

LICENSING AND APPEALS COMMITTEE
24 October 2006

***PART 1 – PUBLIC DOCUMENT**

AGENDA ITEM No.

4

TITLE OF REPORT: GAMBLING ACT 2005 - PROPOSED STATEMENT OF LICENSING PRINCIPLES

REPORT OF THE STRATEGIC DIRECTOR OF FINANCIAL AND REGULATORY SERVICES

1. PURPOSE OF THE REPORT

- 1.1 The purpose of this report is to seek the Licensing and Appeals Committee's endorsement of the Gambling Act 2005 Statement of Principles.

2. FORWARD PLAN

- 2.1 This report contains a recommendation on a key decision that was first notified in the Forward Plan in July 2006.

3. BACKGROUND

- 3.1 The licensing of gambling was previously regulated by the Gaming Board for Great Britain, with the local authority regulating Small Society Lotteries through a registration scheme. The Gambling Act 2005 transfers the overall regulation of gambling to the Gambling Commission, with the local authority acting as licensing authority and having responsibility for a variety of licensing functions in respect of gambling. Committee is requested to refer to **Appendix A of this report**, (draft Statement of Principles, Paragraph 11 of Part A).
- 3.2 It is a requirement of the Gambling Act 2005 that a Statement of Principles must be adopted by Council and published by 3rd January 2007. This Statement of Principles will take effect from 31 January 2007 (the first appointed day), with licensing authorities able to accept advance applications from 30th April 2007.
- 3.3 The Statement seeks to strike a balance between residents' and licence holders interests and outlines the Council's expectations of licence holders in promoting the licensing objectives (see 5.4). The Statement is attached as **Appendix A of this report** and has been developed through a consultation process with internal and external stakeholders and the general public (**Appendix B of this report**).
- 3.4 Unlike the Licensing Act 2003, the Gambling Act 2005 is unlikely to result in longer licensing hours as hours for premises such as betting offices will be restricted by the Act. The Council, however, needs to ensure that issues covered by the licensing objectives do not impact adversely on the lives of individual residents, or the community in general.
- 3.5 The Act provides grandfather rights for existing licensed premises to safeguard their transition to the new regime in a similar manner as the provisions of the Licensing Act 2003. In addition, continuation rights allow businesses to

continue trading if their applications are received in time, but not processed by the licensing authority prior to 1st September 2007 (second appointed day) when the Act takes effect. It is envisaged that by encouraging responsible licensing through the Statement of Principles the Licensing Authority will not need to interfere with well-managed premises. Whilst the Licensing Authority will not be over regulating premises, it will have the power to protect the interests of residents by requiring licensed premises to have regard to the Statement of Principles and National Guidance from the Gambling Commission.

- 3.6 The expectation of the Licensing Authority is that every effort will be made to ensure that regulation is policy led rather than reactive. The Statement of Principles is a three-year statement (initially published 3 January 2007), however, the Council have a duty to review it from time to time if there is reason to do so.
- 3.7 Failure to effectively manage the new regime from the outset will make it very difficult to redress problems once they occur. Given this, a significant amount of education by way of trade forums, licensing surgeries and guidance notes will be undertaken. Training will also be provided to members of the Licensing and Appeals Committee and relevant officers.

4. APPROACH TO THE STATEMENT OF PRINCIPLES

- 4.1 The development of the Statement of Principles has been based upon a recommended national template published by LACORS (Local Authorities Coordinators of Regulatory Services), with consideration given to the Statements of Principles from neighbouring licensing authorities from within the Herts & Beds Licensing Group.
- 4.2 Extensive consultation was undertaken both externally and internally with further details given in section 7.
- 4.3 Officers have attempted to balance the risks of legal challenge to the Statement of Principles with the need to protect residential interest and amenities. The suggested Statement of Principles is in accordance with the Gambling Act 2005 and the Guidance issued by the Gambling Commission. It is of paramount importance that the Statement of Principles does not depart from the law or Guidance.
- 4.4 The Licensing and Appeals Committee will only be determining applications where:-
- a representation that has not been deemed frivolous, vexatious or non-influential has been received and is not withdrawn; or
 - the Licensing Authority proposes to attach or exclude a condition on a licence (the Act refers to mandatory and default Conditions that may be issued by the Secretary of State. The licensing authority may exclude default conditions where appropriate); or
 - an application for a review has been made and approved; or
 - the Licensing Authority has requested a review.

All other applications can be automatically granted by Officers under delegated powers under a Scheme of Delegation proposed for adoption by Council.

- 4.5 At this stage, the Regulations and Statutory Instruments that will determine the exact requirements of the application process (including application forms, advertising and consultation) are due to be published by central Government by the end of November 2006. These will form part of the Council's Statement of Principles once published.
- 4.6 Key priorities in developing the Statement of Principles are the protection of residents' interests and the freedom of opportunity for businesses. These will be promoted through high standards of operation, effective management of premises and a holistic approach to the management of the local economy, including enforcement provisions.

5. LEGAL IMPLICATIONS

- 5.1 The Act requires the Licensing Authority to publish a three year Statement of Principles which should be reviewed from time-to-time if necessary. In preparing the Statement of Principles, the Licensing Authority must consult:
- The Chief Officer of Police for the Local Authority Area,
 - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area, and
 - One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under this Act
- 5.2 The Act specifies that a Licensing Authority shall aim to permit the use of premises for gambling in so far as the authority think it:
- in accordance with any relevant code of practice under Section 24 of the Act
 - in accordance with any relevant guidance issued by the Gambling Commission under Section 25 of the Act
 - reasonably consistent with the licensing objectives (subject to the above)
 - in accordance with the Statement of Licensing Principles (subject to the above)
- 5.3 The Licensing Authority may only depart from the Statement of Principles on an individual application where it is necessary to promote the licensing objectives and to comply with the requirements of 5.2 above. Departing from the Statement of Principles for any other reason may expose the Licensing Authority to the possibility of a legal challenge.
- 5.4 The Statement of Principles must support the Gambling Act 2005 and always promote the three licensing objectives specified in the Act:
- a) preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime,
 - b) ensuring that gambling is conducted in a fair and open way; and
 - c) protecting children and other vulnerable persons from being harmed or exploited by gambling.

- 5.5 It is important to note that unless a relevant representation is received, an application must be granted subject to the requirements of the Act. If a relevant representation is received, the application will be determined by a Licensing and Appeals Sub-Committee. Applications should be considered on individual merit. The decision to grant or refuse the application will be made after taking into account the requirements of 5.2 above, and the applicant's ability to promote the three licensing objectives.

6. FINANCIAL AND HUMAN RESOURCE IMPLICATIONS

- 6.1 The Government has indicated that they expect the new licensing regime to be self-financing and are currently undertaking a fees consultation process with a view to publishing the fees structure later in the year.
- 6.2 The administration and enforcement of the new regime will be undertaken by the existing Licensing and Enforcement Team using the existing software and stationary.

7. CONSULTATION WITH EXTERNAL AND INTERNAL STAKEHOLDERS

- 7.1 The Licensing Authority have consulted with statutory consultees as defined in the Act and listed in 5.1 above. The consultation period ran from 1st August 2006 to 30th September 2006.
- 7.2 The list of consultees is attached as **Appendix B of this report**.
- 7.3 A schedule of comments received and the action taken in respect of these comments is attached as **Appendix C of this report**. **Appendix A of this report** is the final draft of the Statement of Principles and includes any amendments where it is stated that a comment has been incorporated.
- 7.4 During the consultation process, comments were made concerning the lack of knowledge amongst the trade and the public in respect of the new regulations and that guidance on the definitions would be useful. The Statement of Principles is not the place to address this issue which will be dealt with once the remaining Regulations and Statutory Instruments are published in accordance with 4.5 above.

8. RECOMMENDATIONS

- 8.1 That the proposed Statement of Licensing Principles in respect of the Gambling Act 2005, as attached at Appendix A to the report, and including the results of the public consultation exercise (attached at Appendix C to the report), be supported.
- 8.2 That Cabinet be requested to recommend to Council that the proposed Statement of Licensing Principles in respect of the Gambling Act 2005, as attached at Appendix A to the report, and including the proposed delegation of functions to the Licensing & Appeals Committee/Sub-Committee and Officers, be adopted.

9 REASONS FOR RECOMMENDATIONS

- 9.1 Licensing Authorities are required by Order of the Secretary of State to publish their Statement of Principles by 3rd January 2007. Council is recommended to adopt the Statement of Principles in December 2006.
- 9.2 From 30th April 2007 advance applications can be made under the Gambling Act 2005 in accordance with the Regulations, Gambling Commission Guidance and Statement of Principles. Publishing the Statement of Principles by 3rd January 2007 allows applicants to have regard to it whilst completing their applications, and gives the Licensing Authority time to prepare for the receipt of the applications.

10. ALTERNATIVE OPTIONS CONSIDERED

- 10.1 There are no alternative options other than a Statement of Principles that may differ in content and extent. The proposed Statement of Principles, whilst being comprehensive, aims to strike a balance between the minimum legal requirements and being overly prescriptive and open to challenge.

11. APPENDICES

- 11.1 Appendix A - Final Draft Statement of Principles
- 11.2 Appendix B – List of Consultees - **WITHDRAWN**
- 11.3 Appendix C – Comments received during Consultation, including Recommendations

12. CONTACT OFFICERS

- 12.1 Andy Godman, Head of Housing and Environmental Health, 01462 474293
- 12.2 Giovanna Silverio, Licensing and Enforcement Manager, 01462 474478

13. BACKGROUND PAPERS

- 13.1 Gambling Act 2005
- 13.2 Gambling Commission Guidance to licensing authorities dated April 2006

The Gambling Act 2005

**NORTH HERTFORDSHIRE DISTRICT
COUNCIL**

Statement of Principles

(DRAFT)

Consultation Period: 1 August 2006 – 30 September 2006

Comments to be received by 30 September 2006

Comments to be sent to:

**Mrs G Silverio
Licensing & Enforcement Manager
North Hertfordshire District Council
Council Offices
Gernon Road
Letchworth Garden City
SG6 3JF
Tel: 01462 474478
Email: giovanna.silverio@north-herts.gov.uk
Fax: 01462 474546**

North Hertfordshire District Council
Draft Statement of Principles

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Part A

1. Introduction and Background

1.1 North Hertfordshire District Council is situated in the County of Hertfordshire, which contains ten District Councils. The Council area has a population of 116,908 (the 2001 Census) making it one of the largest districts in the County in terms of population. The Council area is made up of four central residential and commercial centres. There are three historic towns (Baldock, Hitchin and Royston) and Letchworth, the first Garden City. North Hertfordshire's attractive environment consists of not only these four established towns, but over 30 rural parishes with their many villages and hamlets. These areas and the Council's boundary are shown in the map at Appendix A.

1.2 North Hertfordshire District Council is the Licensing Authority under the Gambling Act 2005 ("the Act") for the North Hertfordshire District. The Act brings significant changes to the way gambling premises are regulated and repeals the following legislation:

- Betting, Gaming and Lotteries Act 1963;
- Gaming Act 1968;
- Lotteries and Amusements Act 1976

This will result in the Licensing Authority becoming responsible for additional functions in relation to the licensing of gambling.

1.3 The definition of "gambling" is defined by the Act as gaming, betting, or taking part in a lottery:

- "gaming" means playing a game of chance for a prize;
- "betting" means making or accepting a bet on the outcome of a race, competition, or any other event; the likelihood of anything occurring or not occurring; or whether anything is true or not;
- a "lottery" is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance.

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

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

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

- 1.5 All references to the "Guidance" in this document relate to the Gambling Commission's Guidance for Local Authorities published in April 2006.

2. About this Statement of Principles

- 2.1 The Act requires the Licensing Authority to prepare and publish a "Statement of Principles" that sets out the principles that the Licensing Authority will apply to promote the Licensing Objectives when making decisions on applications made under the Act.. This Statement of Principles must be published at least every three years. The Statement of Principles must also be reviewed from "time to time" and any amended parts re-consulted upon. The statement must then be re-published. This Statement of Principles fully supports North Hertfordshire District Council's vision of:

"making North Herts a vibrant place to live, work and prosper".

- 2.2 The Licensing Authority will not have regard to demand when deciding whether or not to grant a premises licence. Having regard to section 153 of the Act the Licensing Authority is aware that it should aim to permit the use of premises for gambling in so far as it thinks it:
- (i) in accordance with any relevant code of practice issued by the Gambling Commission;
 - (ii) in accordance with any relevant guidance issued by the Gambling Commission; and
 - (iii) reasonably consistent with the licensing objectives ; and
 - (iv) in accordance with the Licensing Authority's statement of principles.
- 2.3 This draft Statement of Principles has been prepared having regard to the provisions of the Guidance and the licensing objectives of the Act. It is intended to be a discussion document leading to adoption by the Licensing Authority of a formal Statement of Principles, after having due regard to any responses from those consulted on this draft Statement of Principles.
- 2.3.1 This Statement of Principles has been drafted at a time when a number of regulations, licence conditions and codes of practice have not yet been published, or are currently under consultation. This Statement of Principles may need to be amended to reflect the requirements of such documents when published.
- 2.4 The Statement of Principles will come into effect on the date of adoption by the Licensing Authority and will be reviewed as necessary, and at least every three years from the date of adoption.

- 2.5 The Statement of Principles must be published by 3 January 2007. The first appointed day is 31 January 2007. The date of acceptance for advance applications is currently 30 April 2007.

3. Consultation

- 3.1. The consultation took place between 1 August 2006 and 30 September 2006 and the Licensing Authority followed the Revised Code of Practice (which came into effect in April 2004) and the Cabinet Office Guidance on consultations by the public sector. These documents are available via:

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

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

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

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

The Licensing Authority consulted widely upon this statement of principles. A list of the persons we consulted is provided at Appendix B.

- 3.2 In determining the Statement of Principles, the Licensing Authority must have regard to the Guidance and give appropriate weight to the views of those it has consulted. In determining what weight to give particular representations the factors to be taken into account will include;
- Who is making the representation (what is their expertise or interest);
 - What their motivation may be for their views;
 - How many other people have expressed the same or similar views;
 - How far the representations relate to matters that the Licensing Authority has included in its Statement of Principles;
 - Licensing Authorities can only consider matters within the scope of the Guidance, Act and Codes of Practice.
- 3.3 The formal Statement of Principles will be available on North Hertfordshire District Council's website and in public libraries.
- 3.4 It should be noted that this Statement of Principles does not override the right of any person to make an application, make representations about an application, or apply for a review of a licence. Each will be considered on its own merits and according to the statutory requirements of the Act.

- 3.5 The full list of comments made and the consideration given by the Licensing Authority will be available by request to:

Licensing & Enforcement Manager,
North Hertfordshire District Council,
Council Offices, Gernon Road, Letchworth Garden City, Hertfordshire, SG6 3JF.

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

Licensing & Enforcement Manager
North Hertfordshire District Council
Council Offices
Gernon Road
Letchworth Garden City
Hertfordshire
SG6 3JF

E-mail: giovanna.silverio@north-herts.gov.uk

4. General principles

- 4.1. Nothing in this Statement of Principles will:-

- Undermine the rights of any person to apply under the Act for a variety of permissions and have the application considered on its individual merits;

Or

- Override the right of any person to make representations on any application, or seek a review of a licence or permit where they are permitted to do so under the Act.

The starting point in determining applications will be to grant the application without conditions. Conditions will only be considered where they are necessary, and any conditions applied will not be overly onerous and will be proportionate to the scale of the application and the risks involved. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

- 4.2 All applicants for Premises Licences are encouraged to set out how they will promote the licensing objectives, as specified in section 1.4 above, and what measures they intend to employ to ensure compliance with them. When determining an application to grant a Premises Licence or review a Premises Licence, regard will be taken amongst other things to the proximity of the premises to schools, vulnerable adult centres or residential areas where there may be a high concentration of families with children. The proximity of premises taken into consideration will vary depending on the size and scope of the gambling premises concerned. Each case will be decided on its merits.

Therefore, if an applicant can effectively demonstrate how they might overcome licensing objective concerns, this will be taken into account.

4.3 Licensing is about the control of licensed premises, and premises with permits, temporary use notices, occasional use notices or other exemptions within the provisions of the Act. Where permitted by the Act, conditions may be attached to authorisations that will cover matters that are within the control of individual licensees. Conditions may be incorporated because they are mandatory or default conditions imposed by the Secretary of State, because they are incorporated by the Act itself, or because they are imposed in the individual case by the licensing authority.

4.4. When considering any conditions to be attached to licences or permits, the Licensing Authority will focus amongst other things on the licensing objectives, and on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned.

The Secretary of State may by regulation provide for specified conditions to be attached to a premises licence as either “mandatory” or “default” conditions.

4.5. The Licensing Authority recognises that, apart from the licensing function, there are a number of other mechanisms available for addressing issues of unruly behaviour that can occur away from licensed premises, including:

- (a) Planning controls;
- (b) Ongoing measures to create a safe and clean environment in these areas in partnership with local businesses, transport operators and other Council departments;
- (c) Regular liaison with the Police on law enforcement issues regarding disorder and anti-social behaviour;
- (d) The power of the Police, other responsible authorities or local residents and businesses to seek a review of the licence.

4.6 The Licensing Authority in undertaking its licensing function, will have due regard to the need to eliminate unlawful discrimination.

5. Responsible Authorities

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

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

- 5.2. In accordance with the Guidance this Licensing Authority designates the Hertfordshire Local Safeguarding Children Board for this purpose.
- 5.3 The contact details of all the Responsible Authorities under the Act are available via the Council's website at: www.north-herts.gov.uk

There is no obligation on Responsible Authorities to respond to applications for premises licences if they do not wish to do so.

6. Interested parties

- 6.1. Only interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Act as follows:

“For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, the 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 paragraph (a) or (b)”

- 6.2. The Licensing Authority is required by regulations to state the principles it will apply in exercising its powers under the Act to determine whether a person is an interested party. The principles are as follows.

Each case will be decided upon its merits. This Licensing Authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Guidance. These may include amongst others;

- The size of the premises;
- The nature of the premises;
- The distance of the premises from the location of the person making the representation;
- The potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment); and
- The circumstances of the complainant in so much as the affect could have a different meaning for different types of premise.

e.g. a private residence, a school, or a home for vulnerable persons.

- 6.3. The Gambling Commission has recommended that the Licensing Authority state that interested parties include bodies such as trade associations , trade unions, and residents and tenants’ associations. In other cases, the Licensing Authority will probably wish to satisfy themselves on a case by case basis, and possibly

request written evidence, that a person does represent an interested party. For example, a school head or governor might act in representing the interests of pupils or parents and a community group might represent vulnerable people living near to the proposed premises.

- 6.4. Interested parties can be persons who are democratically elected such as Councillors and MP's. Where appropriate this will include county, parish and town councillors. Other than these persons, the Licensing Authority will require written evidence that a person 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorities activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.
- 6.5. If individuals wish to approach Councillors to ask them to represent their views then care should be taken that the Councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the licensing department at North Hertfordshire District Council, Council Offices, Gernon Road, Letchworth Garden City, SG6 3JF
- 6.6. Interested parties should relate their objection to the specific application, rather than to gambling as a whole. Representations will be concerned with one of more of the Licensing Objectives, as specified in section 1.4 above.

7. Licences

- 7.1. This document sets out the policies that the Council will apply when making decisions upon applications or notifications made for;
 - Premises Licences;
 - Temporary Use Notices;
 - Occasional Use Notices;
 - Permits as required under the Act;
 - Registrations as required under the Act
- 7.2. This Statement of Principles relates to all those licensable premises, notices, permits and registrations identified as falling within the provisions of the Act, namely;
 - Casinos;
 - Bingo Premises;
 - Betting premises;
 - Tracks;
 - Adult Gaming Centres;
 - Family Entertainment Centres;
 - Club Gaming Permits;
 - Prize Gaming and Prize Gaming Permits;
 - Temporary Use Notices;
 - Registration of Small Society Lotteries

- 7.3 An applicant can apply for a “provisional statement” if the building is not complete or if he does not yet have a right to occupy it. Such an application is, however, a separate and distinct process to the granting of planning permission or building control approval.
- 7.4 When determining an application for a premises licence, the Licensing Authority cannot take into account “irrelevant matters” such as the likelihood of the applicant obtaining planning permission or building control approval.

8. Legislation

- 8.1. In undertaking its licensing function under the Act, the Licensing Authority is also bound by other legislation, including:-
- (a) Section 17 of the Crime and Disorder Act 1988;
 - (b) Human Rights Act 1998;
 - (c) The Race Relations Act 1976 (as amended);

However, the Statement of Principles is not intended to duplicate existing legislation and regulation regimes that already place obligations on employers and operators, including, for example, the Health and Safety at Work Act 1974.

9. Exchange of Information

- 9.1. In fulfilling its functions and obligations under the Act the Licensing Authority will exchange relevant information with other regulatory bodies and will establish protocols in this respect. In exchanging such information, the Licensing Authority will conform to the requirements of data protection and freedom of information legislation in accordance with the Licensing Authority’s existing policies. Data subjects can access information if a request is made in writing.
- 9.2. The principle that the Licensing Authority applies is that it will act in accordance with the provisions of the Act in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The Licensing Authority will also have regard to any Guidance issued by the Gambling Commission to Licensing Authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Act.
- 9.3. The Licensing Authority will seek to assist the Gambling Commission by providing information within its possession provided that this does not infringe confidentiality. Any sensitive information will be given particular consideration.
- 9.4 Details of those persons making representations will be made available to applicants to allow for their preparation or negotiation for a hearing. In the event of a hearing being held, these will form part of a public document. Anyone making representations or applying for the review of a premises licence will be informed that their details will be disclosed.

10. Enforcement

- 10.1. Licensing Authorities are required by regulation under the Act to state the principles to be applied by the Licensing Authority in exercising the functions under:
- Part 15 of the Act with respect to the inspection of premises; and
 - the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.
- 10.2. In line with the Guidance and the North Hertfordshire District Council Environmental Health Enforcement policy, the Licensing Authority's principles are that 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
- The Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 10.3 The Licensing Authority will also, as recommended by the Guidance, adopt a risk-based inspection programme. Premises will be assessed and those that are well managed and maintained will not require the same number of inspections as problem or high-risk premises. In determining the level of risk the Licensing Authority would be interested to hear from persons who have an opinion on what criteria should be used to identify the level of risk.
- 10.4. The main enforcement and compliance role for the Licensing Authority in terms of the Act will be to ensure compliance with the Premises Licences and other permissions that it authorises. The Gambling Commission will be the enforcement body for Operator 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.
- 10.5. The Licensing Authority will also keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.
- 10.6. The Licensing Authority has an Environmental Health/Licensing Enforcement Policy and is a signatory to the Enforcement Concordat and will follow the

principles set out in it. The concordat is based around the principles of consistency, transparency and proportionality.

- 10.7. The Licensing Authority intends to use appropriate enforcement to promote the licensing objectives. Once licensed, it is essential that premises are monitored to ensure that they are run in accordance with their operating schedules, in compliance with the specific requirements of the Act and in compliance with any licence conditions. It will also be important to monitor the District for unlicensed premises. This Licensing Authority understands that the Gambling Commission will be responsible for compliance as regards unlicensed premises.
- 10.8. The Licensing Authority will seek to work actively with the Responsible Authorities in enforcing licensing legislation and intends to establish protocols with the Responsible Authorities on enforcement issues to ensure an efficient deployment of police and council officers.
- 10.9 The Licensing Authority recognises that gambling facility providers may have a number of premises within its district. In order to ensure that compliance issues are efficiently resolved, operators may give to the Licensing Authority a named contact who could be a senior individual. This individual will act as the point of contact in the event that queries or issues arise.

11. Licensing Authority Functions

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

- Issue Prize Gaming Permits
 - Receive and endorse Temporary Use Notices
 - Receive Occasional Use Notices
 - Provide information to the Gambling Commission regarding details of licences issued (see section 9 above)
 - Maintain registers of the permits and licences that are issued under these functions
 - Enforcement of legislation in relation to premises
- 11.2. It should be noted that licensing authorities will not be involved in licensing remote gambling. This will fall to the Gambling Commission via Operator Licences. The Gambling Commission will also issue personal licences.
- 11.3. Some decisions that are delegated to the Licensing Committee may be further delegated to a sub – committee of the Licensing Committee who may arrange for them to be taken by an officer of the licensing authority. A summary of proposed permitted delegations is at Appendix C.

12. Fees

Regulations from the Secretary of State are awaited. Once issued these will form part of this Statement of Principles.

13. Information for Applicants

Regulations from the Secretary of State are awaited. Once issued these will form part of this Statement of Principles.

14. Declaration

In producing the final licensing Statement of Principles, the Licensing Authority declares that it has had regard to the licensing objectives of the Act, the Guidance, and any responses from those consulted on the Statement of Principles.

PART B

1. PREMISES LICENCES

1.1 General Principles

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

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

- (i) in accordance with any relevant code of practice issued by the Gambling Commission;
- (ii) in accordance with any relevant guidance issued by the Gambling Commission;
- (iii) reasonably consistent with the licensing objectives; and in accordance with the authority's Statement of Principles

Definition of premises

A premises is defined in the Act as "any place". It is for the Licensing Authority to decide whether different parts of a building can be properly regarded as being separate premises. The Gambling Commission states in its Guidance for local authorities, it "will always be a question of fact in the circumstances." The Gambling Commission does not however consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises. The Licensing Authority takes particular note of the Gambling Commission's Guidance for local authorities which states that ,in considering applications for multiple licences for a building or those for a specific part of the building to be licensed, "entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area." The Licensing Authority will also take note of the Gambling Commission's Guidance to local authorities that: "Licensing authorities should pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed)."

Location

The Licensing Authority is aware that demand issues cannot be considered with regard to the location of premises licences but that considerations in terms of the licensing objectives can

Should any specific policy be decided upon as regards areas where gambling premises should not be located, this Statement of Principles will be updated. It should be noted that any such policy does not preclude any application being

made and each application will be decided on its merits, with the onus upon the applicant to show how the concerns can be addressed.

Duplication with other regulatory regimes

The Licensing Authority will seek to avoid any duplication with other statutory / regulatory systems where possible, including planning control. In considering applications for premises licences, this Licensing Authority will not consider whether the premises are likely to be awarded planning or building consent

Licensing objectives

Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, the Licensing Authority has considered the Guidance and some comments are made below.

1.2 Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime

The Licensing Authority is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it.

The Licensing Authority will need to consider questions raised by the location of Gambling premises when formulating its Statement of Principles; when receiving relevant representations to an application; when dealing with applications as a responsible authority in its own right; and when considering applications before it. It should be noted that, unlike the Licensing Act, the Gambling Act does not include a specific licensing objective relating to the prevention of public nuisance. Any nuisance associated with gambling premises should normally be tackled under other relevant laws.

1.3 Ensuring that gambling is conducted in a fair and open way

The Licensing Authority has noted that the Guidance has stated 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. “

The Licensing Authority notes that the Gambling Commission also states “in relating to the licensing 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.”

The Licensing Authority understands that there may be further guidance from the Gambling Commission on this issue which it will have regard to, when available.

1.4 Protecting children and other vulnerable persons from being harmed or exploited by gambling

With limited exceptions the intention of the Gambling Act is that children and young persons should not be permitted to gamble and should be prevented from entering those gambling premises which are adult only environments. The Licensing Authority has noted the Guidance which states that “The objective talks of protecting children from being “harmed or exploited by gambling”, that means preventing them from taking part in gambling and for there to be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children.

1.5 Access to gambling by children and young people

The Act contains the objective of “protecting children and other vulnerable persons from being harmed or exploited by gambling”. Children (defined in the Act as under 16s) and young persons (16-17s) may take part in private and non-commercial betting and gaming but the Act contains a number of restrictions on the circumstances in which they may participate in gambling or be on premises where gambling is taking place. An adult is defined as 18 and over. In summary:

- Casinos cannot admit anyone under 18 and regional casinos will not be allowed to permit under 18s into the gambling area. (The Glossary includes the types of casino at Appendix D);
- Betting shops cannot admit anyone under 18;
- Bingo clubs may admit those under 18 but must have policies to ensure they do not gamble, except on category D machines;
- Adult Entertainment Centres cannot admit those under 18;
- Family Entertainment Centres and premises with a liquor licence (e.g. pubs) can admit under 18s, but they do not play category C machines, which are restricted to those over 18;
- Clubs with a Club Premises Certificate can admit under 18s, but they must have policies to ensure those under 18 do not play machines other than category D machines;
- Horse and dog tracks can admit under 18s, and they may have access to gambling areas on race days only. Tracks will be required to have policies to ensure that under 18s do not participate in gambling other than on category D machines.

Licensing authorities should ensure that where category C or above machines are on offer in premises to which children are admitted:

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

A table showing the current draft proposals for the different categories of machine is reproduced at Appendix E.

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

1.6 Vulnerable persons

As regards the term “vulnerable persons”, it is noted that the Gambling Commission is not seeking to offer a definition but states that “it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.” The Licensing Authority will consider this licensing objective on a case by case basis. Should a practical definition prove possible in future then this Statement of Principles will be revised.

1.7 Conditions

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

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

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of control measures which the Licensing Authority will consider utilising should there be a perceived need, such as the use of door supervisors, supervision of adult gaming machines and appropriate signage for adult only areas.

There are specific comments made in this regard under each of the licence types below.

The Licensing Authority will also expect the licence applicant to offer his/her own suggestions as to the way in which the licensing objectives can be met effectively. It is noted that there are conditions, which the Licensing Authority cannot attach to premises licences which are:

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

1.8 Door Supervisors

The Gambling Commission advises in its Guidance that licensing authorities may consider whether there is a need for door supervisors in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime. It is noted though that the Act has amended the Security Industry Act and that the Security Industry Authority cannot licence door supervisors at casinos or bingo premises. The Licensing Authority will therefore require door supervisors at these premises to have the following minimal training covered by their training certificates.

a) Role and responsibilities of door supervisors (which includes)

- Appropriate behaviour for door supervisors;
- Civil and criminal law;
- Searching and arrest procedures;
- Drugs awareness;
- Licensing law;
- Equal opportunities and discrimination;
- Health and safety at work;
- Emergency procedures

and

b) Communication skills and conflict management (which includes);

- How to refuse entry and how to eject in way which reduces risk of conflict
- Identifying the types of incident that could happen inside a venue and how to deal with them
- Understanding the law about arrest

Any person working at a casino or Bingo premises will need a current Criminal Record Bureau (CRB) check.

The Licensing Authority will consider a condition in respect of door supervisors if there is evidence from the history of trading at the premises, that the premises can not be adequately supervised from the counter, and that door supervision is necessary and proportionate.

2. ADULT GAMING CENTRES

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

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

3. FAMILY ENTERTAINMENT CENTRES

The Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to 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.

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

The Licensing Authority will have regard to the Guidance, in respect of any conditions that apply to operator licences covering the way in which the area containing the category C machines should be delineated. The Licensing Authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

4. CASINOS

4.1 No Casinos resolution

The Licensing Authority has not passed a 'no casino' resolution under Section 166 of the Act, but is aware that it has the power to do so. Should the Licensing Authority decide in the future to pass such a resolution, it will update this Statement of Principles with details of that resolution.

4.2 Casinos and competitive bidding

The Licensing Authority is aware that if a Premises Licence for a new style casino (i.e under Section 175 of the Act) in the North Hertfordshire District is considered there are likely to be a number of operators who will want to run the casino. In such situations the Licensing Authority will run a 'competition' under Schedule 9 of the Act and in line with any regulations issued under the Act by the Secretary of State.

4.3 Betting machines

The Licensing Authority is aware that the Guidance states: "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."

4.4 Credit

The Licensing Authority has noted that the Guidance states that "section 177 does not prevent the licensee from permitting the installation of cash dispensers (ATMs) on the premises. Such machines may accept credit cards (and debit cards) and the arrangement is subject to a requirement that the licensee has no other commercial connection in relation to gambling (aside from the agreement to site the machines) with the service-provider and does not profit from the

arrangement, not make any payment in connection with the machines. Guidance on the further conditions that may apply in relation to such machines will be included in the next version of the guidance”

5. BINGO PREMISES

The Licensing Authority notes that the Guidance states:

- “Licensing authorities will be able to find information about the restrictions that apply in the codes of practice that will be published on the Commission’s website”

and

- “Further guidance will be issued in due course about the particular issues that licensing authorities should take into account in relation to the suitability and layout of bingo premises”

Once this information is available the Licensing Authority will consider its application to premises licences for bingo premises. It is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines.

Where category C or above machines are available in premises to which children are admitted licensing authorities should ensure that:

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

6. BETTING PREMISES

6.1 Betting machines

It is noted that the Guidance states: “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.”

6.2 Credit

It has also been noted that the Guidance states: “section 177 does not prevent the licensee from permitting the installation of cash dispensers (ATMs) on the premises. Such machines may accept credit cards (and debit cards) and the arrangement is subject to a requirement that the licensee has no other commercial connection in relation to gambling (aside from the agreement to site the machines) with the service provider and does not profit from the arrangement, nor make any payment in connection with the machines.” It is also understood that the Gambling Commission will be placing restrictions and requirements on Operating Licences for betting premises as regards credit and the Licensing Authority will consider the guidance when it is available.

7. TRACKS

7.1 The Licensing Authority is aware that the Gambling Commission may provide further specific guidance as regards tracks. We have taken note of the Guidance which highlights that tracks are different from other premises in that there may be more than one premises licence in effect and that the track operator may not be required to hold an operator licence as there may be several premises licence holders at the track which will need to hold their own operator licences.

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 Licensing Authority would expect the 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.

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.

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

7.2 The Licensing Authority also notes that, “In the Commission’s view, it would be preferable for all self-contained premises operated by off-course betting operators on track to be the subject of separate premises licences. This would ensure that there was clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises”

7.3 Condition on rules being displayed

The Guidance advises that “...licensing authorities should attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office.”

7.4 Betting machines

Licensing authorities have a power under the Act, 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. The Guidance will be noted in that it states: “In relation to betting premises away from tracks, the Commission is proposing that licensing authorities should take into account the size of the premises and the ability of staff to monitor the use of the machines by vulnerable people when determining the number of machines permitted. Similar considerations apply in relation to tracks, where the potential space for such machines may be considerable, bringing with it significant problems in relation to the proliferation of such machines, the ability of track staff to supervise them if they are scattered around the track and the ability of the track operator to comply with the law and prevent children betting on the machine. Licensing authorities will want to consider restricting the number and location of betting machines, in the light of the circumstances of each application for a track betting premises licence.”

8. TRAVELLING FAIRS

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

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

9. SMALL SOCIETY LOTTERIES

Under the Act, a lottery is unlawful unless it runs with an operating licence or is an exempt lottery. The Licensing Authority will register and administer small society lotteries as defined in the Act. Promoting or facilitating a lottery will fall into 2 categories:

- licensed lotteries (requiring an operating licence from the Gambling Commission); and
- exempt lotteries (including small society lotteries registered with the Licensing Authority)

Exempt lotteries are lotteries permitted to run without a licence from the Gambling Commission and these are:

- small society lotteries;
- Incidental non-commercial lotteries;
- private lotteries;
- private society lottery;
- work lottery;
- residents' lottery;
- customer lotteries

Applicants for registration of small society lotteries must apply to the Licensing Authority in the area where their principal office is located.

Lotteries will be regulated through a licensing and registration scheme with conditions imposed on licences by the Gambling Commission, Codes of Practice and any Guidance issued by the Gambling Commission. In exercising its functions with regard to small society and exempt lotteries, the Licensing Authority will have due regard to the Gambling Commission's Guidance.

The Licensing Authority will keep a public register of all applications and will provide information to the Gambling Commission on all lotteries registered by the Licensing Authority.

The Licensing Authority may refuse an application for registration if, in their opinion:

- 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 in or with the application for registration is false or misleading

The Licensing Authority may revoke the registered status of a society if it thinks that they would have had to, or would be entitled to, refuse an application for registration if it were being made at that time. No revocations will take place unless the society has been given the opportunity to make representations.

10. PROVISIONAL STATEMENTS

The Licensing Authority notes the Guidance which states that “It is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence” and that “Requiring the building to be complete ensures that the authority can inspect it fully”. In terms of representations about premises licence applications, following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant’s circumstances. In addition, the Licensing Authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

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

This Licensing Authority has noted the Guidance 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.

11. REVIEWS

Requests for a review of a premises licence can be made by interested parties or responsible authorities, however, it is for the Licensing Authority to decide whether the review is to be carried out. This will generally be on the basis of whether the request for the review is relevant to the matters listed below, as well as consideration as to whether the request is frivolous or vexatious, or whether it is substantially the same as previous representations or requests for review. Relevant matters will include requests;

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;

- reasonably consistent with the licensing objectives; and
- in accordance with the authority's Statement of Principles

Representations may include issues relating to the following;

- Use of licensed premises for the sale and distribution of class A drugs and/or the laundering of the proceeds of drugs crimes;
- Use of licensed premises for the sale and distribution of illegal firearms;
- Use of licensed premises for prostitution or the sale of unlawful pornography;
- Use of licensed premises as a base for organised crime activity;
- Use of licensed premises for the organisation of racist, homophobic or sexual abuse or attacks;
- Use of licensed premises for the sale of smuggled tobacco or goods;
- Use of licensed premises for the sale of stolen goods;

The Licensing Authority can also initiate a review of a licence on the basis of any reason which it thinks is appropriate.

PART C

PERMITS, TEMPORARY AND OCCASIONAL USE NOTICES

1. Unlicensed Family Entertainment Centre (FEC's) Gaming Machine Permits

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

Unlicensed FECs, by definition, will not be subject to scrutiny by the Gambling Commission as no operating (or other) licences will be applied for and issued. Licensing authorities might wish to consider asking applicants to demonstrate:

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

The Act states that the Licensing Authority may prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25. The Guidance also states: "An application for a permit may be granted only if the Licensing Authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application. It should be noted that the Licensing Authority cannot attach conditions to this type of permit and that the "statement of principles" only applies to initial applications and not to renewals.

With regard to renewals of these permits, the 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 pursuit of the licensing objectives.

2. (Alcohol) Licensed premises gaming machine permits

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

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;

- gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the Licensing Authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
- a premise is used wholly or mainly by children or young persons;
- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises

If a premises wishes to have more than two machines, then it needs to apply for a permit and the Licensing Authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*” The Licensing Authority considers that “such matters” will be decided on a case by case basis and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / help line numbers for organisations such as GamCare.

It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would need to be applied for, and dealt with as an Adult Gaming Centre premises licence. The principle of unlicensed Family Entertainment centres permits is that they should be obtained for premises that are wholly or mainly used for gaming machines.

It should be noted that the Licensing Authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached. It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

3. Prize Gaming Permits

The Act states that the Licensing Authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the Licensing Authority propose to consider in determining the suitability of the applicant for a permit The Licensing Authority has not prepared a statement of principles. Should it decide to do so it will include details in a revised version of the Statement of Principles.

In making its decision on an application for this permit the Licensing Authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance. It should be noted that there are conditions in the Act 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 nonmonetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

4. Club Gaming and Club Machines Permits

Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming Machines Permit. [NB A COMMERCIAL CLUB CAN APPLY FOR THE LATTER: SCH 12 PARA 1(2)] The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in forthcoming regulations. A Club Gaming machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D). The Guidance states that "Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations." The Guidance also makes it clear that "Before granting the permit the authority will need to satisfy itself that the premises meet the requirements of a members' club and may grant the permit if the majority of members are over 18."

The Licensing Authority is aware that: "Licensing authorities may only refuse an application on the grounds that:

- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;

- (b) the applicant's premises are used wholly or mainly by children and/or young persons;
- (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- (d) a permit held by the applicant has been cancelled in the previous ten years; or
- (e) an objection has been lodged by the Commission or the police (Gambling Commission's Guidance for Local Authorities 25.21)

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

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

The club gaming permit has certain conditions, including that in respect of gaming machines no child or young person uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

5. Temporary Use Notices (TUN's)

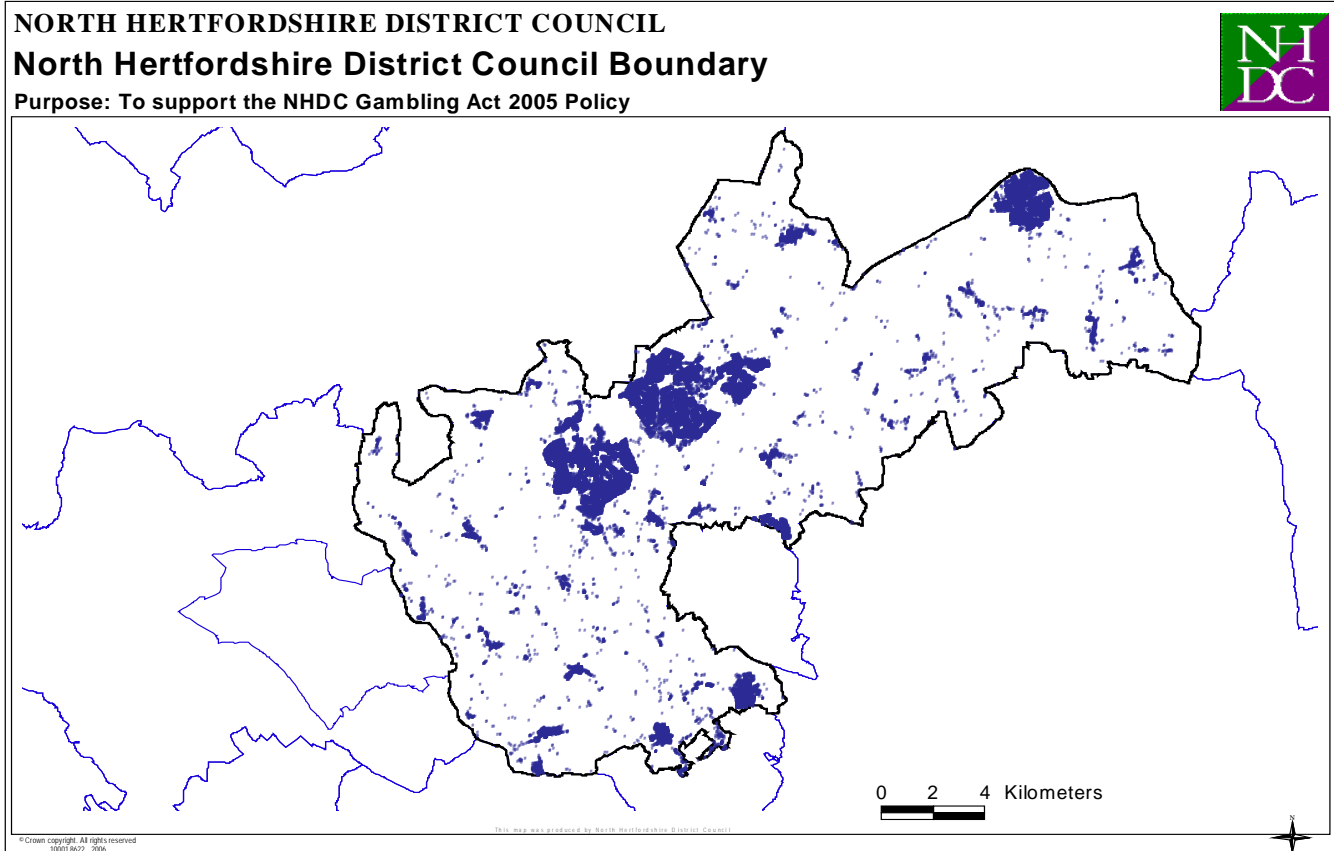
TUN's allow the holder of an operating licence to temporarily use a set of premises for gambling where there is no premises licence in place. A set of premises can be subject to TUN's for up to 21 days in any 12 month period. There are a number of statutory limits as regards TUN's.

The definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act, "premises" is defined as including "any place". In considering whether a place falls within the definition of "a set of premises", the Licensing Authority will need to look at, amongst other things, the ownership, occupation and control of the premises. For example, an exhibition centre may cover one set of premises. This compares to a shopping centre which may cover different sets of premises as it may be occupied and controlled by different people.

6. Occasional Use Notices

This notice allows for betting on a track without the need for a premises licence on 8 days or less in a calendar year. The Licensing Authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. The Licensing Authority will consider the definition of a 'track' and whether the applicant is permitted to avail his/herself of the notice.

APPENDIX A



APPENDIX B

The Act suggests the following consultees;

- **Chief of Police**
- **One or more persons who appear to represent the interests of persons carrying on Gambling businesses**
- **One or more persons who represent the interests of persons likely to be affected by the exercise of the authorities functions under this Act**

The Licensing Authority consulted the following;

Responsible Authorities

Chief of police

Customs and Excise

Environmental Health, North Hertfordshire District Council

Hertfordshire Fire and Rescue Service

Health and Safety Executive

Planning Department, North Hertfordshire District Council

Hertfordshire Safeguarding Children Board

The Gambling Commission

Others

All premises licence and club premises certificate holders.

Association of British Bookmakers

BACTA (British amusement catering trade association) representing pay to

Bingo Association

British casino association

Centre for study of gambling

Citizens Advice bureau

Existing Casino, FEC, Bingo, Betting Shops, Lottery Licence holders.

Faith groups in North Hertfordshire

Gambling Commission

Gamcare

HCC SOCIAL SERVICES

Local residents via, chairs of the residents associations

Local solicitors

Magistrates Court

National Lottery Commission

Ncvcco (National Council of voluntary child care organisations)

Neighbouring local authorities.

NHDC Economic Development Unit

NHDC Community Safety Unit

NHDC Legal Services

NHDC Human Resources.

Parish and Town Councils.

Remote Gambling Association

The chairs of the Chamber of Commerce.

play leisure industry

Trade Union Congress

APPENDIX C

TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

| MATTER TO BE DEALT WITH | FULL COUNCIL | SUB-COMMITTEE | OFFICERS |
|---|---------------------|--|---|
| Three year licensing policy | X | | |
| Policy not to permit casinos | X | | |
| Fee Setting – when appropriate | | | X (to be approved by Executive Council) |
| Application for premises licenses | | Where representations have been received and not withdrawn | Where no representations received/ representations have been withdrawn |
| Application for a 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 | Where no representations received from the Commission |
| Application for a provisional statement | | Where representations have been received and not withdrawn | Where no representations received/ representations have been withdrawn |
| Review of a premises licence | | X | |
| Application for club gaming/club machine permits | | Where representations have been received and not withdrawn | Where no representations received/ representations have been withdrawn |
| Cancellation of club gaming/club machine permits | | X | |
| Applications for other permits | | | X |
| Cancellation of licensed premises gaming machine permits | | | X |
| Consideration of temporary use notice | | | X |
| Decision to give a counter notice to a temporary use notice | | X | |

APPENDIX D
Glossary of Terms

Within this draft Statement of Principles, the following words and terms are defined as stated:

| | |
|-------------------------|---|
| the Act: | The Gambling Act 2005 |
| Applications: | Applications for licenses and permits as defined in section 7.2 |
| Code of Practice: | Means any relevant code of practice under section 24 of the Gambling Act 2005 |
| Council: | North Hertfordshire District Council |
| Default Condition: | Means a specified condition provided by regulations to be attached to a licence, unless excluded by North Hertfordshire District Council |
| District: | The area of Hertfordshire administered by North Hertfordshire District Council (Map appended at Appendix A) |
| Gambling Commission | The body corporate established under section 20 Gambling Act 2005 |
| Interested Party: | For the purposes of this Act, a person is an interested party in relation to a premises licence if, in the opinion of the North Hertfordshire District Council which issues the licence or to which the application is made, the person:- a) Lives sufficiently close to the premises to be likely to be affected by the authorised activities; b) Has business interests that might be affected by the authorised activities; c) Represents persons who satisfy a) or b) above. |
| the Licensing Authority | North Hertfordshire District Council acting in its capacity as the licensing authority under section 2 Gambling Act 2005 |
| Licensing Objectives: | As defined in section 1.1 |
| Licenses: | As defined in section 7.1 |
| Mandatory Conditions: | Means a specified condition provided by regulations to be attached to a licence |
| Notifications: | Means notification of temporary and occasional use notices |
| Premises: | Any place, including a vehicle, vessel or moveable structure |
| Regulations: | Regulations made under the Gambling Act 2005 |
| Responsible Authority: | For the purposes of the Act, the following are responsible authorities in relation to premises: 1. The North Hertfordshire District Council in whose are the premises are wholly or mainly situated (North Hertfordshire District Council); 2. Planning Authority North Hertfordshire District Council 3. Environmental Health North Hertfordshire District Council 4. The Gambling Commission; 5. Hertfordshire Constabulary; 6. Hertfordshire Fire & Rescue Service; 7. Hertfordshire Safeguarding Children Board; 8. HM Customs and Excise |
| Regional casino | One allowed minimum 5000 square metres offering casino games, bingo, betting and up to 1250 category A and B1 machines |
| Large casino | No more than eight allowed. Minimum of 1500 square metres, offering casino games, bingo and betting and up to 150 category B1 machines |
| Small casino | No more than eight allowed. Minimum of 750 square metres offering casino games, betting and up to 80 category B1 machines |

APPENDIX E

Current draft proposals for gaming machines

| Category of machine | Maximum stake | Maximum prize |
|----------------------------|------------------------------------|----------------------------------|
| A | Unlimited | Unlimited |
| B1 | £2 | £4,000 |
| B2 | £100 | £500 |
| B3 | £1 | £500 |
| B4 | £1 | £250 |
| C | 50p | £25 |
| D | 10p or 30p when non-monetary prize | £5 cash or £8 non-monetary prize |

| |
|---|
| Summary of Responses to Gambling Act 2005 Statement of Principles Consultation |
|---|

| Consultee | Observations | Comment / Action Taken | Amendments to Statement of Principles |
|---------------------------------------|---|--|--|
| The Association of British Bookmakers | Request for clarification of policy on door supervision. | Agreed that our position needs clarification | New Paragraph incorporated |
| | Request for clarification of policy on gambling machine numbers | Adequately covered in draft Statement | None |
| | Request for clarification of policy on premises licence transfers | Suggested amendment is too prescriptive | None |
| | Suggestion of a requirement for one single point of contact for betting office businesses with several premises in the District | Agreed that the principle is useful but should be optional not a requirement and should be extended to all premises | New Paragraph incorporated |
| Ashwell School PTA | No further comment; request to be kept informed | No further action necessary; all consultees will be provided with the final Statement of Principles | None |
| Westmill Community Association | No comments, however, some specific questions relating to door supervision requirements and fundraising raffles | Response to questions sent | None |
| The Queen Mother Theatre | No comments, however, some specific questions relating to monthly and quarterly raffles/draws (small society lotteries) | Response to questions sent | None |
| Weston Village Hall | No comments, however, some specific questions relating to non-commercial gambling for fundraising purposes ie race nights, tombolas, etc. | Response to questions sent | None |
| East of England Faiths Council | General comments in relation to gambling and Faith Groups. Request that Council pass a 'no casino resolution'. | No further action necessary. Comments will be provided to Council if they consider a 'no casino resolution'. | None |
| Hertfordshire Fire & Rescue Service | No comments, however, hope to continue the joint working undertaken currently on the Licensing Act 2003. | Comments noted; partnership working will continue to be encouraged | None |
| Friends of Roysia School | No comments | No further action necessary | None |
| Ickleford Parish Council | No comments, however, a request that new guidelines are produced. Specific question asked. | Specific guidance notes will be produced for each type of licence/permit. Surgeries and seminars will also be arranged. Response to question sent. | None |
| Chartridge Conference Company | No comments | No further action necessary | None |
| GamCare | Various requested inclusions | Each request considered, however, each request was either adequately covered already or would be too prescriptive. | None |
| Codicote Peace Memorial Hall | Comments in relation to exemptions for small non-profit making clubs | The Act already provides for some exemptions and the Licensing Authority have no power to extend these. | None |

Summary of Responses to Gambling Act 2005 Statement of Principles Consultation

| Consultee | Observations | Comment / Action Taken | Amendments to Statement of Principles |
|---|---|---|---------------------------------------|
| Enterprise Inns | Welcome the decision to base the draft on the LACORS template. | No further action necessary | None |
| | Request for clarification of policy on gambling machine numbers | Adequately covered in draft Statement | None |
| | Request for clarification of policy on gambling machine siting | Suggested amendment is too prescriptive, however, Statement does refer to all applications being determined on individual merit | None |
| | Request for separate guidance on transitional arrangements for gaming machines in licensed premises | Specific guidance notes will be produced for each type of licence/permit. Surgeries and seminars will also be arranged. | None |
| Letchworth Garden City Bowls Club | Comments in relation to exemptions for small non-profit making clubs | The Act already provides for some exemptions and the Licensing Authority have no power to extend these. | None |
| Letchworth Corner Sports Club | No comments | No further action necessary | None |
| Gambling Commission | No comments | No further action necessary | None |
| British Amusement Catering Trades Association | Comments that Gambling Commission Codes of Practice should address many concerns and that Mandatory and default Conditions should be sufficient | Comments noted, however, each application is judged on individual merit following the Statement of Principles | None |
| | Comment that current regulations work and that Licensing Authorities should not over-regulate | Comments noted, however, each application is judged on individual merit following the Statement of Principles | None |
| | Request that section 153 of the Act should be highlighted in the Statement of Principles | Agreed that the principle of section 153 should be included in our Statement of Principles | New Paragraph incorporated |
| | Comments relating to location only becoming a factor in an application where a breach of the licensing objectives would occur | Comments noted, however, each application is judged on individual merit following the Statement of Principles | None |
| | Comments relating to the 'need' to impose conditions | Comments noted, however, each application is judged on individual merit following the Statement of Principles | None |
| | Comments relating to demand not be a relevant factor | Agree, however, adequately covered in draft Statement | None |
| | Comments on gambling machine numbers and reasons for restrictions | Agree, however, adequately covered in draft Statement | None |
| | Request for clarification of policy on door supervision. | Agreed that our position needs clarification | New Paragraph incorporated |