

***BOSTON BOROUGH COUNCIL***

***GAMBLING ACT 2005***

***STATEMENT OF PRINCIPLES***

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The Gambling Act 2005 requires every Licensing Authority to publish a Gambling Policy (Statement of the Principles), which they propose to apply when exercising their licensing functions. This document is the Gambling Policy (Statement of Principles) of Boston Borough Council.

Whilst all applications will be judged and determined on their individual merits the policy will be the basis of the Licensing Authority's decisions. The policy will be reviewed regularly to reflect the needs of the Borough of Boston.

This Statement of Principles was adopted by Boston Borough Council on 17 January 2022

# BOSTON BOROUGH COUNCIL

## STATEMENT OF PRINCIPLES – GAMBLING ACT 2005

### Part A

#### 1. Introduction

- 1.1 The Gambling Act 2005 (the Act) came into force in 2007 and brought in a new, comprehensive system for gambling regulation in Great Britain, bringing the vast majority of commercial gambling together into a single regulatory framework.
- 1.2 The Act established a dedicated regulator, at a national level, in the form of the Gambling Commission (the Commission). But it also recognised the potential local impact and importance of gambling by creating local regulators, whose job is to manage gambling in line with local circumstances. Those regulators are the 343 licensing authorities of England, Wales and Scotland. In doing so, the Act established a strong element of local decision-making and accountability in gambling regulation.
- 1.3 Boston Borough Council (hereinafter referred to as the Licensing Authority) is responsible for the licensing of premises and the issue of permits and authorisations under the Gambling Act 2005 (the Act). The Authority's main functions under the Act are:
- 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 the issuing of 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 premises licensed for the sale and consumption of alcohol on the premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
  - Issue licensed premises gaming machine permits for premises licensed to sell/supply alcohol (for consumption on the licensed premises), under the Licensing Act 2003, where there are more than two machines
  - Register small society lotteries below prescribed thresholds
  - Issue prize gaming permits
  - Receive and endorse temporary use notices (TUNs)
  - Receive occasional use notices (OUNs)
  - Provide information to the Gambling Commission regarding details of licences and permits issued (see section in this Policy Statement on exchange of information)
  - Maintain registers of the permits and licences that are issued under these functions
- 1.4 This Policy (Statement of Principles) is intended to provide clarity to applicants, interested parties and responsible authorities on how this Licensing Authority will determine applications. Guidance is available to assist applicants: the aforementioned guidance does not form part of this Policy.

- 1.5 In carrying out its functions under the Act the Licensing Authority will have regard to the Regulators' Code which was introduced by the Legislative and Regulatory Reform Act 2006." Additionally in implementing the requirements of the Gambling Act 2005, including all decision making, the Licensing Authority will have due regard for the Human Rights Act 1998, its public sector equality duty under section 149 of the Equality Act 2010 and all other relevant legislation. Furthermore, in adopting this Statement of Principles the Licensing Authority recognises its duties to consider the impact of all its functions and decisions on crime and disorder under the requirements of Section 17 of the Crime and Disorder Act 1998.
- 1.6 The Commission has the power to issue two types of code of practice. The first is a social responsibility (SR) code. An SR code must be followed and has the force of a licence condition. The Commission may also issue ordinary codes (OC) which are intended to set out industry best practice. Ordinary Codes are not mandatory but operators are expected to follow them unless they have alternative arrangements in place that they can demonstrate are equally effective.

Both codes are set out in the Commission's [Licence Conditions and Codes of Practice \(LCCP\)](#) -

## **2. The Licensing Objectives**

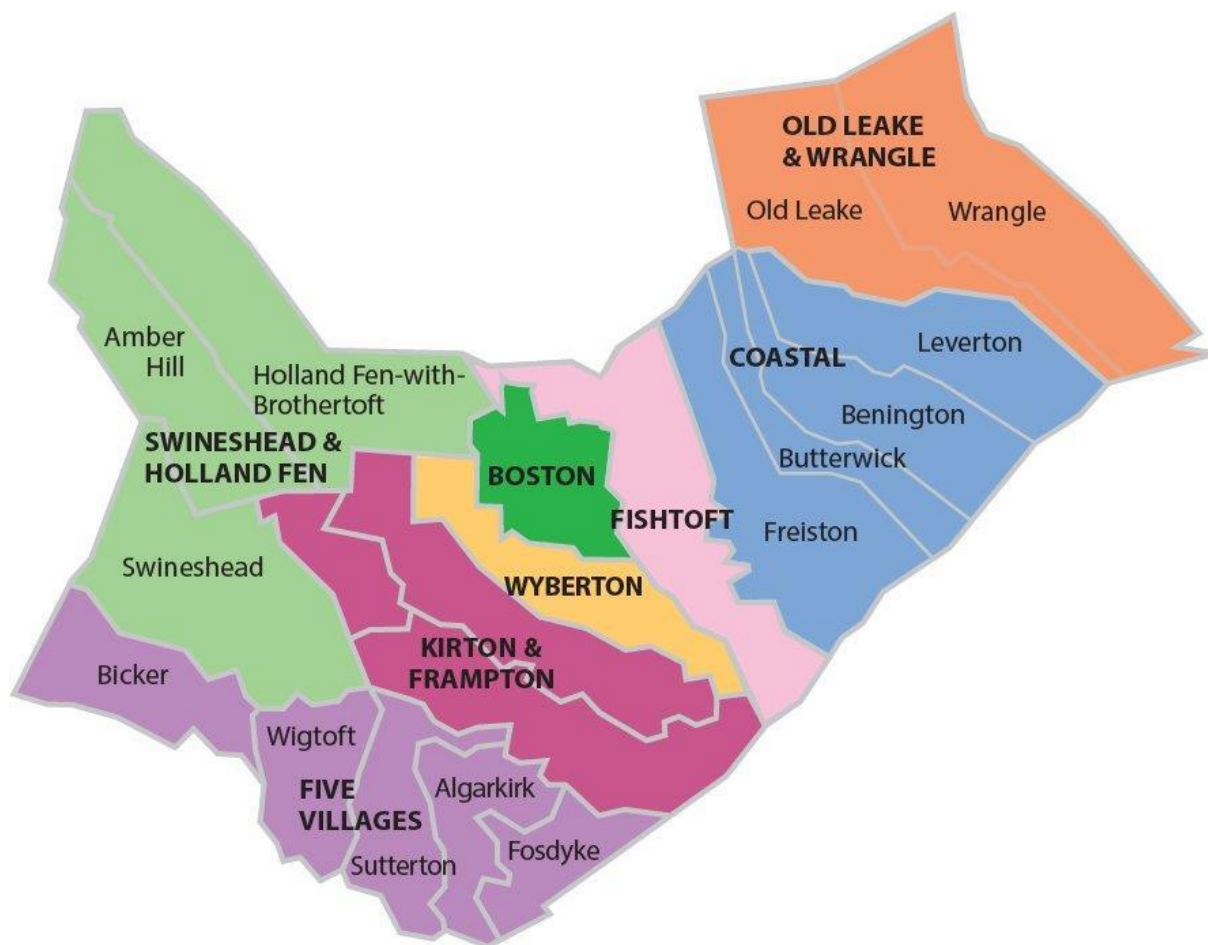
- 2.1 In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
  - Ensuring that gambling is conducted in a fair and open way.
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 2.2 Further information on the Licensing Objectives is provided at Part B paragraph 7 of this Statement of Principles.

## **3. General Matters**

- 3.1 Boston Borough Council is situated in the south of the county of Lincolnshire, which contains 7 district councils in total. The Borough has an estimated population of 66,500 (as detailed in the South East Lincolnshire Local Plan 2019) and is the smallest district in the County in terms of population. In terms of area it is the second smallest, covering 139 square miles. The council area is mainly rural with an urban area comprising of Boston town itself.

A Map of Boston Borough Council is shown at Figure 1.

Figure 1



3.2 At the time of reviewing this policy the Licensing Authority was responsible for the following number of Premises Licences and permits:

Betting Premises	10
Bingo Premises	2
Adult Gaming Centres	3
Family Entertainment Centres (FEC)	0
Unlicensed FEC Permit	0
Club Gaming Permit	0
Club Machine Permit	7
Alcohol Licensed Premises Gaming Machine Permit	4
Alcohol Licensed Premises: Notification of up to 2 Gaming Machines	34
Small Society Lotteries	70

- 3.3 The Licensing Act 2003 provides the delegated and procedural arrangements for the establishment of Licensing Authorities.
- 3.4 Licensing committees established under Section 6 of the Licensing Act 2003 are also the relevant committees for the purpose of gambling functions. Therefore, the same committee that deals with applications and other issues in relation to the Licensing Act 2003 will also be responsible for Premise Licence applications and other issues (i.e. permits) in relation to gambling.
- 3.5 The proceedings of the Licensing Committee are regulated by Section 9 of the 2003 Act (and regulations made under that section). Particular provision can be made for proceedings in relation to just the 2003 Act functions or just the 2005 Act functions.
- 3.6 The functions of the Licensing Authority under the Act may be carried out by the licensing committee, by a sub-committee or by one or more officers acting under delegated authority. Delegated powers shall be in accordance with the table at Appendix 1 of this document. The delegated powers at Appendix 1 do not form part of the Statement of Principles, they are for information only. The delegated powers may be revised from time to time without consultation or re-adoption of the Statement of Principles.
- 3.7 Licensing authorities are required by the Gambling Act 2005 to publish a Statement of the Principles, which they propose to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed as required and any amended parts re-consulted upon, the statement must be then re-published.
- 3.8 The Licensing Authority consulted widely upon this Statement of Principles before finalising and publishing. A list of the persons consulted is provided, in Appendix 2. The consultation took place between 11 November and 09 December 2021.
- 3.9 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 to represent the interests of persons carrying on gambling businesses in the authority's area
  - One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005
- 3.10 The statement of principles was submitted for approval at a meeting of the full council on 17 January 2022 and published via the council's website at [www.boston.gov.uk](http://www.boston.gov.uk). Copies are available from the Council Offices at Municipal Buildings, West Street, Boston.
- 3.11 This Statement of Principles will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

## 4. Declaration

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

## 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;
- The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group; and
- That this body is experienced in dealing with the protection of children

This body considered competent by this Licensing Authority for this purpose is Lincolnshire Safeguarding Children Board.

## 6. Interested parties

- 6.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:

“For the purposes of this part a person is an Interested Party in relation to an application for or in respect of a Premises Licence if, in the opinion of the licensing authority which issues the licence or to which the 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, or
- c) Represents persons who satisfy paragraph (a) or (b)” e.g. members of parliament and ward councillors.

- 6.2 Principles of determining Interested Parties:

The Licensing Authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party.

The Licensing Authority, in determining whether a person is an Interested Party, will consider each case on its merits. The Authority will not apply a rigid rule to its decision making. In reaching its decision, the Licensing Authority will consider factors such as the likelihood of the person/business being affected by the licensable activities at the premises as well as the geographical proximity. Larger premises may affect people over a broader geographical area than smaller premises offering the same facilities.

In considering whether a person lives sufficiently close to a premises to be considered to be an interested party the following matters will be taken into account:

- the size of the premises
- the nature of the premises
- the distance of the premises from the home or workplace of the person making the representation
- the potential impact of the premises (numbers of customers, routes likely to be taken by those visiting the premises)
- the circumstances of the person and nature of their interests, which may be relevant to the distance from the premises.

“Business interests” will be given its widest possible interpretation and may include partnerships, charities, faith groups and medical practices.

Interested parties can be people who are democratically elected such as councillors and MPs. This will include county, borough and parish councillors providing they represent the ward likely to be affected. 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 authorised activity/activities and/or business interest that might be affected by the authorised activity/activities. A letter from one of these persons requesting the representation is sufficient.

- 6.3 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 democratic services on telephone number 01205 314200.

## **7. Exchange of Information**

- 7.1 In its exchange of information with parties listed in Schedule 6 of the Gambling Act 2005, the council will have regard to:

- the provisions of the 2005 Act, which include the provisions that the data protection law will not be contravened;
- the guidance issued by the Gambling Commission; and
- other relevant legislation and regulations.

- 7.2 In accordance with Section 350 and Schedule 6 of the Gambling Act 2005, the Council may exchange information with the following statutory bodies or individuals:

- A constable or police force;
- An enforcement officer;
- A licensing authority;
- Her Majesty’s Revenue and Customs;
- The Gambling Appeal First Tier Tribunal;
- The Secretary of State;
- Scottish Ministers; and
- Any other person or body designated by the Secretary of State in accordance with the Act



- 7.3 The Licensing Authority will, without delay, inform the Gambling Commission of any information received that causes the Licensing Authority to question the suitability of a person or business holding or applying to hold an operating licence.
- 7.4 In addition to the parties listed in Schedule 6 of the Act the Licensing Authority may also exchange information provided by applicants with law enforcement agencies for the purposes connected with the prevention and detection of crime, but will only share any personal information for this purpose if required to do so by law.
- 7.5 The council is a signatory to a joint protocol on information exchange under the provisions of Section 115 of the Crime and Disorder Act 1998 with the Safer Lincolnshire Partnership. The council will use that protocol as appropriate.
- 7.6 Should any protocols be established as regards information exchange with other bodies then they will be made available.

## **8. Enforcement and inspection**

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

8.2 The Licensing Authority's principles are that:

It will be guided by the Gambling Commission's guidance for Licensing Authorities and 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

8.3 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 operator and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines will not be dealt with by the Licensing Authority but will be notified to the Gambling Commission.

8.4 As per the Commission's guidance for local authorities, this authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

8.5 This Licensing Authority may carry out risk based operations with other agencies including the Gambling Commission and the Police to ensure the objectives are being promoted.

- 8.6 Premises licence holders are advised that where following the receipt of a warning or warnings in relation to a Premises Licence breach or breaches, an operator subsequently breaches the licence conditions, the Licensing Authority may seek to review the premises licence.
- 8.7 In considering enforcement action, the Licensing Authority will bear in mind the Human Rights Act, in particular:
- Article 1, Protocol 1 – peaceful enjoyment of possessions
  - Article 6 – right to a fair hearing
  - Article 8 – respect for private and family life
  - Article 10 – right to freedom of expression

## **9. Primary Authorities**

- 9.1 The Licensing Authority recognises that Primary Authority Partnerships exist and they enable a consistent approach to regulation and enforcement and provide a uniform standard. The Licensing Authority will have regard to any Primary Authority Partnership when undertaking its functions under the Act.

## **Part B**

### **Premises licences**

#### **1. General Principles**

- 1.1 Premises licences are subject to the requirements set out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions, detailed in regulations issued by the Secretary of State. Licensing Authorities are able to exclude default conditions and attach others, where it is believed to be appropriate.

This Licensing Authority is required by virtue of Section 153 of the Act, to make decisions about premises licences and temporary use notices and is required to aim to permit gambling in so far as 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 and
  - in accordance with the authority's Statement of Licensing Principles.
- 1.2 Though licensing authorities are required to 'aim to permit' gambling, there is wide scope for them to impose conditions on Premises Licences or to reject, review or revoke Premises Licences where there is a conflict with the relevant Codes of Practice, Guidance to Licensing Authorities, the licensing objectives or this Statement of Licensing Policy.
- 1.3 Licensing authorities can request any information from an operator they may require in order to make licensing decisions. The Gambling Act 2005 requires a minimum level of information which must be provided, but the Gambling Commission state in their Guidance to Licensing Authorities that this does not preclude licensing authorities from

making reasonable requests for any additional information they may require to satisfy themselves their decision is reasonably consistent with the licensing objectives and Codes of Practice.

- 1.4 This policy does not preclude any application being made and every application will be decided on its individual merits, with the opportunity given for the applicant to show how potential concerns can be overcome.
- 1.5 Premises Licences authorise the provision of gambling facilities on the following:
  - Casino premises
  - Bingo premises
  - Betting premises (including race tracks used by betting intermediaries)
  - Adult Gaming Centres (AGCs)
  - Family Entertainment Centres (FECs)

### ***Local Risk Assessment***

- 1.6 The Licensing Authority expects applicants to have a good understanding of the area in which they operate, or intend to operate. The applicant will have to provide evidence that they meet the criteria set out in this policy and demonstrate that in operating the premises they will promote the licensing objectives.
- 1.7 Premises licence holders must conduct a local risk assessment for each of their current premises. This is a Gambling Commission SR code requirement which helps licence holders demonstrate how they aim to address local risks to the licensing objectives.

This applies to:

- adult gaming centres
- family entertainment centres
- non-remote betting
- non-remote bingo
- non-remote casinos
- remote betting intermediaries (trading room only).

The Licensing Authority requires gambling premises to conduct or update a risk assessment when:

- applying for a new premises licence
- applying for a variation to a premises licence
- changes the local environment or the premises warrant a new risk assessment be conducted.

- 1.8 The Licensing Authority expects applicants for Premises Licences in its area to comply with the risk assessment requirement. The risk assessment should demonstrate the applicant has considered, as a minimum:
  - local crime statistics;
  - any problems in the area relating to gambling establishments such as anti-social behaviour;

- the location of any nearby sensitive premises, such as hostels and other facilities used by vulnerable persons e.g. drug and alcohol addictions;
- the location of services for children such as schools, playgrounds, leisure/community centres and other areas where children will gather;
- the demographics of the area in relation to vulnerable groups;
- how vulnerable people, including people with gambling dependencies are protected;
- whether there is a prevalence of street drinking in the area, which may increase the risk of vulnerable persons using the premises;
- any indication in the area of young people attempting to access adult gambling facilities of the type offered in the area.

The risk assessment should take into account the risks presented by the local landscape. For example, if they are near a school it should explain how they will mitigate the risk of underage gambling. Applicants should liaise with other gambling operators in the area to identify risks and consult with any relevant responsible authorities as necessary. The Licensing Authority recommends that local risk assessments are kept on the premises.

#### Local Area Profile

- 1.9 A range of information regarding Boston's Local Area Profile which will be of use to applicants in the preparation of local risk assessments can be found on the [Lincolnshire Research Observatory](#)

## **2. General Requirements for All Premises**

- 2.1 The Licensing Authority expects all applicants for gambling Premises Licences to ensure there is adequate provision for staff to supervise persons using the licensed premises. This is to identify those who have self-excluded, vulnerable persons, under age persons and persons who may become aggressive.
- 2.2 Applicants must take the structure and layout of the premises into account when considering their own policies and procedures. For example, where it is not possible for counter staff to supervise persons using gambling facilities such as gaming machines, the Licensing Authority would expect applicants to volunteer conditions that floor walkers will be used or that counter staff will be able to view all areas of the premises on CCTV provided to the counter area where it can be clearly seen.
- 2.3 Arrangements must be made for how staff will deal with customers who become aggressive and ejecting patrons who are, for example, self-excluded, vulnerable or under age. This will include staff training and ensuring there are appropriate numbers of staff to deal with problems.
- 2.4 Staff should be in a position to monitor entrances and gaming machines and challenges should be initiated at the earliest opportunity. (See Part B paragraph 8.8 for further information regarding door supervisors Security Industry Authority Licences).
- 2.5 All applicants should keep an Incident Book in which details are recorded of persons who have self-excluded, persons who have been ejected or refused admission, persons who have been excluded by the operator, and any crime or disorder that occurs on, or in association with, the licensed premises.

2.6 Applicants should demonstrate how they will identify self-excluded persons.

### **3. Access to premises**

3.1 The Gambling Act 2005 (Mandatory and Default Conditions) Regulations set out access provisions for each type of licensed gambling premises. The broad principle is there can be no direct access from one licensed gambling premises to another, except between premises which allow those aged under-18 to enter and with the further exception that licensed betting premises may be accessed via other licensed betting premises.

### **4. Premises 'ready for gambling'**

4.1 The Licensing Authority recognises that operators can apply for a premises licence in respect of premises which have still to be constructed or altered and the authority is required to determine any such applications on their merits.

Where an application is received in respect of uncompleted premises where it appears the premises are not going to be ready to be used for gambling for a considerable period of time, the licensing authority will use a two stage process:

- Firstly - Whether or not the premises ought to be used for gambling; and
- Secondly - Whether the 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.

The Licensing Authority will then determine whether a licence should be granted or whether it would be more appropriate to require a provisional statement to be submitted.

4.2 On granting a licence the authority will need to be satisfied, in any individual case, that the completed premises comply with the original or changed plan, attached to the licence.

4.3 In each case the Licensing Authority welcomes the applicant contacting the authority to discuss which route is appropriate to avoid the applicant having to pay a fee for an application that the Licensing Authority then refuses to grant.

### **5. Location**

5.1 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 are relevant to its decision making. As per 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. With regard to these objectives upon receipt of any relevant representations this authority will look at specific location issues including:

- The proximity of the premises to schools and vulnerable adult centres.
- The proximity of the premises to residential areas where there may be a high concentration of families with children.

- The size of the premises and the nature of the activities taking place.
- Any levels of organised crime in the area

## **6. Duplication with other regulatory regimes**

- 6.1 In accordance with the Gambling Commission's guidance for Licensing Authorities this licensing authority will seek to avoid duplication with other statutory and regulatory regimes so far as possible.
- 6.2 The Gambling Commission Guidance to Licensing Authorities states: "In determining applications the Licensing Authority has a duty to take into consideration all relevant matters and not take into consideration any irrelevant matter. I.e. those not related to gambling and the licensing objectives. One example of an irrelevant factor would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.

## **7. Licensing objectives**

- 7.1 The Gambling Act 2005 contains three licensing objectives. The Licensing Authority seeks to assist applicants by setting out the considerations that will be applied when determining applications under the Act.
- 7.2 Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, the Licensing Authority has considered the Gambling Commission's guidance to local authorities.
- 7.3 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 that the Commission will take a leading role in preventing gambling from being a source of crime. The Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance and will consider factors 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.

- 7.4 Ensuring that gambling is conducted in a fair and open way –
- 7.4.1 This licensing authority has noted that the Gambling Commission has stated that it would generally not expect Licensing Authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is however more of a role with regard to tracks which is explained in more detail in the 'tracks' section below
- 7.5 Protecting children and other vulnerable persons from being harmed or exploited by gambling -
- 7.5.1 This Licensing Authority is aware of the Gambling Commission Codes of Practice as regards this licensing objective in relation to specific premises.

- 7.5.2 The Licensing Authority expects applicants to consider the measures necessary to promote the licensing objective of protecting children and other vulnerable persons from being harmed or exploited by gambling
- 7.5.3 The licensing authority considers the safeguarding of children to be a key priority and will therefore take into account whether specific measures are required at particular premises, with regard to this licensing objective.
- 7.5.4 The risks will vary, depending on the type of gambling activities taking place at the premises. For example, at Adult Gaming Centres or High Street Betting Premises, safeguarding systems should be in place to prevent young people gaining access to the premises.
- 7.5.5 If children are permitted access to adult gambling activities, they may be at risk of being:
- exposed to information or advertisements encouraging them to gamble
  - allowed, or invited to, gamble or bet in a commercial setting
  - financially exploited.
- 7.5.6 Harm in this context is not limited to harm from children taking part in gambling but includes wider child protection considerations, including the risk of child sexual exploitation.
- 7.5.7 Vulnerable Persons: As regards the term “vulnerable persons” it is noted that the Commission does not seek to offer a definition but states that “it will, for regulatory purposes, assume that this group includes people who gamble more than they want to; people who gamble beyond their means; people who may not be able to make informed or balanced decisions about gambling due to, for example, mental health, a learning disability or substance misuse relating to alcohol or drugs.” Information and sources of help about problem gambling may be found on the Gambleaware and Gamcare websites. This Authority expects licensees and operators to be familiar with the content of these sites. The licensing authority will consider this licensing objective on a case by case basis.
- 7.5.8 The authority considers that in managing the risks and being socially responsible, licence holders and applicants should consider the following steps in respect of the premises:
- Designate a member of staff to lead on problem gambling issues.
  - Train staff to recognise and respond to indicators of concern.
  - Train staff to deal with persons who become aggressive and to manage such situations whilst maintaining their own safety.
  - Information should be made readily/discreetly available to customers on how to gamble responsibly and seek help in respect of problem gambling.
  - Offer a self-exclusion, or self-limit scheme, enabling individuals to restrict the amount of time or money they spend.
- 
- When offering membership schemes, the details of a contactable person should be required in the event of an emergency.

## 8. Conditions on Premises Licences

- 8.1 All licences will be subject to mandatory and/or default conditions and conditions imposed by the Licensing Authority. The Licensing Authority may consider that conditions other than the mandatory or default conditions are necessary to ensure the premises are reasonably consistent with the licensing objectives, the Gambling Commission's Codes of Practice and this Statement of Principles.
- 8.2 The Licensing Authority can attach its own conditions to a Premises Licence if it believes this will promote the licensing objectives. Any conditions attached 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.
- 8.3 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures the Licensing Authority will consider utilising should there be a perceived need, such as the use of door supervisors and appropriate signage for adult only areas. This licensing authority will also expect the licence applicant to offer his/her own suggestions as to the way in which the licensing objectives can be achieved.
- 8.4 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.
- 8.5 It is noted that there are conditions which the licensing authority cannot attach to premises licences which:
- Make it impossible to comply with an operating licence condition;
  - Relate to gaming machine categories, numbers, or method of operation;
  - make activities, premises or parts of them operate as a membership club
  - relate to stakes, fees, winnings or prizes.
- 8.6 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
  - 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.

- 8.7 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.
- 8.8 If there are concerns that premises may attract disorder or be subject to unauthorised access by children and young persons, then the Licensing Authority may require that door supervisors control the entrances to the premises. The Licensing Authority recognises that each premises application shall be treated on its own merit. In addition, the Licensing Authority shall take into account the previous trading history of the type of premises proposed and that any decision shall be necessary and proportionate.

Where door supervisors are imposed as a condition on a Premises Licence (except casino or bingo premises), Section 178 of the 2005 Act requires that any person employed in that capacity will hold a relevant licence issued by the Security Industry Authority (SIA).

- 8.9 The Licensing Authority recognises that each premises application shall be treated on its own merit. In addition, the Licensing Authority shall take into account the previous trading history of the type of premises proposed and that any decision shall be necessary and proportionate.

## **9. Think 21 Policy**

- 9.1 The Licensing Authority strongly supports campaigns to reduce the illegal access of underage persons to adult only gambling and encourages the use of a Think 21 policy within premises providing adult only gambling facilities. Under the scheme, premises providing adult only gambling facilities should seek proof of age from anybody who appears to be under the age of 21. The policy should create a culture of expectation that in premises providing adult only gambling facilities, proof of age should either be offered or produced on demand and that this should be the norm as far as access to over 18 gambling is concerned.
- 9.2 Whilst supporting the Think 21 Scheme the Licensing Authority recognises that some premises may wish to go a step further by introducing the Think 25 Scheme.

## **10. Adult Gaming Centres (AGCs)**

- 10.1 Adult gaming centre (AGC) Premises Licences allow the holder of the licence to make gaming machines available for use on the premises. Persons operating an AGC must hold a gaming machines Operating Licence from the Gambling Commission and must seek a Premises Licence from the Licensing Authority. Gaming machines are a form of gambling attractive to children and AGCs may contain machines of a similar format to the Category D machines on which children are allowed to play. However, no-one under the age of 18 is permitted to enter an AGC and applicants must be aware of the

location of, and entry to, AGC's to minimise the opportunities for children to gain access.

- 10.2 Because gaming machines provide opportunities for solitary play and immediate pay-outs, they are more likely to engender repetitive and excessive play. The Licensing Authority, in considering Premises Licences for AGC's, will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling. The Licensing Authority will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds are not attracted to, or gain access to, the premises.
- 10.3 The Licensing Authority will expect staff to be aware of the gambling laws, social responsibility and statutory requirements relating to age restrictions.

## **11. Licensed Family Entertainment Centres (FECs)**

- 11.1 Generally, FEC's must be operated by a person or body having an Operating Licence from the Gambling Commission (the Act also provides there is a class of unlicensed Family Entertainment Centres that may be run by individuals or bodies not holding an Operating Licence). Unlicensed Family Entertainment Centres do not require the operator to have a Gambling Commission Operator's Licence or Premises Licence from the Licensing Authority, but do need to have a gaming machine permit as set out in the section on Permits.
- 11.2 The licensing authority, in considering applications, will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling. Gaming machines provide opportunities for solitary play and for immediate pay-outs; they are more likely to engender repetitive and excessive play. The Licensing Authority will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas, and it is a requirement that there is clear segregation between the two types of machine, to prevent access by children and young persons to Category C machines
- 11.3 The Licensing Authority must apply the mandatory conditions but will consider whether to exclude any of the default conditions that may be specified by regulation from the Secretary of State.
- 11.4 The Licensing Authority will expect staff to be aware of the gambling laws, social responsibility and statutory requirements relating to age restrictions.

## **12. Casinos**

- 12.1 No Casinos resolution – This Licensing Authority does not have consent from the Secretary of State to grant any casino licences within its Borough. 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 the licensing authority decide in the future to pass such a resolution, it will update this statement of principles with details of that resolution. Any such resolution will be made by the Full Council.

## 13. Bingo premises

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

Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a licence. This is 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 licence, for that or those excluded areas.

13.2 This policy applies to applications for a bingo Premises Licence. Bingo has its ordinary and natural meaning and includes any version of the game irrespective of by what name it is described. A holder of a bingo Premises Licence will be able to offer bingo in all its forms.

13.3 Children and young persons are permitted in bingo premises, but may not participate in the bingo. If any category B or C machines are made available for use, these must be separated from areas where children and young people are allowed. The Licensing Authority will seek to ensure that:

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

13.4 Young persons, aged 16 and 17, may be employed in bingo premises provided their duties are not connected with the gaming or gaming machines.

13.5 Where hand held gaming devices are to be used on bingo premises, the Licensing Authority expects applicants to demonstrate how use of these devices will be monitored by staff.

13.6 Where bingo is permitted in alcohol-licensing premises, this must be low turnover bingo only. Organisers are expected to comply with any Codes of Practice and advice issued by the Gambling Commission. High turnover bingo will require a Bingo Operating Licence. Definitions of low and high turnover are available by referring to the Gambling Commission's website.

13.7 With regard to turnover, where the Licensing Authority suspects that a licensee or club exceeds the turnover in the required 7 day period, the Licensing Authority will inform the Gambling Commission.

13.8 The Licensing Authority will take into account any guidance issued by the Gambling Commission in relation to the suitability and layout of bingo premises.

13.9 To avoid a situation where a premises holds a bingo Premises Licence primarily to benefit from the gaming machine allowance, the Licensing Authority will need to be satisfied that bingo can be played in any premises for which a Premises Licence is

issued. Particularly consideration will be given to when the operator of an existing bingo premises applied to vary the Premises Licence to exclude an area of the existing premises and then applies for a new licence for the excluded area.

- 13.10 Credit facilities are prohibited from being provided in bingo licensed premises. Cash Machines (ATMs) may be installed in bingo licensed premises but the Licensing Authority may apply conditions as to where they are sited.

## 14. Betting premises

- 14.1 The Licensing Authority is responsible for issuing and monitoring Premises Licences for all betting premises. Children and young persons are not permitted entry to a premise with a Betting Premises Licence. They may, however, be permitted entry to tracks and special rules will apply.
- 14.2 This policy applies to applications for off-course betting premises. This is betting that takes place other than at a track, typically in a betting shop.
- 14.3 The Licensing Authority recommends that an applicant for gaming machines in betting premises considers carefully the location of betting machines to ensure that they are not in sight of the entrance of the premises.
- 14.4 The Licensing Authority must be satisfied that the primary use of the premises is to operate as betting premises. The applicant will be expected to demonstrate they are offering sufficient facilities for betting or otherwise should not make gaming machines available on the premises.
- 14.5 Betting machines: This licensing authority is aware that Section 181 of the Act contains an express power for licensing authorities to restrict the number of Self Service Betting Terminals (SSBT), their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence. When considering whether to impose a condition to restrict the number of SSBTs in particular premises, the licensing authority will, amongst other things, take into account the ability of employees to prohibit use by children and young persons and monitor use by vulnerable people.
- 14.6 The Licensing Authority will expect staff to be aware of the gambling laws, social responsibility and statutory requirements relating to age restrictions.

## 15. Tracks

- 15.1 **Note:** there are currently no tracks operating in the district; however this statement of principles contains provision for the event of such a premise.
- 15.2 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. The Gambling Commission Guidance identifies that operators of track betting premises will not necessarily hold an Operating Licence issued by the Commission. The Licensing Authority will have particular regard to proposals and measures to ensure the environment in which betting takes place is suitable for betting and that betting is conducted in a fair and open way.

- 15.3 The licensing authority will especially consider the impact upon the objective of protection of children and vulnerable persons from being harmed or exploited by gambling. There is a 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.
- 15.4 This authority will expect the Premises Licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines only) are provided. Children and young persons are not prohibited from playing category D machines at a track.
- 15.5 Track betting operators must be able to demonstrate their adoption of socially responsible gambling policies and procedures. Such policies and procedures must ensure that track betting activities promote the licensing objectives of ensuring that gambling is conducted in a fair and open way and children and other vulnerable people are not harmed or exploited by gambling.
- 15.6 *Gaming machines* – Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) they must be located in areas from which children are excluded
- 15.7 *Betting machines* - This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer
- 15.8 *Applications and plans* – The Gambling Act (s51) requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the Licensing Authority to plan future premises inspection activity.
- 15.9 Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations.
- 15.10 Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such circumstances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises.
- 15.11 In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined.
- 15.12 This authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with

pinpointing exact locations for some types of track. Applicants should provide sufficient information so that this authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting area subject to the “five times rule” (commonly known as betting rings) must be indicated on the plan.

## **16. Provisional Statements**

- 16.1 Developers may wish to apply to this authority for a Provisional Statement before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.
- 16.2 Section 204 of the Gambling Act provides for a person to make an application to the Licensing Authority for a provisional statement in respect of premises that he or she:
- Expects to be constructed;
  - Expects to be altered; or
  - Expects to acquire a right to occupy.
- 16.3 The process for considering an application for a Provisional Statement is the same as that for a Premises Licence application. The applicant is obliged to give notice of the application in the same way as applying for a Premises Licence. Responsible Authorities and Interested Parties may make representations and there are rights of appeal.
- 16.4 In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.
- 16.5 The holder of the provisional statement may then apply for a Premises Licence once the premises are constructed, altered or acquired. The Licensing Authority will be constrained in the matters it can consider when determining the Premises Licence application, and in terms of representations about Premises Licence applications that follow the grant of a Provisional Statement, no further representations from relevant authorities or interested parties can be taken into account unless:
- which could not have been raised by objectors at the provisional licence stage, or
  - In the authority’s opinion they reflect a change in the applicant’s circumstances.
- 16.6 In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:
- Which could not have been raised by objectors at the provisional statement stage;
  - Which in the authority’s opinion reflect a change in the operator’s circumstances; or
  - Where the premises have not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan

and this Licensing Authority notes that it can discuss any concerns it has with the applicant before making a decision.

## 17. Reviews

17.1 Requests for a review of a Premises Licence can be made by Interested Parties or Responsible Authorities; however, it is for the licensing authority to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below:

- 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.

17.2 The Licensing Authority may reject an application for review if it thinks the grounds on which the review is sought:

- are not relevant to the relevant code of practice or guidance issued by the Gambling Commission, the licensing objectives or the Licensing Authority's statement of principles;
- are frivolous;
- are vexatious;
- 'will certainly not' cause the Licensing Authority to revoke or suspend the licence or to remove, amend or attach conditions on the Premises Licence;
- are substantially the same as grounds cited in a previous application relating to the same premises (the Licensing Authority will consider the length of time that has passed since the earlier application in deciding whether this is a reasonable reason to reject the review application);
- are substantially the same as representations made at the time the application for the Premises Licence was considered. While the Licensing Authority will consider the length of time that has passed since the representations were made, it will not normally review a licence on the basis of the same arguments considered on the grant of the Premises Licence.

17.3 The Licensing Authority can also initiate a review of a particular Premises Licence, or a particular class of Premises Licence where appropriate to do so.

17.4 Once a valid application for 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.

17.5 The Licensing Authority must carry out the review as soon as possible after the 28-day period for making representations has passed.

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

- Add, remove or amend a licence condition imposed by the Licensing Authority;

- Exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such a condition;
- Suspend the premises licence for a period not exceeding three months; and
- Revoke the licence.

In determining what action, if any, should be taken following a review, the Licensing Authority must have regard to the principles set out in Section 153 of the Act, as well as any relevant representation.

As a review of a Premises Licence can lead to its revocation the Licensing Authority will consider whether informal actions to ensure timely or immediate compliance have been exhausted prior to an application being made. The Licensing Authority accepts that an application for review may be appropriate without informal measures being taken, but will seek to establish that all options have been considered in determining review applications.

- 17.7 In particular, the Licensing Authority may also initiate a review of a Premises Licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.
- 17.8 The decision determined by the sub-committee will be accompanied with clear reasons for that decision having had due regard to human rights, equalities and all other relevant legislation.
- 17.9 Once the review has been completed, the Licensing Authority must, as soon as possible, notify its decision to:
- The licence holder
  - The applicant for review (if any)
  - The Gambling Commission
  - Any person who made a representation
  - The Chief Officer of Police or Chief Constable
  - Her Majesty's Commissioners for Revenue and Customs.

## **18. Appeals**

- 18.1 There is a right of appeal both for applicants and those who have made relevant representations or applied for a review. This appeal must be lodged within a period of 21 days from the day on which the applicant was notified by the Licensing Authority of the decision and must be made to the Magistrates' Court

## **Part C**

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

#### **1. Permits**

Permits regulate gambling and the use of gaming machines in premises which do not hold a Premises Licence. They are required when a premises provides gambling facilities but either the stakes are very low or gambling is not the main function of the premises.



The Licensing Authority is responsible for issuing the following permits:

- a) unlicensed family entertainment centre gaming machine permits;
- b) alcohol licensed gaming machine permits;
- c) prize gaming permits;
- d) club gaming permits and club machine permits.

The Licensing Authority can only grant or reject an application for a permit and cannot attach conditions. Therefore, the Licensing Authority will consider a number of factors before determining an application for a permit to ensure that the permit holder and the premises are suitable for the proposed gambling activities.

There is a minimum age of 18 for all players for all categories A, B and C Gaming Machines, including category B3A gaming machines offering lottery style games. However there is no minimum age for players of category D machines. The holder of any permit or premises licence has to comply with the codes of practice issued by the Commission on the location of and access to gaming machines by children and young persons, and the separation from category C and B machines where those are also located on the same premises.

## **2. Unlicensed Family Entertainment Centre (FEC) gaming machine permits**

- 2.1 This policy applies to those premises that are proposed to be used as Unlicensed Family Entertainment Centres (UFEC's). UFEC's are those that offer only category D machines and a permit allows any number of these machines to be made available at the premises (subject to other considerations such as health and safety and fire regulations). Given that category D machines have no age restrictions, these premises particularly appeal to children and young persons. Therefore, the Licensing Authority will give particular weight to matters relating to child protection issues. 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 (Gambling Act 2005 Section 238).
- 2.2 The Licensing Authority will grant an application for a permit only if it is satisfied that the premises will be used as an unlicensed FEC, and following consultation with the Police.
- 2.3 The Licensing Authority will require 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
- 2.4 This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include:

- measures/training for staff regarding suspected truant school children on the premises;
- measures/training covering how staff will deal with unsupervised very young children being on the premises;
- measures/training covering how staff would deal with children causing perceived problems on or around the premises.

2.5 The Licensing Authority acknowledges that only premises that are wholly or mainly used for making gaming machines available may hold a Family Entertainment Centre (UFEC) gaming machine permit or a Family Entertainment Centre (FEC) premises licence. Both a licensed FEC and an UFEC are classified as 'premises'. The Licensing Authority considers that, generally, premises such as an entire shopping centre, motorway service station or similar would not be suitable for licensing or to hold a permit. Further the Authority believes that the machines should be in a designated, enclosed area, they should not be in walkways or corridors forming part of a larger building

2.6 The Licensing Authority expects that there will be dedicated staff supervision of FEC areas, whether using a premises licence or permit. The Authority expects applicants to provide evidence to show that such direct supervision is in place and not falling to others, for example security or cleaning staff associated with wider premises. The Authority will be especially concerned to see that staff are aware of the need to be vigilant for children who may be truanting from school.

### **3. Alcohol licensed premises Gaming Machine Permits and Notifications –**

3.1 Notifications of 2 or less machines -There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D The holder of the Premises Licence under the Licensing Act 2003 must notify the Licensing Authority of their intention to make the gaming machines available for use and must pay the prescribed fee.

3.2 This entitlement only relates to premises with a Licensing Act 2003 Premises Licence that authorises the sale of alcohol for consumption on the premises and have a bar at which alcohol is served, without a requirement that alcohol is served only with food.

3.3 Holders of Licensed Premises Gaming Machine Permits must comply with the relevant Gambling Commission Code of Practice.

3.4 The Licensing Authority will 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 The premises are mainly used for gaming. i.e. that written notice has been provided to the Licensing Authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
- the premises are mainly used for gaming; or

- An offence under the Gambling Act has been committed on the premises
- 3.5 Gaming machine notifications for alcohol licensed premises will be rejected where a traditional bar, for example with beer pumps and optics, is not provided.
- 3.6 Permits for 3 or more machines - If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission under section 25 of the Gambling Act 2005, and “such matters as they think relevant.”
- 3.7 As gaming machines provide opportunities for solitary play and immediate pay-outs, they are more likely to engender repetitive and excessive play. The Licensing Authority, on considering an application, will consider whether granting a permit would be appropriate on a case by case basis, but will specifically have regard to:
- the need to protect children and vulnerable people from harm or being exploited by gambling;
  - measures taken by the applicant to satisfy the Licensing Authority that there are sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines.
- 3.8 The Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives. However, appropriate measures may cover issues such as:
- the adult machines being in sight of the bar;
  - the adult machines being in the sight of staff who will monitor that the machines are not being used by those under 18;
  - notices and signage;
  - the provision of information leaflets or helpline numbers for organisations such as GamCare.
- 3.9 When determining an application for an alcohol-licensed premises gaming machine permit, the Licensing Authority will consider each application on its own merits.
- 3.10 The Licensing Authority may cancel a permit or may vary the number or category (or both) of gaming machines authorised by it if:
- it would not be reasonably consistent with pursuit of the licensing objectives for the permit to continue to have effect,
  - gaming has taken place on the premises in purported reliance on the permit but otherwise than in accordance with the permit or a condition of the permit,
  - the premises are mainly use or to be used for making gaming machines available, or,
  - an offence under the Gambling Act 2005 has been committed on the premises.
- 3.11 Before the Licensing Authority cancels or varies a permit it will give the permit holder 21 days’ notice of its intention and allow him/her the opportunity to make a representation. If the permit holder requests a hearing the Licensing Authority will arrange a Licensing Sub-Committee hearing to consider the permit holder’s representation and any other evidence available before making its determination.

- 3.12 Gaming machine permits for alcohol licensed premises will be rejected where a traditional bar, for example with beer pumps and optics, is not provided.
- 3.13 The licensing authority will not grant a gaming machine permit if it considers to do so would make gambling the primary activity at a premises.
- 3.14 It is recognised that some alcohol-licensed premises may apply for a Premises Licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with, as an Adult Gaming Centre Premises Licence.
- 3.15 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.

#### **4. Prize Gaming**

- 4.1 This policy applies to applications for, or renewals of, prize gaming permits. Gaming is prize gaming “if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming”. Normally the prizes are determined by the operator before play commences.
- 4.2 Prize gaming may take place without a permit in various premises. These are casinos, bingo halls, adult gaming centres, licensed and unlicensed family entertainment centres and travelling fairs.
- 4.3 The Gambling Act 2005 states that a licensing authority may “prepare a Statement of Principles that they propose to apply in exercising their functions under this schedule” which “may, in particular, specify matters that the licensing authority proposes to consider in determining the suitability of the applicant for a permit”.
- 4.4 Given that the prize gaming will particularly appeal to children and young persons, the Licensing Authority will give weight to child protection issues.
- 4.5 The applicant will be expected to set out the types of gaming that they are intending to offer and will also be expected to demonstrate:
- an understanding of the limits to stakes and prizes set out in regulations;
  - that the gaming offered is within the law;
  - clear policies that outline the steps to be taken to protect children from harm.
- 4.6 In making its decision on an application for this permit the licensing authority does not need to (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance.
- 4.7 The Licensing Authority will only grant a permit after consultation with the Police. This will enable the Licensing Authority to determine the suitability of the applicant in terms of any convictions that they may have that would make them unsuitable to operate prize gaming, the suitability of the premises in relation to their location, and issues about disorder.
- 4.8 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**

- 5.1 Members clubs and miners' welfare institutes may apply for a club gaming permit or a club gaming machines permit (Commercial Clubs cannot apply for a Club Gaming 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 regulations. A club gaming machine permit will enable the premises to provide gaming machines (3 machines of categories B3A, B4, C or D). In either case only one B3A machine can be sited as part of the entitlement.
- 5.2 Commercial Clubs cannot provide non-machine gaming other than exempt gaming under s.269 of the Act, so they can only apply for a club machine permit (such a permit does not allow the siting of category B3A gaming machines in commercial clubs).
- 5.3 A non-commercial club must meet the following criteria to be considered a members' club:
- it must have at least 25 members;
  - it must be established and conducted wholly or mainly for purposes other than gaming (unless the gaming is permitted by separate regulations);
  - it must be permanent in nature;
  - it must not be established to make a commercial profit;
  - it must be controlled by its members equally.
- 5.4 The licensing authority may only refuse an application on the grounds that:
- The applicant does not fulfil the requirements for a members' club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
  - The applicant's premises are used wholly or mainly by children and/or young persons;
  - An offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
  - A permit held by the applicant has been cancelled in the previous ten years; or
  - An objection has been lodged by the Commission or the police".
- 5.5 There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10).

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

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

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

5.7 The Licensing Authority will need to satisfy itself that the club meets the requirements of the Gambling Act 2005 to hold a club gaming permit. In order to do this, it may require proof of additional information from the operator such as:

- Is the primary activity of the club something other than gaming?
- Are the club's profits retained solely for the benefit of the club's members?
- Are there 25 or more members?
- Are the addresses of members of the club genuine domestic addresses and do most members live reasonably locally to the club?
- Do members participate in the activities of the club via the internet?
- Do guest arrangements link each guest to a member?
- Is the 48 hour rule being applying for membership and being granted admission being adhered to?
- Are there annual club accounts available for more than one year?
- How is the club advertised and listed in directories and on the internet?
- Are children permitted in the club?
- Does the club have a constitution and can it provide evidence that the constitution was approved by members of the club?
- Is there a list of Committee members and evidence of their election by the club members?

5.8 Aside from bridge and whist clubs, clubs may not be established wholly or mainly for the purposes of gaming. The Licensing Authority may consider such factors as:

- How many nights a week gaming is provided;
- How the gaming is advertised;
- What stakes and prizes are offered;
- Whether there is evidence of leagues with weekly, monthly or annual winners;
- Whether there is evidence of members who do not participate in gaming;
- Whether there are teaching sessions to promote gaming such as poker;
- Where there is a tie-in with other clubs offering gaming through tournaments and leagues;
- Whether there is sponsorship by gaming organisations;
- Whether participation fees are within limits

## **6. Temporary Use Notices**

- 6.1 Temporary Use Notices allow the use of premises for gambling where there is no Premises Licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for gambling would include hotels, conference centres and sporting venues.
- 6.2 The Licensing Authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence i.e. a non-remote casino Operating Licence.
- 6.3 Currently, Temporary Use Notices can only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single overall winner.
- 6.4 The Licensing Authority, in considering applications for Temporary Use Notices, will consider whether gambling should take place, or should only take place with modifications to the TUN. In doing so, the Licensing Authority will consider:
- the suitability of the premises;
  - the location of the premises, paying particular attention to its proximity to any schools, hostels or other sensitive premises;
  - the CCTV coverage within the premises;
  - the ability of the premises to provide sufficient staff and/or licensed door supervisors for the notice period;
  - whether the premises or the holder of the Operating Licence have given the Licensing Authority any cause for concern at previous events in relation to the licensing objectives, the guidance issued by the Gambling Commission, the relevant code of practice or this Statement of Principles.
- 6.5 The Licensing Authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commissions Guidance to Licensing Authorities.

## **7. Occasional Use Notices**

- 7.1 The Licensing Authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice. The definition of "track" in the Act is wider than dog tracks or horse racecourses and includes places where races or other sporting events take place. This could include major halls, hotels and other venues. If notices are given for a single track which would permit betting to occur for more than eight days per year, the Licensing Authority is obliged to issue a counter notice preventing such a breach occurring.

## **8. Lotteries**

- 8.1 The Licensing Authority registers and deals with Small Society Lotteries. Promoting or facilitating a lottery falls within one of the following categories:

- Licensed Lotteries (requiring an Operating Licence from the Gambling Commission);
- Small Society Lotteries (registered with the Licensing Authority); and
- Exempt Lotteries

8.2 Lotteries permitted to be conducted without a licence from the Gambling Commission and these are:

- Small Society Lotteries (registered with the Licensing Authority);
- Incidental Non-Commercial Lotteries;
- Private Lotteries: (Private Society Lottery, Work Lottery, Residents' Lottery);
- Customer Lotteries

8.3 Societies may organise lotteries if they are licensed by the Gambling Commission, registered with the Licensing Authority or fall within the exempt category. The Licensing Authority recommends those seeking to run lotteries take their own legal advice on which type of lottery category they fall within. However, guidance notes with regard to all lotteries, limits placed on small society lotteries and information setting out financial limits is available by contacting the Licensing Authority.

8.4 Applicants for lottery licences must apply to the Licensing Authority in the area where their principal office is located. Where the Licensing Authority believes that the Society's principal office is situated in another area it will inform the Society as soon as possible and where possible, will inform the other Licensing Authority.

8.5 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. As soon as the entry on the Register is completed, the Licensing Authority will notify the applicant of registration.

8.6 The Licensing Authority will ask applicants to set out the purposes for which the Society is established and will ask the Society to declare that they represent a bona fide non-commercial society and have no relevant convictions. The Licensing Authority may seek further information from the Society and in particular may require a copy of the society's constitution.

8.7 Where the Licensing Authority intends to refuse registration of a Society, it will give the Society an opportunity to make representations and will inform the Society of the reasons why it is minded to refuse registration and supply evidence on which it has reached that preliminary conclusion.

8.8 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. However, no revocations will take place unless the Society has been given the opportunity to make representations. The Licensing Authority will inform the society of the reasons why it is minded to revoke the registration and will provide an outline of the evidence on which it has reached that preliminary conclusion.

8.9 With regards to where Small Society Lottery tickets may be sold, the Licensing Authority applies the following guidance criteria to all Small Society Lotteries it registers:



- tickets should not be sold in a street. Street includes any bridge, road, lane, footway, subway, square, court or passage (including passages through enclosed premises such as shopping malls); and
- Tickets may be sold from a kiosk, in a shop or door-to-door.

This approach is consistent with the operating licence conditions imposed by the Gambling Commission upon operators of large lotteries.

## **9. Travelling Fairs**

- 9.1 This Licensing Authority is responsible for deciding whether, where category D machines and / or equal chance prize gaming without a permit are 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.
- 9.2 The Licensing Authority will also consider whether the applicant falls within the statutory definition of a travelling fair
- 9.3 The Licensing Authority will also consider whether the applicant falls within the 27-day statutory definition of a travelling fair. The 27-day statutory maximum for the land being used as a fair applies on a calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. 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.
- 9.4 The Licensing Authority will keep a record of any travelling fairs that take place in the Boston Borough area that offer gambling as an ancillary use to the fair. The authority will ensure the 27 day statutory maximum for the land being used is not breached. The Licensing Authority will advise travelling fair operators if requested, of the statutory time period remaining for the land they intend to use.

## **10. Review**

- 10.1 This statement of principles will remain in existence for a period of three years and will be subject to review and further consultation before January 2024. However, following consultation, the licensing authority may make revisions to it as deemed necessary.

## **11. Glossary**

- 11.1 A glossary of terms is attached at Appendix 3

## APPENDIX 1

**Summary of licensing authority delegations permitted under the Gambling Act. (This summary is for information purposes only and does not form part of the Statement of Licensing Policy. The delegations may be amended at any time.**

### GAMBLING ACT 2005 – PROPOSED SCHEME OF DELEGATIONS

1. The power of the Licensing Authority
  - a. as a responsible authority, to make representations in respect of premises licences under Part 8 of the Act;
  - b. to propose to attach a condition to a premises licence in accordance with section 169(1)(a) of the Act in addition to the mandatory or default conditions;
  - c. to propose the exclusion of a default condition from a premises licence under S169(1)(b) of the Act;
  - d. as a responsible authority, to request a review of a premises licence under sections 197 or 200 of the Act;
  - e. to give a notice of objection to a temporary use notice under S221 of the Act;
  - f. to serve notification of intended refusal of any of the following:-
    - i. Family Entertainment Centre Gaming Machine Permit (Sch 10 Para 10)
    - ii. Prize gaming Permits (Sch 14 Para 11)
    - iii. Licensed Premises Gaming Machine Permits (Sch 13 Para 6)And also, in the latter case, notice of intention to grant the application but for a smaller number of machines than specified and/or a different category of machines from that specified in the application.
  - g. Serve notification of lapse of a Family Entertainment Centre Gaming Machine Permit (Sch 10 Para 14 and 15 (1)(b));
  - h. Serve notice of intention to cancel or vary any of the following:-
    - i. Club Gaming permit or Club Gaming Machine permit (Sch 12 Para 21)
    - ii. Licensed Premises Gaming Machine permits (Sch 13 Para 16)
  - i. Create and amend the Authority's application procedures in relation to applications for the following in accordance with any relevant legislation:-
    - i. Family Entertainment Centre Gaming Machine Permits (sch10 paras 5 and 7)
    - ii. Licensed Premises gaming Machine Permits (Sch 13 Para 2)
    - iii. Prize Gaming Permits (Sch 14 paras 6 and 8); and
  - j. to appoint authorised persons under s 304 of the Act
  - k. determine that any representations received under Part 8 of the Act are vexatious, frivolous, or certainly will not influence the Authority's determination of an application; and
  - l. reject all or part of any application for a review of a premises licence in accordance with Section 198 of the Act

- shall be delegated to the Head of Regulatory Services who may make further delegation.

2. In relation to the following matters in the attached table the Authority will, in the majority of cases, adhere to the table of delegated functions set out below. This table indicates the lowest level of the Authority which will normally exercise the delegation though the Authority reserves the right, where appropriate, for any particular matter to be dealt with at a higher level whilst having due regard to statutory requirements. For

example, an Officer may choose not to exercise their delegated power and refer the matter to the Sub-Committee or the Sub-Committee itself may choose to refer the matter to the Full Committee.

<b>Matter to be dealt with</b>	<b>Full Council</b>	<b>Sub-committee of Licensing Committee/Regulatory and Appeals Committee</b>	<b>Principal Licensing Officer</b>
Final approval of three year licensing statement of principles	All Cases		
Statement of principles not to permit casinos	All Cases		
Fee setting (when appropriate)	All Cases		
Application for premises licence (including applications for re-instatement under S195)		<p>Representation made and not withdrawn (S154 (4)(a))and/or</p> <p>Where the Licensing Authority considers that a condition should be added to the licence under S169(1)(a) or a default condition should be excluded under section 169(1)(b) unless the applicant and any persons making representations agree to this course of action and that a hearing is unnecessary</p>	<p>No representation made or representations have been withdrawn</p> <p>The only representations received are vexatious, frivolous, or certainly will not influence the Authority's determination of the application.</p>
Application to vary premises licence		<p>Representation made and not withdrawn (S154 (4)(b))</p> <p>and/or</p> <p>Where the Licensing Authority considers that a condition should be added to the licence under S169(1)(a) or a default condition should be excluded under</p>	<p>No representation made or representations have been withdrawn</p> <p>The only representations received are vexatious, frivolous, or certainly will not influence the Authority's</p>

		<p>section 169(1)(b) unless the applicant and any persons making representations agree to this course of action and that a hearing is unnecessary (S187(3))</p> <p>If the application for variation is to remove a default condition and there are no reps and there are no proposals by the Authority to otherwise alter the conditions this could be dealt with at officer level without a hearing</p>	determination of the application
Application for transfer of premises licence		<p>Representation made by the Commission S154 (4) (c)</p> <p>Representations made and not withdrawn under S161</p>	All other cases where no representation made by the Commission, including cases where the only representations received are vexatious, frivolous, or certainly will not influence the Authority's determination of the application
Application for a provisional statement		<p>Representation made and not withdrawn S154 (4)(d)</p> <p>and/or</p> <p>Where the Licensing Authority considers that a condition should be added to the licence under S169(1)(a) or a default condition should be excluded under section 169(1)(b)</p>	No representation made or representations have been withdrawn

Revocation of a premises licence due to non-payment of an annual fee. S193			All Cases
Review of a premises Licence		All cases go to Licensing Sub Committee S154 (4)(e)	
Application for Club Gaming/Club machine permits, renewals and variations (including those leading to cancellation of permit) under Sch12 Para 15		Objection made and not withdrawn (Sch 12 Para 28 (2))  Refusal of permit proposed on the grounds listed in Sch 12 paragraph 6(1)(a)-(d) , or paragraph 10(3) as applicable unless Authority and all relevant parties agree that a hearing is unnecessary (Sch 12 Para 7)	No objection made or objections have been withdrawn  Refusal of permit proposed on the grounds listed in Sch 12 paragraph 6(1)(a)-(d) or paragraph 10(3) as applicable, where Authority and all relevant parties agree a hearing is unnecessary (Sch 12 Para 7)
Cancellation of Club Gaming /Club Machine Permits under Schedule 12 Paragraph 21		All Cases	
Consideration of Temporary Use Notices (including notices modified under section 223)		All cases where an objection notice has been received unless each person who would be entitled to make representations agrees that a hearing is unnecessary.  All cases where a counter notice may be required (S232(3))	All other cases
Decision to give a counter notice to a temporary use notice		All Cases	
Applications for other permits registrations. and notifications		All cases where the officer serves notice of intention of refusal and representations are received or proposes to	All cases except where the officer serves notice of intention of refusal and representations are received or proposes to grant

		grant for lesser number of machines.	for lesser number of machines.
Cancellation of licensed premises gaming machine permits. Sch 13 paragraph 16		All Cases	
Cancellation of licensed premises gaming machine permits for non-payment of fee			All Cases
Cancellation of Club Gaming Permits/Club Machine Permits for non-payment of fee			All Cases
Registration of small society lotteries		Where officers believe there is a reason to refuse the application for registration	All other cases
Cancellation of a small society lottery due to non-payment of annual fee			All cases

## **APPENDIX 2**

### **BOSTON BOROUGH COUNCIL STATEMENT OF GAMBLING STATEMENT OF PRINCIPLES**

#### **GAMBLING ACT 2005**

November 2021

##### **Public Sector Consultees**

Chief Officer of Lincolnshire Police  
Police & Crime Commissioner – Lincolnshire Police  
Lincolnshire Fire and Rescue  
Boston Borough Council Development Services  
Boston Borough Council Environmental Health  
Lincolnshire Safeguarding Children Board  
Social Services  
Trading Standards  
Health & Safety Executive  
Health Protection Agency  
Gambling Commission  
HM Customs & Revenue  
LCC Highways  
Clerk to the Magistrates Court  
Lincolnshire Probation Service

##### **Parliamentary Consultees and Elected Members**

Matt Warman MP  
All Boston Borough Council Councillors  
All Parish Councillors within the Boston Borough Council area

##### **Trade Consultees**

Coral Bookmakers  
Association of British bookmakers Ltd  
British Institute of Innkeeping  
The Race Course Association  
Business in Sport & Leisure  
BACTA (British Amusement Catering Trade Association)  
British Beer & Pub Association  
BALPA (British Association of Leisure Parks, Piers & Attractions LTD)  
The Bingo Association  
Federation of Small Businesses  
British Holiday & Home Parks Association  
Lotteries Council

## **Special Interest Groups**

Mencap  
Boston with Holland NHW Association  
Help the Aged  
NSPCC HQ  
Church of England Children Society  
GamCare  
Addaction  
Alcoholics Anonymous  
Citizens Advice Bureau  
Boston Disability Forum  
Gamblers Anonymous  
Mind  
Relate  
The Samaritans  
Parentline Plus  
RNIB  
Stonewall  
Gender Trust

## **Gambling Operators**

Eastern Automatics  
Hart – Marler Leisure  
Lease Automatics  
Matins Reel Games Ltd  
Micro Automatics  
Peterborough Automatics Ltd  
Spilsby Amusement Machines  
Premier Amusements  
T&D Leisure  
Wakley Automatics Ltd  
Gamestec Leisure Limited  
Leisure Link  
Claremont Automatics Limited  
All Premises Licence Holders in the Borough

## **Other Consultees**

Poppleston Allen Solicitors  
Lincolnshire Housing Partnership  
Longhurst Group



## APPENDIX 3

### GLOSSARY OF TERMS UNDER THE GAMBLING ACT 2005

Council:	Boston Borough Council
Applications:	Applications for licences and permits as stated in the Statement of Principles
Notifications:	Notifications of temporary and occasional use notices
Act:	The Gambling Act 2005
Regulations:	Regulations made under the Gambling Act 2005
Premises:	Any place, including a vehicle, vessel or moveable structure
Premises Licence:	Issued by the Licensing Authority to authorise premises to be used for the activities as defined by Section 150 of the Gambling Act
Operator Licence:	Issued by the Gambling Commission to organisations and individuals who are providing facilities for gambling as defined by Section 65 of the Gambling Act
Personal Licence:	Issued by the Gambling Commission to certain categories of people working in the gambling industry as defined by Section 127 of the Gambling Act
Family Entertainment Centre:	The Act creates two classes of Family Entertainment Centres – Licensed: which provide category C and D gaming machines and require a premises licence Unlicensed: which provide category D gaming machines in reliance on a Gaming machine Permit
Adult Gaming Centre:	Premises which provide category B, C and D gaming machines and require an operating licence and a premises licence
Gaming Machine:	A machine which is designed or adapted for use by individuals to gamble as defined by Section 235 of the Gambling Act.
Primary Authority:	The Gambling Commission's web site contains up to date <a href="#">information about gaming machine categories, stakes and prizes</a> A Primary Authority Partnership offers businesses the opportunity to form a legally recognised partnership with one local authority (the primary authority), which then provides robust and reliable advice for other councils to take into account when considering applications, carrying out inspections or dealing with non-compliance with respect to that business.
Code of Practice:	Means any relevant code of practice under section 24 of the Gambling Act 2005.