



## **GAMBLING ACT 2005**

# **STATEMENT OF PRINCIPLES**

**18 Jan 2016 – 17 Jan 2019**

## Contents

<b>Description</b>	<b>Page</b>
Foreword	3
1. Introduction and Consultation	4
2. Strategic context	4
3. Legal context	5
4. Local context	6
5. Gambling Commission	7
6. Authorised activities	7
7. General statement of principles	8
8. Preventing gambling from being a source of crime or disorder	9
9. Ensuring gambling is conducted in a fair and open way	9
10. Protecting children and other vulnerable people from gambling	10
11. Meeting the licensing objectives	11
12. Premises licences	11
13. Responsible authorities	12
14. Interested parties	14
15. Conditions of licence	15
16. Casinos	16
17. Bingo	16
18. Betting	16
19. Tracks	17
20. Travelling fairs	17
21. Provisional statements	18
22. Lotteries	19
23. Temporary use	20
24. Occasional use	20
25. Gaming and gaming machine permits – introduction	20
26. General principles	22
27. Family Entertainment Centre Gaming Machine Permits	24
28. Prize gaming permits	25
29. Licensed premises gaming machine permits	26
30. Clubs – gaming and gaming machine permits	28
31. Exchange of information	29
32. Public register	29
33. Enforcement	29
34. Exercise of functions	30
35. Reviews	31
36. Appeals	33
37. Complaints about premises / activities	33
38. Fees	34
39. Contact details	34

## **Foreword by Councillor John McElroy**

The Gambling Act came into force in 2007 and put in place a comprehensive and cohesive regulatory regime based on three fundamental objectives –

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

In that time there has been a significant change in how gambling is carried on in the Borough. Gambling has for many years formed part of the entertainment culture, but it is important that we understand the harm that can be caused by irresponsible and problem gambling.

There is increasing awareness and concern about the availability of gambling opportunities where people to bet large amounts of money very quickly; and that doing so can lead to financial and other problems if it gets out of hand.

It is important also that we recognise that the vast majority of licensees operating in the Borough do so responsibly and with appropriate sensitivity to the needs of the communities in which they operate.

It is incumbent on all those involved in the gambling industry to be mindful of the needs of the most vulnerable members of our society, and Gateshead Council has an important role to play through the licensing regime in helping to safeguard them.

## **1 Introduction and Consultation**

- 1.1 Gateshead is a constantly changing borough, combining an exciting future with a fascinating heritage. It is, always has been, and probably always will be, an area of contrasts. Half of the borough is rural in comparison with a large urban centre with significant business and residential areas. It includes areas of attractive countryside, areas with a legacy from our industrial past and regeneration and cultural initiatives that have captured the nation's attention. A local economy that was once heavily reliant on industry is now becoming more and more diverse whilst entrepreneurship within the borough is on the increase.
- 1.2 In preparing this statement the Council consulted with and considered the views of a wide range of people and organisations.
- 1.3 The licensing authority has had regard to the licensing objectives of the Gambling Act 2005, the Guidance to Licensing Authorities (4<sup>th</sup> edition)

issued by the Gambling Commission and the responses from those consulted on the statement.

- 1.4 A full list of comments made in response to the consultation and the consideration by the Council of those comments is available on request to the Environmental Health, Licensing and Enforcement Manager whose details are listed below and also via the Council's website at [www.gateshead.gov.uk](http://www.gateshead.gov.uk)
- 1.5 The policy was approved at a meeting of the Full Council on *[to be inserted]*.

## **2. Strategic Context**

- 2.1 The Council's overall vision for Gateshead, as described in Gateshead's Sustainable Community Strategy (the refreshed Vision 2030) is:

*“Local people realising their full potential, enjoying the best quality of life in a healthy, equal, safe, prosperous and sustainable Gateshead”*

- 2.2 The Council's Corporate Plan is the Council's statement of priorities and action to achieve Vision 2030. The licensing of gambling activities plays an important role in realising this vision.

## **3 Legal Context**

- 3.1 This Statement of Principles is intended to meet the Council's obligations under Section 349 of the Gambling Act 2005 (referred to in this Statement as “the Act”).
- 3.2 Except for those matters specified in the Act which require the decision of the full Council, the functions of the Licensing Authority under the Gambling Act will be delegated to the Licensing Committee which may delegate some or all of its functions to sub committees and officers.
- 3.3 In carrying out its licensing functions under the Act, particularly with regard to premises licences, the Licensing Authority will aim to permit the use of premises for gambling as long as it is considered to be:
  - in accordance with any relevant Codes of Practice issued by the Gambling Commission
  - in accordance with any relevant Guidance issued by the Gambling Commission
  - reasonably consistent with the licensing objectives, interpreted in accordance with the Codes of Practice and Guidance and,

- in accordance with this Statement of Principles in so far as it is consistent with the Codes of Practice, the Guidance and the licensing objectives
- 3.4 There are 3 licensing objectives which are central to the regulatory regime created by the Act. These 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*
- 3.5 The Act provides for 3 categories of licence:
- operating licences
  - personal licences
  - premises licences
- 3.6 The Licensing Authority is responsible for issuing premises licences. The Gambling Commission is responsible for issuing operating and personal licences.

#### **4 Local Context**

- 4.1 Different localities within the Borough have different characters, and challenges, both of which can change over time depending on a range of factors. To assist applicants and licensees in their understanding of local issues that they should be cognisant of, from time to time the Council publishes and updates 'Local Licensing Guidance' documents on its website.
- 4.2 Gateshead Council acknowledges the need for ongoing engagement with other prescribed statutory bodies and will seek to draw upon the expertise and knowledge of all those who can contribute to the development of the local area profile set out in the Local Licensing Guidance.
- 4.3 Local Licensing Guidance provides information about the causes of serious and chronic concern in these localities. The areas covered by the guidance can vary depending on the nature of the problems that are identified, so may relate to the whole of a particular Ward or for instance to street level. The guidance can include a wide range of information that is considered to be relevant to those who seek to carry on licensable activities within the area, for instance –
- The physical environment (including transport, school walking routes, blocks of flats, commercial / residential proximity, etc)

- Existing licensed premises
  - Health data (such as hospital admissions for under-18s, ambulance calls for alcohol related reasons)
  - Crime and/or disorder hotspots
  - Known areas of congregation
  - Local initiatives
  - Local concerns about the promotion of the licensing objectives (including from Ward Members, community leaders, GPs, schools, etc)
- 4.4 The Local Licensing Guidance will be presented to and approved by the Council's full Licensing Committee from time to time.
- 4.5 It is recommended that applicants and licensees have regard to these documents when considering their activities and any appropriate control measures.

#### Local Risk Assessments

- 4.6 From 6 April 2016, it is a requirement under section 10 of the Licence Conditions and Codes of Practice (LCCP) that licensees must assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in this policy. The LCCP also states that licensees must review (and update as necessary) their local risk assessments –
- To take account of significant changes in local circumstances, including those identified in this policy
  - When there are significant changes at a licensee's premises that may affect their mitigation of local risks
  - When applying for a variation of a premises licence; and
  - In any case, undertake a local risk assessment when applying for a new premises licence.
- 4.7 The licensing authority will expect the local risk assessment to consider as a minimum –
- Whether the premises is in an area with high levels of crime and/or disorder

- Whether the premises is in an area of high deprivation
- The demographics of the area in respect of vulnerable groups of people including those with gambling dependencies

4.8 The risk assessment may also include:

- Location of services and amenities for children in the area such as schools, playgrounds, leisure facilities and other areas where children may gather
- Procedures in place to ensure staff are adequately trained in how to monitor and deal with customers suspected of excessive gambling (including brief intervention training for staff), vulnerable persons or children and also details and regularity of training given
- Details of supervisory and management procedures in place including number of staff available and their designated duties and responsibilities
- Details of any consideration given to the need for CCTV in the premises and if installed how the system will be operated and monitored and what coverage it is designed to give in the premises
- Details of the signage and documents relating to games rules, gambling care providers and other relevant information including a consideration of whether information needs to be provided in another language that may be prevalent in the locality.

4.9 Such information may be used to inform the decision the Authority makes about whether to grant a licence, to grant a licence with added conditions, or to refuse the application.

4.10 It is expected that the risk assessment will be made available to officers upon inspection of the premises.

#### Gateshead Community Safety Board

4.11 Gateshead has a Community Safety Board where partners work together to tackle issues associated with crime and disorder, devising local approaches to deal with these local issues, including in respect of gambling. Licensees are expected to have regard to any such initiatives from time to time.

## **5 The Gambling Commission**

- 5.1 The Gambling Commission regulates gambling in the public interest. It does so by keeping crime out of gambling; by ensuring that gambling is conducted fairly and openly; and by protecting children and vulnerable people.
- 5.2 The Commission provides independent advice to the government about the manner in which gambling is carried out, the effects of gambling, and the regulation of gambling generally.
- 5.3 The Commission has issued Guidance under Section 25 regarding the manner in which local authorities exercise their licensing functions under the Act and, in particular, the principles to be applied by local authorities.
- 5.4 The Commission also issues codes of practice under Section 24 of the Act about the manner in which facilities for gambling are provided.
- 5.5 The Gambling Commission can be contacted at:  
[www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

## **6 Authorised Activities**

- 6.1 'Gambling' is defined in the Act as either gaming, betting, or taking part in a lottery.
- 6.2 'Gaming' means playing a game of chance for a prize
- 6.3 'Betting' means making or accepting a bet on the outcome of a race, competition, or any other event ; the likelihood of anything occurring or not occurring; or whether anything is true or not
- 6.4 a 'lottery' is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance
- 6.5 The Licensing Authority is responsible for:
  - issuing of premises licences where gambling activities are to take place by issuing Premises licences;
  - issuing Provisional Statements;
  - regulating members' clubs and miners' welfare institutes who wish to undertake certain gaming activities by issuing Club Gaming Permits and/or Club Machine Permits;
  - issuing Club Machine Permits to Commercial Clubs;
  - granting permits for the use of specific lower stake gaming machines at unlicensed Family Entertainment Centres;
  - receiving notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines; issuing 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;

- registering small society lotteries below prescribed thresholds;
- issuing Prize Gaming Permits;
- receiving and endorsing Temporary Use Notices;
- receiving Occasional Use Notices;
- providing information to the Gambling Commission regarding details of licenses issued; and
- maintaining registers of the permits and licences that are issued under these functions.

Spread betting is regulated by The Financial Services Authority, the National Lottery is regulated by The National Lottery Commission and Remote Gambling is dealt with by the Gambling Commission.

## **7 General Statement of Principles**

7.1 This statement of principles provides information and guidance to applicants, responsible authorities and interested parties on the overall approach that Gateshead Council will take to applications, compliance and enforcement under the Gambling Act 2005.

7.2 The Licensing Authority will not seek to use the Act to resolve matters more readily dealt with under other legislation. To ensure the licensing objectives are met the Licensing Authority will establish a close working relationship with the Police and other responsible authorities and the Gambling Commission and make every effort to work in co-operation and partnership with local businesses and residents.

7.3 Nothing in this Statement of Principles will undermine the right of any person to apply under the Act for a permission and have the application considered in its own merits, or, override the right of any person to make representations on any application or seek a review of a licence or permit where they are permitted to do so under the Act.

7.4 The starting point in determining applications will be to grant the application with only mandatory and default conditions so long as this can be achieved in a manner which 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
- consistent with the licensing objectives
- in accordance with this Statement of Principles

and that additional conditions will only be imposed where it is considered that the mandatory and default conditions need to be supplemented in order to uphold the licensing objectives.

- 7.5 Moral objections to gambling are not a valid reason to reject applications for premises licences.
- 7.6 The overriding principle is that all applications and the circumstances prevailing at each premises will be considered on its own individual merits. The licensing authority will consider in the light of relevant representations whether exceptions should be made in any particular case.
- 7.7 This statement of principles is shaped by the local circumstances and the local risks present in Gateshead. It will remain responsive to emerging risks and may be reviewed at any time but at least every three years.
- 7.8 This statement places an expectation on operators to understand the local environment in Gateshead and reflect that awareness in their procedures and policies so that they can mitigate any local risks which may undermine the licensing objectives.
- 7.9 In all cases, it is expected that licensees will ensure that there are adequate numbers of staff at premises to uphold licensing objectives. It is also expected that all licensees will have adequate means for keeping records of incidents that may undermine the licensing objectives; and that any such incidents will be reported to the relevant authority.
- 7.10 Licensees are expected to have a full understanding the principles of mental capacity set out in the Mental Capacity Act 2005, and to act according to those principles.

## **8 Licensing Objective: Preventing gambling from being a source of crime or disorder**

- 8.1 The Gambling Commission plays a leading role in preventing gambling from being a source of crime and maintains rigorous licensing procedures that aim to prevent criminals from providing facilities for gambling.
- 8.2 Anyone applying to the Licensing Authority for a premises licence will have to hold an operating licence from the Commission before a licence can be issued. Therefore, the Licensing Authority will not generally be concerned with the suitability of an applicant and where concerns about a person's suitability arise the Licensing Authority will bring those concerns to the attention of the Commission.

- 8.3 If an application for a licence or permit is received in relation to premises which are in an area noted for particular problems with crime, the Licensing Authority will, in consultation with the police and other relevant authorities, consider whether specific controls need to be applied to prevent those premises from being a source of crime. If representations are made or the Authority considers it necessary to impose or exclude a condition on the licence then a hearing will be held and specific conditions may then be imposed. This could include, but is not limited to, a requirement for door supervisors.
- 8.4 As far as disorder is concerned, it should be noted that nuisance is not a relevant consideration. There are already powers in existing anti-social behaviour and licensing legislation to deal with measures designed to prevent nuisance, whether it arises as a result of noise from a building or from general disturbance once people have left a building. The Licensing Authority does not therefore intend to use the Act to deal with general nuisance issues, for example, parking problems, which can be dealt by other means.
- 8.5 Issues of disorder should only be dealt with under the Act if the disorder amounts to activity which is more serious and disruptive than mere nuisance, and it can be shown that gambling is the source of that disorder. A disturbance might be serious enough to constitute disorder if police assistance was required to deal with it. Another factor which could be taken into account is how threatening the behaviour was to those who could see or hear it, and whether those people live sufficiently close to be affected or have business interests that might be affected.
- 8.6 When making decisions in this regard the Licensing Authority will give particular weight to any representations made by the police.

## **9 Licensing Objective: Ensuring gambling is conducted in a fair and open way**

- 9.1 The Gambling Commission does not expect local authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will either be a matter for the management of the gambling business or will relate to the suitability and actions of an individual. Both issues will be addressed by the Commission through the operating and personal licensing regime.
- 9.2 Because betting track operators do not need an operating licence from the Commission the Licensing Authority may, in certain circumstances require conditions of licence relating to the suitability of the environment in which betting takes place.

**10 Licensing Objective: Protecting children and other vulnerable people from being harmed or exploited by gambling**

- 10.1 The intention of the Act is that children and young persons generally should not be allowed to gamble and should therefore be prevented from entering gambling premises which are 'adult-only' environments.
- 10.2 In practice, where either a representation has been made, or the Licensing Authority has decided to make a representation because it wishes to see such restrictions imposed, or is minded to impose or exclude a condition, steps will be taken to prevent children from taking part in, or being in close proximity to, gambling, especially with regard to premises situated in areas where there may be a high rate of reported truancy.
- 10.3 There may also be restrictions so that gambling products are not aimed at children or displayed in such a way that makes them particularly attractive to children.
- 10.4 When considering whether to grant a premises licence or permit following the receipt of a representation, the Licensing Authority will consider whether any measures are necessary to protect children or vulnerable people, such as the supervision of entrances, the segregation of gambling from areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises, such as pubs, clubs, betting tracks etc.
- 10.5 Applicants seeking premises licences are encouraged to propose any prohibitions or restrictions of their own in circumstances where it is felt that the presence of children would be undesirable or inappropriate
- 10.6 In seeking to protect vulnerable people the Licensing Authority will include 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, perhaps due to a mental impairment, alcohol or drugs.
- 10.7 The Licensing Authority recognises that financial abuse is a category of abuse under the Care Act 2014, and expects licensees to understand the need to protect those who are at risk of such abuse through their activities. Gateshead Council's Safeguarding Adults team work closely with Northumbria Police where appropriate to assist in the safeguarding of such individuals.
- 10.8 The Licensing Authority will always treat each case on its own individual merits and when considering whether specific measures are required to protect children and other vulnerable people will balance its considerations against the overall principle of aiming to permit the use of premises for gambling.

## **11 Meeting the licensing objectives**

11.1 The following list sets out some of the measures that applicants may wish to put in place and which existing licensees may wish to keep under review in respect of their premises. It is not intended to be exhaustive, or mandatory, but applicants are expected to carefully consider the measures that will be appropriate to their individual application in order to promote the licensing objectives.

- CCTV;
- location of entrance;
- physical security measures on the premises;
- supervision of entrances/machine areas;
- physical separation of areas;
- notices and signage displayed externally stating access to the premises is restricted to persons 18 years of age and over;
- notices displayed internally stating use of gaming machines is restricted to persons 18 years of age and over;
- notice specifying opening hours;
- display of posters and information leaflets for organisations set up to assist people wishing to seek help and advice regarding gambling related issues such as GamCare.
- Consideration of the layout of exterior areas to deter the congregation of young people

11.2 Further considerations in respect of the conduct of the licensable activities are set out in paragraph 26.2 below.

## **12 Premises Licences**

12.1 A premises licence can authorise the provision of facilities at the following :

- casino premises
- bingo premises
- betting premises, including betting tracks
- adult gaming centres
- family entertainment centres

12.2 Premises can be 'any place' but the Act generally prevents more than one premises licence applying to any one place. A single building could be subject to more than one premises licence provided they are different parts of the building and those parts can be genuinely regarded as being separate 'premises'.

Where the owner of premises intends to apply to the licensing authority for more than one premises licence within the same building they should contact this licensing authority in the first instance so that individual circumstances can be considered. The location of the premises and the suitability of the division will be important considerations.

Entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of the premises is not compromised and that people are not allowed to 'drift' accidentally into a gambling area. It is not considered 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.

- 12.3 Where the Licensing Authority has concerns about the use of premises for gambling these will generally be addressed through licence conditions.
- 12.4 Other than an application for a betting premises licence in respect of a track, the Licensing Authority is not able to issue a premises licence unless the applicant holds the relevant operating licence from the Gambling Commission.
- 12.5 When considering applications for premises licences this Licensing Authority will not take into consideration either the expected 'demand' for facilities or the likelihood of planning permission being granted.
- 12.6 The Licensing Authority will maintain a register of premises licences issued and will ensure that the register is open for public inspection at all reasonable times.
- 12.7 A licence to use premises for gambling will only be issued where this licensing authority is satisfied that the premises in question are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use. If this is not the case eg if construction is not yet complete, or if they need an alteration, or if the applicant does not yet have a right to occupy them, then the person can apply to the licensing authority for a provisional statement. (See the section headed "Provisional Statements" below).

### **13 Responsible Authorities**

- 13.1 These are generally public bodies that must be notified of all applications and who are entitled to make representations to the Licensing Authority if they are relevant to the licensing objectives.
- 13.2 Section 157 of the Act defines those authorities as:

- The licensing authority in whose area the premises is situated
- The Gambling Commission
- The Chief Officer of Police for a police area in which the premises is situated
- The Fire and Rescue Authority for an area in which the premises is situated
- The local planning authority for an area in which the premises is situated
- The authority which has functions in respect of minimising or preventing the risk of pollution of the environment or of harm to human health in an area in which the premises is situated ie the Environmental Health Authority
- The body, designated in writing by the Licensing Authority for an area in which the premises is situated, as competent to advise the authority about the protection of children from harm
- Her Majesty's Revenue and Customs
- Any other person prescribed for the purposes of this section by regulations made by the Secretary of State

13.3 The principles that the licensing authority has applied 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 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

13.4 In accordance with the suggestion in the Gambling Commission's Guidance to Licensing Authorities, this Authority designates the Local Safeguarding Children Board for this purpose.

13.5 The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the Council's website at: [www.gateshead.gov.uk](http://www.gateshead.gov.uk)

13.6 Any concerns expressed by a responsible authority in relation to their own functions cannot be taken into account unless they are relevant to the application itself and the licensing objectives. In this regard the Licensing Authority may disregard representations that it thinks are irrelevant i.e.

- there are too many gambling premises in the locality
- the premises are likely to be a fire risk
- the location of the premises is likely to lead to traffic congestion
- the premises will cause crowds to congregate in one area causing noise and nuisance

13.7 Each representation will, however, be considered on its own individual merits.

## **14 Interested Parties**

14.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence.

14.2 An interested party is someone who:

- lives sufficiently close to the premises to be likely to be affected by the authorised activities, or
- has business interests that might be affected by the authorised activities, or
- represents persons in either of the two groups above

14.3 In determining whether someone lives sufficiently close to a particular premises so as to be affected, the Licensing Authority will take into account, among other things:

- the size of the premises
- the nature of the premises
- the distance of the premises from the person making the representation
- the potential impact of the premises

14.4 In determining whether a person has a business interest which could be affected the Licensing Authority will consider, among other things:

- the size of the premises
- the nature of the premises
- the catchment area of the premises, and
- whether the person making the representation has business interests in the catchment area that might be affected

14.5 If an existing gambling business makes a representation that it is going to be affected by another gambling business starting up in the area the Licensing Authority would not consider this, in the absence of other evidence, as a relevant representation as it does not relate to the licensing objectives and instead relates to demand or competition.

14.6 Interested parties (and applicants/licensees) are entitled to be represented at hearings. Ward members, residents associations and community partnerships are able to make representation on behalf of interested parties if they clearly specify the individual or group of persons that they are representing and demonstrate that the individual or group of individuals falls within the definition of an “interested party” as above.



14.7 The Licensing Authority may, in certain circumstances, disregard a representation if it thinks it is frivolous or vexatious or that it will certainly not influence the authority's determination of the application. This will generally be a matter of fact given the circumstances of each individual case but, before coming to a decision the Licensing Authority will normally consider:

- who is making the representation and whether there is a history of making representations that are not relevant,
- whether it raises a 'relevant' issue or not, or
- whether it raises issues specifically to do with the premises which are the subject of the application

## **15 Conditions of licence**

15.1 The Authority may impose conditions or exclude conditions on a premises licence under s169 of the Act if it considers it necessary to do so. Such decisions will normally follow a hearing of the relevant application after representations have been received or the authority has notified the applicant that it is minded to impose or exclude such conditions. All parties may agree that a hearing is not necessary.

15.2 Conditions imposed by the Licensing Authority may be general in nature by applying to all licences, or those of a particular type, or they may be specific to a particular licence. Additional conditions will only be imposed where it is considered that the mandatory and default conditions need to be supplemented in order to uphold the licensing objectives.

15.3 The Licensing Authority will not impose conditions that limit the use of premises for gambling unless it is deemed to be necessary as a result of the requirement to act in accordance with the Gambling Commission's guidance, any codes of practice issued by the Commission, this Statement of Principles or in a way that is reasonably consistent with the licensing objectives.

15.4 Any conditions imposed by the Licensing Authority will be proportionate to the circumstances they are intended to address. In particular, the Licensing Authority will ensure that any conditions are:

- relevant to the need to make the premises 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
- reasonable in all other respects

15.5 Examples of some conditions and restrictions which are likely to be attached in certain circumstances include those relating to opening hours, age limits, or keeping children and young persons away from gaming machines.

- 15.6 The Licensing Authority will not consider imposing conditions:
- which make it impossible to comply with an operating licence condition imposed by the Gambling Commission
  - relating to gaming machine categories or method of operation
  - which specify that membership of a club or other body is required
  - in relation to stakes, fees, winnings or prizes
- 15.7 Duplication with other statutory or regulatory regimes will be avoided as far as possible. Each case will be assessed on its own individual merits.

## **16 Casinos**

- 16.1 There are no casinos in Gateshead and in order for there to be any there would need to be a change in National legislation. If that should happen during the currency of this Statement of Principles a further amendment will be issued.

## **17 Bingo**

- 17.1 The holder of a bingo operating licence will be able to provide any type of bingo game including cash and prize bingo.
- 17.2 Commercial bingo halls will require a bingo premises licence from the Licensing Authority.
- 17.3 Amusement arcades providing prize bingo will require a prize gaming permit from the Licensing Authority.
- 17.4 In each of the above cases it is important that where children are allowed to enter premises licensed for bingo, in whatever form, they are not allowed to participate in any bingo game. When considering applications of this type the Licensing Authority will therefore take into account, among other things, the location of the games or machines, access to those areas, general supervision of the premises and the display of appropriate notices.
- 17.5 A limited number of gaming machines may also be made available at bingo-licensed premises.
- 17.6 Bingo is a class of equal chance gaming and will be permitted in alcohol licensed premises and in clubs provided it remains below a certain threshold, otherwise it will be subject to a bingo operating licence which will have to be obtained from the Gambling Commission.

## **18 Betting**

- 18.1 Anyone wishing to operate a betting office will require a betting premises licence from the Licensing Authority. Children and young persons will not be able to enter premises with a betting premises licence.
- 18.2 Betting premises will be able to provide a limited number of gaming machines and some betting machines.
- 18.3 The Licensing Authority has the power to restrict the number of fixed odds betting terminals, their nature and the circumstances in which they are made available. It will not generally exercise this power though unless there are good reasons to do so taking into account, among other things, the size of the premises and the level of management and supervision especially where vulnerable people are concerned.
- 18.4 Each application will be considered on its own individual merits.

## **19 Tracks**

- 19.1 Only one premises licence can be issued for any particular premises at any time unless the premises is a 'track'. A track is a site where races or other sporting events take place.
- 19.2 Track operators are not required to hold an 'operators licence' granted by the Gambling Commission. Therefore, premises licences for tracks, issued by the Licensing Authority are likely to contain requirements for premises licence holders about their responsibilities in relation to the proper conduct of betting. Indeed, track operators will have an important role to play, for example in ensuring that betting areas are properly administered and supervised.
- 19.3 Although there will, primarily be a betting premises licence for the track there may be a number of subsidiary licences authorising other gambling activities to take place. Unlike betting offices, a betting premises licence in respect of a track does not give an automatic entitlement to use gaming machines.
- 19.4 When considering whether to exercise its power to restrict the number of betting machines at a track the Licensing Authority will consider the circumstances of each individual application and, among other things will consider the potential space for the number of machines requested, the ability of track staff to supervise the machines, especially if they are scattered around the site, and the ability of the track operator to prevent children and young persons and vulnerable people betting on the machines.

## **20 Travelling Fairs**

- 20.1 The Gambling Act defines a travelling fair as wholly or principally providing amusements and they must be on a site that has been used for fairs for no more than 27 days per calendar year.
- 20.2 Gateshead Council as a licensing authority is responsible for deciding whether, where gaming 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.
- 20.3 It is noted that the 27 day statutory maximum for the land being used as a fair applies on a per 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.

## **21 Provisional Statements**

- 21.1 Developers may wish to apply to this authority for provisional statements 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.
- 21.2 The 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 or altered, or to acquire a right to occupy.
- 21.3 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.
- 21.4 However, 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.
- 21.5 The holder of a 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 they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances.

21.6 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 has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

## **22 Lotteries**

22.1 Promoting or facilitating a lottery is unlawful unless it is run in accordance with an operating licence issued by the Gambling Commission or it is an 'exempt' lottery as defined by the Act.

22.2 One of those exemptions is in respect of what are termed "small societies lotteries" and the Licensing Authority is responsible for registering these 'small' lotteries.

22.3 A society will be allowed to register with the Licensing Authority if it is a 'non-commercial' lottery, in other words, it is established and conducted:

- for charitable purposes ;
- for the purpose of enabling participation in, or of supporting, sport, athletic or a cultural activity ; or
- for any other non-commercial purpose other than for private gain.

22.4 The society must have been established for one of the permitted purposes and the proceeds of any lottery must be devoted to those purposes.

22.5 The promoting society of a small society lottery must, throughout the period during which the lottery is promoted, be registered with a licensing authority.

- 22.6 Societies wishing to run a small society lottery should complete the prescribed form that is available from the Licensing Authority, and return it to the Licensing Authority together with the relevant fee. The applicant will then be notified when the application has been registered.
- 22.7 The Licensing Authority will maintain a register of small societies lotteries that it has registered and will notify the Gambling Commission as soon as practicable of certain prescribed information about the society and the lottery.

### **23 Temporary Use Notices**

- 23.1 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. Suitable premises might include hotels, conference centres and sporting venues.
- 23.2 The licensing authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence.
- 23.3 At the time of writing, relevant regulations made under the Gambling Act 2005 state that 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 winner eg poker tournaments.
- 23.4 A set of premises cannot be the subject of temporary use notification for more than 21 days in a period of 12 months. This 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 eg an exhibition centre with several exhibition halls.

### **24 Occasional Use Notices**

- 24.1 Occasional use notices provide permission for betting on a track on eight days or less in a calendar year without the need for a full premises licence.
- 24.2 Persons wishing to make use of the occasional use notice procedure should complete the appropriate form and return it to the Licensing Authority and the police.
- 24.3 This licensing authority will ensure that the statutory limit of eight days in a calendar year is not exceeded and will keep a record of the number of notices served in relation to each track.

## **GAMING AND GAMING MACHINE PERMITS**

### **25 Introduction**

- 25.1 A gaming machine can cover all types of gambling activity that can take place on a machine, including betting on 'virtual' events.
- 25.2 The Act itself prescribes the number and category of gaming machines that are permitted in each type of gambling premises.
- 25.3 Subject to the provisions of the Act, gaming machines can be made available in a wide variety of premises, including:
- casinos
  - bingo premises
  - betting premises, (including tracks)
  - adult gaming centres
  - family entertainment centres
  - clubs
  - pubs and other alcohol licensed premises
  - travelling fairs

A machine is not a gaming machine if the winning of a prize is determined purely by the player's skill. However, any element of 'chance' imparted by the action of the machine would cause it to be a gaming machine.

The Licensing Authority will, where appropriate, seek to encourage permit and premises licence holders to adopt any codes of practice that may be introduced by the amusement industry from time to time.

As part of Gateshead Council's licensing function under the Gambling Act 2005 the licensing authority has responsibility for the issue of permits for licensed premises and club gaming machines, club gaming, gaming machines in unlicensed Family Entertainment Centres ("FECs") and for prize gaming.

Licensed premises, clubs and FECs are unlike other types of gambling premises in that gambling is not necessarily the main focus of the business or the main reason why people patronise the premises. For this reason, it is considered appropriate for this Statement of Principles to set out more detail about the principles and expectations of applicants in respect of the issue of permits.

This section relates to the exercise of the Licensing Authority's functions in respect of FEC permits, licensed premises gaming machine permits ("LP") and prize gaming permits (together referred to as "Permits") and is intended to enable persons who are considering making an application to the Licensing Authority for a Permit to

understand the measures that the Licensing Authority will expect applicants to have addressed when making an application. These measures will be applied by the Licensing Authority in determining whether an application for a Permit should be granted.

## **26 General principles**

26.1 Where the Licensing Authority receives an application for a Permit, in order for the application to be duly considered the Authority should receive the following –

- (1) The prescribed application notice completed in full clearly and legibly
- (2) The prescribed fee
- (3) Proof of the applicant's identity (and where the applicant is an individual, his / her age)
- (4) Proof of the applicant's right to occupy the premises for which the Permit is sought
- (5) (Where the applicant is an individual) a basic criminal record check no more than three calendar months old
- (6) Insurance certificate (or a certified copy duly stamped and signed by a solicitor / commissioner for oaths or notary public) confirming the availability of public liability insurance covering the proposed activity
- (7) A standard scale plan of the premises for which the Permit is sought showing –
  - (a) the boundary of the premises including any internal and external walls, entrances, exits, doorways and windows, and indicating the points of access available to the public
  - (b) the location of any fixed or temporary structures in the premises, including columns, stages, balconies and stairs
  - (c) the location of any counters, booths, offices or other locations from which staff may monitor the activities of persons on the premises
  - (d) the location of any public toilets within the boundary of the premises



- (e) the location of fire extinguishers and smoke detectors
- (f) the location of any ATM machines or other cash machines or change machines or other facilities by which persons may obtain monies to participate in the activities to be permitted under the Permit
- (g) the proposed location of the machines for which the Permit is sought, and any other gaming machines , specifying the nature of each machine
- (h) the location of any prize gaming paraphernalia including tables, seats, screens and prizes

26.2 The Licensing Authority will also expect the applicant to demonstrate effective policy and procedure for the protection of children and other vulnerable people from being harmed or exploited by gambling.

Applicants may wish to address the following issues, which are not an exhaustive list, and which may be more or less relevant depending on individual circumstances –

- (1) training for staff to seek appropriate proof of age and identity
- (2) maintenance of contact details for local schools, education authorities and the Gateshead Protection of Vulnerable Adults Multi Agency Committee
- (3) policy and procedure for liaison with appropriate responsible bodies including Northumbria Police, Tyne & Wear Fire and Rescue Service, and local community representatives and Neighbourhood Watch / Pubwatch
- (4) maintenance of records of local school term times
- (5) training in the reporting of truant children to appropriate bodies
- (6) training in dealing with the problems associated with the attendance or attempted attendance of truant children
- (7) policy and procedure to address any problems that may arise from increased numbers of children during non-term time, including to ensure that sufficient competent staff are on duty
- (8) maintenance of a register of incidents including refusals, attendance of truant children, excessive gambling by children and other vulnerable people, and anti-social behaviour, and training to be able to identify such incidents

- (9) policy and procedure to address such incidents including referral to management, consideration of response to patterns of incidents, and reporting incidents to relevant bodies
- (10) policy and procedure for the display of appropriate signage in relation to bodies offering assistance and advice, for instance GamCare and Child Line
- (11) training to ensure that all young children are accompanied by a responsible adult
- (12) policy and procedure to deal with attendance by unaccompanied young children
- (13) policy and procedure to regularly obtain enhanced criminal record checks for all staff working in the proximity of children
- (14) maintenance of staffing records including the names, dates of birth, National Insurance numbers and current addresses of all persons working in the proximity of children, and recording who is on duty at all times when the premises are open to the public

*Not all of these issues will be relevant to all premises; however this list is intended to be indicative of the issues you may need to consider. Equally, there may be issues that are relevant to particular premises that are not referred to above.*

## **27 Family Entertainment Centre Gaming Machine Permits**

- 27.1 FECs that require permits are defined in the Act as premises that are permitted to provide Category D gaming machines, but which do not have a Family Entertainment Centre Premises Licence.
- 27.2 The fact that a family entertainment centre is 'unlicensed' does not mean that it is unregulated. Rather, a premises licence is not required to operate as a FEC. Such FECs still require permits in order to provide Category D gaming machines.
- 27.3 Any premises wishing to provide any gaming machines outside Category D cannot qualify for a FEC Permit.
- 27.4 FECs will generally cater for families, including unaccompanied children and young people. Within the Borough it is anticipated that UFECs will generally be located at transport service centres, however this does not preclude FECs being located in other areas, and each application will be dealt with on its own merits.

- 27.5 The Licensing Authority will only grant a permit to a FEC where it is satisfied that the premises will be operated as a bona fide FEC.

*In addition to the documents set out above, it is this Licensing Authority's policy that applicants for a FEC permit must provide the Licensing Authority with evidence that the machines that are to be provided under the permit are to be supplied by a person holding a valid Gaming Machine Technical Operating Licence issued by the Gambling Commission.*

- 27.6 Where the Licensing Authority receives an application for a FEC permit, it will either be approved or refused by a Licensing Officer having due consideration to the relevant circumstances.

- 27.7 The Licensing Authority will only grant an application following consultation with the Chief Officer of Police for the area in which the premises are situated, and will take into account any representations made.

- 27.8 As above, if an application is refused then the applicant may request that decision to be reviewed at a hearing by the Sub Committee.

## **28 Prize Gaming Permits**

- 28.1 The Act defines 'prize gaming' as gaming where the nature and size of the prize that can be won is not determined by –

- the number of people participating in the gaming or
- the amount of money paid to participate or amount of money raised by the gaming.

- 28.2 For instance, 'prize gaming' may include bingo where participants pay a fixed amount to have the opportunity to win a fixed prize (regardless of the number of other participants); however this would not constitute 'prize gaming' if the size of the prize varied depending on how many people participated in that particular game.

- 28.3 A prize gaming permit will authorise the provision of facilities for prize gaming at specified premises.

- 28.4 The Act requires prize gaming providers to comply with the following –

- Limits on participation fees as set by Regulations from time to time;
- All chances to participate in the gaming must be acquired or allocated on the day and in the place which the gaming is taking place;

- The game must be played entirely on that day;
- The result of the game must be made public in the premises as soon as reasonably practicable and in any event on the day that the game is played;
- The prize for which the game is played must not exceed the prescribed amount (if a monetary prize) or prescribed value (if a non-monetary prize) set out in Regulations from time to time; and
- Participation in the gaming must not entitle the participant to take part in any other gambling.

28.5 Where the Licensing Authority receives an application for a prize gaming permit, it will either be approved or refused by a Licensing Officer having due consideration to the relevant circumstances.

28.6 The Licensing Authority will only grant an application following consultation with the Chief Officer of Police for the area in which the premises are situated, and will take into account any representations made.

28.7 As above, if an application is refused then the applicant may request that decision to be reviewed at a hearing by the Sub Committee.

## **29 Licensed Premises Gaming Machine Permits**

29.1 Premises licensed under the Licensing Act 2003 for on-premises sale of alcohol (not being Clubs are referred to in section 29 below) are entitled to provide equal chance gaming and gaming machines subject to certain conditions as follows –

### Gaming machines

29.2 LPs are automatically entitled to operate two Category C / D machines. *Gaming machines are considered to be ‘adult entertainment’ for the purposes of the Licensing Act. This automatic entitlement under the Gambling Act does not exempt permit holders from their requirement to set out in their operating schedule under the Licensing Act that they intend to provide ‘adult entertainment’ at the premises.*

29.3 The Act does not limit the number of machines that LPs may have under gaming machine permits, however it is this Licensing Authority’s policy that generally the number of machines that a LP is automatically entitled to should be sufficient. This does not preclude further machines being permitted where it is considered appropriate; particular consideration will be given to whether operators are complying with the

Gambling Commission Code of Practice in terms of supervision; *however it is the general view of this Licensing Authority that there should be no more than four such machines in operation on LPs.* Each case will be determined on its merits.

- 29.4 There are no requirements for such permits to be renewed, as they are of indefinite duration. The permit will continue as long as the premises licence remains in existence, the premises licence holder continues to hold the licence, and the permit has not been surrendered, cancelled or forfeited.
- 29.5 Permits are not transferable. If the premises licence holder changes then the new licence holder must apply for a new permit.
- 29.6 Where the Licensing Authority receives an application for a gaming machine permit from premises licensed under the Licensing Act 2003, it will either be approved or refused by a Licensing Officer having due consideration to the relevant circumstances.
- 29.7 Applicants and permit holders should be aware of the Gambling Commission's Code of Practice for Gaming Machines in Clubs and Premises with an Alcohol Licence issued in August 2014. It is expected that they will comply with the provisions of the Code, and this will be monitored through inspections and test purchasing as appropriate.
- 29.8 As above, if an application is refused then the applicant may request that decision to be reviewed at a hearing by the Sub Committee.

#### Exemption - Equal chance gaming

- 29.8 LPs may provide equal chance gaming where the following conditions are satisfied –
1. the limits on the prizes and amounts staked that are prescribed by the Secretary of State must be adhered to;
  2. there must be no fee charged to participate in the gaming, nor any monies taken from the monies staked or won;
  3. children and young people must not be permitted to participate in the gaming; and
  4. any game played at one pub must not be linked to a game played at any other pub.
- 29.9 This is not an absolute entitlement – it may be lost if high turnover bingo is played during a high turnover period. This means that if during a period of seven days the combined total of stakes or prizes for bingo played at the LP is more than an amount prescribed by the Secretary

of State (currently £2,000), a 'high turnover period' is deemed to have begun from the start of that seven day period. If, during that high turnover period, the combined total of stakes or prizes for bingo played at the LP exceeds the prescribed amount again, then 'high turnover bingo' is deemed to have taken place, and the entitlement is lost.

29.10 If this happens and the LP fails to notify the Gambling Commission then an offence under the Act is committed.

29.11 Also, the Licensing Authority may withdraw the entitlement of a LP to hold equal chance gaming if it is considered that –

- an offence under the Act has been committed at the LP (for instance as above);
- the LP is (or will be) solely or mainly used for gaming;
- if equal chance gaming is permitted to be held it would be inconsistent with the licensing objectives as above; or
- gaming has taken place in breach of a condition of section 284 of the Act.

29.12 Where this is the case, the Licensing Authority may remove the LP's entitlement to provide equal chance gaming. However, the Licensing Authority will only do so where it has given the premises licence holder at least 21 days notice of its intention to consider doing so. The Licensing Authority will take into account any representations made by the premises licence holder in making its determination. If the Licensing Officer determines that this entitlement to provide equal chance gaming should be removed, the applicant may request that the matter be considered at a hearing by the Sub Committee.

29.13 If an order is made by the Licensing Authority preventing equal chance gaming from being provided, that order will be provided to the premises licence holder with the Licensing Authority's reasons for reaching that decision. The order may be appealed to the Magistrates Court within 21 days of receipt of notification of the decision.

### **30 Clubs - Gaming and Gaming Machine Permits**

30.1 Members Clubs and Miners' Welfare Institutes (but not Commercial Clubs) may apply for a Club Gaming permit. The Club Gaming permit will enable the premises to provide gaming machines, equal chance gaming machines and games of chance.

30.2 Members Clubs, Miners' Welfare Institutes *and* Commercial Clubs may apply for a Club Machine permit. A Club Machine permit will enable the premises to provide gaming machines.

30.3 This licensing authority may only refuse an application on the grounds that:

- 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;
- 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 Gambling Commission or Police.

## **31 Exchange of information**

31.1 Subject to the provisions of the Data Protection Act 1998 the Licensing Authority will share any information it receives, through the application process with the Gambling Commission and other persons or bodies with functions under the Act as set out in Schedule 6. In doing so the Licensing Authority will have regard to the Act itself, any guidance issued by the Commission from time to time and any Regulations issued by the Secretary of State.

## **32 Public register**

32.1 The Licensing Authority keeps a public register which lists all small society lotteries, adult gaming centre licensed premises, betting premises, bingo premises, clubs with machine permits, licensed premises with gaming machine permits, and notifications of intent received by the Licensing Authority. This register can be accessed online via Gateshead Council's website.

## **33 Enforcement**

33.1 The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises.

33.2 In general, the Gambling Commission will take the lead role on the investigation and, where appropriate, the prosecution of illegal gambling and is the enforcement body for operating and personal licences.

33.3 The Licensing Authority will work with the Commission, the police and other enforcing authorities to provide for the targeting of agreed

problem or high-risk premises. A lighter touch will be applied to those premises that are shown to be well managed and maintained.

- 33.4 The overall aim is to permit the use of premises for gambling. With that in mind it is intended that action will generally be taken against 'problem' premises through the review process.
- 33.5 Licensees should be aware that this Authority will monitor compliance. This may include test purchasing and inspections as appropriate to evaluate the effectiveness of control measures.
- 33.6 In cases where more formal action is considered to be appropriate, the key principles of consistency, transparency and proportionality will be observed in accordance with the Gambling Commission's Guidance to Licensing Authorities and the Development and Public Protection Policy Enforcement Policy which can be found on the Council website at [www.gateshead.gov.uk](http://www.gateshead.gov.uk).

#### Statutory Regulators Code

- 33.7 This Authority will have regard to the Statutory Regulators Code which came into force in April 2014. We support the principle of better regulation to promote efficient, proportionate and effective approaches to enforcement and inspection that improve regulatory outcomes without imposing unnecessary burdens on business. This Authority acknowledges the Primary Authority Scheme. This scheme allows businesses to be involved in their own regulation. It enables them to form a statutory partnership with one local authority, which then provides robust and reliable advice for other local regulators to take into account when carrying out inspections or addressing noncompliance. Where there is a Primary Authority Arrangement in place between a business operator and a local authority no enforcement action will be taken before consultation with the Primary Authority. Arrangements currently exist between:

- Coral – London Borough of Newham
- William Hill - City of Westminster
- Ladbrokes - Milton Keynes
- Paddy Power - Reading

Further information on the scheme and an up to date list of arrangements can be accessed at:

<https://primaryauthorityregister.info/par/index.php/home>.

#### **34 Exercise of functions**

- 34.1 The Licensing Authority's licensing functions under the Act will be carried out by the Licensing Committee, supported by a number of sub-



committees and by officers acting under the delegated authority of the committee.

- 34.2 Where there are no areas of contention it is considered that many of the functions will be largely administrative. In the interests of efficiency and effectiveness these will, for the most part, be carried out by officers.
- 34.3 Where there are relevant representations in respect of an application the matter will be determined by the Licensing Committee or one of its sub-committees, as will any application for the review of a licence.
- 34.4 The licensing authority, when carrying out its functions with respect to premises licences under the Act shall aim to permit the use of premises for gambling in so far as it thinks it
- in accordance with any relevant Code of Practice issued by the Gambling Commission;
  - in accordance with any relevant guidance issued by the Gambling Commission;
  - reasonably consistent with the licensing objectives; and
  - in accordance with the authority's Statement of Principles.
- 34.5 The principles that will be applied by this authority in exercising its functions with respect to the inspection of premises and in exercising its powers to institute criminal proceedings in respect of specified offences are that:

It will be guided by the Gambling Commission's Guidance to Licensing Authorities and will endeavour to:

- be proportionate, accountable, consistent, transparent and targeted
  - avoid duplication with other regulatory regimes so far as possible
- 34.6 Under the Gambling Act, certain functions are reserved to the full Council, ie setting of this Statement of Principles, and determining whether or not to have casinos. The full Council will also determine any fees charged by the Council which are not prescribed by the Secretary of State.
- 34.7 The following applications will be dealt with by officers where there are no representations, and by the Sub Committee if representations are made and not withdrawn:
- application for a premises licence
  - application to vary an existing premises licence
  - application to transfer a premises licence
  - application for a provisional statement

- application for club gaming/club machine permit

34.8 The following matters will be dealt with by the Sub Committee:

- review of premises licence
- cancellation of club gaming/club machine permit
- decision whether to serve counter notice to temporary use notice
- decision whether to disapply sections 279/282(1) for a specified premises holding a licence under the Licensing Act permitting sale/supply of alcohol for consumption on the premises
- refusal to register a small lottery
- revocation of a small lottery registration
- hearing following Licensing Officer's refusal to grant a gaming machine permit / prize gaming permit

All other functions shall be delegated to officers save where they may not be under the Act or the Council's Constitution. Any matter that can be dealt with by Sub Committee or the full Licensing Committee, where it is considered to be appropriate to do so in the individual circumstances.

All applications will be considered with on their own merits.

## **35 Reviews**

35.1 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.

35.2 The request for the review will also be subject to the consideration by the authority as to whether the request is frivolous, vexatious, or whether it will certainly not cause this authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

35.3 The licensing authority can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate. The licensing authority may 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.

- 35.4 Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.

The licensing authority will carry out the review as soon as possible after the 28 day period for making representations has passed.

- 35.5 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:

- (i) add, remove or amend a licence condition imposed by the licensing authority;
- (j) exclude a default condition imposed by the Secretary of State (eg opening hours) or remove or amend such an exclusion
- (k) suspend the premises licence for a period not exceeding three months; and
- (l) revoke the premises licence.

In determining what action, if any, should be taken following a review, the licensing authority will have regard to the principles set out in 33.1 above as well as any relevant representations.

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

- the licence holder
- the applicant for review (if not the Licensing Authority)
- the Gambling Commission
- any person who made representations
- the chief officer of police
- Her Majesty's Revenue and Customs

- 35.7 To date there have not been any reviews in the Borough.

## **36 Appeals**

- 36.1 Where an applicant, licence holder or person who has made a representation is aggrieved by a decision of the Licensing Authority, there is a right of appeal. In certain circumstances there is also a right for the Gambling Commission to appeal against decisions of the Licensing Authority. The appeal must be lodged with the Magistrates' Court within 21 days from the date on which the aggrieved person was

notified of the Authority's decision. The appeal must be lodged in the Magistrates' Court where the premises are situated.

- 36.2 Generally a decision will not have effect until the time for bringing an appeal has passed, or if an appeal is brought, until it is determined or abandoned. However the Licensing Authority can decide that its decision should have effect immediately, and this will be considered on each occasion having due regard to the individual circumstances and in particular any immediate risk to public safety.

### **37 Complaints about premises / activities**

- 37.1 The Licensing Authority will investigate complaints about licensed premises and activities taking place at unlicensed premises. Where appropriate, complainants will in the first instance be encouraged to raise the complaint directly with the licensee or business concerned. In the case of a valid complaint, the Licensing Authority will initially endeavour to seek resolution through informal means.

- 37.2 All complaints must in the first instance be addressed to the Environmental Health Licensing and Enforcement Manager, Development & Public Protection, Gateshead Council, Civic Centre, Regent Street, Gateshead, Tyne & Wear, NE8 1HH.

- 37.3 The Licensing Authority will only investigate complaints under this Policy where they relate to one or more of the licensing objectives.

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

### **38 Fees**

- 38.1 The Department of Culture, Media and Sport (DCMS) published the Gambling (Premises Licence Fees) Regulations 2007 on 21 February 2007. The Regulations provide for Licensing Authorities to determine the fees, subject to maximum fees prescribed in the Regulations. The Regulations provide for licensing authorities to determine separate fees for different types of activities associated with licences (eg application for a licence; application to vary a licence etc) and the annual fees payable in respect of a licence. The Regulations also provide for Licensing Authorities to determine separate fees for different classes of premises licence (eg those relating to bingo halls, betting shops etc) prescribing the maximum fees chargeable for each type of gambling premises.

- 38.2 Under Section 212(2)(d) of the Gambling Act 2005, in determining fees, Licensing Authorities must aim to ensure that the income from the fees

as nearly as possible equates to the cost of providing the service to which the fee relates. Fees will include the cost of administration (including hearings and appeals), inspection and enforcement associated with the regime (direct and indirect costs, including a full proportional share of overhead costs, insurance, depreciation and cost of capital charge). The fees are reviewed annually.

- 38.3 The current Gambling Act fees can be found on the Council website at [www.gateshead.gov.uk](http://www.gateshead.gov.uk).

### **39 Contact details**

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

Environmental Health, Licensing and Enforcement Manager  
Development and Public Protection  
Gateshead Council  
Civic Centre  
Regent Street  
Gateshead  
Tyne & Wear  
NE8 1HH

Telephone : 0191 4334741

Email : [licensing@gateshead.gov.uk](mailto:licensing@gateshead.gov.uk)

This Statement is not intended to override the right of any person to make an application under the Act, and to have that application considered on its merits. Equally, this Statement of Principles is not intended to undermine the right of any person to make representations about an application or to seek a review of a licence where provision has been made for them to do so

The Council reserves the right to amend this Statement should it be necessary to do so following Regulations issued by the Secretary of State or further Guidance from the Gambling Commission.