before the Licensing Sub-Committee to make oral representations.
7. The Licensing Sub-Committee will forward a written notice of its decision and reasons for that decision to the Applicant within five working days of the Licensing Sub-Committee's determination of the application.



8. The type of permit being applied for will determine the documentation and information which needs to be submitted to the Licensing Authority in support of any application for a permit. The documentation and information which needs to be submitted is as follows:-

(a) Family Entertainment Centre Gaming Machine Permit

The Licensing Authority will have regard to:

- the application form duly completed in full
- a plan of the premises showing the number and location of any gaming machines, points of access for the public, location of fire extinguishers, location of smoke detectors
- insurance certificate (or certified copy certified by a Solicitor/Commissioner for Oaths or notary) confirming the availability of public liability insurance
- appropriate fee
- that the applicant has demonstrated the following: -
  - a full understanding of the maximum stakes and prizes of the gambling that is permissible
  - has no relevant convictions
  - that staff are trained to have a full understanding of the maximum stakes and prizes.

The Licensing Authority will consider any representations made by the Police in relation to such matters and will attach such weight to those representations as felt appropriate. An applicant will also need to show that he has the right to occupy the premises or prove to the Licensing Authority's satisfaction that he proposes to occupy the premises in question. In the case of an individual applicant they will need to be over 18 years of age.

- The Licensing Authority in determining the application for a permit have a discretion as to whether or not to consider the licensing objectives. The Licensing Authority will determine whether or not to consider the licensing objectives on a case-by-case basis but it is anticipated that the licensing objectives will be considered with most applications for a permit. The Licensing Authority will consider the Guidance issued by the Gambling Commission.
- The Licensing Authority will give notification of applications to the Tyne & Wear Fire & Rescue Service

(b) Prize Gaming Permits

- application form provided by the Licensing Department of North Tyneside Council duly completed in full
- a plan of the premises showing the location of each gaming activity to take place on the premises, points of access for the public, location of fire extinguishers and location of smoke detectors
- insurance certificate (or certified copy certified by solicitor/commissioner for oaths or notary) confirming the availability of public liability insurance
- the applicant will be asked to set out the types of gambling that he or she is intending to offer and should be able to demonstrate:
- that they understand the limits to stakes and prizes that are set out in Regulations

- that the gaming offered is within the law
- Appropriate fee
- The Licensing Authority will give notification of applications to the Tyne & Wear Fire & Rescue Service

The Licensing Authority will consider any representations made by the Police in relation to such matters and will attach such weight to those representations as felt appropriate. An applicant will also need to show that he has the right to occupy the premises or prove to the Licensing Authority's satisfaction that he proposes to occupy the premises in question. In the case of an individual applicant they will need to be over 18 years of age.

- The Licensing Authority in determining the application for a permit have a discretion as to whether or not to consider the licensing objectives. The Licensing Authority will determine whether or not to consider the licensing objectives on a case-by-case basis but it is anticipated that the licensing objectives will be considered with most applications for a permit. The Licensing Authority will consider the Guidance issued by the Gambling Commission.

9. If an application does not contain all of the information as outlined in this Statement of Principles, the application will be returned requesting that the Application be re-submitted with the full information being provided.
10. When a Licensing Authority rejects an application for the issue or renewal of a permit the applicant may appeal to North Tyneside Magistrates Court within 21 days of receiving notification of the decision not to grant the application for a permit.