

# DRAFT POLICY FOR COMMENT

(Proposed revisions are highlighted)

# STATEMENT OF PRINCIPLES Gambling Act 2005

All references to the Gambling Commission's Guidance for local authorities in this document, refer to the revised Guidance issued to Licensing Authorities (4<sup>th</sup> Edition), **September 2012**.

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# INDEX

<b>PART A BACKGROUND</b>		
1	The Licensing Objectives	3
2	Introduction	3 - 4
3	Declaration	4
4	Responsible Authorities	5
5	Interested Parties	5 - 6
6	Exchange of Information	6
7	Enforcement	6 - 7
8	Licensing Authority Functions	7 - 8
<b>PART B PREMISES LICENCES</b>		
1	General Principles	9 -13
2	Adult Gaming Centres	13 -14
3	Licensed Family Entertainment Centres	14 -15
4	Casinos	15
5	Bingo Premises	15 -16
6	Betting Premises	16
7	Tracks	16 - 17
8	Travelling Fairs	17 -18
9	Provisional Statements	18
10	Reviews	18

<b>PART C PERMITS/TEMPORARY AND OCCASIONAL USE NOTICES</b>		
1	Unlicensed Family Entertainment Centre Gaming Machine Permits	19
2	Alcohol Licensed Premises Gaming Machine Permits	19 - 20
3	Prize Gaming Permits	20 - 21
4	Club Gaming and Club Machine Permits	21 - 22
5	Temporary Use Notices	22
6	Occasional Use Notices	22
7	Small Society Lotteries	22 - 23
	ANNEXE 1 - Responsible Authorities Contact Details	24 - 25
	ANNEXE 2 - Principles to determine whether a person is an Interested Party	25
	ANNEXE 3 - Administration, Exercise and Delegation Functions	26 - 27
	ANNEXE 4 - Licensing Authority - Contact Information	28
	ANNEXE 5 - Policy Statement Consultees	28

### **NB: Review of Policy Statement - 2012**

This draft Statement of Principles has been revised to ensure it is consistent and up-to-date with the legislation and Gambling Commission's Guidance. There are no proposed changes to the District Council's approach to carrying out its functions under the Gambling Act 2005. References have been corrected where documents or organisations have been superseded or no longer exist, and some minor administrative changes have been necessary for clarification purposes only.

**(CMS/ET/September/November 2012)**

# PART A

## BACKGROUND

### 1 The Licensing Objectives

1.1 The Licensing Authority will have regard to the licensing objectives as set out in Section 1 of the Gambling Act 2005 (“the 2005 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 Introduction

2.1 The District of Derbyshire Dales District Council is an area of spectacular countryside approximately half of which lies within the Peak District National Park. The District is home to 70,400 people living in four main centres of population – Ashbourne, Bakewell, Matlock and Wirksworth - and 100 or so smaller towns and villages.

2.2 Some premises already licensed under the Licensing Act 2003 to sell alcohol and provide entertainment and late night refreshment, are also affected by the provisions of the Gambling Act 2005 - having Amusement with Prizes machines (AWPs). In addition these premises, the 2005 Act affects betting shops and tracks, family entertainment centres, bingo, casinos, adult gaming centres (arcades with high stake/prize machines) and travelling fairs. Also affected are operations not licensed generally for gambling purposes but could be used for certain types of gambling for limited periods – these will be covered by Temporary and Occasional Use Permits. For example, in Derbyshire Dales there is an annual point-to-point race meeting and a harness racing event.

2.3 Licensing authorities are required by the Gambling Act 2005 to publish a statement of principles which they propose to apply when exercising their functions. This statement has to be published at least every three years and can also be reviewed from “time to time” with any amended parts being re-consulted upon. The statement is then re-published. The Statement sets out the manner in which applications are considered. Each application will be considered on its individual merits.

2.4 Before determining this Statement of Principles Licensing Authorities are required to consult:

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

2.5 This Licensing Authority has consulted with:

- Derbyshire Constabulary's Chief Officer of Police
- Local Safeguarding Children Board (Derbyshire County Council Social Services)
- Persons/Bodies Representative of Trade Associations
- Persons/Bodies Representative of Residents Associations
- Derbyshire Trading Standards Service
- Members of Derbyshire Dales District Council
- Town and Parish Councils, and Parish Meetings

(For a list of bodies/organisations consulted see page 28 of Policy)

The original consultation was carried out using the HM Government Code of Practice (July 2008) as guidance. ([www.bis.gov.uk/files/file47158.pdf](http://www.bis.gov.uk/files/file47158.pdf)).

Details of comments made, and the consideration given to them by the Council is available on request from the Licensing & Administration Manager, Derbyshire Dales District Council, Town Hall, Matlock, Derbyshire, DE4 3NN.

The Policy was first approved at a meeting of the full Council on 14 December 2006, with a review in 2009 and 2012.

2.7 This Statement will not override the right of any person to make an application, make representations about an application or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

### **3 Declaration**

3.1 In producing the Statement of Principles, this 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 the Statement.

## **4 Responsible Authorities**

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

The principles are:

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

In accordance with the suggestion in the Gambling Commission's Guidance for local authorities, this authority designates the Derbyshire County Council's Local Safeguarding Children Board for this purpose.

- 4.2 The contact details of all the Responsible Authorities under the Gambling Act 2005 are detailed in Annexe 1, and are also available via the Council's website at [www.derbyshiredales.gov.uk](http://www.derbyshiredales.gov.uk)

## **5 Interested Parties**

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

"For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the 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)".

- 5.2 The licensing authority is required by the Guidance to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party.

The principles are contained in Annexe 2.

- 5.3 The Gambling Commission recommends that the licensing authority states that interested parties includes trade associations, trade unions, residents' and tenants' associations. This authority will not however generally view these bodies as interested parties unless they have a member who can be classed as an interested person under the terms of the Gambling Act 2005 – ie someone who lives sufficiently close to the premises to be likely to be affected by the activities being applied for.

- 5.4 Interested parties can be persons who are democratically elected such as councillors and Members of Parliament. No specific evidence of being asked to represent an interested person will be required as long as the councillor/MP represents the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these, however, this authority will generally require written evidence that a person/body (eg advocate/relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities, and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.
- 5.5 An individual wishing to approach councillors to ask him/her to represent his/her views should ensure that the councillor(s) is/are not part of the Licensing Sub-Committee dealing with the licence application. Information in respect of Members of the Licensing Sub-Committees is available from the Council's Democratic Services Section – 01629 761300.

## **6 Exchange of Information**

- 6.1 Licensing authorities are required to include in their Statements, the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.
- 6.2 The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information taking into account the provisions of the Data Protection Act 1998. The licensing authority will also have regard to any Guidance issued by the Gambling Commission to local authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.
- 6.3 Protocols exist for exchanging information with other statutory organisations, and information will only be shared in accordance with the protocols.

## **7 Enforcement**

- 7.1 In exercising the functions under Part 15 and section 346 of the Gambling Act 2005, respectively, this licensing authority will inspect premises and take any enforcement action in respect of offences specified in accordance with its Corporate Enforcement Policy, the Gambling Commission's Guidance, **the Regulators' Compliance Code and the principles of the Legislative and Regulatory Reform Act 2006.**
- 7.2 The main enforcement role of the licensing authority will be to ensure compliance with the premises licence and other permissions which it authorises.

### 7.3 This licensing authority's principles are that:

It will be guided by the Gambling Commission's Guidance to licensing authorities and will endeavour to be:

- Proportionate: regulators should only intervene when necessary; remedies should be appropriate to the risk posed, and costs identified and minimised;
- Accountable: regulators must be able to justify decisions and be subject to public scrutiny;
- Consistent: rules and standards must be joined up and implemented fairly;
- Transparent: regulators should be open, and keep regulations simple and user friendly; and
- Targeted: regulation should be focused on the problem, and minimise side effects.

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

7.4 The Gambling Commission is the enforcement body for the operating and personal licences. Concerns about manufacture, supply or repair of gaming machines are not be dealt with by the licensing authority but should be notified to the Gambling Commission.

## 8 Licensing Authority Functions

8.1 The 2005 Act requires this licensing authority to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences.
- Issue Provisional Statements.
- Regulate Members' Clubs and Miners' Welfare Institutes (if applicable) that wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits.
- Issue Club Machine Permits to Commercial Clubs.
- Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres.
- Receive notifications from alcohol-licensed premises, under the Licensing Act 2003, for the use of two or fewer gaming machines.
- Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines.
- Register small society lotteries below prescribed thresholds.
- Issue Prize Gaming Permits.



- Receive and Endorse Temporary Use Notices.
- Receive Occasional Use Notices.
- Provide information to the Gambling Commission regarding details of licenses issued.
- Maintain registers of the permits and licences that are issued under these functions.

8.2 Licensing authorities are not involved in licensing remote gambling. This regulatory responsibility lies with the Gambling Commission via operating licences.

# 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 also attach others, where it is believed to be appropriate.
- 1.2 This licensing authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it 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 Principles.

The Gambling Commission has advised that “moral objections to gambling are not a valid reason to reject applications for premises licences”, and that unmet demand is not a criterion for a licensing authority.

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

The Gambling Commission states in **the fourth edition** of its Guidance to Licensing Authorities that:

“In most cases the expectation is that a single building /plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and the ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as separate premises will depend on circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes, or moveable partitions, can properly be regarded as different premises”.

- 1.4 This licensing authority takes particular note of the Gambling Commission's Guidance for local authorities in respect of access to gambling by children and young people, which states that,

"Licensing authorities should pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). Clearly, there will be specific issues that authorities should consider before granting such applications, for example whether children can gain access; compatibility of the two establishments; and ability to comply with the requirements of the Act. But in addition, an overriding consideration should be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act", and

"Licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling purposes). In particular they should be aware that entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area". In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.

The Guidance also gives a list of factors which the licensing authority should be aware of, which may include:

- Do the premises have separate registrations for business rates?
- Is the premises' neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?

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

- 1.5 An applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling is constructed. A licence will only be issued in relation to premises that are ready to be used for gambling. This requirement for a building to be complete, before a licence will be issued ensures that it can be fully inspected if necessary, by the appropriate authorities with inspection rights.
- 1.6 **Location** - This licensing authority is aware that demand issues cannot be considered with regard to the location of premises, but that considerations in terms of the licensing objectives can be. This licensing authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this Statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its own merits, with the onus being placed on the applicant to show how potential concerns can be overcome.

- 1.7 **Duplication with other regulatory regimes** - This licensing authority will seek to avoid any duplication with other statutory/regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. However, it will listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.
- 1.8 **Licensing Objectives** - Premises licences granted must be reasonably consistent with the licensing objectives:
- **preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;**
- 1.8.1 This licensing authority is aware that the Gambling Commission will be taking a leading role in preventing gambling being a source of crime. Where an area has known high levels of crime this authority will consider 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 the extent to which the behaviour was threatening, so as to make that distinction. Issues of nuisance cannot be addressed by the Gambling Act provisions.
- **Ensuring that gambling is conducted in a fair and open way;**
- 1.8.2 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. (Tracks are dealt with differently – see pages 16/17).
- **Protecting children and other vulnerable persons from being harmed or exploited by gambling.**
- 1.8.3 This licensing authority acknowledges the Commission’s Guidance, that this objective means preventing children from taking part in gambling as well as restriction of advertising so that gambling products are not aimed at, or are, particularly attractive to children.
- 1.8.4 Consideration will be given as to whether specific measures should be required at particular premises – these could include, supervision of entrances, machines, segregation of areas etc.
- 1.8.5 In the absence of a practical definition of ‘vulnerable persons’ the licensing authority acknowledges that for regulatory purposes the Commission assumes, “...that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.”

- 1.8.6 The licensing authority will consider this licensing objective on a case-by-case basis.
- 1.8.7 The licensing authority will pay particular attention to any Codes of Practice which the Gambling Commission issues as regards the licensing objective, protecting children and other vulnerable persons from being harmed or exploited by gambling, in relation to specific premises such as casinos.

It is understood that a Code for casinos must:

- specify steps that the premises licence holder must take to ensure that children and young persons (that is those under the age of 18) do not enter casino premises, or in the case of the regional casino, do not enter the gambling area;
- amongst those specified steps, ensure that each entrance to the casino or gambling area is supervised by at least one person ("the supervisor") who is responsible for compliance with the code of practice; and
- require that, unless the supervisor is certain that a person seeking admittance is an adult, evidence of age must be required of all those seeking to enter the casino or gambling area.

- 1.9 **Conditions** – This licensing authority will only attach conditions to a licence that are proportionate and:

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

- 1.10 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This licensing authority will also expect the licence applicant to offer his/her own suggestions as to the way in which the licensing objectives can be met effectively.

- 1.11 The 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.

- 1.12 This licensing authority will ensure that where category C or above machines are on offer in premises to which children are admitted:

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and

- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

These considerations will apply to premises including buildings where multiple premises licences are applicable.

1.13 This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided that each licence relates to a specified area of the track. This licensing authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

1.14 There are conditions which the licensing authority cannot attach to premises licences.

These are:

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

1.15 **Door Supervisors** - The Gambling Commission advises in its Guidance that licensing authorities may consider whether there is a need for door supervisors to protect children and vulnerable persons from being harmed or exploited by gambling and also to prevent premises becoming a source of crime. It is noted though that door supervisors at casinos or bingo premises cannot be licensed by the Security Industry Authority (SIA). Where it is determined that door supervisors are required, the licensing authority will consult with the Police.

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

## **2 Adult Gaming Centres**

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

2.2 Appropriate licence conditions may cover issues such as:

- Proof of Age Schemes
- CCTV

- Supervision of Entrances/Machine Areas
- Physical Separation of Areas
- Location of Entry
- Notices/Signage
- Specific Opening Hours
- Self-barring schemes
- Provision of information leaflets/helpline numbers for organisations such as GamCare.

2.3 This licensing authority notes that the holder of an Adult Gaming Centre premises licence may make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises. Premises in existence before 13 July 2011 are entitled to make available eight category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. A licence variation may be required if operators wishing to take advantage of this change in the legislation need to make alterations to the structure/layout of the premises.

2.4 The holder of an Adult Gaming Centre premises licence granted on or after 13 July 2011, but before 1 April 2014, is entitled to make available a maximum of eight category B gaming machines or 20% of the total number of gaming machines, whichever is the greater; however, from 1 April 2014 these premises will be entitled to 20% of the total number of gaming machines only.

### **3 (Licensed) Family Entertainment Centres**

3.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

3.2 This licensing authority will expect applicants to offer their own measures to meet this licensing objective; appropriate licence conditions may cover issues such as:

- CCTV
- Supervision of Entrances/Machine Areas
- Physical Separation of Areas
- Location of Entry
- Notices/Signage
- Specific Opening Hours
- Self-barring schemes
- Provision of information leaflets/helpline numbers for organisations such as GamCare
- Measures/training for staff on how to deal with suspected truant school children on the premises.

This list is not mandatory or exhaustive – it is merely indicative of example measures.

- 3.3 This licensing authority will, as per the Gambling Commission's Guidance, refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences when they have been published.

## 4 Casinos

- 4.1 This licensing authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should this licensing authority decide in the future to pass such a resolution, it will update this Statement with details of that resolution. Any such decision would need to be made by the full Council.

## 5 Bingo Premises

- 5.1 This licensing authority notes that the Gambling Commission Guidance states in paragraph 18.4, that:

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

- 5.2 and in paragraph 18.6, that:

"Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed."

- 5.3 This licensing authority also notes that the holder of a bingo premises licence may make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises. Premises in existence before 13 July 2011 are entitled to make available eight category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. A licence variation may be required if operators wishing to take advantage of this change to the legislation need to make alterations to the structure/layout of the premises.

- 5.4 The holder of a bingo premises licence granted on or after 13 July 2011, but before 1 April 2014, is entitled to make available a maximum of eight category B gaming machines or 20% of the total number of gaming machines, whichever is the greater; however, from 1 April 2014 these premises will be entitled to 20% of the total number of gaming machines only. Regulations state that category B machines at bingo premises should be restricted to sub-category B3 and B4 machines, but not B3A lottery machines.



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

## **6 Betting Premises**

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

## **7 Tracks**

- 7.1 This licensing authority is aware that tracks may be subject to one, or more than one, premises licence, provided each relates to a specified area of the track.
- 7.2 Consideration will be given to the third licensing objective; in particular, the need to ensure that entrances to each type of premises are distinct and children are excluded from gambling areas where they are not permitted to enter.
- 7.3 This licensing authority will therefore expect premises licence applicants to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, although they are still prevented from entering areas where gaming machines (other than category D machines) are provided.
- 7.4 This licensing authority will expect applicants to offer their own measures to meet the licensing objectives, however, appropriate measures/licence conditions may cover issues such as:
- Proof of Age Schemes
  - CCTV
  - Supervision of Entrances/Machine Areas
  - Physical Separation of Areas
  - Location of Entry
  - Notices/Signage
  - Specific Opening Hours
  - Self-barring schemes
  - Provision of information leaflets/helpline numbers for organisations such as GamCare

This list is not mandatory or exhaustive - it is merely indicative of example measures.

- 7.5 This licensing authority will have regard to further guidance from the Gambling Commission in respect of where gaming machines may be located on tracks and any special considerations that should apply in relation, for example, to supervision of the machines and preventing children from playing with them.
- 7.6 Gaming Machines - Consideration will be given to the location of gaming machines at tracks, and applications for track premises licences will need to demonstrate that where the applicant holds a pool betting operating licence and is going to use his entitlement to four gaming machines, (other than category D machines) these machines are located in areas from which children are excluded.
- 7.7 Betting Machines - This licensing authority will 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.
- 7.8 This licensing authority notes the suggestion in the Guidance that it may wish to restrict the number and location of such machines in respect of applications for track betting premises licences.
- 7.9 This licensing authority will attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office.
- 7.10 This licensing authority will require detailed plans for the race-track and the area that will be used for the temporary “on-course” betting facilities (often known as the “betting ring”) and in the case of dog tracks and horse racecourses, fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities. Plans should make clear what is being sought for authorisation under the track betting premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence.
- 7.11 This licensing authority would prefer that all self-contained premises operated by off-course betting operators on track be the subject of separate premises licences. This would ensure that there was clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

## **8 Travelling Fairs**

- 8.1 It will fall to this licensing authority to decide whether, where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 8.2 The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

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

## **9 Provisional Statements**

9.1 An application for a provisional statement shall include such plans and other information in relation to the construction, alteration or acquisition as prescribed in regulations.

9.2 In terms of representations about premises licence applications, following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances. In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

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

9.3 This licensing authority will not take into account irrelevant matters; one example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal.

## **10 Reviews**

10.1 A review of a premises licence may be made by interested parties or responsible authorities. However, the licensing authority will decide whether the review is to be carried out.

This licensing authority will consider if 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;
- in accordance with the authority's Statement of Licensing Policy; and
- whether the request for a review is frivolous or vexatious.

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

# PART C

## **PERMITS/TEMPORARY AND OCCASIONAL USE NOTICES**

### **1 Unlicensed Family Entertainment Centre Gaming Machine Permits (Statement of Principles on Permits - Schedule 10 Paragraph 7)**

- 1.1 Where premises do not have a premises licence but wish to provide gaming machines, an applicant may apply to the licensing authority for this permit. The applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.
- 1.2 A permit may be granted only if this licensing authority is satisfied that the premises will be used as an unlicensed Family Entertainment Centre (FEC), and if the Chief Officer of Police has been consulted on the application. Some considerations to take into account would be the applicant's suitability to operate a family entertainment centre, the suitability of the location of the premises, and any issues about disorder.
- 1.3 This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children and other vulnerable persons 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 be considered on their merits.
- 1.4 Applicants will have to demonstrate that they and their staff have a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs.
- 1.5 Applicants should have no relevant convictions, as set out in schedule 7 of the Act.
- 1.6 The Licensing Authority cannot attach conditions to this type of permit.
- 1.7 With regard to renewals of these permits, a licensing authority may refuse an application for renewal of a permit only on the grounds that an authorised local authority officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with pursuit of the licensing objectives.

### **2 Alcohol Licensed Premises Gaming Machine Permits (Schedule 13 Paragraph 4(1))**

- 2.1 Premises licensed to sell alcohol for consumption on the premises can automatically have two gaming machines, of categories C and/or D. The proprietor of the premises must give notification to the licensing authority.

- 2.2 The licensing authority may 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; or
  - an offence under the Gambling Act has been committed on the premises.
- 2.3 If a proprietor of a premises wishes to have more than two machines, he/she must apply for a permit and the licensing authority must consider the application based on the licensing objectives and any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005.
- 2.4 This licensing authority will also consider the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines.
- 2.5 Measures that can be may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage should be considered. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.
- 2.6 It is recognised that some local licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would need to be applied for and dealt with as an Adult Gaming Centre premises licence.
- 2.7 It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than applied for.
- 2.8 The holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machines.

### **3 Prize Gaming Permits (Statement of Principles on Permits - Schedule 14 Paragraph 8 (3))**

- 3.1 The licensing authority has not prepared a Statement of Principles on Permits. Should it decide to do so it will include details in a revised version of this Statement of Principles.
- 3.2 In making its decision on an application for a permit the licensing authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission Guidance.

3.3 In the Gambling Act 2005 there are conditions the permit holder must comply with but that the licensing authority cannot attach as conditions.

The conditions in the Act are:

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

## **4 Club Gaming and Club Machine Permits**

4.1 Members' Clubs and Miners' Welfare Institutes (but not commercial clubs) may apply for a Club Gaming Permit or a Club Gaming Machine Permit. The Club Gaming Permit will enable the premises to provide gaming machines (a maximum of three machines of categories B, C or D), equal chance gaming and games of chance. A Club Gaming Machine Permit will enable the premises to provide gaming machines (a maximum of three machines of categories B, C or D).

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

4.3 Licensing authorities may only refuse an application on the grounds that:

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

- 4.4 There is a 'fast-track' procedure available for premises which hold a Club Premises Certificate under the Licensing Act 2003. Under the fast-track procedure there is no opportunity for objections to be made by the Gambling Commission or the Police, and the grounds upon which a licensing authority can refuse a permit are reduced.

The grounds on which an application under the process may be refused are:

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

## **5 Temporary Use Notices**

- 5.1 The licensing authority will decide what constitutes a 'set of premises' where Temporary Use Notices are received relating to the same building/site.
- 5.2 This is a new permission and this licensing authority will object to notices if it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.

## **6 Occasional Use Notices**

- 6.1 The licensing authority has limited discretion regarding these notices, other than ensuring that the statutory limit of eight days in a calendar year is not exceeded. The licensing authority will determine the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

## **7 Small Society Lotteries**

- 7.1 This licensing authority will adopt a risk-based approach towards its enforcement responsibilities for small society lotteries. This authority considers that the following list, although not exhaustive, could affect the risk status of the operator:

- submission of late returns (returns must be submitted no later than 3 months after the date on which the lottery draw was held)
- submission of incomplete or incorrect returns
- breaches of limits for small society lotteries

- 7.2 Non-commercial gaming is permitted if it takes place at a non-commercial event, either as an incidental or principal activity at the event. Events are non-commercial if no part of the proceeds is for private profit or gain. The proceeds of such events may benefit one of more individuals if the activity is organised:

- by, or on behalf of, a charity or for charitable purposes
- to enable participation in, or support of, sporting, athletic or cultural activities.

If charities or community groups need further advice, the Council's Licensing Team can help – 01629 761313.



## **RESPONSIBLE AUTHORITIES – CONTACT DETAILS**

Section 157 of the Gambling Act 2005 identifies the bodies that are to be treated as responsible authorities. They are:

- (a) a licensing authority in England and Wales in whose area the premises is wholly/partly situated.

**Derbyshire Dales District Council, Licensing & Administration Manager, Community Services, Town Hall, Matlock, Derbyshire, DE4 3NN**

- (b) the Gambling Commission; Victoria Square House, Victoria Square, Birmingham, B2 4BP

- (c) the chief officer of police/chief constable for the area in which the premises is wholly/partially situated;

**Derbyshire Constabulary, B Division, Silverlands, Buxton, Derbyshire, SK17 6QJ**

- (d) the fire and rescue service for the same area;

**Derbyshire Fire and Rescue Service, Area Office, Staden Lane, Buxton, Derbyshire, SK17 9RZ**

- (e) the local planning authority;

**Derbyshire Dales District Council, Head of Planning and Housing Services, Town Hall, Matlock, Derbyshire, DE4 3NN**

Or if premises situated in the Peak District National Park:

**Development Control, Peak District National Park, Aldern House, Baslow Road, Bakewell, Derbyshire, DE45 1AE**

- (f) an authority which has functions in relation to pollution to the environment or harm to human health;

**Derbyshire Dales District Council, Head of Environmental Health, Community Services, Town Hall, Matlock, Derbyshire, DE4 3NN.**

Or if premises enforced by Health & Safety Executive:

**Health & Safety Executive, Band 5 Admin Leader, 1st Floor, The Pearson Building, 55 Upper Parliament Street, Nottingham, NG1 6AU**

- (g) anybody designated in writing by the licensing authority as competent to advise about the protection of children from harm;

**Safeguarding Children Board, Safeguarding and Specialist Services,  
Derbyshire County Council, County Hall, Matlock, Derbyshire, DE4 3AG**

- (h) HM Revenue & Customs (Notts & Derbyshire):

**Howard House, Castle Meadow Road, Nottingham, NG2 1AB**

and

- (i) any other person prescribed in regulations by Secretary of State.

## **Annexe 2**

### **PRINCIPLES TO DETERMINE WHETHER A PERSON IS AN INTERESTED PARTY**

#### **2.1 Sufficiently close to the premises**

When determining what “sufficiently close to the premises” means (in each case), this licensing authority will consider:

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

#### **2.2 Persons with business interests that could be affected**

When determining what “a person with business interests that might be affected by the premises” means (in each case), this licensing authority will consider:

- the size of the premises;
- the ‘catchment’ area of the premise (ie how far people travel to visit); and
- whether the person making the representation has business interests in that ‘catchment’ area, that might be affected.

## ADMINISTRATION, EXERCISE AND DELEGATION OF FUNCTIONS

The Powers and duties of the Council in respect of licensing may be carried out by the Licensing Committee, by a Sub-Committee or by officers acting under delegated authority. In the interests of efficiency and cost effectiveness the Council will delegate routine matters to officer level.

<b>Matter to be dealt with</b>	<b>Full Council</b>	<b>Sub-Committee of Licensing Committee</b>	<b>Officer</b>
Final approval of 3 year Statement of Principles.	<b>X</b>		
Policy not to permit Casinos.	<b>X</b>		
Fee setting when appropriate.		<b>X</b>	Officers/Policy Committee
Applications for Premises Licences		Where representations have been received and <b>not</b> withdrawn.	Where no representations received / representations have been withdrawn.
Application for a variation to a licence.		Where representations have been received and <b>not</b> withdrawn.	Where no representations received / representations have been withdrawn.
Application for a transfer of a licence.		Where representations have been received from the Commission.	Where no representations have been received from the Commission.
Application for a provisional statement.		Where representations have been received and <b>not</b> withdrawn.	Where no representations received / representations have been withdrawn.
Initiate a Review of a premises licence.			<b>X</b>
Application for club gaming/club machine permits.		Where objections have been made and <b>not</b> withdrawn.	Where no objections have been made/ objections have been withdrawn.

<b>Matter to be dealt with</b>	<b>Full Council</b>	<b>Sub-Committee of Licensing Committee</b>	<b>Officer</b>
Cancellation of club gaming/club machine permits		X	
Application for other permits.			X
Cancellation of licensed premises gaming machine permits.			X
Consideration of temporary use notice.			X
Decision to give a counter notice to a temporary use notice			X
Decision on whether a representation is irrelevant, or falls within the categories defined within section 198 of the Act (frivolous, vexatious etc)			X
To determine whether the Licensing Authority should make a representation, and the content of it.			X
Small Society Lotteries		Where refusal or revocation recommended.	Authority to grant or cancel small society registrations.

## CONTACT INFORMATION

If you have any queries regarding any licensing matter contact:

Licensing Section  
Community Services Department  
Derbyshire Dales District Council  
Town Hall  
Matlock  
Derbyshire DE4 3NN

Tel: 01629 761313  
Fax: 01629 761165  
e-mail: [licensing@derbyshiredales.gov.uk](mailto:licensing@derbyshiredales.gov.uk)  
Website: [www.derbyshiredales.gov.uk](http://www.derbyshiredales.gov.uk)

## LIST OF CONSULTEES

- Gambling Commission;
- H M Customs and Excise;
- Responsible Authorities listed in Annexe 1 of this Policy;
- Neighbouring Licensing Authorities;
- **Persons/Bodies Representative of Trade Association;**

British Horse Racing Board, British Beer and Pub Association, British Amusement Catering Trades Association, The Bingo Association, British Holiday and Home Parks, Business in Sport & Leisure, Casino Operator's Association (UK), Racecourse Association Ltd, North Derbyshire Chamber of Commerce and Industry; all businesses currently licensed under the Gambling Act 2005 (eg betting shops, amusement arcades (and Head offices such as Ladbrokes, William Hill etc); pubs and clubs licensed to sell alcohol under the Licensing Act 2003 with amusement with prizes machines etc;

- **Persons/Bodies representing the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005;**

Gambler's Anonymous, Remote Gambling Association, Citizen's Advice Bureau, Derbyshire Primary Care Trust, Town/Parish Councils, and Parish Meetings, and Derbyshire Rural Community Council.