APPENDIX 2

BIRMINGHAM CITY COUNCIL

STATEMENT OF PRINCIPLES

GAMBLING ACT 2005

This Statement of Licensing Principles was approved by Birmingham City Council on XXXXX and is to be Effective from YYYYY.

BIRMINGHAM CITY COUNCIL
STATEMENT OF PRINCIPLES
Gambling Act 2005

Contents

Item	Page
Part A	
1. Introduction	3
2. Declaration	5
3. Responsible Authorities	5
4. Interested parties	6
5. Exchange of information	7
6. Enforcement	8
7. Licensing authority functions	9
8. Equality	10
Part B - Promotion Of The Licensing Objectives	
Licensing objectives	12
Part C - Premises licences	
1. General Principles	14
2. Adult Gaming Centres	22
3. (Licensed) Family Entertainment Centres	23
4. Casinos	23
5. Bingo Premises	25
6. Betting premises	26
7.Tracks	27
8. Vessels and Vehicles	29
9. Travelling fairs	29
10. Provisional Statements	30
11. Reviews	31
Part D - Permits / Temporary and Occasional Use Notices	
1. Permits	33
2. Unlicensed Family Entertainment Centre gaming machine permits	33
3. (Alcohol) Licensed premises gaming machine permits	35
4. Prize Gaming Permits	36
5. Club Gaming and Club Machines Permits	38
6. Temporary Use Notices	39
7. Occasional Use Notices	40
8. Registration of Small Society Lotteries	41
Part E – Appendices	
Appendix 1. Delegation of licensing functions	42
Appendix 2. Contact addresses	44

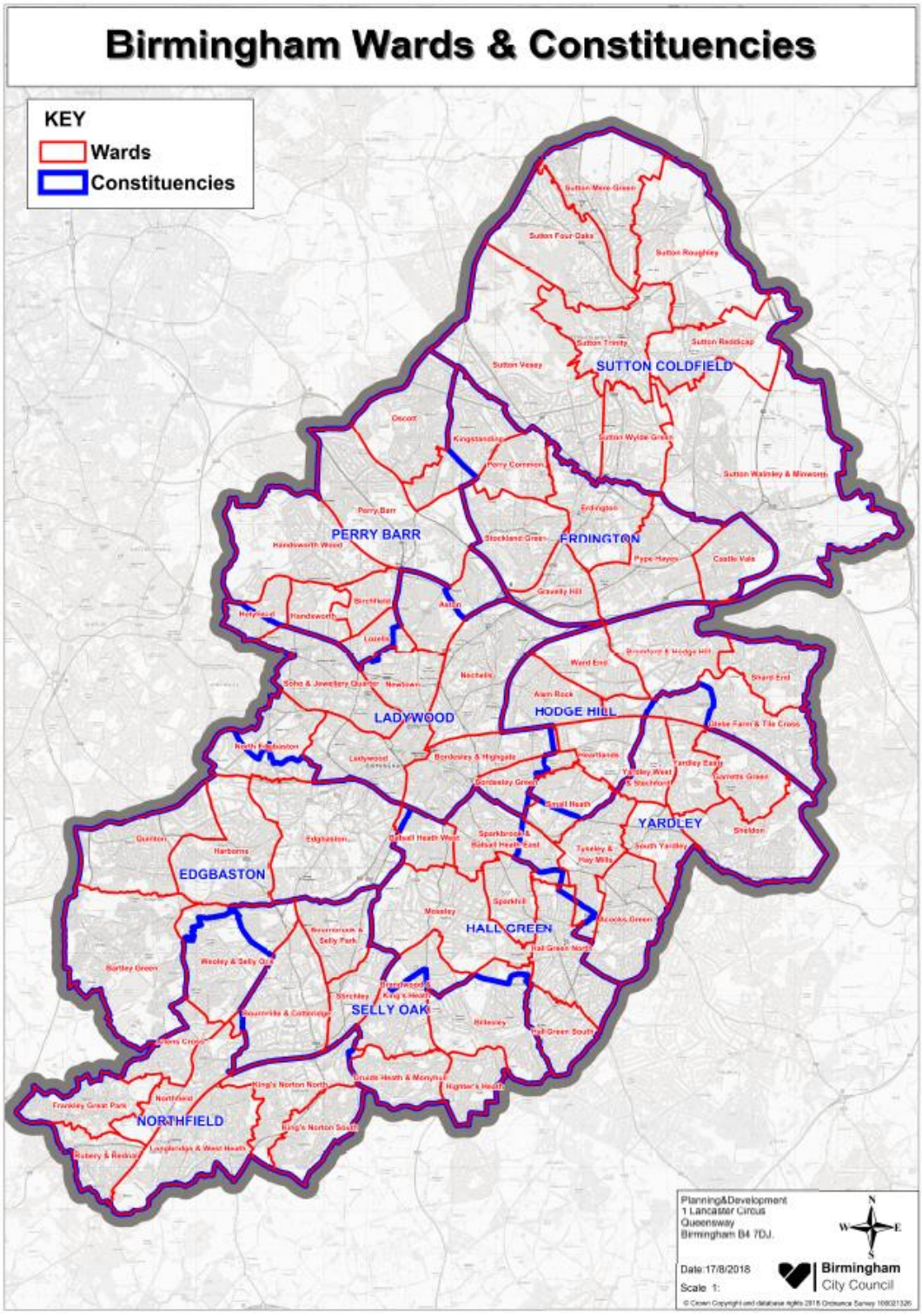
This Statement of Licensing Principles was approved by ***Birmingham City Council on XXXXX*** *and is to be Effective* ***from YYYYY.***

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PART A

1. Introduction

Birmingham is the largest city in the United Kingdom after London, with a multi-cultural population of 1,073, 045 (2011 Census). The area covered by the Council is shown in the map below.



Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they propose to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from "time to time" and any amended parts re-consulted upon. The statement must be then re-published.

Birmingham City Council consulted widely upon this statement before finalising and publishing. A list of those persons consulted is provided below.

The Gambling Act requires that the following parties are consulted by licensing authorities:

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

List of persons this authority consulted:

Gambling Commission.
West Midlands Police.
Child Protection, Performance and Partnership, Birmingham Children's Trust
HM Revenue and Customs.
Premises Licence Holders.
Bodies representing holders of Premises Licences and Permits.
Trade Associations.
Licensing Solicitors.
Birmingham Safe Bet Alliance
Elected Members.
Gam Care.
Responsible Authorities.
Public notification on City Council Website.
Director of Public Health

Our consultation took place between **Dates to be added**

The full list of comments made and the consideration by the Council of those comments is available by request to The Licensing Service.

The policy was approved at a meeting of the Full City Council on XXXXX and was published via our website on. Copies will be placed in the public library of the City. This Policy is effective from YYYYY.

Should you have any comments regarding this policy statement please send them via e-mail or letter to the following address:

The Head of Licensing, Licensing Service, E-mail: Licensing@birmingham.gov.uk

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Any amendments to the Policy will be subject to further consultation.

It should be noted that this statement of licensing principles will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

2. Declaration

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

3. Responsible Authorities

Any responsible authority may make representations.

'Responsible Authority' is defined as:

- a licensing authority in whose area the premises is wholly or partly situated;
- the Gambling Commission;
- the Chief of Police within which the premises are situated;
- the Fire Authority within which the premises are situated;
- the local authority Planning Authority within which the premises are situated;
- the local authority for which statutory functions are exercisable in relation to minimising or reducing the risk of pollution to the environment or harm to human health in which the premises are situated;
- a body which represents those who, in relation to any such area, are responsible for, or interested in, the protection of children from harm and is recognised by the licensing authority for that area for the purpose of this section as being competent to advise it on such matters;
- HM Revenue & Customs;
- any other person prescribed in regulations by the Secretary of State.
- In relation to a vessel:
    - (i) a navigation authority having functions in relation to the waters where the vessel is usually moored or berthed or any water where it is or is proposed to be navigated at a time when it is used for licensable activities;
    - (ii) the Environment Agency;
    - (iii) the Canal and River Trust;
    - (iv) the Secretary of State; or
    - (v) any other person prescribed in regulations by the Secretary of State.

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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.

The contact details of Responsible Authorities under the Gambling Act 2005 are attached at Appendix 2 and are also available via the Council's website at www.birmingham.gov.uk

4. Interested parties

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 applications 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)"

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

The Licensing Authority will decide each case on its own individual merits and will not apply a rigid rule to its decision making.

The Gambling Commission has recommended that the licensing authority state that interested parties could include trade associations and trade unions, and residents' and tenants' associations. The Licensing 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 Act i.e. lives sufficiently close to the premises to be likely to be affected by the activities being applied for.

The Licensing Authority will also consider persons that 'have business interests' as being the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

In implementing this Policy the Licensing Authority will have regard to the provisions

of the Human Rights Act 1998.

Interested parties can be persons who are democratically elected such as councillors and MP's. 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 (e.g. an 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.

If individuals wish to approach a Councillor to ask them to represent their views then care will be taken to ensure that the Councillor is not a member of the committee dealing with that application.

The Licensing Authority must determine whether or not representations are admissible. A representation is inadmissible if it is not made by a Responsible Authority, or an Interested Party. After that, the authority must then determine its relevance.

The only representations that are likely to be relevant are those that relate to the licensing objectives, or that raise issues under the licensing policy statement, or the Commission's guidance or codes of practice.

Connected to this is the question of what is a 'frivolous' or 'vexatious' representation. In interpreting these phrases, matters the Licensing Authority is likely to want to look at are likely to include:

- 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
- whether it raises issues specifically to do with the premises that are the subject of the application.

5. Exchange of Information

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.

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 which includes the provision that the Data Protection Act 2018 will not be contravened. The licensing authority will also have regard to any Guidance issued by the

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Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

The Licensing Authority will share any information it receives through the application process with the Gambling Commission and other enforcement agencies.

The Licensing Authority will maintain a register of premises licences and permits issued where required and will ensure that the register is open for public inspection at all reasonable times.

The information held will be in accordance with the regulations set by the Secretary of State.

6. Enforcement

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

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.

The Legislation and Regulatory Reform Act 2006 (LRRA) Part 2 requires us also to have regard to the Principles of Good Regulation. We have had regard to the Regulators' Code in the preparation of this policy.

As per the Gambling Commission's Guidance to Licensing Authorities this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

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

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Birmingham City Council has developed a protocol for enforcement and will continue partnership working with the Gambling Commission and other enforcement organisations to promote a consistent approach between them. The protocol will encompass a strategy of targeting high-risk premises and will ensure intelligence led policing and regulation.

The protocol will actively promote regular inspections of licensed premises which, following risk assessments, have been found to be problematic or high risk.

The Licensing Authority already has developed working protocols such as:

- sharing information and good working practices with other enforcement agencies,
- encouraging close co-operation between licensed premises and enforcement agencies to promote the licensing objectives,
- encouraging good working practices and codes of practice by licensed premises to tackle crime and disorder issues,
- establishing a monitoring system in order to identify premises that are disregarding their responsibilities, and to share this information with the Gambling Commission, Police and other enforcement agencies,
- adopting announced and unannounced inspections and visits to premises.

The Licensing Authority will actively seek to advise the licence holders and managers of those premises who wish to comply with legislation and conditions. However, the Licensing Authority will take a firm stand against irresponsible premises licence holders that do not comply.

The Licensing Authority will continue to investigate complaints and conduct proactive enforcement activities to ensure that conditions attached to licences are complied with, and that unlicensed activity is dealt with as appropriate.

The Licensing Authority will exercise its powers under the Act to instigate criminal proceedings where circumstances require.

7. Licensing Authority Functions

Licensing authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing *Premises Licences*
- Issue *Provisional Statements*
- Regulate *members' clubs* and *miners' welfare institutes* who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue *Club Machine Permits* to *Commercial Clubs*
- Grant permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*
- Receive notifications from alcohol licensed premises (under the Licensing Act

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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 licences issued (see section above on 'information exchange)
- Maintain registers of the permits and licences that are issued under these functions

It should be noted that licensing authorities are not involved in licensing remote gambling at all, which is regulated by the Gambling Commission via operating licences.

Information on gaming machines permitted at each premises type, gaming machine entitlements and gaming entitlements for clubs and pubs is available on the Gambling Commission website.
http://www.gamblingcommission.gov.uk/Gambling-sectors/Gambling-sectors

8. Equality

The Council recognises the right to freedom of speech and would not intervene in this matter, when discharging its licensing functions, unless to do so would be appropriate to promote one or all of the licensing objectives. Holders of premises licences should be aware of the potential for some organisations to have an influence on or advocate illegal activity that would be in direct contradiction of the spirit of the licensing objectives.

The Council may, following representations from responsible authorities or other persons and based on evidence, seek to prohibit certain types of meetings or gatherings at licensed premises by attaching conditions in order to promote the licensing objectives, in particular the prevention of crime and disorder and the promotion of public safety.

The Equality Act 2010

The council is committed to: seeking to eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010; advancing equality of opportunity between people who share a protected characteristic and those who do not; and, fostering good relations between people who share a protected characteristic and those who do not.

It is recommended that licensees and applicants make themselves familiar with the requirements of this Act for the access and provision of services for persons within the protected groups identified by the legislation. The Act makes it unlawful to

discriminate against anyone because of:

- Age
- Being or becoming a transsexual person
- Being married or in a civil partnership
- Being pregnant or on maternity leave
- Disability
- Race including colour, nationality, ethnic or national origin
- Religion, belief or lack of religion/belief
- Sex
- Sexual orientation.

In order to promote equality, and to fulfil its statutory duties under the Equality Act 2010, the council asks that applicants aim to achieve inclusive access to their venues and events. For example, discrimination will be experienced if access to the venue is denied due to lack of a ramp or if the venue does not provide means for someone to book a ticket who cannot speak. Further guidance is available at https://www.gov.uk/guidance/equality-act-2010-guidance

Public Sector Equality Duty

As stated above, The Equality Act 2010 also requires the Licensing Authority to have due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act.
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Birmingham City Council is committed to fulfilling this obligation thoroughly. Each application will be considered with this in mind.

Some examples of good practice in this regard are as follows:

- An unambiguous, transparent admittance policy. Setting out rules concerning dress policy etc is perfectly acceptable, but policies must not set entry requirements based on race, attractiveness etc.
- Training for all staff on equalities and inclusivity, including recognising their own unconscious bias
- A clear complaints procedure which explains how a person can make a complaint, and how the management will act upon it.

The Council cannot enforce the Act but those who experience discrimination may take legal action following a complaints procedure. Where complaints are received by the council, we advise the complainant of their rights under the Equality Act.

PART B

PROMOTION OF THE LICENSING OBJECTIVES UNDER THE GAMBLING ACT 2005

The Licensing Objectives

In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:

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

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

This licensing authority is aware that in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it is considered to be:

- in accordance with any relevant code of practice issued by the Gambling Commission,
- in accordance with any relevant guidance issued by the Gambling Commission,
- Reasonably consistent with the licensing objectives, and
- in accordance with the authority's statement of licensing principles.

Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission's Guidance to Licensing Authorities and some comments are made below.

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

This licensing authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction.

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Ensuring that gambling is conducted in a fair and open way

This licensing authority has noted that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. *For Local Authorities with tracks:* There is, however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section.

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

This licensing authority has noted the Gambling Commission's Guidance that with limited exemptions, 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). The licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

This licensing authority is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.

As regards the term “vulnerable persons” it is noted that the Gambling Commission does not seek to offer a definition but states that “it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.” This licensing authority will consider this licensing objective on a case by case basis.

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PART C

PREMISES LICENCES: CONSIDERATION OF APPLICATIONS

1. General Principles

Premises licences are subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are 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.

In accordance with s153 of the Act, when considering any application (save for Casino premises as per s166), the Licensing Authority will 'aim to permit' licence applications (subject to the mandatory and default conditions) unless there is evidence of a particular risk to the licensing objectives thereby either requiring the imposition of additional conditions, or that the application be refused.

(i) Decision-making:

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 fit:

- 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 authority's statement of licensing principles.

The Licensing Authority's powers and duties will, where appropriate, be delegated by the Licensing Authority to its Licensing and Public Protection Committee, Licensing Sub Committee and Officers.

The Licensing Authority intends to approach these delegations in accordance with Appendix 1 to the policy.

The Licensing and Public Protection Committee will receive regular reports on decisions made by officers under the scheme of delegation so that it maintains an overview of the general situation.

It is appreciated that as per the Gambling Commission's Guidance to Licensing Authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos and also that unmet demand is not a criterion for a licensing authority.

Applicants should also be aware that the Gambling Commission has issued Codes of Practice for each interest area for which they must have regard. The Council will also have regard to these Codes of Practice.

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(ii) Definition of "premises":

In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

The Gambling Commission stated in 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 ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises."

This Licensing Authority takes particular note of the Gambling Commission's Guidance to Licensing Authorities which states that: licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore, premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not "drift" into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers should be able to participate in the activity named on the premises licence.

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

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

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

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

Casinos
- The principal access entrance to the premises must be from a street.
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons.
- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence.

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

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

Tracks
- No customer should be able to access the premises directly from:
  - a casino,
  - an adult gaming centre.

Bingo Premises
- No customer must be able to access the premises directly from:
  - a casino,
  - an adult gaming centre,
  - a betting premises, other than a track.

Family Entertainment Centre
- No customer must be able to access the premises directly from:
  - a casino,
  - an adult gaming centre,
  - a betting premises, other than a track.

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The Gambling Commission provides further guidance on this issue, which this authority will also take into account in its decision-making.

(iii) Premises "ready for gambling":

The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied 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 the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.

In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process:

- First, whether the premises ought to be permitted to be used for gambling.
- Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

(iv) 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 are relevant to its decision-making. This authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.

The Licensing Authority may take into account the impact that the existence of premises may have on an area in so far as it is relevant to the licensing objectives.

For example, the proposed operation of a new premises licence may not be reasonably consistent with the principles of the licensing objectives due to its proximity to:

- a school or other educational facility;
- a residential area with high concentration of families with children;
- a centre for children;
- a centre for vulnerable adults.

The Licensing Authority will therefore consider representations from any responsible authority or interested party based on the impact on the licensing objectives if a particular application were to be granted.

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The onus will be on the person making the representation to provide evidence to support their assertions that the addition of the premises would have the suggested impact on the licensing objectives.

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 merits, with the onus upon the applicant showing how potential concerns can be overcome.

(v) Planning:

In determining applications the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.

This authority will not take into account irrelevant matters and when dealing with a premises licence application for finished buildings, the licensing authority will not take into account whether those buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence. Section 210 of the 2005 Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.

(vi) Duplication with other regulatory regimes:

This licensing authority seeks to avoid any duplication with other statutory / regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though, 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.

When dealing with a premises licence application, this authority will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

(Vii) Conditions - Any conditions attached to licences will be proportionate and will be:

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

In accordance with s153 of the Act, when considering any application (save for Casino premises as per s166), the Licensing Authority will 'aim to permit' licence applications (subject to the mandatory and default conditions) unless there is evidence of a particular risk to the licensing objectives thereby requiring the imposition of additional conditions.

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 their own suggestions as to ways in which the licensing objectives can be met effectively.

This licensing authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.

This authority will also ensure that where category C or above machines are offered 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.

This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. 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.

It is noted that there are conditions which the licensing authority cannot attach to

DRAFT

premises licences which are:

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

(Viii) Door Supervisors - The Gambling Commission advises in its Guidance to Licensing Authorities that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a condition on the premises licence to this effect.

Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether these need to be SIA licensed or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary.

(ix) Betwatch - There are a number of established Bet-Watch schemes across the City and the licensing Authority expects operators to attend and support their local scheme **where one has been created to share information and discuss issues around individuals committing criminal / antisocial behaviour within and around gambling premises.**

(x) Local Risk Assessment - Since 6 April 2016, it has been a requirement of the Gambling Commission's Licence Conditions and Codes of Practice (LCCP), under Section 10, for licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at 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 goes on to say licensees must review (and update as necessary) their local risk assessments:

- to take account of significant changes in local circumstance, 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.

The Council will expect the local risk assessment to consider as a minimum:

- whether the premises is in an area of deprivation;

DRAFT

- whether the premises is in an area subject to high levels of crime and/or disorder;
- the demographics of the area in relation to vulnerable groups;
- the location of services for children such as schools, playgrounds, toy shops, leisure centres and other areas where children will gather;
- significant presence of young children, both residents and visitors;
- high unemployment area;
- nearby homeless hostels;
- nearby gambling, alcohol, drug or mental health support facility;
- the area has a high number of rough sleepers/homeless people;
- the area has a specific ethnic population;
- pawn broker/pay day loan businesses in the vicinity;
- other gambling premises in the vicinity.

Information around these groups will be available in the Local Area Profile (LAP)

In any case, the local risk assessment should show how vulnerable people, including people with gambling dependencies, are protected.

Other matters that the assessment may include:

- The training of staff in brief intervention when customers show signs of excessive gambling, the ability of staff to offer brief intervention and how the manning of premises affects this.
- Details as to the location and coverage of working CCTV cameras, and how the system will be monitored.
- The layout of the premises so that staff have an unobstructed view of persons using the premises.
- The number of staff that will be available on the premises at any one time. If at any time that number is one, confirm the supervisory and monitoring arrangements when that person is absent from the licensed area or distracted from supervising the premises and observing those persons using the premises.
- Arrangements for monitoring and dealing with under age persons and vulnerable persons, which may include dedicated and trained personnel, leaflets, posters, self-exclusion schemes, window displays and advertisements not to entice passers-by, etc.
- The provision of signage and documents relating to games rules, gambling care providers and other relevant information be provided in both English and the other prominent first language for that locality.
- Where the application is for a betting premises licence, other than in respect of a track, the location and extent of any part of the premises which will be used to provide facilities for gambling in reliance on the licence.

Such information may be used to inform the decision the Council makes about whether to grant the licence, to grant the licence with special conditions or to refuse the application.

This policy does not preclude any application being made and each application will

be decided on its merits, with the onus being upon the applicant to show how the concerns can be overcome.

Local Risk Assessments must be kept on the individual premises and made available for inspection when requested by an authorised officer.

(xi) Local Area Profile - Each locality has its own character and challenges. In order to assist applicants, where there is an issue in a local area which impacts on how the applicant should complete their risk assessment, the Council will publish a local area profile.

Once available the local area profile should be given careful consideration when making an application. Applicants may be asked to attend a meeting with licensing officers to discuss the profiles, appropriate measures to mitigate risk in the area and how they might be relevant to their application. The local area profile will be presented to any subsequent licensing sub-committee when they determine an application that has received representations.

The Council recognises that it cannot insist on applicants using the local area profile when completing their risk assessments. However, an applicant who decides to disregard the profile may face additional representations and the expense of a hearing as a result.

2. Adult Gaming Centres

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

The 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 scheme;
- CCTV;
- supervision of entrances/machine areas;
- location of entrance;
- physical security measures on the premises;
- physical separation of areas;
- self-exclusion schemes;
- 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;
- members of staff appropriately trained;
- reporting of any suspicious activity on the premises;

DRAFT

- 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.

This is not a mandatory, or exhaustive list, and is merely indicative of example measures.

3. (Licensed) Family Entertainment Centres:

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.

The 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 scheme;
- CCTV;
- supervision of entrances/machine areas;
- location of entrance;
- physical security measures on the premises;
- physical separation of areas;
- self-exclusion schemes;
- clear notices and signage around the premises regarding age restricted areas;
- notice specifying opening hours;
- members of staff appropriately trained;
- reporting of any suspicious activity on the premises;
- 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.
- Measures/training for staff on how to deal with suspected school truant children on the premises.

This is not a mandatory, or exhaustive list, and is merely indicative of example measures.

4. Casinos

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

DRAFT

The Licensing Authority is aware that where a licensing authority is able to grant a casino premises licence (regional, large or small), there may be a number of operators who wish to apply for that licence. Should the Licensing Authority be in such a position it will comply with Schedule 9 of the Act and any relevant regulation / codes of practice.

Licence considerations/conditions – This licensing authority will attach conditions to casino premises licences bearing in mind the mandatory conditions and the Licence Conditions and Codes of Practice published by the Gambling Commission.

An applicant for a premises licence must comply with the Act regarding the permitted access or exclusion of children and young persons. With the exception of non-gambling areas of regional casinos no children or young persons must be permitted access into the casino or the close observation of, or the invitation to participate in any gambling activities.

The 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 scheme;
- CCTV;
- physical security measures on the premises;
- supervision of entrances/machine areas;
- physical separation of gambling areas;
- self-exclusion schemes;
- clear notices and signage externally and internally regarding age restrictions and age restricted areas (where applicable);
- participation in the Council's 'pupil watch scheme' (where children are permitted entry);
- members of staff appropriately trained;
- notice specifying opening hours;
- reporting of any suspicious activity on the premises;
- 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.

This is not a mandatory, or exhaustive list, and is merely indicative of example measures.

The Licensing Authority may also consider it appropriate to require members of the public entering casino premises to continue to produce proof of ID on entry in order to effectively support self-exclusion schemes, and to act as a deterrent for persons who may be considering targeting the premises for illegal/criminal activities.

Betting machines - This licensing authority will, as per 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 (it is an offence for those under 18 to bet) or by vulnerable people, when considering the

DRAFT

number/nature/circumstances of betting machines an operator wants to offer.

5. Bingo premises

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

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.

The 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 scheme;
- CCTV;
- physical security measures on the premises;
- supervision of entrances/machines;
- physical separation of gambling areas where category C or above gaming machines are made available for use;
- supervision of age restricted areas of the premises;
- self-exclusion schemes;
- clear notices and signage externally and internally regarding age restrictions and restricted areas;
- members of staff appropriately trained;
- a notice specifying opening hours;
- reporting of any suspicious activity on the premises;
- policy and procedures regarding the employment of young persons (aged 16 and 17 where applicable);
- 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.

This is not a mandatory, or exhaustive list, and is merely indicative of example measures.

It is important that if children and young persons are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines.

Where category C or above machines are made available in premises to which

DRAFT

children and young persons are admitted the premises licence holder must ensure that:

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

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

6. Betting premises

Betting machines - This licensing authority will, as per 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 (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.

An applicant for a premises licence must comply with the Act regarding the exclusion of children and young persons.

No children or young persons (under 18 years old) will be able to enter premises with a betting premises licence, although special rules apply to tracks.

The Licensing Authority has the power to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence or to a Casino premises licence (where betting is permitted in the Casino).

If gaming machines are to be utilised, there must also be sufficient facilities for betting on the premises.

The 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 scheme;
- CCTV;
- physical security measures on the premises;
- supervision of entrances/machines;
- self-exclusion schemes;

DRAFT

- clear notices and signage externally regarding age restriction;
- notice specifying opening hours;
- members of staff appropriately trained;
- reporting of any suspicious activity on the premises;
- 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.

This is not a mandatory, or exhaustive list, and is merely indicative of example measures.

7. Tracks

Tracks are sites (including horse racecourses and dog tracks) where races or other sporting events take place. The Licensing Authority recognises that betting is a major gambling activity on tracks, both in the form of pool betting (often known as the "totalisator" or "tote"), and also general betting, often known as "fixed-odds" betting.

This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track.

This licensing authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) 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.

This authority will, therefore, expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

The 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 scheme;
- CCTV;
- supervision of entrances/machines;
- physical security measures on the premises;
- physical separation of areas for category C and above gaming machines;
- self-exclusion schemes;
- clear notices and signage around the premises regarding age restricted areas;
- notice specifying opening hours;
- members of staff appropriately trained;
- reporting of any suspicious activity on the premises;

DRAFT

- 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.

This is not a mandatory~~,~~ or exhaustive list, and is merely indicative of example measures.

Gaming machines - Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.

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 proposes to offer.

Applications and plans

The Gambling Act (s151) requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity.

Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations.

Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises

In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined.

This authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the “five times rule” (commonly known as betting rings) must be indicated on the plan.

DRAFT

8. Vessels and Vehicles

The Licensing Authority is aware that a premises licence may be granted in respect of a passenger vessel. The definition of a vessel is:

- anything (other than a seaplane or amphibious vehicle), designed or adapted for use on water;
- a hovercraft; or
- anything, or part of any place, situated on or in water (structures which are an extension of the land are not vessels, even if they arch over water).

Vehicles (trains, road vehicles, aircraft, seaplanes and amphibious vehicles other than a hovercraft) may not be the subject of a premises licence and, therefore, all forms of commercial betting and gaming will be unlawful in a vehicle in Great Britain.

The 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 scheme;
- CCTV;
- physical security measures on the premises;
- supervision of entrances/machines;
- self-exclusion schemes;
- clear notices and signage externally regarding age restriction;
- members of staff appropriately trained;
- notice specifying opening hours;
- reporting of any suspicious activity on the premises;
- 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.

This is not a mandatory or exhaustive list and is merely indicative of example measures.

9. Travelling Fairs

This licensing authority is responsible for deciding whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

It 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

DRAFT

occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

10. Provisional Statements

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.

S204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that they:

- expect to be constructed;
- expect to be altered; or
- expect to acquire a right to occupy.

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.

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.

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.

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.

11. Reviews:

Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the licensing authority to decide whether the review is to be carried-out. This will 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.

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.

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.

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 must carry out the review as soon as possible after the 28 day period for making representations has passed.

A review hearing will be held before the Council's Licensing and Public Protection Committee or Sub-Committee (as appropriate) and the review will be determined once the representations have been considered and the licence holder has been given the opportunity to respond.

The onus will be on the responsible authority/interested party initiating the review to provide evidence in support of the matters for concern.

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:

(a) add, remove or amend a licence condition imposed by the licensing authority;
(b) exclude a default condition imposed by the Secretary of State (e.g. opening

DRAFT

hours) or remove or amend such an exclusion;
(c) suspend the premises licence for a period not exceeding three months; and
(d) revoke the premises licence.

In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

In particular, the licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

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

- the licence holder,
- the applicant for review (if any),
- the Commission,
- any person who made representations,
- the chief officer of police or chief constable; and
- Her Majesty's Commissioners for Revenue and Customs.

DRAFT

PART D

PERMITS / TEMPORARY & OCCASIONAL USE NOTICE

1. Permits

The Policy of the Licensing Authority in respect of permits for unlicensed family entertainment centres, club gaming, club machine and gaming machine on alcohol licensed premises is to:

- promote the licensing objectives;
- treat each application individually on its own merits;
- comply with the statutory requirements;
- ensure compliance with the guidance issued by the Gambling Commission;
- promote and ensure high standards at all venues.

The Licensing Authority when considering an application for a permit will consult closely with the Chief of Police and Child Protection, Performance And Partnership, Birmingham Children's Trust.

2. Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits - Schedule 10 paragraph 7)

Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use; it should also be noted that only Category D gaming machines are allowed in UFEC's.

The Gambling Act 2005 states that a licensing authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25. Gambling Commission Guidance is that licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits – i.e. licensing authorities will want to give weight to child protection issues.

Guidance is also that an application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application

Licensing authorities might wish to consider asking applicants to demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- that the applicant has no relevant convictions (those that are set out in

Schedule 7 of the Act); and

- that staff are trained to have a full understanding of the maximum stakes and prizes.

It should be noted that a licensing authority cannot attach conditions to this type of permit.

The Licensing Authority, when considering a permit application for an unlicensed family entertainment centre, may request further information from an applicant regarding any matters of concern, which may include:

- the suitability of the applicant;
- the suitability of members of staff;
- the location of the premises;
- evidence that a premises will only operate as an unlicensed family entertainment centre;
- the applicant will be required to demonstrate they have a full understanding of the maximum stakes and prizes of the gambling that is permissible in an unlicensed Family Entertainment Centre;
- confirmation of intended opening hours;
- ensuring a premises maintains acceptable levels of management supervision at all times during opening hours;
- ensuring a premises maintains acceptable levels of security at all times during opening hours;
- CCTV provisions at the premises and surveillance of the premises;
- evidence that members of staff are appropriately trained and a full understanding of the maximum stakes and prizes of the gambling that is permissible in an unlicensed Family Entertainment Centre;
- participation in the Council's 'pupil watch scheme' in connection with suspected truant school children on the premises;
- evidence of policy and procedures in respect of unsupervised very young children on the premises, or children causing perceived problems on/or around the premises;
- 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;
- any other factors that are within the control of the permit holder or designated management.

The Licensing Authority will give significant weight to all issues relating to the protection of children and young persons. If no relevant representations are received then the permit will be issued automatically

The Licensing Authority will not refuse an application for a permit unless it has notified the applicant of its intentions to refuse the application and of its reasons and given the applicant an opportunity to make representations.

DRAFT

3. (Alcohol) Licensed premises gaming machine permits - (Schedule 13 paragraph 4(1)) Automatic entitlement: 2 machines

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority.

The licensing authority can remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises.

To take advantage of this entitlement the person who holds the on-premises licence must give notice to the Licensing Authority of their intention to make gaming machines available for use, and must pay the prescribed level of fee.

Permit: For 3 or more machines

If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and "*such matters as they think relevant*."

This licensing authority considers that "such matters" will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be of help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.

This licensing authority has delegated authority to officers to grant a permit for up to four gaming machines (category C or D) to be made available for use in alcohol-

DRAFT

licensed premises under this Act.

A person who holds the “on-premises” alcohol licence may apply to the Licensing Authority for a permit specifying any number of category C or D machines but when considering the application the Licensing Authority will have regard to the licensing objectives, and may also take into account any matters that are considered relevant to the application. These may include:

- the appropriate siting of gaming machines in areas where children are not normally permitted;
- the size of the premises;
- the supervision of gaming machines at all times when the premises is open;
- notices by each gaming machine specifying no person under 18 years old are permitted to use the gaming machine;
- age verification checks;
- ensuring members of staff are appropriately trained;
- display of posters and information leaflets for organisations set up to assist people wishing to seek help and advice regarding gambling related issues.

The Licensing Authority can grant or refuse an application. In granting the application the Licensing Authority can also vary the number and category of gaming machines authorised by the permit.

If the Licensing Authority intends to refuse or vary an application the applicant will be notified prior to the refusal or variation in writing of their intention to do so, the applicant will then be given the opportunity to make representations regarding these matters.

It should be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

4. Prize Gaming Permits

The Gambling Act 2005 states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority proposes to consider in determining the suitability of the applicant for a permit”.

The Licensing Authority will specify the form and manner in which an application must be made, and will specify the information and supporting documents required, these may include:

- plans of the proposed building;
- insurance certificates; and
- any other documents deemed necessary or appropriate.

The Licensing Authority will comply with any guidance produced by the Gambling Commission, and when considering a permit application may request further information from an applicant regarding any matters of concern, which may include:

DRAFT

- the suitability of the applicant;
- the location of the premises;
- confirmation of intended opening hours;
- confirmation of the types of gaming to be offered;
- the applicant will be required to demonstrate they have a full understanding of the limits to stakes and prizes that are set out in Regulations;
- the applicant will be required to demonstrate the gaming offered is within the law;
- ensuring a premises maintains acceptable levels of management supervision at all times during opening hours;
- ensuring a premises maintains acceptable levels of security at all times during opening hours;
- CCTV provisions at the premises and surveillance of the premises;
- evidence that members of staff are appropriately trained;
- a willingness to participate in the Council's 'pupil watch scheme' in connection with suspected truant school children on the premises;
- any other factors that are within the control of the permit holder or designated management.

The Licensing Authority will give significant weight to all issues relating to the protection of children and young persons.

The Licensing Authority may grant a permit only if they have consulted the Chief of Police about the application.

Where relevant representations are received from the Chief of Police and the Licensing Authority intends to refuse an application based on the objections the applicant will be notified prior to the refusal in writing of their intention to do so, the applicant will then be given the opportunity to make representations regarding these matters.

In making its decision on an application for this permit the licensing authority does not need to (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but that the licensing authority cannot attach conditions. The conditions in the Act are:

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

DRAFT

- participation in the gaming must not entitle the player to take part in any other gambling.

5. Club Gaming and Club Machines Permits

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 (3 machines of categories B, C or D), equal chance gaming and games of chance as prescribed in regulations.

Members Clubs and Miner's welfare institutes – and also Commercial Clubs – may apply for a Club Machine Permit. A Club Machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D). NB Commercial Clubs may not site category B3A gaming machines offering lottery games in their club.

Gambling Commission Guidance is that Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulation and these cover bridge and whist clubs, which replicates the position under the Gambling Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations.

The Licensing Authority, when considering a club gaming and club machine permit application, may require the applicant to provide evidence that the club fulfils the requirements for a members' club, or miners' welfare institute or commercial club (Commercial clubs cannot provide gaming and games of chance).

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.

There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which an authority can refuse a permit under the process 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."

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

6. Temporary Use Notices

Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Use Notice would include hotels, conference centres and sporting venues.

The licensing authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.

The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this Statement the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.

There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" is contained in Part 8 of the Act. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place".

In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.

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.

In referring to a set of premises, the Act provides that a set of premises is the subject of a Temporary Use Notice if ‘any part’ of the premises is the subject of a Notice. This prevents one large premises from having a Temporary Use Notice in effect for more than 21 days in a year by giving notification in relation to different parts of the premises and re-setting the clock.

DRAFT

A Temporary Use Notice must be submitted to the Licensing Authority not less than 3 months and one day before the first day on which the gambling event will begin.

In addition a copy of the notice must also be served on:

- the Gambling Commission,
- the Chief Officer of Police,
- the Commissioners of Customs and Excise,
- any other licensing authority in whose area the premises are situated.

(See appendix 2 for relevant addresses.)

The same premises may not be the subject of a temporary use notice for more than 21 days in any 12-month period, but may be the subject of several notices provided that the total does not exceed 21 days.

Should the Licensing Authority or the other bodies served with copies of the temporary use notice consider that the gambling should not take place, or only with modifications, they will issue a notice of objection within 14 days of the date of the temporary use notice.

Where relevant representations are made, a hearing will be held before the Council's Licensing and Public Protection Committee or Sub-Committee to consider representations.

The Licensing Authority will determine the notice after considering supporting evidence from the server of the notice and any objectors who have made representations.

If the Licensing Authority considers that a temporary use notice should not have effect a counter-notice will be issued which may:

- prevent the temporary use notice from taking effect;
- limit the activities that are permitted;
- limit the time period of the gambling; or
- allow the activity to take place subject to a specified condition

7. Occasional Use Notices

The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded.

In considering an occasional use notice the Licensing Authority will consider the definition of a 'track' and whether the server of the notice is permitted to avail themselves of the notice.

Betting on a track will be permitted by an occasional use notice providing it is for 8 days or less in a calendar year. The calendar year will commence on the 1st January.

DRAFT

The notice must be served by a person who is responsible for the administration of events on the track, or by an occupier of the track.

A notice must be served on the Licensing Authority and copied to the Chief of Police.

The notice must specify the day on which it has effect, and may be given in relation to consecutive days providing the overall limit of 8 days is not exceeded in a calendar year.

The Licensing Authority will maintain a record of the number of notices served in a calendar year to ensure the limit of 8 days is not exceeded.

Providing that a notice will not result in betting facilities being available for more than 8 days in a calendar year, no counter notices or objection can be submitted.

No gaming machines may be provided by virtue of an occasional use notice.

8. Registration of Small Society Lotteries

All applications for registration must be made in the form specified by the Secretary of State, and accompanied by any supporting documents specified by the Secretary of State or required by the Licensing Authority.

The Licensing Authority, when considering an application for registration, may request any additional information it deems appropriate. This may include a declaration from the governing body of the society stating:

- the application is on behalf of a bona fide non-commercial society;
- that all persons to be connected with the promotion of the lottery have no relevant convictions or cautions recorded against them;
- the purpose of the Society and; the purpose of the fund raising;
- confirmation of the appointment of two members of the society who have the authority to sign and complete the required financial returns.
- where a society intends to employ an external lottery manager evidence that person holds an operators licence issued by the Gambling Commission.

If the Licensing Authority is intending to refuse an application to join the register the applicant will be notified in writing of the reasons why it is considering refusal, and the evidence on which it has based that preliminary conclusion. The applicant will then be given the opportunity to provide further evidence in support of the application or to make representations regarding these matters.

Further guidance about the processes and procedures under the Gambling Act 2005 can be obtained from the Licensing Service
e-mail: licensing@birmingham.gov.uk
website: www.birmingham.gov.uk/licensing

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APPENDIX 1

DELEGATION OF FUNCTIONS REGARDING THE GAMBLING ACT 2005

Subject	Full Council	Licensing & Public Protection Committee	Licensing Sub-Committees	Officers
Three year licensing policy	X			
Policy to permit casino	X			
Fee setting (when appropriate)		X		
Application for premises licence			Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Application for a variation to a licence			Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Application for a transfer of a licence			Where representations have been received from the Gambling Commission	Where no representations received or representations have been withdrawn
Application for a provisional statement			Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Review of a premises licence			X	
Application for a club/gaming club machine permits			Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Cancellation of club gaming/club machine permits			X	
Application for other permits			Where an application is received to operate more than 4 gaming machines on an alcohol licensed premises	Where an application is received to operate 4 or less gaming machines on an alcohol licensed premises
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	

DRAFT

Decision to attach/exclude a premises licence condition			X	
To administer and carry out all other functions not specifically mentioned in the delegation to the Licensing & Public Protection Committee, which are capable of being delegated to an officer as provided in the Gambling Act 2005 and any regulations made under that Act, together with any related functions				X

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APPENDIX 2

RESPONSIBLE AUTHORITIES – CONTACT ADDRESSES
ALL TO BE VERIFIED AND UPDATED WHERE NECESSARY

Birmingham City Council General Licensing Regulation & Enforcement P.O. Box 17831 BIRMINGHAM B2 2HJ licensing@birmingham.gov.uk	Gambling Commission Victoria Square House Victoria Square BIRMINGHAM B2 4BP Tel: 0121 230 6500 licensing@gamblingcommission.gov.uk
Birmingham City Council Environmental Health Pollution Team P.O. Box 16977 BIRMINGHAM B2 2AE pollution.team@birmingham.gov.uk	HM Revenue and Customs Excise Processing Teams BX9 1GL United Kingdom Tel: 0300 322 7072 option 7 nrubetting&gaming@hmrc.gsi.gov.uk
Birmingham Licensing Department West Midlands Police Lloyd House 2 Colmore Circus Queensway BIRMINGHAM B4 6AT bw_licensing@west-midlands.pnn.police.uk	West Midlands Fire Service Headquarters 99 Vauxhall Road BIRMINGHAM B7 4HW firesafety.admin@wmfs.net
Birmingham City Council Planning Control Division P.O. Box 28 1 Lancaster Circus Queensway BIRMINGHAM B1 1TU PlanningandRegenerationEnquiries@birmingham.gov.uk	Safeguarding Children & Licensing Birmingham Children's Trust 1 Lancaster Circus Ground Floor, Zone 02 PO Box 16895 BIRMINGHAM B2 2LD licensing@birminghamchildrenstrust.co.uk
In respect of a vessel	
Environment Agency Midlands Regional Office 550 Streetsbrook Road SOLIHULL B91 1QU Tel: 0870 850 6506	Canal & River Trust Peel's Wharf Lichfield Street Fazeley TAMWORTH B78 3QZ Tel: 01827 252000

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