

+-

## **Agenda for Licensing & Enforcement Committee Wednesday, 23 May 2018; 9.30am**

[Members of the Committee](#)

**Venue:** Committee Room, Knowle, Sidmouth, EX10 8HL

**Contact:** [Chris Lane](#), 01395 571544 (or group number 01395 517546): Issued 16 May 2018

Under the Openness of Local Government Bodies Regulations 2014, any members of the public are now allowed to take photographs, film and audio record the proceedings and report on all public meetings (including on social media). No prior notification is needed but it would be helpful if you could let the democratic services team know you plan to film or record so that any necessary arrangements can be made to provide reasonable facilities for you to report on meetings. This permission does not extend to private meetings or parts of meetings which are not open to the public. You should take all recording and photography equipment with you if a public meeting moves into a session which is not open to the public.

If you are recording the meeting, you are asked to act in a reasonable manner and not disrupt the conduct of meetings for example by using intrusive lighting, flash photography or asking people to repeat statements for the benefit of the recording. You may not make an oral commentary during the meeting. The Chairman has the power to control public recording and/or reporting so it does not disrupt the meeting.

- 1 Minutes for 21 March 2018 (pages 2-4)
- 2 Apologies
- 3 [Declarations of interest](#)
- 4 [Matters of urgency](#) – none identified
- 5 To agree any items to be dealt with after the public (including press) have been excluded. There are no items that officers recommend should be dealt with in this way.

### **Part A - Matters for Decision**

- 6 Committee Update -  
Licensing Act 2003, Gambling Act 2005, Taxis & General Licensing  
(Pages 5-9)
- 7 Gambling Act 2005 – To seek approval to consult on the draft  
Gambling Policy (Pages 10-58)

[Decision making and equalities](#)

**For a copy of this agenda in large print, please contact the Democratic Services Team on 01395 517546**



East Devon District Council  
Knowle  
Sidmouth  
Devon  
EX10 8HL

DX 48705 Sidmouth

Tel: 01395 516551

Fax: 01395 517507

[www.eastdevon.gov.uk](http://www.eastdevon.gov.uk)

EAST DEVON DISTRICT COUNCIL

Minutes of a Meeting of the Licensing & Enforcement Committee  
held at Knowle, Sidmouth on Wednesday, 21 March 2018

Attendance list at the end of the document

The meeting started at 9.30am and ended at 10.30 am

\*13 Minutes

The minutes of the meeting of the Licensing & Enforcement Committee held on 15 November 2017, were confirmed and signed as a true record.

\*14 Declarations of interest

Councillor Steve Hall

Minute \*15

Disclosable Pecuniary Interest – Private Hire Licence Holder

Councillor Geoff Jung

Minute \*15

Personal Interest – Designated Premises Supervisor

Councillor John O’Leary

Minute \*15

Personal Interest – Designated Premises Supervisor

Councillor John Dyson

Minute \*15

Personal Interest – Trustee of Sidmouth Folk Festival

Councillor Steve Gazzard

Minute \*15

Personal Interest – Organiser of Street Trading Events in Exmouth

Councillor Cherry Nicholas

Minute \*15

Personal Interest – Chair of Exmouth Festival Committee, Chair of Christmas Cracker Committee and Lead Finance Councillor for Exmouth Town Council.

Councillor Peter Burrows

Minute \*15

Personal Interest – Member of Seaton Carnival Committee

\*15 Street Trading Policy

The Strategic Lead – Governance & Licensing reported that following the introduction of a new street trading regime in October 2017, there had been a number of concerns raised by local organisations, including charitable ones, about the impact that the new regime was having and that it was overly complicated and difficult to apply for consents. Accordingly there was a proposal to revise the policy and approach to consenting as detailed in the report, with a view to ensuring a quicker and easier process for obtaining a street trading consent. This would include removing the charge for applying street trading consents. It was acknowledged that there would need to be a further review of the Street Trading policy in due course, which may include the need to re-introduce an administration charge to cover costs. Following a question from a member it was noted that the

immediate effect of withdrawing charges for street trading consents could be the loss of £32,000 income.

Members noted that Street Scene charged a fee for holding events on Council land and there was concern expressed that these charges may increase further. Thereby reducing the financial viability of some events. The need to inform town/parish council on the changes to the street trading policy was acknowledged and the new licensing officer who would be appointed to deal with street trading, would look to support/train town/parish councils wherever possible.

The Chairman welcomed Councillor Peter Burrows who was representing Seaton Town Council and was invited to address the Committee on Street Trading issues in Seaton. He expressed the view that Seaton Town Council had appreciated the changes to the Street Trading policy made by EDDC. The town held regular seafront street markets, including those containing charity stalls and it was confirmed that these stalls would need to complete street trading application forms.

Henry Gordon Lennox, Strategic Lead – Governance & Licensing, reported non-commercial car boot sales would not be subject to the need to obtain consent. Fetes were also not included, but there were subject to a requirement for Food Hygiene certification when selling food to the public.

- RESOLVED:**
1. that the withdrawal of charges for applying for street trading consents be agreed;
  2. that the revised street trading policy be adopted (Appendix A);
  3. that the actions that would take as a result of the above decisions be noted.

**Attendance list**

**Councillors present**

Steve Hall (Chairman)  
John O'Leary (Vice Chairman)  
Megan Armstrong  
Brian Bailey  
Dean Barrow  
Colin Brown  
Maddy Chapman  
John Dyson  
Steve Gazzard  
Geoff Jung  
Cherry Nicholas  
Bruce de Saram  
Pauline Stott

**Also present:**

**Councillor:**

Peter Burrows

**Officers present**

Henry Gordon Lennox, Strategic Lead – Governance & Licensing  
Lesley Carlo, Licensing Officer  
Steve Saunders, Licensing Manager  
Chris Lane, Democratic Services Officer

**Apologies**  
**Councillor:**  
Jim Knight

Chairman ..... Date .....

**Report to:** **Licensing and Enforcement Committee**

**Date of Meeting:** 23 May 2018

**Public Document:** Yes

**Exemption:** None



**Agenda item:** 6

**Subject:** **Committee Update -  
Licensing Act 2003, Gambling Act 2005, Taxis & General Licensing**

**Purpose of report:** The report provides an update on the activities of the Licensing Service under the Licensing Act 2003, Gambling Act 2005 and Taxi legislation together with other general licensing matters.

**Recommendation:** **That the report be noted**

**Reason for recommendation:** To keep the Council's statutory committee up to date with current arrangements and statistics relating to the Licensing Service.

**Officer:** Steve Saunders, Licensing Manager, Ext. 2787,  
ssaunders@eastdevon.gov.uk

**Financial implications:** There are no financial implications.

**Legal implications:** There are no legal implications requiring comment.

**Equalities impact:** Low Impact

**Risk:** Low Risk

### **Appendices:**

**Link to Council Plan:** Living in, working in, enjoying and funding this outstanding place

1 Licensing Act 2003

### **1.1 Applications Received, Licences Issued and Notices Given**

1.1.1 Following a request for licensing statistics from the Home Office (DCMS), an annual mandatory return was provided giving the statistics for all alcohol and late night licences up to the 31<sup>st</sup> March 2017. The data highlights the volume of licences, notices and work achieved by the licensing team over the year and shows an increase in licences issued against the last four previous years. The return covering the year 2017/2018 showed the following licences were administered by the licensing team over the previous financial year:

- ) 642 Premises Licences (compared to 621 in 2016/17),
- ) 49 Club Premises (compared to 51 in 2016/17)

- ) 2310 Personal Alcohol Licences (compared to 2197 in 2016/17)
- ) 856 Temporary Event Notices were processed and issued (compared to 837 in 2016/17).

1.1.2 The only decrease in work concerned two fewer club licences and this downward turn is consistent with the trend attributed to members clubs surrendering alcohol licences and applying to become licensed premises (public houses) which allows more custom.

## **1.2 Premises Risk Ratings**

1.2.1 Part of the work undertaken by the licensing team involves compliance inspections by visiting licensed premises in East Devon to ensure licensing laws are adhered to by licence holders and their staff. To achieve this work, the Overview Committee previously set performance indicators for the number of compliance visits to be achieved by the team each year. For the year 2017/18 the team completed 182 compliance visits with the required number set at 150. The team also identifies and visits those licensed premises assessed as 'high risk' and have achieved the majority of inspections with any that are still to be visited being included for an inspection in the year ahead.

1.2.2 In January 2018 the council introduced formal arrangements for event planning by holding meetings of a new Safety Advisory Group (SAG) at the Knowle, Sidmouth. The Safety Advisory Group is chaired and co-ordinated by the service lead for Environmental Health and brings together managers and officers from all responsible authorities, including police and council licensing to consider planning and safety arrangements for forthcoming events, most of which have licensing requirements. The quarterly meetings commenced in January 2018 with the Safety Advisory Group providing a professional basis to exchange information and reviewing management plans to ensure festivals and outdoor events proceed safely.

## **1.3 Hearings**

1.3.1 During the period from the 1<sup>st</sup> April 2017 to 31<sup>st</sup> March 2018, 31 Licensing Sub-Committee hearings were held in relation to applications under the Licensing Act 2003. The licensing team has continued to offer mediation when representations have been made against any application which offers the chance to establish understanding between objectors and applicants. Mediation meetings are often successful providing conclusion through reaching an 'agreed position.' Once a representation has been made during a representation period, licensing officers are required to refer the application to the Licensing Sub-Committee.

## **2 Gambling Act 2005**

### **2.1 Applications Received, Licences Issued and Notices Given**

2.1.1 In a similar manner to providing annual statistics for alcohol related licences, all licensing authorities are also required to submit annual returns to the Gambling Commission each May regarding the number of gambling licences administered together with the number of proactive inspections and complaints received. The return was submitted in the required time this year and showed that gambling licence numbers have not diminished along with maintaining compliance work by visiting premises throughout the year.

2.1.2 Figures provided on 1<sup>st</sup> May 2018 show that the licensing authority currently administer 2 Bingo Premises Licences, 4 Adult Gaming Centre Premises Licences, 9 Family Entertainment Centre Gaming Machine Permits, 10 Betting Premises Licences, 16 Club Machine Permits, 1 Prize Gaming Permit, 11 Alcohol Licensed Premises Gaming Machine Permits and 154 Small Society Lotteries . In addition to this, 114 alcohol licensed premises have given notification of their intent to provide gaming machines in those premises.

2.1.3 This licensing team works in conjunction with the Gambling Commission when considering new applications or when permits are renewed by ensuring that applications meet appropriate

requirements under the legislation. Both the Gambling Commission and the licensing authority expect detailed local risk assessments for each new licence application. Further joint inspections are being co-ordinated later this month.

- 2.1.4 The past year saw a number of gaming permits for premises that were licensed 10 years ago coming to the end of their full maximum term and licensing officers supported renewal applications from the licensees concerned. The licensing team will continue to work in conjunction with the Gambling Commission to ensure that legally required standards are maintained for permit renewals

## **2.2 Enforcement**

- 2.2.1 The programme of visits to licensed premises and other premises where gaming is permitted continues and whenever a licensed premises inspection occurs, the existence of gaming machines and any issues of compliance are duly considered and inspected.

## **3 Taxis**

### **3.1 Applications Received and Licences Issued**

- 3.1.1 Figures taken on the 1<sup>st</sup> May 2018 show that the licensing authority currently administer:

195 hackney driver licences (compared to 206 in 2016/17),

165 hackney carriage vehicle licences (compared to 170 in 2016/17),

13 private hire operator licences (compared to 15 in 2016/17),

20 private hire vehicle licences (compared to 18 in 2016/17), and

26 private hire driver licences being the same as the previous year. The slight reduction in hackney driver and vehicle licences is attributed to some licence holders retiring from the trade whilst a small number of drivers have also surrendered licences held with East Devon in order to obtain licences from Exeter City Council to work in the city.

- 3.1.2 The work undertaken to introduce the revised Taxi policy in 2017 required considerable time and resources within the team over the previous year although the 'new' policy has modernised procedures and is considered to have enhanced public safety.

- 3.1.3 The majority of private hire driver, vehicle and operator licences still fall due for renewal on the 31 May each year. Officers have sent out letters to all drivers and proprietors to remind them to renew their licences in time.

### **3.2 Enforcement**

- 3.2.1 The licensing team has continued to carry out checks and inspections of hackney carriage vehicles whilst parked on the taxi ranks within the East Devon area to ensure that all vehicles comply with the legislation and meet the required standards. Licensing officers also inspect each new vehicle submitted by applicants for licensing as a taxi or private hire vehicles. During the previous this year compliance inspections for vehicles have been undertaken at ranks in Exmouth, Sidmouth, Axminster and Honiton.

- 3.2.2 In a similar manner to the licensed premises visits, the Overview Committee previously set performance indicators for the number of taxi compliance inspections to be undertaken by the licensing team each year. The requirement for the year 2017/18 was to complete 120 vehicle inspections and the team were able to complete 103 vehicle checks. The licensing team has experienced higher volumes of work and procedures than at any previous time and despite falling short of the overall target for inspections this work will continue as the programme of vehicle inspections assists in ensuring the safety of the public being carried.

- 3.2.3 The previous trend reported twelve months ago involving some East Devon licensed vehicles working routinely in Exeter whilst not displaying the East Devon roof sign has ceased after officers completed compliance visit work in Exeter. By working in partnership with Exeter City Council licensing officers and also by responding to reports from the public and other licence holders the situation that was evident in 2016/17 has been resolved.

- 3.2.4 The Council holds two meetings with members of the taxi trade and the Licensing and Enforcement Committee every year with both officers and councillors attending. This provides a forum for positive and continued communication along with sharing changes in legislation and procedures with the taxi and private hire trade. However the taxi liaison meeting due to occur in April was postponed with officers being aware of the need to review the present hackney carriage fares. This has been a request made by some sections of the taxi trade in past meetings and it is the intention over the forthcoming period to circulate a comparison of current the East Devon fare tariff against fares set by other authorities in Devon. This work will also be in conjunction with issuing a ballot to the holders of a hackney carriage licence seeking their response as to whether a rise in taxi fares is required. The process to review and increase taxi fares has a number of legislative steps to be followed involving formal consultation with licence holders and the review of taxi fares that drivers charge of the public should not be confused with licensing fees charged by the council to obtain a licence.
- 3.2.5 Licensing officers have continued working over the previous period to address differences identified in the records held by the district and county councils concerning the past approval of the taxi ranks in Budleigh Salterton. It was reported at the previous meeting that earlier uncertainty over approval has been clarified for one rank although work still continues to fully confirm the date of designation of the rank in Fore Street before being reported back to this committee.

### **3.3 Hearings**

- 3.3.1 Over the previous year there have been five taxi licensing matters referred to the Licensing Sub Committee. Two matters related to private hire vehicles being submitted for licensing over four years from date of registration with one application granted and the other refused through not being a vehicle considered in exceptional condition. There have been three matters relating to new hackney carriage driver applications, two of which were granted and one refused. The decisions reached by the Licensing Sub-Committee have not led to an appeal to the courts by applicants unsuccessful in their applications. The licensing authority continues to consider each application individually and on their own merits and circumstances.

### **3.4 Safeguarding Awareness Training**

- 3.3.2 Licensing staff are researching options to inform this committee in order to introduce safeguarding awareness briefings for new and existing licence holders, this being a development introduced by some other authorities in Devon. It is recognised that protecting and safeguarding children and vulnerable adults in society is essential and that the taxi trade can provide vital support through the work they achieve at various hours of the day and night. To commence this it is necessary to identify a suitable training provider to deliver safeguarding awareness sessions to groups of licensed drivers and new applicants. Whilst not all Devon authorities have commenced safeguarding awareness briefings it should be considered an aim for this council to develop a strategy over the forthcoming year.

## **4. General Licensing – Street Trading Consents**

### **4.1 Street Trading Consents Policy**

- 4.2.1. Following the introduction of a new street trading regime in October 2017 with further revisions to the policy approved by this committee in March 2018, there has been a dramatic uptake and submission of applications from event organisers and individual traders. The changes that were approved at the last meeting included the withdrawal of charges (unless hiring land owned by East Devon), the shortened consultation period and also streamlining applications under block booking arrangements.
- 4.2.2 The removal of previously set fees has generated the necessary refunds that were charged to the first traders who applied in 2017. The previous criticisms of the process being overly



complicated and requiring too much information have ceased with applications being received unabated from applicants across the district in all areas and towns. This is evident despite one organiser withdrawing from organising street markets as reported on social media. The decision not to proceed was frustrating to all involved including the licensing team as many hours had been invested by officers meeting and supporting the organiser to prepare applications. It is noteworthy that on the same date of the first cancelled market, a large street trading event of a very similar nature took place in Exmouth. The organiser of that and other events, including Ottery St Mary Food festival have successfully submitted their applications along with traders attending using the revised and streamlined process.

- 4.2.3 The changes introduced at the last meeting of this committee generated revised application forms and over the forthcoming period work will continue with officers reviewing the process in consideration of a 'one stop' application being available online by combining a number of licences and permits for events. The changes have not detracted from the need for individual assessment by officers necessary to allow each consultation. It is this area of work that has increased demands on officers significantly being the case that most first time applicants have to be advised and supported in their application to allow consultations to start. Officers will also attend locations where representations are received locally or where the proposed trading may be unsafe or unsuitable adding to the work of the licensing team.
- 4.2.4 As with any new or revised policy, the street trading process is still in the early stages and is bedding in after only six months from being fully introduced. Experience is showing that representations are more likely to be received regarding mobile commercial traders rather than markets or festivals that occur over a short period of a few days. Some applications from mobile traders seeking unsuitable locations have been refused upon the basis of representations received and all applications are treated on the basis of their own merits.

## 5. Consultations and Partnership Working

### 5.1 Officers attend Licensees meeting

- 5.1.1 Officers attend Licensees meeting within the East Devon area whenever possible as we feel that these meetings should be supported and are a useful forum for the exchange of ideas, information and keeping up to date with issues within each area. Attendance by council, local police and also police licensing staff is keenly sought by the licensing trade to discuss local crime and disorder issues. Officers have attended licensees meetings over the previous period in Exmouth, Sidmouth and Axminster.

### 5.2 Meetings between officers and the police licensing team

- 5.2.1 Officers attend licensing liaison meetings on a regular basis with the police licensing team to exchange information and discuss licensing issues within the East Devon Area. This exchange of information is considered useful when specific problems or incidents involving licensed premises require joint investigation or premises visits.
- 5.2.2 During the previous period, the police licensing officer Mr Barry Sleight retired from his role with Devon and Cornwall Police. Mr Sleight has been replaced by a colleague in the role and over the previous ten years he worked closely and in support of East Devon District Council to provide a high level of service in the field of licensing.

## 6. Licensing Team update

- 6.1 The structure of the team is now one manager, three licensing officers and two licensing support officers, with additional administrative support being provided by a temporary staff member. The recruitment of an officer to oversee Street Trading Consents and applications is shortly due to conclude with a recruitment process involving interviews planned in the forthcoming weeks during May.

**Report to:** **Licensing and Enforcement Committee**



**Date of Meeting:** 23 May 2018

**Public Document:** Yes

**Exemption:** None

**Review date for release** None

**Agenda item:** 7

**Subject:** **Gambling Act 2005 – To seek approval to consult on the draft Gambling Policy**

**Purpose of report:** This report updates the Licensing & Enforcement Committee on the review of the Council's Gambling Act 2005 Policy and seeks approval to commence the consultation process on the draft policy which has been updated in the light of recent changes in legislation and experience over the past three years.

**Recommendation:** **That the Committee consider this draft Statement of Gambling Policy (attached as Appendix B) and give approval for the Licensing Service to start the formal public consultation process that is required by the legislation..**

**Reason for recommendation:** It is a legal requirement of the Act for the Council to determine a Gambling Policy in order to provide a framework for all licence applications regarding the sale of alcohol, the provision of regulated entertainment and the provision of late night refreshment. The Policy was last reviewed in 2016. It must be reviewed at least every three years and therefore an amended Policy must be adopted by the 31 January 2019.

**Officer:** Steve Saunders, Licensing Manager, Ext. 2787, ssaunders@eastdevon.gov.uk

**Financial implications:** If the Policy is not properly adopted by the District Council the Authority will be liable to legal challenge which if successful could entail costs being awarded against the District Council.

**Legal implications:** To be completed by Legal.

**Equalities impact:** Low Impact

[Click here to enter text on impact level relating to your report. Link to an equalities impact assessment form if necessary.](#)

**Risk:** Low Risk

**Links to background information:** ) Appendix A -List of key Organisations and individuals that we intend to consult  
) Appendix B - Draft Gambling Policy prepared for consultation

**Link to Council Plan:** Living in, working in and enjoying this outstanding place

## Report in full

### Background and Proposed Draft Amendments to the Existing Policy

- 1.1 Under the Gambling Act 2005, it is the responsibility of the Council to develop and publish a Statement of Gambling Policy. The published Policy then provides the framework for all decisions on applications relating to the Gambling Act 2005 and the way the Authority carries out its functions in relation to the legislation. Council adopted the current Policy on the 31 January 2016.
- 1.2 The Act requires that the Licensing Authority review its Gambling Policy every three years. The Council's present policy will expire on the 31 January 2019 and therefore the Authority is under a duty to have reviewed and published a fresh policy by that date.
- 1.3 Over the past three years the current policy has been kept under review by the Licensing Service. However a number of changes have now been proposed to reflect current practices including recent and updated guidance issued by the Gambling Commission.
- 1.4 The adopted policy must set out the authority's general approach to licence applications and may only be determined following consultation. The revised policy now includes the additional updates:
  - The updating of Geographical & Local area data relevant to East Devon in 2018. Whilst not a requirement on a licensing authority but in line with developing a more local focus for statements of licensing policy and reflecting good practice, the Gambling Commission suggests that Licensing Authorities should adopt a 'Local Area Profile' (Part A. Sec.3);
  - The inclusion of GDPR for the Exchange of Information from the 25 May 2018 (Part A.Sec.9) and the addition of the revised council policy for enforcement (Part A Sec10).
  - The expectation that Local Risk Assessments will be revised when risks or circumstances change with a copy being kept and available at licensed premises, together with reporting suspicious activity inline with anti-money laundering initiatives (Part A. Sec 13)
  - Inclusion and documenting of Safeguarding arrangements for children and other vulnerable adults (Part B. Sec 1.17 and in other sections referring to children).
  - Inclusion of variation application for changes in Betting Office premises (Part B. Sec 6).
- 1.5 It is proposed to circulate invitations widely to take part in the draft Policy consultation to include all Responsible Authorities, Council Members, the business community, Town and Parish Councils, the Community Safety Partnership and the Devon Primary Care Trust. A more comprehensive list appears at **Appendix A** and Section 4 of the draft Policy document. The Policy will also be published on the Licensing Service's dedicated web pages and web users will be invited to comment online.
- 1.6 The consultation and publication timetable for the Policy is:
  - 6 August 2018 - Revised policy circulated for consultation
  - 26 October 2018 - Consultation period ends
  - 21 November 2018 - Result of consultation reported to L & E Committee
  - 28 November 2018 - Cabinet
  - 12 December 2018 - Licensing Policy considered by full Council for adoption

## 2 Conclusion

- 2.1 A copy of the draft Gambling Policy appears at **Appendix B**. The legislation requires that publication of the policy takes place by 31 January 2019.



### Relevant Authorities' Contact Details

#### **Responsible Authority Contacts -**

The list of Responsible Authorities and their contact details may change where additional responsible authorities are designated by regulations from the Secretary of State or existing Responsible Authorities change their address.

An up to date list of Responsible Authorities relating to East Devon with their contact details can be obtained by accessing the East Devon District Council's Licensing pages on the Council's website or by request to the Council's Licensing Office by emailing [licensing@eastdevon.gov.uk](mailto:licensing@eastdevon.gov.uk) or telephoning 01395 517411.

#### **East Devon Licensing Authority**

The Licensing Manger  
East Devon District Council  
Knowle  
Sidmouth  
EX10 8HL

#### **The Gambling Commission**

Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP

#### **Devon & Cornwall Police**

Licensing Department (East)  
Devon & Cornwall Police HQ  
Middlemoor  
EXETER  
EX2 7HQ

#### **Devon and Somerset Fire & Rescue Service**

Central Command (East)  
Middlemoor Fire Station  
Sidmouth Road  
EXETER  
EX2 7AP

Area Child Protection Committee and Local Safeguarding Children Board

CP Checks  
MASH  
PO BOX 723  
Exeter

**Environmental Health**

(Nuisance, Public Health & Health & Safety Teams)  
East Devon District Council  
Environmental Health Service  
Council Offices  
Knowle  
SIDMOUTH

**Head of Planning**

East Devon District Council  
Planning & Countryside Service  
Council Offices  
Knowle  
SIDMOUTH  
EX10 8HL

**HM Customs and Excise**

HM Revenue and Customs  
National Registration Unit  
Portcullis House  
21 India Street  
Glasgow  
G2 4PZ

**Additional Responsible Authority Contacts for vessels –  
Maritime and Coastguard Agency**

(For attention of Mr Tony Heslop)  
Plymouth Marine Office  
Western Region  
New Fish Market,  
Fish Quay  
PLYMOUTH  
PL4 0LH



# Draft Statement of Licensing Policy

GAMBLING ACT 2005

**For the period 31 January 2019  
to  
31 January 2022**

**DRAFT VERSION 1 (2018)  
APPENDIX B**

The additions and changes to the draft policy can easily be recognised as they appear on the web version in **red bold under lined font as this example**.

(To be Approved by Full Council.12 December 2018)

# Contents

## **PART A – Gambling Statement of Principles**

1. Licensing objectives	Page 2
2. Introduction	Page 2
3. The Geographical and Local area profile	Page 4
4. Review of Statement of Principles	Page 5
5. Declaration	Page 6
6. The Overriding Principle	Page 6
7. Responsible authorities	Page 7
8. Interested parties	Page 7
9. Exchange of information	Page 9
10. Enforcement	Page 9
11. Licensing Authority Functions	Page 10
12. The Gambling Commission	Page 11
13. Local Risk Assessment	Page 11
14. The Licensing Process	Page 12

## **PART B – Premises Licences – Consideration of Applications**

1. General principles	Page 13
1.4. Definition of premises	Page 13
1.7. Access provisions	Page 14
1.8. Premises ready for gambling	Page 15
1.11. Location	Page 15
1.12. Planning	Page 16
1.13. Duplication with other regulatory schemes	Page 16
1.20. Conditions	Page 17
1.26. Door Supervisors	Page 18
2. Adult Gaming Centres	Page 19
3. (Licensed) Family Entertainment Centres	Page 19
4. Casinos	Page 20
5. Bingo	Page 20
6. Betting premises	Page 21
7. Tracks	Page 21
8. Travelling Fairs	Page 23
9. Provisional Statements	Page 24
10. Reviews	Page 25

## **PART C – Permits/Temporary and Occasional Use Notices**

1. Unlicensed Family Entertainment Centre Gaming Machine Permits	Page 26
2. (Alcohol) Licensed Premises Gaming Machine Permits	Page 29
3. Prize Gaming Permits	Page 30
4. Club Gaming & Club Machine Permits	Page 34
5. Temporary Use Notices	Page 37
6. Occasional Use Notices	Page 37
7. Small Society Lotteries	Page 37
8. Vessels	Page 38

Responsible Authority Contacts	Page 39
--------------------------------	---------

Appendix A - Glossary of Terms	Page 41
--------------------------------	---------



## **Part A**

### **1 The Licensing Objectives**

1.1 The Licensing Authority has a duty under the Gambling Act 2005 to carry out its licensing functions in a manner which is consistent with three licensing objectives. The relevant licensing objectives are:

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

1.2 This Licensing Authority particularly notes the Gambling Commission's Guidance (5.28) to local authorities that:

"In deciding to reject an application, a licensing authority should rely on reasons that demonstrate that the licensing objectives are not being, or are unlikely to be, met. Licensing authorities should be aware that other considerations such as moral or ethical objections to gambling are not a valid reason to reject applications for premises licences. This is because such objections do not relate to the licensing objectives. An authority's decision cannot be based on dislike of gambling, or a general notion that it is undesirable to allow gambling premises in an area (with the exception of the casino resolution powers)."

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

- in accordance with any relevant code of practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives and
- in accordance with the authority's statement of licensing policy

### **2 Introduction**

2.1 The Gambling Act 2005 (the "Act") requires this Licensing Authority to draft, consult and publish a Statement of Licensing Policy in relation to its responsibilities under the Act. Once published, this Policy Statement, called the Statement of Gambling Policy will be kept under constant review and, in any case, will be re-published after every three years. Before any revision of the Statement of Gambling Policy is published this Authority will carry out a full consultation exercise on the relevant sections. This version of the Statement of Gambling Policy has been revised following the third 3 year review and is for the period 2019 – 2022.

2.2 This Statement of Principles (Licensing Policy) is written to conform to the provisions of the Gambling Act 2005 and regulations and Guidance issued under s.25 of the Act by the Gambling Commission. It outlines the way the licensing Authority will deal with applications for a range of premises licences, permits and enforcement of the Act.

2.3 Section 25 of the Gambling Act 'Guidance to local authorities' states that the Commission shall from time to time issue guidance as to:

- (a) The manner in which local authorities are to exercise their functions under this Act, and
- (b) In particular, the principles to be applied by local authorities in exercising functions under this Act."

2.4 The aim of this Guidance is to ensure that every licensing authority has the information it needs to make effective decisions but does not seek to impose a 'one size fits all' model across all licensing authorities. The commission recognises that every licensing authority is different and will have different views about how it wishes to manage gambling locally. Indeed, the Act establishes a high degree of local accountability for gambling regulation'.

The Gambling Act 2005 can be accessed on this link:

<http://www.legislation.gov.uk/ukpga/2005/19/contents>

2.5 **The Statement takes effect on 31 January 2019.**

### 3 The Geographical and Local Area Profile of East Devon

- 3.1 East Devon is one of eight Devon districts and, in population terms, it is the largest in the County. The District has a dispersed and mainly rural population which currently stands at 135,560. Holiday and tourism industries are major contributors to the economy of the district. The district has a dispersed and largely rural population. The rural nature of the area is emphasised by the low population density of 1.6 persons per hectare (the England average is 4.11).
- 3.2 The District is fully parished with 63 Town and Parish Councils. Comprising of 32 wards, 21 have a population density below the England average with a mix of market and coastal town areas with much higher population densities including towns such as Exmouth, Seaton and Honiton. The main settlements are the coastal resorts of Exmouth (Devon's largest town – population 35,989) Budleigh Salterton, Sidmouth and Seaton. Inland are Honiton, Ottery St Mary and Axminster. There are numerous villages and hamlets and 2011 saw the emergence of the new town of Cranbrook to the north of the district along with other urban extensions including the Exeter Science Park and Skypark. At the last census there were 63,881 homes listed in East Devon – the highest number of all the Devon districts.
- 3.3 The natural environment also makes East Devon a popular place to visit with tourism bringing significant employment and business opportunities. The population increases during summer periods when larger holiday parks in coastal towns see full capacity taken up by holidaymakers. East Devon has about 2,400 second homes that are used as holiday homes, which is about 3.8% of the homes in our district. Forty per cent of those are owned by those aged 65+. The district has the second highest amount of holiday homes of the Devon districts. The tourist economy brings with it a number of gambling activities, for example Adult Gaming Centres (4)\* and Unlicensed Family Entertainment Centre Permits (9)\* requiring a permit rather than a premises licence.
- 3.4 The towns of Exmouth, Sidmouth, Seaton and Honiton have a number of betting shops, for which there are 10\* across the district. East Devon currently has 642\* licensed premises and clubs under the Licensing Act 2003, of which 114\* have notified the licensing authority of having gaming machines. Additionally there are 16\* Club Machine Permits across the district.
- 3.5 Predominantly, residents are from a white British background, with just 1.59 per cent of the district's population coming from an ethnic background. The migration of population into East Devon from other parts of the UK show that there were 1246 more people moving into the area than out. The largest age group moving in and out of the district was the 25-44 age group.
- 3.6 Whilst not a requirement, in line with developing a more local focus for this statement, it is the desire of the Council to adopt a Local Area Profile. The creation of such a profile will entail a process of gathering and presenting information about the East Devon area and any particular areas of concern within the locality.

#### Data Sources

1 2018 Knowing East Devon report EDDC

\*Figures correct at the time of publication



## 4 Review of Statement of Principles

- 4.1 Licensing authorities are required by the Act 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.
- 4.2 The Gambling Act requires that the following parties be consulted by Licensing Authorities:
- The Chief Officer of Police;
  - One or more persons who appear to the authority 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.
- 4.3 Before adopting this policy statement the Licensing Authority also made the draft policy available to the following for comment:
- All premises licensed to sell alcohol in the East Devon district
  - British Beer & Pub Association
  - Chambers of Commerce within East Devon area
  - Citizen’s Advice Bureau
  - Environmental Health Authority for the district
  - Devon and Cornwall Police
  - Devon County Council Children and Young Peoples Services
  - Devon Fire and Rescue Service
  - Devon Licensing Officers Group
  - East and Mid Devon Community Safety Partnership

- Planning Authority for the district
- Gamblers Anonymous
- Gambling Commission
- Gamcare
- HM Commissioners of Custom and Excise
- Local businesses and their representatives
- Local faith groups
- Local residents and their representatives
- Mencap
- NSPCC
- Premises holding Club Premises Certificates
- Primary Care Trust
- Representatives of existing licence/permit holders including bookmakers
- Town and Parish Councils within East Devon
- Voluntary & Community organisations working with children & young people

4.4 Proper weight has been given to the views of all those who have made comment on the draft Statement of Principles.

Our consultation is to take place between **6 August 2018 and 26 October 2018** and we followed the government's **Consultation Principles** (published 17 July 2012), which is available at:  
<https://www.gov.uk/government/publications/consultation-principles-guidance>

4.5 The Statement of Principles is to be approved at a meeting of the Full Council on **12 December 2018** and will be published via the Council's website. Copies will be placed in the public libraries of the area as well as being available for viewing at the offices of the East Devon District Council, Knowle, Sidmouth, EX10 8HL

4.6 Should you have comments regarding this Statement of Licensing Principles please write to the above address or email [licensing@eastdevon.gov.uk](mailto:licensing@eastdevon.gov.uk)

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

## 5 Declaration

5.1 In producing the Licensing Policy Statement, the 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 policy statement.

## 6 The Overriding Principle

6.1 In exercising its functions under the Act, this Licensing Authority will aim to permit the use of premises for gambling in so far as it thinks fit:

- in accordance with any relevant codes of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- as is reasonably consistent with the licensing objectives; and
- in accordance with the authority's Statement of Licensing Policy under section 349.

- 6.2 Each case will be considered on its merits.
- 6.3 In deciding whether or not to grant a licence, this authority does not have regard to the expected demand for the facilities that are the subject of the application.
- 6.4 The overriding principle does not, however, apply to the consideration of an application for a casino licence if this Authority resolves not to issue casino premises licences.

## **7 Responsible Authorities**

- 7.1 Responsible authorities are those public bodies, as specified by the Gambling Act, which must be notified of applications for premises licence. Such bodies are entitled to make representations to the licensing authority in relation to the applications. The Responsible Authorities are detailed in Appendix A and available via the Council's website at <http://eastdevon.gov.uk/licensing/gambling/>.
- 7.2 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.
- 7.3 In accordance with the suggestion in the Gambling Commission's Guidance for local authorities, this authority designates the Area Child Protection Committee and Local Safeguarding Children Board.

## **8 Interested Parties**

- 8.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as: "For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the application is made, the person -
- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
  - b) has business interests that might be affected by the authorised activities, or
  - c) represents persons who satisfy paragraph (a) or (b)"
- 8.2 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:
- (a) Each case will be decided upon its merits. This licensing authority will not apply a rigid rule to its decision-making. It will consider the examples of considerations provided in the Guidance at 8.11 to 8.19. The authority will also consider the Gambling Commission's Guidance that "business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.
  - (b) 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 licensing 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 may normally be sufficient.

If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing and Enforcement Committee or Sub Committee dealing with the licence application. If there are any doubts then please contact the Licensing Service: East Devon District Council, Knowle, Sidmouth, Devon, EX10 8HL, email:- [licensing@eastdevon.gov.uk](mailto:licensing@eastdevon.gov.uk) or telephone:- 01395 517411



## 9 Exchange of Information

- 9.1 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 **General Data Protection Regulation together with** Data Protection Act 1998 will not be contravened. The Licensing Authority will also have regard to any Guidance issued by the Gambling Commission to Local Authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005. The Licensing Authority will have regard to the principles of Better Regulation.
- 9.2 Should any protocols be established regarding information exchange with other bodies then they will be made available.

Licensing authorities are required to include in their Statement 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 the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

## 10 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.

- 10.1 This licensing authority's principles are that it will be guided by the Gambling Commission's Guidance for local authorities and in line with the Regulators Code.
- 10.2 This licensing authority's principles are that it will endeavour to ensure its enforcement should 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.
  - Enforcement will be inline with the council's policy for enforcement providing a graduated approach beginning with guidance, support and inspections**
- 10.3 In line with the Gambling Commission's Guidance for local authorities this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 10.4 This licensing authority has adopted and implemented a risk-based inspection programme, based on:
- The licensing objectives
  - Relevant codes of practice
  - Guidance issued by the Gambling Commission, in particular at Part 36
  - The principles set out in this statement of licensing policy



The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 will be to ensure compliance with the Premises Licences and other permissions which it authorises. The Gambling Commission 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 this licensing authority but should be notified to the Gambling Commission.

This licensing authority will also keep itself informed of developments regarding the work of the Better Regulation Delivery Office in its consideration of the regulatory functions of local authorities.

Bearing in mind the principle of transparency, this licensing authority's enforcement/compliance protocols/written agreements will be available upon request to the Licensing Service at East Devon District Council and available via the Council's website at <http://www.eastdevon.gov.uk/>. Our risk methodology will also be available upon request.

## 11 Licensing Authority functions

11.1 Licensing Authorities are required under the Gambling Act 2005 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 by issuing Club Gaming Permits and/or Club Machine Permits
- Issue **Club Machine Permits to Commercial Clubs**
- Grant permits for the use of certain lower stake gaming machines at **unlicensed Family Entertainment Centres**
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- Issue **Licensed Premises Gaming Machine Permits** for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- Register **small society lotteries** below prescribed thresholds
- Issue **Prize Gaming Permits**
- Receive and Endorse **Temporary Use Notices**
- Receive **Occasional Use Notices**
- Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
- Maintain registers of the permits and licences that are issued under these functions

11.2 It should be noted that local Licensing Authorities will not be involved in licensing remote gambling. This will fall to the Gambling Commission via operating licences. The Financial Services Authority regulates spread betting and the National Lottery Commission regulates the National Lottery.

## 12 The Gambling Commission

- 12.1 The Gambling Commission regulates gambling in the public interest. It does so by keeping crime out of gambling; by ensuring that gambling is conducted in a fair and open way; and by protecting children and vulnerable people. The Commission provides independent advice to the Government about the matter in which gambling is carried out, the effects of gambling and the regulations of gambling generally.
- 12.2 The Commission has issued guidance under Section 25 of the Act about the manner in which licensing authorities exercise their licensing functions under the Act and, in particular, the principles to be applied.
- 12.3 The Commission has also issued Codes of Practice under Section 24 about the way in which facilities for gambling is provided, which may also include provisions about the advertising of gambling facilities.
- 12.4 The Gambling Commission can be contacted at:

Gambling Commission  
Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP  
Website: [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)  
Email: [info@gamblingcommission.gov.uk](mailto:info@gamblingcommission.gov.uk)

## 13 Local Risk assessments

- 13.1 The Gambling Commission's Licence Conditions and Codes of Practice **required** operators to consider local risks with effect from the 6 April 2016.
- 13.2 Social Responsibility (SR) code 10.1 will require licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In undertaking their risk assessments, licensees should take into account any relevant matters identified in this Statement of Principles and any associated local area profile produced by this Licensing Authority (see Section 3 above).
- 13.3 Licensees are required to undertake a local risk assessment when applying for a new **or transfer of a** premises licence. Their risk assessment must be also be updated:
- When applying for a variation of a premises licence
  - To take account of significant changes in local circumstances, including those identified in this policy statement
  - Where there are significant changes at a licensee's premises that may affect their mitigation of local risks
  - To expect that local risk assessments will be kept available at a licensee's premises and being readily available for inspection by licensing authorities.**
- 13.4 Where concerns do exist, perhaps promoted by new or existing risks, the Licensing Authority will request that the licensee share a copy of its own risk assessment which will set out the measures the licensee has in place to address specific concerns.

- 13.5 This Authority will pay particular attention to applications for the new grant of, or variations to existing, premises licenses where those premises lie within areas with a concentration of schools, Anti Social Behaviour (ASB) hotspots and hostels or homes for vulnerable people.
- 13.6 Applicants will be expected to tailor their application, and have policies, procedures and control measures to mitigate any risks. They should have the appropriate numbers of trained staff, and propose licence conditions to cater for the local area in which they propose to run their business.
- 13.7 As regards the term “vulnerable persons” it is noted that the Gambling Commission is not seeking to offer a definition but states that ‘... *it does, 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, for example, mental health, a learning disability or substance misuse relating to alcohol or drugs.*’
- 13.8 This Licensing Authority will consider the licensing objective of protecting children and other vulnerable persons on a case by case basis. Should a practical definition prove possible in future then this policy statement will be updated with it, by way of a revision. This Authority will also make itself aware of the Codes of Practice which the Gambling Commission issues in relation to this.
- 13.9 This Licensing Authority will expect compliance by operators and licence holders with anti-money laundering conditions by having measures in place to identify and report suspicious financial activity.

## **14 The Licensing Process**

- 14.1 A Licensing Committee (Licensing and Enforcement Committee), a Sub-Committee, or an officer acting under delegated authority may carry out the powers of the authority under the Gambling Act 2005.
- 14.2 Many of the licensing procedures are largely administrative in nature. In the interests of efficiency, non-contentious procedures are carried out by licensing officers.
- 14.3 The Licensing Authority ensures that all Licensing Officers and Members of the Licensing and Enforcement Committee have received adequate training for their role under the Gambling Act 2005.
- 14.4 Where admissible and relevant representations are received in relation to an application for a premises licence, or in relation to the review of a premises licence, a Sub-Committee is delegated to hear the matter.
- 14.5 Applicants for premises licences are required to copy their applications in full to the responsible authorities as listed in Appendix A.

## **Part B - Premises Licences: Consideration of Applications**

### **1 General Principles**

- 1.1 Premises Licences are subject to the requirements set out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions 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.
- 1.2 This licensing authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:
- 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.
- 1.3 It is appreciated that in line with 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 later) and also that unmet demand is not a criterion for a licensing authority.
- 1.4 **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 subdivisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.
- 1.5 The Gambling Commission states in its Guidance 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.
- 1.6 Any premises granted multiple licences prior to clarification of guidance issued by the Gambling Commission in 2009, may be reviewed from time to time having regard to the amended guidance including more recent amendments; the decision making process taken at that time; the separation control measures put in place; any material changes noted since the granting of the application and the relevance of all these factors having regard to the promotion of the licensing objectives. In particular to the protection of children and vulnerable persons from being harmed or exploited by gambling.
- 1.7 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 provides a list of factors which this licensing authority should consider and includes:

- 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?
- Can the premises only be accessed from any other gambling premises?
- This licensing 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 from the Guidance, 7.26:**

#### **Casinos**

- The principal access entrance to the premises must be from a street (as defined at 7.24 of the Guidance)
- 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 (as defined at paragraph 7.24 of the Guidance to Licensing Authorities) 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 premise 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
  - betting premises, other than a track

Part 7 of the Guidance contains further guidance on this issue, which this licensing authority will also take into account in its decision-making.

## **1.8 Premises “ready for gambling”**

The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that this 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 licensing 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.

1.9 Applicants should note that this licensing 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.

1.10 More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.58 – 7.67 of the Guidance.

1.11 **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. In line with the Gambling Commission’s Guidance to licensing authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. 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.

1.12 **Planning:**

The Guidance states:

Paragraph - 7.60 – 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 licensing authority will not take into account irrelevant matters in line with the above guidance. In addition this licensing authority notes the following excerpt from the Guidance:

Paragraph - 7.67 - When dealing with a premises licence application for finished buildings, the licensing authority should 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 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.

- 1.13 **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 cannot be met by licensees due to planning restrictions, should such a situation arise.

When dealing with a premises licence application for finished buildings, this licensing 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.

- 1.14 **Licensing objectives** - 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 further comment on the objectives is made below.

- 1.15 **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 including prevention of money laundering. 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.

- 1.16 **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. There is however more of a role with regarding to tracks which is explained in more detail in the tracks section later.
- 1.17 **Protecting children and other vulnerable persons from being harmed or exploited by gambling** - This licensing authority has noted the Gambling Commission's Guidance to licensing authorities states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). This 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. The need to ensure safeguarding of children and other vulnerable adults is an expectation of the licensing authority.
- 1.18 This licensing authority is also aware of the Gambling Commission's Codes of Practice regarding this licensing objective, in relation to specific premises.
- 1.19 It is noted that the Gambling Commission is not seeking to offer a definition of the term "vulnerable persons" 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 the licensing objective on a case-by-case basis.
- 1.20 **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;
  - reasonable in all other respects; and
  - enforceable
- 1.21 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This licensing authority will also expect the licence applicant to offer his/her own suggestions on the way in which the licensing objectives can be met effectively when making their application.
- 1.22 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.
- 1.23 This authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:
- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent



- access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

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

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

1.25 It is noted that there are conditions which the licensing authority cannot attach to premises licences which are:

- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the 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, winnings or prizes.

1.26 **Door Supervisors** - The Gambling Commission advises in its Guidance 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 premises licence condition 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 (in line with the Guidance, Part 33).

1.27 In deciding whether door staff are needed and the level of training required the licensing authority will take into account the particular circumstances of the premises and the Gambling Commissions guidance.

## 2 Adult Gaming Centres

2.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises. Appropriate licence conditions may cover the following issues:

- CCTV
- Door supervisors
- Location of entry
- Notices/signage
- Physical separation of areas with the expectation for barriers to be tangible and evident rather than roping or carpeted lines, marks
- Proof of age schemes
- Provision information leaflets helpline numbers for organisations such as GamCare.
- Self-exclusion schemes
- Specific opening hours
- Supervision of entrances/machine areas

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

2.2 The question of sub-division of such premises has been the subject of further Gambling Commission Guidance. This Licensing Authority will have regard to any relevant additional guidance that may be issued by the Gambling Commission in respect to such applications any decision-making.

2.3 This Authority accepts that there must be no direct entry from one adult gaming centre into another and will have regard to any relevant guidance issued by the Gambling Commission in respect to such applications.

## 3 (Licensed) Family Entertainment Centres

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

3.2 This licensing authority may consider measures to meet the licensing objectives including those relating to:

- CCTV
- Door supervisors
- Location of entry
- Measures/training for staff on how to deal with suspected truant school children on the premises
- Notice/signage
- Physical separation of areas
- Proof of age schemes
- Provision of information leaflets/helpline numbers for organisations such as GamCare.
- Self-exclusion schemes
- Specific opening hours
- Supervision of entrances / machine areas

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

- 3.3 This licensing authority will, in line with the Gambling Commission's guidance, refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated.

Applicants for Permits for Adult or Family Entertainment Centres (licensed or unlicensed) (formerly known as 'Amusement Arcades') are advised to speak to the Planning Service of this Council before making a formal application to the Licensing Service.

The Planning Service can be contacted at Planning and Countryside Service, East Devon District Council, Council Offices, Knowle, Sidmouth, EX10 8HL – Tel. 01395 516551

## 4 Casinos

East Devon District Council 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.

## 5 Bingo premises

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

Paragraph 18.4 - 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.

This licensing authority also notes the Guidance at paragraph 18.8 regarding the unusual circumstances in which the **splitting of a pre-existing premises** into two adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded. In these cases this Licensing Authority will have particular regard to the Gambling Commission Guidance on the 'meaning of premises' (7.12 – 7.20) and how it relates to the primary gambling activity.

Paragraph 18.7 - 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.

## 6 Betting premises

### Betting machines

This Licensing Authority will consider whether it is appropriate to restrict the number of betting machines, their nature and the circumstances in which they are made available by way of licence condition for betting or casino premises licence (where betting is permitted in the casino). When considering whether to impose a condition to restrict the number of betting machines in a particular premises, this Licensing Authority, amongst other things, will take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable persons.”

The Licensing Authority recognises that the design and layout of betting premises (or any other premises including tracks) will vary so will have particular regard to the sighting of age restricted gaming machines within each individual premises to ensure, so far as is reasonably practicable, that staff properly monitor the use of these machines by children and young persons. This Licensing Authority reserve the right to request that gaming machines are re-positioned where circumstances demonstrate that it is appropriate to do so. Where a substantial or significant variation to a premises occurs it will be the expectation for submission of an application to vary the licence along with a revised plan of the premises.

Factors to be taken into consideration will include the following:

- CCTV
- Re-location of the machines
- Door buzzers
- Remote cut off switches
- Training provision
- Any other factor considered relevant

## 7 Tracks

7.1 This licensing authority is aware that tracks may be subject to more than one premises licence, provided each licence relates to a specified area of the track. In line with the Gambling Commission’s Guidance, this licensing authority will especially consider the impact upon the third licensing objective (that is 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.

7.2 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.

7.3 This licensing authority may consider measures to meet the licensing objectives including those relating to:

- CCTV
- Location of entry
- Notices/signage

- Physical separation of areas
- Proof of age schemes
- Provision of information leaflets/helpline numbers for organisations such as GamCare
- Self-exclusion schemes
- Specific opening hours
- Supervision of entrances / machine areas

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

#### 7.4 **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.

Applicants are advised to consult the Gambling Commission's Guidance on where gaming machines may be located on tracks and any special considerations that should apply in relation, for example, to supervision of the machines and preventing children from playing them. This Licensing Authority will take note of this guidance. This Licensing Authority will also, in line with the Gambling Commission's Guidance, consider the location of gaming machines at tracks.

#### 7.5 **Betting Machines**

This licensing authority will, in line with part 6 of the Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator proposes to offer.

On tracks where the potential space for such machines may be considerable, bringing with it significant problems in relation to the proliferation of such machines, the ability of track staff to supervise them if they are scattered around the track and the ability of the track operator to comply with the law and prevent children betting on the machines, this Licensing Authority will generally consider restricting the number and location of betting machines, in the light of the circumstances of each application for a track betting premises licence.

#### 7.6 **Applications and plans**

Section 151 of the Gambling Act 2005 requires applicants to submit plans of the premises with their application, in order to ensure that this 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 this 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 licensing 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 licensing 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. (See Guidance to Licensing Authorities, paragraph 20.33).

Only one premises licence may be issued for any particular establishment at any time. There is one exception to this rule, namely a track (that is a horse race course, dog track or other premises where races or sporting events take place), which may be subject to more than one premises licence, provided each licence relates to a specified area of the track. The Act sets out that there will be a main (betting premises) licence for the track, and in addition subsidiary premises licences for other gambling activities may be issued. In principle there is no reason why all types of gambling should not co-exist upon a track, however this licensing authority will want to think about how the third licensing objective is delivered by the co-location of premises. As with the granting of multiple licences in a single building, this licensing authority will 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. Premises licences in relation to tracks are unusual in that, because the track operator does not need to have an operating licence (although may have one), the premises licence will need to contain requirements on the premises licence holder about his responsibilities in relation to the proper conduct of betting. The conduct of the betting on tracks will be regulated primarily through the operating licences that the persons offering betting on the track will need to hold (whether a general betting operating licence or a pool betting operating licence). But the track operator will have a role to play in ensuring, for example, that the betting areas are properly administered, and licensing authorities will have an important role in regulating tracks, because of the particular rules surrounding on-course betting, and the sub-division of the track into different areas.

## **8 Travelling Fairs**

- 8.1 Where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs it will be this Licensing Authority’s responsibility to decide whether the statutory requirement is met, that the facilities for gambling amounts to no more than an ancillary amusement at the fair.
- 8.2 The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 8.3 It is been noted that the 27 day statutory maximum for the land being used as a fair applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. 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.

## 9 Provisional Statements

- 9.1 Developers may wish to apply to this licensing 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.
- 9.2 Section 204 of the Act provides for a person to make an application to this licensing authority for a provisional statement in respect of premises that he or she:
- expects to be constructed;
  - expects to be altered; or
  - expects to acquire a right to occupy.
- 9.3 The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.
- 9.4 In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.
- 9.5 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. This 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, this licensing authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- which could not have been raised by objectors at the provisional statement stage;
- which in this licensing 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.

## 10 Reviews

- 10.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the licensing authority to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below.
- in accordance with any relevant code of practice issued by the Gambling Commission;
  - in accordance with any relevant guidance issued by the Gambling Commission;
  - reasonably consistent with the licensing objectives;
  - in accordance with the authority's Gambling Licensing Policy
- 10.2 The Licensing Authority will also consider whether the request is frivolous, vexatious, whether the request will certainly not cause this authority to wish to alter/revoke/suspend the licence, or whether the request is substantially the same as previous representations or requests for review;
- 10.3 The licensing authority can also initiate a review of a particular premises licence, or a particular class of premises on the basis of any reason which it thinks is appropriate.
- 10.4 Once a valid application for a review has been received by this 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 this licensing authority, who will publish notice of the application within 7 days of receipt.
- 10.5 This licensing authority must carry out the review as soon as possible after the 28-day period for making representations has passed.
- 10.6 The purpose of the review will be to determine whether this licensing authority should take any action in relation to the licence. If action is justified, the options open to this licensing authority are:-
- (a) add, remove or amend a licence condition imposed by this licensing authority;
  - (b) exclude a default condition imposed by the Secretary of State (e.g. opening 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.
- 10.7 In determining what action, if any, should be taken following a review, this licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.
- 10.8 In particular, this 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.
- 10.9 Once the review has been completed, this licensing authority must, as soon as possible, notify its decision to:
- (i) the licence holder
  - (ii) the applicant for review (if any)
  - (iii) the Commission
  - (iv) any person who made representations
  - (v) the chief officer of police or chief constable; and
  - (vi) Her Majesty's Commissioners for Revenue and Customs



## **PART C**

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

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

- 1.1 Where an establishment does not hold a Premises Licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).
- 1.2 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. The Gambling Commission's Guidance for local authorities also states: "In their three year Statement of Principles (Licensing Policy), licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits, licensing authorities will want to give weight to child protection issues." (Guidance Paragraph 24.6)
- 1.3 Guidance also states: "...An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed Family Entertainment Centre, and if the chief officer of police has been consulted on the application . . ." This Licensing Authority will require the applicant to demonstrate:
- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed Family Entertainment Centres;
  - 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. (Guidance Paragraph 24.7)
  - the expectation for gaming machines will be properly marked and identified according to category
- 1.4 It should be noted that a licensing authority cannot attach conditions to this type of permit but may consider expectations and arrangements in place of required for safeguarding children.
- 1.5 **Statement of Principles**
- 1.5.1 This licensing authority has adopted a Statement of Principles in accordance with Paragraph 7 of Schedule 10 of the Act and they are for the purposes of clarifying the measures that the council will expect applicants to demonstrate when applying for a permit for an unlicensed family entertainment centre. This will allow the council to better determine the suitability of the applicant and the premises for a permit.
- 1.5.2 Within this process the council will aim to grant the permit where the applicant is able to demonstrate that:
- they are a fit and proper person to hold the permit
  - they have considered and are proposing suitable measures to promote the licensing objectives, and
  - they have a legal right to occupy the premises to which the permit is sought.

1.5.3 The measures suggested in this document should be read as guidance only and the council will be happy for applicants to suggest measures above and beyond those listed in the document and or to substitute measures as appropriate.

## 1.6 **Unlicensed family entertainment centres**

1.6.1 The term 'unlicensed family entertainment centre' is one defined in the Act and refers to a premises which provides category D gaming machines along with various other amusements such as computer games and penny-pushers. The premises is 'unlicensed' in that it does not require a premises licence but does require a permit to be able to provide its category D gaming machines. It should not be confused with a 'licensed family entertainment centre, which does require a premises licence because it contains both category C and D gaming machines.

1.6.2 Unlicensed family entertainment centres (uFECs) will be most commonly located at seaside resorts, in airports and at motorway style service centres, and will cater for families, including unaccompanied children and young persons.

1.6.3 The council will only grant an uFEC gaming machine permit where it is satisfied that the premises will be operated as a bonafide unlicensed family entertainment centre.

1.6.4 In line with the Act, while the council cannot attach conditions to this type of permit, the council can refuse applications if they are not satisfied that the issues raised in this "Statement of Principles" have been addressed through the application.

## 1.7 **Supporting documents**

1.7.1 The council will require the following supporting documents to be served with all uFEC gaming machine permit applications:

- proof of age (a certified copy or sight of an original birth certificate, a photo style driving licence, or passport – all applicants for these permits must be aged 18 or over)
- proof that the applicant has the right to occupy the premises. Acceptable evidence would be a copy of any lease, a copy of the property's deeds or a similar document
- the result of a criminal records basic disclosure [criminal conviction certificate] (the disclosure must have been issued within the previous month). This will be used to check that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act.) – Basic Disclosures can be obtained from Disclosure Scotland. For further details call their helpline number 0870 609 6006, or visit the website <http://www.disclosurescotland.co.uk/>
- In the case of applications for an uFEC gaming machine permit evidence that the machines to be provided are or were supplied by a legitimate gambling machine supplier or manufacturer who holds a valid gaming machine technical operating licence issued by the Gambling Commission
- A plan of the premises for which the permit is sought showing the following items:
  - (i) the boundary of the building with any external or internal walls, entrances and exits to the building and any internal doorways
  - (ii) where any category D gaming machines are positioned and the particular type of machines to be provided (for example slot machines, penny-falls, cranes)
  - (iii) the positioning and types of any other amusement machines on the premises
  - (iv) the location of any fixed or semi-fixed counters, booths or offices on the premises whereby staff monitor the customer floor area
  - (v) the location of any ATM/cash machines or change machines
  - (vi) the location of any fixed or temporary structures such as columns or pillars

- (vii) the location and height of any stages in the premises; any steps, stairs, elevators, balconies or lifts in the premises
- (viii) the location of any public toilets in the building

Unless otherwise agreed with the council, the plan should be drawn to a standard scale with a key showing the items mentioned above. The standard scale is 1:100. In any circumstance where the premises is bordering or separated to an Adult Gaming Centre the licensing authority will expect submission of a Local Risk Assessment for both premises.

## 1.8 Child protection issues

1.8.1 The council will expect the applicant to show that there are policies and procedures in place to protect children from harm and to meet requirements for safeguarding children. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The council will assess these policies and procedures on their merits, and they should (depending on the particular permit being applied for) include appropriate measures / training for staff relating to the following:

- maintain contact details for any local schools and or the education authority so that any truant children can be reported
- employ policies to address the problems associated with truant children who may attempt to gain access to the premises and gamble when they should be at school
- employ policies to address any problems that may arise during seasonal periods where children may frequent the premises in greater numbers, such as half terms and summer holidays
- maintain information at the premises of the term times of any local schools in the vicinity of the premises and also consider policies to ensure sufficient staffing levels during these times
- display posters displaying the 'Child Line' phone number in discreet locations on the premises **e.g. toilets**
- maintain an incident register of any problems that arise on the premises related to children such as children gambling excessively, truant children, children being unruly or young unaccompanied children entering the premises. (The register should be used to detect any trends that require attention by the management of the premises.)
- ensure all young children are accompanied by a responsible adult.
- Maintain policies to deal with any young children who enter the premises unaccompanied and for staff to report suspicious activities or incidents
- The provision of satisfactory basic disclosure checks (criminal records checks) for all staff who will be working closely with children.

NB: Any supporting evidence of the above measures e.g. training manuals or other similar documents/written statements should be attached to the application.

## 1.9 Protection of Vulnerable Persons Issues

1.9.1 The council will expect the applicant to show that there are policies and procedures in place to protect vulnerable persons. Applicants should refer to the section in the council's 'Statement of Licensing Policy under the Gambling Act 2005' to familiarise themselves with who the council considers vulnerable. The council will assess these policies and procedures on their merits, however, they may (depending on the particular permit being applied for) include appropriate measures / training for staff relating to the following:

- display Gamcare helpline stickers on all gaming machines
- display Gamcare posters in prominent locations on the premises

- training for staff members which focuses on building an employee's ability to maintain a sense of awareness of how much (e.g. how long) customers are gambling, as part of measures to detect persons who may be vulnerable
- consider appropriate positioning of ATM and change machines. (including the display of Gamcare stickers on any such machines.)

NB: Any supporting evidence of the above measures e.g. training manuals or other similar documents/written statements should be attached to the application.

## 1.10 Other miscellaneous issues

1.10.1 The applicant should also be mindful of the following possible control measures (depending on the particular permit being applied for) to minimise crime and disorder and the possibility of public nuisance:

- maintain an effective CCTV system to monitor the interior and exterior of the premises
- keep the exterior of the premises clean and tidy
- ensure that external lighting is suitably positioned and operated so as not to cause nuisance to neighbouring or adjoining premises
- consider the design and layout of the outside of the premises to deter the congregation of children and youths.

NB: Any supporting evidence of the above measures e.g. training manuals or other similar documents/written statements should be attached to the application.

Applicants for Permits for Adult or Family Entertainment Centres (licensed or unlicensed) (formerly known as 'Amusement Arcades') are advised to speak to the Planning Service of this Council before making a formal application to the Licensing Service

The Planning Service can be contacted at Planning and Countryside Service, East Devon District Council, Council Offices, Knowle, Sidmouth, EX10 8HL – Tel. 01395 516551

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

### 2.1 Automatic Entitlement for two machines

There is provision in the Act for a 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 premises if:

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

The Licensing Authority will use its discretion to remove permits where appropriate taking into account individual circumstances [considering a Code of Practice](#).

## 2.2 **Permit - three 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 “other such matters as the Authority think relevant.” This licensing authority considers that “such matters” will be decided on a case-by-case basis. However generally there will be regard to the size of the premises in comparison to the number of machines sought and 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 that will monitor that the machines are not being used by those under 18. Notices and signage may also be helpful. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

2.3 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.

2.4 It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

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

Applicants should be aware that only those premises which have a ‘bar’ (servery) at which alcohol is sold for consumption on the premises will be eligible for gambling machines in the bar area of the premises. This means that premises such as restaurants which do not have a bar for serving drinks or can only sell alcoholic drinks as an ancillary to food can not automatically qualify for two machines.

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

3.1 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 propose to consider in determining the suitability of the applicant for a permit”.

### 3.2 **Statement of Principles**

3.2.1 This licensing authority has adopted a Statement of Principles in accordance with paragraph 8 of Schedule 14 of the Act and they are for the purposes of clarifying the measures that the council will expect applicants to demonstrate when applying for a prize gaming permit. This will allow the council to better determine the suitability of the applicant and the premises for a permit.

3.2.2 Within this process the council will aim to grant the permit where the applicant is able to demonstrate that:

- they are a fit and proper person to hold the permit
  - they have considered and are proposing suitable measures to promote
  - the licensing objectives, and
  - they have a legal right to occupy the premises to which the permit is sought.
- 3.2.3 This licensing authority will expect the applicant to set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:
- that they understand the limits to stakes and prizes that are set out in Regulations;
  - and that the gaming offered is within the law.
  - clear policies that outline steps to be taken to protection children from harm.
- 3.2.4 In making its decision on an application for a prize gaming 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. (Gambling Act 2005, Schedule 14 paragraph 8(3)).
- 3.2.5 The measures suggested in this document should be read as guidance only and the council will be happy for applicants to suggest measures above and beyond those listed in the document and or to substitute measures as appropriate.
- 3.3 Prize gaming permits**
- 3.3.1 Section 288 defines gaming as prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The operator will determine the prizes before play commences. Prize gaming can often be seen at seaside resorts in amusement arcades where a form of bingo is offered and the prizes are displayed.
- 3.3.2 A prize gaming permit is a permit issued by the council to authorise the provision of facilities for gaming with prizes on specified premises.
- 3.3.3 Applicants should be aware of the conditions in the Gambling Act 2005 with which prize gaming permit holders must comply. The conditions in the Act are:
- the limits on participation fees, as set out in regulations, must be complied with;
  - all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
  - the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
  - participation in the gaming must not entitle the player to take part in any other gambling.
- 3.3.4 In line with the Act, while the council cannot attach conditions to this type of permit, the council can refuse applications if they are not satisfied that the issues raised in this “Statement of Principles” have been addressed through the application.



### 3.4 Supporting documents

3.4.1 The council will require the following supporting documents to be served with all prize gaming permit applications:

- proof of age (a certified copy or sight of an original birth certificate, photo style driving licence, or passport – all applicants for these permits must be aged 18 or over)
- proof that the applicant has the right to occupy the premises. Acceptable evidence would be a copy of any lease, a copy of the property's deeds or a similar document
- the result of a criminal records basic disclosure [criminal conviction certificate] (the disclosure must have been issued within the previous month). This will be used to check that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act.) – Basic Disclosures can be obtained from Disclosure Scotland. For further details call their helpline number 0870 609 6006, or visit the website <http://www.disclosurescotland.co.uk/>.
- A plan of the premises for which the permit is sought showing the following items:
  - (i) the boundary of the building with any external or internal walls, entrances and exits to the building and any internal doorways
  - (iii) The location where any prize gaming will take place (including any seating and tables) and the area where any prizes will be displayed
  - (iv) the positioning and types of any other amusement machines on the premises
  - (v) the location of any fixed or semi-fixed counters, booths or offices on the premises whereby staff monitor the customer floor area
  - (vi) the location of any ATM/cash machines or change machines
  - (vii) the location of any fixed or temporary structures such as columns or pillars
  - (viii) the location and height of any stages in the premises; any steps, stairs, elevators, balconies or lifts in the premises
  - (ix) the location of any public toilets in the building

Unless otherwise agreed with the council, the plan should be drawn to a standard scale with a key showing the items mentioned above. The standard scale is 1:100.

### 3.5 Child protection issues

3.5.1 The council will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The council will assess these policies and procedures on their merits, and they should (depending on the particular permit being applied for) include appropriate measures / training for staff relating to the following:

- maintain contact details for any local schools and or the education authority so that any truant children can be reported
- employ policies to address the problems associated with truant children who may attempt to gain access to the premises and gamble when they should be at school
- employ policies to address any problems that may arise during seasonal periods where children may frequent the premises in greater numbers, such as half terms and summer holidays
- maintain information at the premises of the term times of any local schools in the vicinity of the premises and also consider policies to ensure sufficient staffing levels during these times
- display posters displaying the 'Child Line' phone number in discreet locations on the premises e.g. toilets
- maintain an incident register of any problems that arise on the premises related to children such as children gambling excessively, truant children, children being

unruly or young unaccompanied children entering the premises. (The register should be used to detect any trends which require attention by the management of the premises.)

- ensure all young children are accompanied by a responsible adult.
- Maintain policies to deal with any young children who enter the premises unaccompanied
- The provision of satisfactory basic disclosure checks (criminal records checks) for all staff that will be working closely with children.

NB: Any supporting evidence of the above measures – for example training manuals or other similar documents/written statements should be attached to the application.

### **3.6 Protection of Vulnerable Persons Issues**

3.6.1 The council will expect the applicant to show that there are policies and procedures in place to protect vulnerable persons. Applicants should refer to the section in the council's 'Statement of Licensing Policy under the Gambling Act 2005' to familiarise themselves with who the council considers vulnerable. The council will assess these policies and procedures on their merits, however, they may (depending on the particular permit being applied for) include appropriate measures / training for staff relating to the following:

- display Gamcare helpline stickers on all gaming machines
- display Gamcare posters in prominent locations on the premises
- training for staff members which focuses on building an employee's ability to maintain a sense of awareness of how much (for example how long) customers are gambling, as part of measures to detect persons who may be vulnerable
- consider appropriate positioning of ATM and change machines. (including the display of Gamcare stickers on any such machines.)

NB: Any supporting evidence of the above measures – for example training manuals or other similar documents/written statements should be attached to the application.

### **3.7 Other miscellaneous issues**

3.7.1 The applicant should also be mindful of the following possible control measures (depending on the particular permit being applied for) to minimise crime and disorder and the possibility of public nuisance:

- maintain an effective CCTV system to monitor the interior and exterior of the premises
- keep the exterior of the premises clean and tidy
- ensure that external lighting is suitably positioned and operated so as not to cause nuisance to neighbouring or adjoining premises
- consider the design and layout of the outside of the premises to deter the congregation of children and youths.

NB: Any supporting evidence of the above measures – for example training manuals or other similar documents/written statements should be attached to the application.



## 4 Club Gaming and Club Gaming Machine Permits

- 4.1 Members' clubs may apply for a Club Gaming Permit or a Club Gaming Machine Permit. The **Club Gaming Permit** will enable the premises to provide gaming machines (3 machines of categories B3A or B4, C or D), equal chance gaming and games of chance as prescribed in regulations, namely pontoon and chemin de fer. This is in addition to the exempt gaming authorised under section 269 of the Act. Alternatively a member's club (but not commercial clubs) can apply for a **Club Gaming Machine Permit** which will only enable the premises to provide gaming machines (3 machines of categories B3A or B4, C or D).
- 4.2 Commercial clubs are not permitted to provide non-machine gaming (other than exempt gaming under section 269 of the Act) which means that they should only apply for a Club Gaming Machine Permit. However they are not able to site category B3A gaming machines offering lottery games in their club.
- 4.3 Clubs which hold a club premises certificate under section 72 of the Licensing Act 2003 are exempt from the stricter vetting process that apply for the normal application for Club Gaming and Club Machine Permits. Under this fast-track procedure there is no opportunity for objections to be made by the Gambling Commission or the police, and the grounds upon which an authority can refuse a permit are reduced. This is because the club or institute will already have been through a licensing process in relation to its club premises certificate under the 2003 Act, and it is therefore unnecessary to impose the full requirements of Schedule 12. Commercial clubs cannot hold club premises certificates under the Licensing Act 2003 and so cannot use the fast-track procedure.
- 4.4 With the exception of clubs that hold club premises certificates under section 72 of the Licensing Act 2003 the Licensing Authority will need to satisfy itself that the club meets the requirements of the Gambling Act 2005 to hold a club gaming permit or a club gaming machine permit. In order to do this, it will require proof of additional information from the operator, for example:
- Is there a list of committee members and evidence of their election by club members?
  - Are there minutes of previous meetings (where appropriate)?
  - Is the primary activity of the club something other than gaming?
  - Are the club's profits retained solely for the benefit of the club's members?
  - Are there 25 or more members?
  - Are the addresses of members of the club genuine domestic addresses and do most members live reasonably locally to the club?
  - Do members participate in the activities of the club via the internet?
  - Do guest arrangements link each guest to a member?
  - Is the 48 hour rule being applied for membership and being granted admission being adhered to?
  - Are there annual club accounts available for more than one year?
  - How is the club advertised and listed in directories and on the internet?
  - Are children permitted in the club?
  - Does the club have a constitution and can it provide evidence that the constitution was approved by members of the club at an annual or special general meeting?
- 4.5 When examining the club's constitution, the Licensing Authority would expect to see evidence of the following:
- Who makes commercial decisions on behalf of the club?
  - Are the aims of the club set out in the constitution?

- Are there shareholders or members? Shareholders indicate a business venture rather than a non-profit making club.
- Is the club permanently established? (Clubs cannot be temporary).
- Are there suitable rules as to the election and admission to the club of new members?
- What is the usual duration of membership?
- Can people join with a temporary membership? What is the usual duration of membership?
- Are there long term club membership benefits?
- Is there a provision for annual general meetings?
- Is there a provision for the election of officers?

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

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

4.7 Supporting documents

4.7.1 In order for the Licensing Authority to satisfy itself that the club meets the requirements of the Gambling Act 2005 as described in paragraphs 4.4 to 4.6 to hold a club gaming permit or a club gaming machine permit the applicant/club will be expected to supply documentation that includes evidence that the club has elected officers, minutes of meetings and particularly those of annual general meetings. The documentation will include where appropriate:

- A copy of the club's constitution and a copy of the general/annual meeting that agreed the constitution.
- In the case of a club formed within the past two years a copy of the minutes of the inauguration meeting and minutes of any subsequent general or annual general meetings.
- Where the club has existed for more than two years a copy of the minutes of the last two annual general meetings and general meetings held during the previous two years.
- A full copy of the club's list of members including their addresses.
- A list of committee members and their positions within the club.
- A copy of the club's accounts for the last two years. Where a club is unable to provide this information because it has only recently been formed the Licensing Authority will expect an appropriate set of accounts for the time the club has been in operation.

4.7.2 The Licensing Authority will require a plan of the premises for which the permit is sought to be served with all club gaming and club gaming machine permit applications. The plan should show the following items:

- (i) the boundary of the building with any external or internal walls, entrances and exits to the building and any internal doorways

- (ii) where any gaming machines are positioned and the particular type of machines to be provided
- (iii) the positioning and types of any other amusement machines on the premises
- (iv) the location of any ATM/cash machines or change machines
- (v) the location of any fixed or temporary structures such as columns, pillars or serveries
- (vi) the location and height of any stages in the premises; any steps, stairs, elevators, balconies or lifts in the premises
- (vii) the location of any public toilets in the building

Unless otherwise agreed with the council, the plan should be drawn to a standard scale with a key showing the items mentioned above. The standard scale is 1:100.

- 4.8 Many applications are dealt with by delegated authority to officers however should it be necessary for an application for a permit to be determined by a Sub Committee of the Licensing and Enforcement Committee members will expect to be able to speak to and or question the club on aspects of its operation. To that end it will be expected that an officer of the club would attend and be prepared to answer questions at any meeting arranged to determine the application.
- 4.9 Licensing authorities may only refuse an application on the grounds that:
- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
  - (b) the applicant's premises are used wholly or mainly by children and/or young persons;
  - (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
  - (d) a permit held by the applicant has been cancelled in the previous ten years; or
  - (e) an objection has been lodged by the Commission or the police.
- 4.10 In the case of the 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10 and paragraph 25.43 of the GC Guidance) there is no opportunity for objections to be made by the Gambling Commission or the police, and the ground upon which an authority can refuse a permit are reduced:
- (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."
- 4.11 The Licensing Authority will expect the holders of club gaming or club gaming machine permits when applying to vary them to comply with all the relevant requirements set out in this section as if the application was for a new permit.
- 4.12 There are statutory conditions on club gaming permits that no child uses a category B3A or B4 or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

## **5 Temporary Use Notices**

- 5.1 Temporary use notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a temporary use notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.
- 5.2 This 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.
- 5.3 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 Act (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.
- 5.4 There are a number of statutory limits as regards temporary use notices. "The meaning of "premises" in part 8 of the Act is discussed in Part 7 of the Gambling Commissions Guidance to Licensing Authorities. 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".
- 5.5 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.
- 5.6 This licensing authorities expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

## **6 Occasional Use Notices**

- 6.1 Occasional use notices enable betting on a track for up to eight days a year without a premises licence
- 6.2 The licensing authority has very little discretion regarding these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will consider the definition of a 'track' and whether the applicant is permitted to serve the notice.

## **7 Small Society Lotteries**

- 7.1 Under the Act, a lottery is unlawful unless it runs with an operating licence or is an exempt lottery. The Licensing Authority will register and administer small society lotteries (as defined). Promoting or facilitating a lottery will fall within 2 categories:
- licensed lotteries (requiring an operating licence from the Gambling Commission); and
  - exempt lotteries (including small society lotteries registered by the Licensing Authority)

- 7.2 Exempt lotteries are lotteries permitted to run without a licence from the Gambling Commission and these are:
- small society lotteries;
  - incidental non-commercial lotteries;
  - private lotteries;
  - private society lotteries;
  - work lotteries;
  - residents' lotteries;
  - customer lotteries;
- 7.3 East Devon District Council will register and administer small society lotteries as defined under the Act. Advice regarding small society lotteries and the definitions of the above exempt lotteries is available from the Gambling Commission website: <http://www.gamblingcommission.gov.uk/Gambling-sectors/Lotteries/About-the-lottery-industry/About-lotteries-raffles/About-lotteries-raffles.aspx>
- 7.4 This licensing authority will adopt a risk based approach towards its enforcement responsibilities for small society lotteries. This authority considers that the following list, although not exclusive, could affect the risk status of the operator:
- submission of late returns (returns must be submitted no later than three months after the date on which the lottery draw was held);
  - submission of incomplete or incorrect returns;
  - breaches of the limits for small society lotteries.

## 8 Vessels

- 8.1 The licensing authority when considering applications for premises licences in respect of vessels will give particular weight to the views of the Maritime and Coastguard Agency in respect of promoting the licensing objectives. Where in the opinion of the licensing authority any of the three objectives are undermined, and this cannot be resolved through the imposition of conditions, the application will be refused.

Where a premises licence is sought in connection with a vessel which will be navigated whilst licensable activities take place, the licensing authority will be concerned following the receipt of relevant representations, with the promotion of the licensing objectives on-board the vessel. The licensing authority will not focus on matters relating to safe navigation or operation of the vessel, the general safety of passengers or emergency provisions, all of which are subject to regulations which must be met before the vessel is issued with a Passenger Certificate and Safety Management Certificate. It is expected that if the Maritime and Coastguard Agency is satisfied that the vessel complies with Merchant Shipping standards for a passenger ship, the premises will normally be accepted as meeting the public safety objectives. In respect of other public safety aspects, representations made to the licensing authority by the Maritime and Coastguard Agency will be given particular weight.

## **Relevant Authorities' Contact Details**

### **Responsible Authority Contacts -**

The list of Responsible Authorities and their contact details may change where additional responsible authorities are designated by regulations from the Secretary of State or existing Responsible Authorities change their address (last updated 09.2015).

An up to date list of Responsible Authorities relating to East Devon with their contact details can be obtained by accessing the East Devon District Council's Licensing pages on the Council's website or by request to the Council's Licensing Office by emailing [licensing@eastdevon.gov.uk](mailto:licensing@eastdevon.gov.uk) or telephoning 01395 517411.

#### **East Devon Licensing Authority**

The Licensing Manger  
East Devon District Council  
Knowle  
Sidmouth  
EX10 8HL

#### **The Gambling Commission**

Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP

#### **Devon & Cornwall Police**

Licensing Department (East)  
Devon & Cornwall Police HQ  
Middlemoor  
EXETER  
EX2 7HQ

#### **Devon and Somerset Fire & Rescue Service**

Central Command (East)  
Middlemoor Fire Station  
Sidmouth Road  
EXETER  
EX2 7AP

#### **Area Child Protection Committee and Local Safeguarding Children Board**

CP Checks  
MASH  
PO BOX 723  
Exeter  
EX1 9QS

#### **Environmental Health (Environmental Health and Parking Services Manager)**

(Nuisance, Public Health & Health & Safety)  
East Devon District Council  
Environmental Health Service

Council Offices  
Knowle  
SIDMOUTH  
EX10 8HL

**Head of Planning**

East Devon District Council  
Planning & Countryside Service  
Council Offices  
Knowle  
SIDMOUTH  
EX10 8HL

**HM Customs and Excise**

HM Revenue and Customs  
National Registration Unit  
Portcullis House  
21 India Street  
Glasgow  
G2 4PZ

**Additional Responsible Authority Contacts for vessels –  
Maritime and Coastguard Agency**

(For attention of Mr Tony Heslop)  
Plymouth Marine Office  
Western Region  
New Fish Market,  
Fish Quay  
PLYMOUTH  
PL4 0LH

# Appendix A- Glossary of Terms

DCMS - Department of Culture, Media, and Sport

**An Interested Party – is a person, in the opinion of the Licensing Authority who:**

- 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).

**Responsible Authority –**

- (i) The Licensing Authority
- (ii) The Gambling Commissioner
- (iii) Devon & Cornwall Police
- (iv) The Devon and Somerset Fire & Rescue Service
- (v) The local planning authority within the meaning given by the Town and Country Planning act 1990 (c.8) for any area in which the premises are wholly or partly situated
- (vi) The local authority by which statutory functions are exercisable in any area in which the premises are wholly or partly situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health
- (vi) A body which is designated in writing for the purpose of this paragraph, by the licensing authority for an area in which the premises are wholly or partly situated , as competent to advise the authority about the protection of children from harm:
- (vii) And any other person prescribed by regulations by the Secretary of State.

The following comprises a glossary of terminology used within the statement of licensing principles. Terms defined within the statement itself, or at length in the Gambling Act 2005, have not been included.

- Adult Gaming Centre**  
A premises where the provision of Category B, C and D gaming machine facilities for adult customers is authorised by the Licensing Authority.
- (Alcohol) Licensed Premises Gaming Machine Permit  
Permit issued by Licensing Authority allowing more than two Category C or D gaming machines to be used on Alcohol-licensed premises
- Betting Machine**  
A machine that accepts bets on live events, such as horse racing, as a substitute for placing bets over the counter.
- Betting Premises**  
Premises where the provision of betting facilities is authorised by the Licensing Authority.
- Bingo Premises**  
Premises authorised by the Licensing Authority where bingo, either cash or prize bingo, may take place.
- Casino Premises**  
Premises authorised by the Licensing Authority where persons are given an opportunity to participate in casino games i.e. games of chance, which are not equal chance gaming.



- ❑ **Children**  
Means individuals who are less than 16 years old.
- ❑ **Club Gaming Permit**  
Permit issued by the Licensing Authority that authorises the provision of games of chance and gaming machines on premises from which a members club operates.
- ❑ **Club Machine Permit**  
Permit issued by the Licensing Authority which authorises a club to have up to three gaming machines on the premises.
- ❑ **Family Entertainment Centre**  
Premises where the provision of Category C and D gaming machines is authorised by the Licensing Authority.
- ❑ **Gambling Commission**  
The body which regulate all commercial gambling in Great Britain.
- ❑ **Gaming Machine**  
A machine that is designed or adapted for use by people to gamble. Such machines are classified in 4 categories, A, B, C and D. Category D has the lowest level of charge and prizes, whilst the other categories increase in value up to Category A, which has no limits to charges or prizes.
- ❑ **Gaming Machine Permit**  
Permit issued by the Licensing Authority regulating the operation of gambling machines.
- ❑ **Licensing and Enforcement Committee**  
The committee that has been established by the Licensing Authority to discharge its licensing functions under the Gambling Act 2005.
- ❑ **Licensing Manager**  
The Officer appointed by the Licensing Authority to carry out functions and duties delegated by the Licensing Authority.
- ❑ **Operator**  
The holder of a licence issued by the Gambling Commission or a Licensing Authority, being an individual or company which provides facilities for certain types of gambling.
- ❑ **Personal Licence**  
A licence issued to an individual by the Gambling Commission, authorising the holder to perform a specified management office or specified operational function in connection with the provision of facilities for gambling.
- ❑ **Premises Licence**  
A licence issued by the Licensing Authority that authorises the provision of gambling facilities on specified premises.
- ❑ **Prize Gaming**  
Gaming is prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming.

- ❑ **Prize Gaming Permit**  
A permit issued by the Licensing Authority to authorise the provision of facilities for gaming with prizes on specified premises.
- ❑ **Provisional Statement**  
An authorisation issued by the Licensing Authority where the applicant expects premises to be constructed or altered in accordance with plans submitted, or expects to acquire a right to occupy the premises.
- ❑ **Regulators Code**  
Code of practice issued by the Government to ensure that regulatory best practice is adopted and carried out by regulators.
- ❑ **Relevant Representation**  
A representation received from a responsible authority or an interested party that relates to the licensing objectives, or that raises issues under this statement, the Gambling Commission's Guidance or codes of practice.
- ❑ **Remote Gambling**  
Defined by the Gambling Act 2005 as gambling in which persons participate by the use of remote communication including the internet, telephone, television, radio or any other kind of electronic or other technology for facilitating communication.
- ❑ **Remote Operating Licence**  
Issued by the Gambling Commission to individuals or companies running a gambling service through remote communication (including online gambling) and any part of your remote equipment is based in Great Britain or where remote equipment is based outside Great Britain and you advertise remote gambling to consumers in Britain through a British-facing business.
- ❑ **Review**  
The process by which a Licensing Authority may, either of its own volition or on the request of a third party, determine whether any action should be taken in relation to the operation of a premises licence.
- ❑ **Temporary Use Notice**  
A notice which permits 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.
- ❑ **Track**  
Sites (such as a horse racecourse or dog track) where races or other sporting events take place.
- ❑ **Young Person**  
Means individuals who are aged less than 18 years old and 16 years and over