

# **Statement of Principles for Gambling 2019 - 2021**

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***This Statement of Principles for Gambling was approved by Harrogate Borough Council on***

***Wednesday 05 December 2018***

***All references to the Guidance refer to the Gambling Commission's Guidance to***

***Licensing Authorities (5<sup>th</sup> Edition)***

## 1. Executive Summary

The Gambling Act 2005 provided a new regime for the regulation of gambling and betting, which was introduced throughout England and Wales from 1st September 2007.

Gambling and betting is regulated by the Gambling Commission, whose duties include licensing the operators and individuals involved in the provision of gambling and betting, while licensing authorities issue licences for the premises where gambling takes place.

The council is also required to licence other activities, including the registration of small society lotteries and this statement sets out how we intend to approach this task.

Under Section 349 of the Gambling Act 2005 the licensing authority is required to prepare a Statement of Principles that it proposes to apply in determining licences, permits and registrations under this Act. This statement must be published at least every three years, starting from 31 January 2007.

Any decision taken by the council in regard to determination of licences, permits and registrations should aim to permit the use of premises for gambling in so far as it is reasonably consistent with the licensing objectives.

The principles to be applied specifically to the determination of premises licence applications include definition of premises, location, duplication with other regulatory regimes, promotion of the licensing objectives, conditions, door supervision, layout of the premises and supervision of gaming facilities.

As well as betting premises licences, the council has the ability to issue permits for prize gaming, unlicensed family entertainment centres, temporary use notices, occasional use notices and small society lotteries.

The council is able to specify the information it requires as part of the application process to aid determination and this is described in the statement.

Enforcement of the legislation is a requirement of the Act that is undertaken by the council in conjunction with the Gambling Commission. The policy describes the council's enforcement principles and the principles underpinning the right of review.

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

## 1.1 The Borough of Harrogate



© [Open Street Map](#)

The Harrogate District is part of the County of North Yorkshire (comprising 8 district councils) with local government service delivery split between the borough and county council. The district is characterised by being both rural and urban in nature, having large, sparsely populated areas alongside the major settlements of Harrogate, Knaresborough, Ripon and Boroughbridge.

The district is one of the largest shire districts in England at 1305 sq km (504 sq miles) and lies between the cities of Leeds and Bradford to the south, the district of Richmondshire in the north, the City of York, Hambleton and Selby districts to the east, and Craven district and the Yorkshire Dales National Park to the west.

The district has a population of 157,869\* making it one of the larger councils in the county in terms of population. In terms of area it is one of the larger, covering 504 square miles. The council area is mainly rural, with a number of small towns, the central urban area being Harrogate. (\*[Office of National Statistics](#))

The district's economy was estimated to value £3.8bn in 2018. The life expectancy for both men and women is higher than the national average, with levels of adult physical activity and hospital stays for alcohol related harm better than the England average.

## 1.2 Visions and values

The council's vision is:

“one council that is customer focussed, commercially driven and fit for the future.”

We aim to be the best by listening to our customers and being willing to change, knowing our district and our communities and being clear about our strategic direction and priorities.

Our vision + our values + our behaviour = our responsibility.

- delivering excellent customer service
- taking responsibility
- showing resilience
- working together
- leading by example

This statement of principles seeks to promote the licensing objectives within the overall context of the [Corporate Plan 2018 – 2022](#).

## 1.3 The Council's Objectives

We recognise the importance of gambling as a legitimate part of the leisure industry. We will not override the rights of any person to make an application and to have it considered on its relative merits.

We will ensure that premises have appropriate safeguards in place to protect children and vulnerable persons from harm.

We will work with enforcement partners to do this and to make sure that gambling does not become a source of crime and disorder in our communities.

Working with the trade to promote well run establishments we will ensure that gambling is conducted in a fair and open way.

We will do this by:-

- ensuring that applicants clearly set out how they will uphold the licensing objectives;
- carrying out research into the location of our licensed premises and the potential impacts on our community. This will form part of our local profile.

## **2. Part A The Gambling Act 2005**

### **2.1 The licensing objectives**

Under the Gambling Act 2005 (the Act) Harrogate Borough Council is the licensing authority for the Harrogate District. Any reference within this document to the council refers, unless otherwise stated, to the licensing authority.

In exercising its functions under the Gambling Act 2005, Harrogate Borough Council must have regard to the licensing objectives as set out in section 1 of the Act, which are:

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

The council is aware that as per Section 153 of the Gambling Act, in making decisions about premises licences, it should aim to permit the use of premises for gambling in so far as it thinks it is:

- in accordance with any relevant code of practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives and
- in accordance with this statement.

[The Gambling Commission's Licence Conditions and Code of Practice \(LCCP\)](#) will require gambling premises to undertake a risk assessment, taking into consideration any local information.

### **2.2 Gambling Act Statement of Principles for Gambling**

Councils are required by the Gambling Act 2005 to publish a statement of the principles which they propose to apply when exercising their functions under the Act. This must be published at least every three years, but may also be reviewed from "time to time" with any amendments consulted upon. The statement must then be re-published.

### **2.3 Consultation**

Harrogate Borough Council consulted widely upon this statement, as required by the Gambling Act before finalising and publishing it, the organisations listed below.

Gambling Commission  
Gamcare  
Association of British Bookmakers Limited  
BACTA  
British Institute of Innkeepers (BII)  
Harrogate Citizens Advice

Harrogate Justice Centre  
British Beer and Pub Association  
Remote Gambling Association (RGA)  
Responsible Gambling Trust  
Gamblers Anonymous UK  
Gordon Moody Association  
The Bingo Association  
Gosschalks Solicitors  
Popleston Allen  
TLT LLP Solicitors  
John Gaunt Solicitors  
Woodswhur Solicitors  
Totesport  
Petfre (Gibraltar) Limited  
Ladbrokes  
William Hill Plc  
Betfred  
Petfre (Gibraltar) Limited  
Coral Betting  
Gamestec Leisure Limited  
Moto Hospitality Limited  
Krysallis  
Cygnet Health Care  
North Yorkshire Police  
HM Revenues and Customs  
NYCC Social Services  
Director of Public Health, North Yorkshire County Council  
North Yorkshire Trading Standards  
Harrogate Borough Council Planning Department  
North Yorkshire Fire and Rescue Service  
Chair of Ripon Pub Watch  
Chair of Harrogate Pub Watch  
Harrogate and District Chamber of Commerce  
Ripon and District Chamber of Trade and Commerce  
Knaresborough Town Council  
Ripon City Council  
Boroughbridge Town Council  
Parish Councils  
Harrogate Borough Council Councillors  
Camden Stud Ltd T/A York Harness Raceway  
Ripon Race Company Limited  
XO Casino Slots  
Lightwater Valley Entertainment Limited  
Harrogate Borough Council Community Safety

The consultation took place between the 14<sup>th</sup> September 2018 and the 19<sup>th</sup> October 2018 and followed the [Cabinet Office's Consultation Principles](#) which were updated in March 2018.

The consultation elicited four responses which are available on request. The policy was approved at a meeting of the Full Council on Wednesday 05 December 2018.



## 2.4 The licensing framework

The Gambling Act 2005 brought about changes to the way that gambling is administered in the United Kingdom. The Gambling Commission is the national gambling regulator and has a lead role in working with central government and local authorities to regulate gambling activity.

The Gambling Commission issues operators licences and personal licences. Any operator wishing to provide gambling at a certain premises must have applied for the requisite personal licence and operator's licence before they can approach the council for a premises licence. In this way the Gambling Commission can consider potential applicants and organisations to ensure they have the correct credentials to operate gambling premises.

The council's role is to ensure premises are suitable for providing gambling in line with the three licensing objectives and any codes of practice issued by the Gambling Commission. The council also issues various permits and notices to regulate smaller scale and or ad hoc gambling in various other locations such as pubs, clubs and hotels.

The council does not licence large society lotteries or remote gambling through websites. These areas fall to the Gambling Commission. The National Lottery is not licensed by the Gambling Act 2005 and from 1st October 2013 the Gambling Commission took over the responsibilities of the National Lottery Commission to regulate the National Lottery Act.

## 2.5 Declaration

In producing this statement, the council declares that it has had regard to the licensing objectives of the Gambling Act 2005, guidance issued by the [Gambling Commission \(5<sup>th</sup> edition updated September 2016\)](#) and any responses from those consulted on this policy statement.

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

## 2.6 Responsible authorities

The Act empowers certain agencies to act as responsible authorities so that they can employ their particular area of expertise to help promote the licensing objectives.

Responsible authorities are able to make representations about licence applications, or apply for a review of an existing licence. Responsible authorities will also offer advice and guidance to applicants.

The council is required by regulations to state the principles it will apply to designate, in writing, a body which is competent to advise the council 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 council's area
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group etc.

In accordance with the regulations the council designates the [North Yorkshire Safeguarding Children Board](#) for this purpose.

Applicants may find the information available from this board useful as a point of reference when producing their own policies and procedures in relation to the objective of protection of children and vulnerable people.

The contact details of all the responsible authorities under the Gambling Act 2005 are available via the council's website at:

[https://www.harrogate.gov.uk/downloads/file/466/responsible\\_authorities\\_guidancepdf](https://www.harrogate.gov.uk/downloads/file/466/responsible_authorities_guidancepdf)

### Responsible authority List

- Licensing Authority
- Gambling Commission
- North Yorkshire Police
- North Yorkshire Fire and Rescue Service
- Environmental Health
- North Yorkshire Safeguarding Board
- Her Majesty's Revenue and Customs.

### 2.7 Interested parties

Interested parties are certain types of people or organisations that have the right to make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:

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

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities
- b) has business interests that might be affected by the authorised activities, or
- c) represents persons who satisfy paragraph (a) or (b)".

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

- Each case will be decided upon its merits. This council will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance to Licensing Authorities.
- Within this framework the council will accept representations made on behalf of residents and tenants associations.
- In order to determine if an interested party lives, or has business interests,

sufficiently close to the premises to be likely to be affected by the gambling activities, the council will consider factors such as the size of the premises and the nature of the activities taking place.

This council will generally require written evidence that a person/body (e.g. an advocate/relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons requesting the representation is sufficient.

It is important to note that in order for a representation to be considered as relevant, interested parties are required to demonstrate that granting a licence would undermine any of the three licensing objectives under the Gambling Act.

## **2.8 Exchange of information**

Licensing authorities are required to include in their statement the principles to be applied by the council with regards to the exchange of information between it and the Gambling Commission, as well as other persons listed in Schedule 6 to the Act.

The council will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information, which includes the provision that the Data Protection Act 2018 will not be contravened. The council will also have regard to any guidance issued to local authorities by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State.

Details of applications and representations which are referred to a Licensing Sub-Committee for determination will be detailed in reports and these are made publicly available in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000.

Should any protocols be established as regards information exchange with other bodies then they will be made available.

## **2.9 Licensing authority functions**

Licensing authorities are responsible under the Act for:

- licensing of premises where gambling activities are to take place by issuing premises licences
- issue provisional statements
- regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing club gaming permits and/or club machine permits
- issue club machine permits to commercial clubs
- grant permits for the use of certain lower stake gaming machines at unlicensed family entertainment centres
- receive notifications from alcohol licensed premises (under the Licensing Act 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

Licensing authorities are not involved in licensing remote gambling at all. This is regulated by the Gambling Commission via operator licences.

## 2.10 Fees

Premises licence fees are set within the prescribed maximum levels in accordance with [The Gambling \(Premises Licence Fees\)\(England and Wales\) Regulations 2007](#) and will be limited to cost recovery. Fees for permits and other services are set by the Secretary of State.

In accordance with section 193 of the Act, a premises licence will be revoked if the licence holder fails to pay the relevant annual fee (required under section 184), unless the failure to pay can be explained by an administrative error.

Under schedule 13 section 17 of the Act the council will also cancel any gambling permit if the holder fails to pay the annual fee, unless the failure to pay can be explained by an administrative error.

## 3. Part B The licensing objectives

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

The Gambling Commission will take a lead role in keeping gambling crime free by vetting all applicants for personal and operator licences. The council’s main role is to try and promote this area with regard physical premises. Thus, where an area has known high levels of organised crime the council will consider carefully whether gambling premises are suitable to be located there and whether conditions may be required such as the provision of door supervision.

There is a distinction between disorder and nuisance. In order to make the distinction, when incidents of this nature occur, the council will consider factors such as whether police assistance was required and how threatening the behaviour was.

Issues of nuisance cannot be addressed by the Gambling Act provisions however problems of this nature can be addressed through other legislation as appropriate.

Examples of the specific steps the council may take to address this area can be found in the various sections covering specific premises types in Part C of this document and also in Part D which covers permits and notices.

## 3.2 Ensuring that gambling is conducted in a fair and open way

We are aware that except in the case of tracks, the Gambling Commission does not generally expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences.

However the council will familiarise itself with operator licence conditions and will communicate any concerns to the Gambling Commission about misleading advertising or any absence of required game rules or other matters as set out in the [Gambling Commission's Licence Conditions and Code of Practice](#).

Examples of the specific steps the council may take to address this area can be found in the various sections covering specific premises types in Part C of this document and also in Part D which covers permits and notices.

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

### 3.3.1 Protection of children

This licensing objective means preventing children from taking part in most types of gambling. The council will therefore consider whether specific measures are required at particular premises, with regard to this licensing objective.

The Act provides the following definition for child and young adult in Section 45:

Meaning of “child” and “young person”

- In this Act “child” means an individual who is less than 16 years old.
- In this Act “young person” means an individual who is not a child but who is less than 18 years old.

For the purpose of this section protection of children will encompass both child and young person as defined by the Act.

The council will pay particular attention to any codes of practice which the Gambling Commission issues as regards this licensing objective in relation to specific premises.

Examples of the specific steps the council may take to address this area can be found in the various sections covering specific premises types in Part C of this document and also in Part D which covers permits and notices.

### 3.3.2 Protection of vulnerable people

The council is aware of the difficulty in defining the term “vulnerable person”. The Gambling Commission, in its Guidance to Local Authorities, does not seek to offer a definition for the term “vulnerable people” but will, for regulatory purposes assume that this group includes people:

“who gamble more than they want to, people who gamble beyond their means, elderly persons, and people who may not be able to make informed or balanced

decisions about gambling due to a mental impairment, or because of the influence of alcohol or drugs.”

The Department of Health document [“No Secrets”](#) offers a definition of a vulnerable adult as a person “who is or may be in need of community care services by reason of mental or other disability, age or illness; and who is or may be unable to take care of him or herself, or unable to protect him or herself against significant harm or exploitation.”

[The Care Act 2014](#) supersedes this definition by identifying “adults at risk”. The Act defines an adult at risk as:

“someone over the age of 18 who has a need for care and support. Someone who is experiencing or is at risk of neglect or abuse”

It should be noted that abuse also includes financial abuse and for that purpose financial abuse includes:

- having money or other property stolen,
- being defrauded,
- being put under pressure in relation to money or other property, and
- having money or other property misused.

In the case of premises licences the council is aware of the extensive requirements set out for operators in the Gambling Commissions Code of Practice. In this document the Gambling Commission clearly describe the policies and procedures that operators should put in place regarding:

- Combating problem gambling;
- Access to gambling by children and young persons;
- Information on how to gamble responsibly and help for problem gamblers;
- Customer interaction;
- Self-exclusion; and
- Employment of children and young persons.

All applicants should familiarise themselves with the operator licence conditions and codes of practice relating to this objective and determine if these policies and procedures are appropriate in their circumstances. The council will communicate any concerns to the Gambling Commission about any absence of this required information.

Applicants may also like to make reference to North Yorkshire County Council’s [Safeguarding Adults Board](#) which provides extensive [guidance](#) on identifying vulnerable people and what can be done to reduce risk for this group.

Applicants should consider the following proposed measures for protecting and supporting vulnerable persons, for example:

- leaflets offering assistance to problem gamblers should be available on gambling premises in a location that is both prominent and discreet, such as toilets;
- 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.

- trained personnel for the purpose of identifying and providing support to vulnerable persons;
- self-exclusion schemes;
- operators should demonstrate their understanding of best practice issued by organisations that represent the interests of vulnerable people;
- posters with GamCare Helpline and website in prominent locations; and
- windows, entrances and advertisements to be positioned or designed not to entice passers-by.

It should be noted that some of these measures form part of the mandatory conditions placed on premises licences.

The council may consider any of the above or similar measures as licence conditions should these not be adequately addressed by any mandatory conditions, default conditions or proposed by the applicant.

### 3.4 Other considerations

The licensing authority will not reject applications for premises licences where relevant objections can be dealt with through the use of conditions. In determining applications for premises licences and permits, we will request as much information as it requires to be satisfied that all the requirements set out at s.153 of the Act are met.

The council will ensure that applications are made in accordance with the relevant code(s) of practice, Gambling Commission guidance, the licensing objectives and this policy statement.

The council is aware that other considerations such as moral or ethical objections to gambling are not a valid reason to reject applications for premises licences.

### 3.5 Local area profile

Should issues be identified in areas which would impact on how applicants should complete their risk assessments then the council may publish a local area profile.

The council has published an interactive layer map, which can be found [here](#) and includes gambling premises, which may assist applicants in developing risk assessments.

When developing any guidance the council will work with the responsible authorities and other local agencies to gather information and identify any possible risks in relation to specific locations. This provides a real opportunity for the council to reflect local needs and issues in the gambling policy.

The aim of any local area profile would be to build up a picture of the locality, and in particular the elements of it that could be impacted by gambling premises. A profile might therefore include reference to:

- schools, sixth form colleges, youth centres etc, with reference to the potential risk of underage gambling
- hostels or support services for vulnerable people, such as those with addiction issues or who are homeless, given the greater risk of problem

- gambling among these groups
- religious buildings
- any known information about issues with problem gambling
- the surrounding night time economy, and possible interaction with gambling premises
- patterns of crime or anti-social behaviour in the area, and specifically linked to gambling premises
- the socio-economic makeup of the area
- the density of different types of gambling premises in certain locations
- specific types of gambling premises in the local area (eg, seaside resorts may typically have more arcades or FECs).

Any guidance should be given careful consideration when making an application. Applicants may be asked to attend a meeting with licensing officers to discuss the measures suggested in the guidance and how they might be relevant to their application.

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

### 3.6 Money laundering

The council requires applicants and licence holders to conduct an assessment of the risks of their business being used for money laundering and terrorist financing. Such risk assessment must be appropriate and must be reviewed as necessary in the light of any changes in circumstances, including the introduction of new technology, new methods of payment by customers, changes in the customer demographic or any other material changes, and in any event reviewed at least annually.

As a gambling business you have a responsibility to uphold the three licensing objectives set out in the Act. The first of those licensing objectives is to prevent gambling being a source of crime or disorder, being associated with crime and disorder, or being used to support crime.

Money laundering in the gambling sector takes two main forms:

- Exchanging money acquired criminally for money that appears to be legitimate or 'clean' by gambling on low risk outcomes; and
- The use of criminal proceeds to fund gambling as a leisure activity (so called criminal or 'lifestyle' spend).

You should report money laundering to the National Crime Agency and, where appropriate consent is requested, wait for such consent to deal with a transaction or wait until a set period has elapsed before proceeding.

Further information on how to meet your money laundering responsibilities can be found on the [Gambling Commission website](#).



### 3.7 The Proceeds of Crime Act 2002

POCA creates several principal offences that apply to everyone and criminalise any involvement in the proceeds of any crime if the person knows or suspects that the property is criminal property. These offences relate to the concealing, disguising, converting, transferring, acquisition, use and possession of criminal property, as well as an arrangement which facilitates the acquisition, retention, use or control of criminal property. For example, in the gambling industry, this may involve taking cash, cheque, or card payments, based on funds which are the proceeds of crime, in the form of a bet or wager, or holding money on account for a customer.

The Gambling Commission has produced [guidance for operators](#) on duties under the Proceeds of Crime Act.

## 4 Part C Premises Licences

### 4.1 Introduction to premises licensing

The council will issue premises licences to allow those premises to be used for certain types of gambling. For example premises licences will be issued to amusement arcades, bingo halls and bookmakers.

Premises licences are subject to the permissions/restrictions 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 other conditions, where it is believed to be necessary and proportionate.

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

### 4.2 Definition of “premises”

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

The council will take particular care in considering applications for multiple licences for a building and those relating to a discreet part of a building used for other (non-gambling) purposes. In particular the council will assess entrances and exits from parts of a building covered by one or more licences to satisfy itself that they are separate and identifiable so that the separation of different premises is not compromised and that people do not ‘drift’ into a gambling area.

The location of the premises will clearly be an important consideration and the suitability of any division is likely to be a matter for discussion between the operator and council. The Gambling 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.”

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

An applicant cannot obtain a full premises licence until they have the right to occupy the premises to which the application relates.

### **4.3 Premises not yet ready for gambling**

The guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.

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

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

### **4.4 Location**

The council is aware that demand issues (e.g. the likely demand or need for gambling facilities in an area) cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. We will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.

With regards to these objectives it is the council’s policy, upon receipt of any relevant representations to look at specific location issues including:

- the possible impact a gambling premises may have on any premises that provide services to children or young people, i.e. a school, or vulnerable adult centres in the area
- the possible impact a gambling premises may have on residential areas where there may be a high concentration of families with children
- the size of the premises and the nature of the activities taking place
- any levels of organised crime in the area.

The council will need to be satisfied that there is sufficient evidence that the particular location of the premises would be harmful to the licensing objectives.

#### 4.5 Local Area Risk Assessments

It is a requirement of the Gambling Commission's Licence Conditions and Codes of Practice (LCCP), for licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at their premises and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in this policy.

The LCCP goes on to say licensees must review (and update as necessary) their local risk assessments:

- to take account of significant changes in local circumstance, including those identified in this policy;
- when there are significant changes at a licensee's premises that may affect their mitigation of local risks;
- when applying for a variation of a premises licence; and
- in any case, undertake a local risk assessment when applying for a new premises licence.

The council may inform gambling operators when it feels that a significant change has occurred in the area. The notification of any significant changes from the council should be a prompt to gambling operators to consider carrying out a review of their local risk assessments and having regard to any specific concerns raised.

Some examples which the council would expect the local risk assessment to consider would be:

- whether the premises is in an area of deprivation
- whether the premises is in an area subject to high levels of crime and/or disorder
- the ethnic profile of residents in the area
- the demographics of the area in relation to vulnerable groups
- the location of services for children such as schools, playgrounds, toy shops, leisure centres and other areas where children will gather

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

Other matters that the assessment may include:

- The training of staff in brief intervention when customers show signs of excessive gambling, the ability of staff to offer brief intervention and how the manning of premises affects this.
- Details as to the location and coverage of working CCTV cameras, and how the system will be monitored.
- The layout of the premises so that staff have an unobstructed view of persons using the premises.
- The number of staff that will be available on the premises at any one time. If at any time that number is one, confirm the supervisory and monitoring

arrangements when that person is absent from the licensed area or distracted from supervising the premises and observing those persons using the premises.

- Arrangements for monitoring and dealing with under age persons and vulnerable persons, which may include dedicated and trained personnel, leaflets, posters, self-exclusion schemes, window displays and advertisements not to entice passers-by etc.
- The provision of signage and documents relating to games rules, gambling care providers and other relevant information be provided in both English and the other prominent first language for that locality.
- Where the application is for a betting premises licence, other than in respect of a track, the location and extent of any part of the premises which will be used to provide facilities for gambling in reliance on the licence.

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

This policy does not preclude any application being made and each application will be decided on its merits, with the onus being upon the applicant to show how the concerns can be overcome.

Local risk assessments should be kept on the premises to which they relate and made available for inspection at any time by an authorised officer.

It should be noted that unless a local risk assessment has been submitted with any new or variation application then the application has not been correctly served.

#### **4.6 Duplication with other regulatory regimes**

The council will seek to avoid any duplication with other statutory/regulatory systems where possible. The council 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 proposed conditions which are not able to be met by the applicant due to planning restrictions, should such a situation arise.

#### **4.7 Conditions**

The council is aware that the Secretary of State has set mandatory conditions and default conditions and the Gambling Commission has set licence conditions and codes of practice, which are necessary for the general good conduct of gambling premises.

Where there are specific risks or problems associated with a particular locality, or specific premises, or class of premises, the council will consider attaching further conditions to address this.

Any conditions attached to a licence issued by the council 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, and/or related to the area where the premises is based

- fairly and reasonably related to the scale, type and location of premises
- consistent with the licensing objectives, and
- reasonable in all other respects.

Decisions about individual conditions will be made on a case by case basis, although there will be a number of control measures the council will consider using, such as supervision of entrances, supervision of adult gaming machines, appropriate signage for adult only areas etc. There are specific comments made in this regard under each of the licence types in this policy. The council will also expect the applicant to offer his/her own suggestions as to the way in which the licensing objectives can be met effectively

Where certain measures are not already addressed by the mandatory/default conditions or by the applicant, the council may consider licence conditions to cover issues such as:

- proof of age schemes
- CCTV
- supervision of entrances
- supervision of machine areas
- a reduction in the number of betting machines (betting premises)
- the staffing of premises
- physical separation of areas
- location of entrance points
- notices / signage
- specific opening hours
- a requirement that children must be accompanied by an adult
- enhanced DBS checks of the applicant and/or staff
- support to persons with gambling addiction
- policies to address seasonal periods where children may more frequently attempt to gain access to premises and gamble such as pre and post school hours, half terms and summer holidays
- policies to address the problems associated with truant children who may attempt to gain access to premises and gamble

This list is not mandatory or exhaustive and is merely indicative of examples of certain measures which may satisfy the requirements of the licensing authority and the responsible authorities, depending on the nature and location of the premises and the gambling facilities to be provided.

It is noted that there are conditions which the council cannot attach to premises licences, which include:

- any condition on the premises licence which makes it impossible for the applicant 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.

#### **4.8 Door supervision**

The council will consider whether there is a need for door supervision in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime.

It is noted that the Gambling Act 2005 amended the Private Security Industry Act 2001 and that door supervisors at casinos or bingo premises are not required to be licensed by the Security Industry Authority. Where door supervisors are provided at these premises the operator should ensure that any persons employed in this capacity are fit and proper to carry out such duties. This may include carrying out a Disclosure and Barring Service (DBS) check on potential staff and for such personnel to have attended industry recognised training.

#### **4.9 Credit and Cash Dispenser (ATM)**

Section 177 of the 2005 Act requires, in relation to casino and bingo premises licences, that a condition be placed on the licence prohibiting the provision of credit in connection with gambling authorised by the licence or any involvement with the provision of credit.

This does not prevent the licensee from permitting the installation of cash dispensers (ATMs) on the premises. Such machines may accept credit cards (and debit cards) providing the arrangement is subject to a requirement that the licensee has no other commercial connection with the machine provider in relation to gambling (aside from the agreement to site the machines) and does not profit from the arrangement, nor make any payment in connection with the machines.

#### **4.10 Adult gaming centres (AGC)**

Adult gaming centres are a category of premises introduced by the Act that are most closely related to what are commonly known as adult only amusement arcades seen in many town centres.

Persons operating an AGC must hold a gaming machines general operating licence from the Gambling Commission and obtain a premises licence from the council.

Under the Act a premises holding an adult gaming centre licence will be able to make a number of category B, C and D gaming machines available. No person under 18 will be permitted to enter such premises and no alcohol shall be permitted to be consumed on the premises.

No customer shall be able to access the premises directly from any other (or split) premises in respect of which a licence issued under Part 8 of the Act, or a permit issued under Schedule 10, 12 or 13 to the Act, has effect.

The council will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling in these premises. The council will expect applicants to satisfy the council that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises.

Where certain measures are not already addressed by the mandatory and default

conditions and the Gambling Commission codes of practice or by the applicant, the council may consider licence conditions to address such issues.

#### 4.11 Licensed family entertainment centres (FECs)

Licensed family entertainment centres are those premises which usually provide a range of amusements such as computer games, penny pushers and may have a separate section set aside for adult only gaming machines with higher stakes and prizes.

Licensed family entertainment centres will be able to make available unlimited category C and D machines where there is clear segregation in place so children do not access the areas where the category C machines are located.

Where category C or above machines are available in premises to which children are admitted then the council will ensure that:

- all such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance. For this purpose a rope, floor markings or similar provision will not suffice and the council may insist on a permanent barrier of at least 1 metre high;
- only adults are admitted to the area where the machines (category C) are located;
- access to the area where the machines are located is supervised at all times;
- the area where the machines are located is arranged so that it can be observed by staff; and
- at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

The council will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling in these premises. The council will expect applicants to satisfy them that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

The 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 efficiency of such policies and procedures will each be considered on their merits, however, they may include:

- appropriate measures and training for staff as regards suspected truant children on the premises;
- measures and training covering how staff would deal with unsupervised very young children being on the premises;
- measures and training covering how staff would deal with children causing perceived problems on or around the premises;
- the arrangements for supervision of premises either by staff or the use of CCTV. Any CCTV system installed should cover both the interior and the entrance working to the latest [Home Office](#) standards and to the satisfaction of North Yorkshire Police and the council. The system must record images clearly and

these recordings be retained for a minimum of 31 days. If the equipment is inoperative the police and local authority must be informed as soon as possible and immediate steps taken to make the system operative. Notices must be displayed at the entrances advising that CCTV is in operation.

Due to the nature of these premises, which are attractive to children, applicants who employ staff to supervise the premises should consult with the [Disclosure and Barring Service](#) to determine whether or not their staff need to be DBS checked.

The council will refer to the Commission's website to familiarise itself with any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. The council will also make itself aware of the mandatory or default conditions and any Gambling Commission codes of practice on these premises licences.

#### **4.12 Casinos**

The Gambling Act states that a casino is an arrangement whereby people are given the opportunity to participate in one or more casino games whereby casino games are defined as a game of chance which is not equal chance gaming. This means that casino games offer the chance for multiple participants to take part in a game competing against the house or bank at different odds to their fellow players. Casinos can also provide equal chance gaming and gaming machines. Large and small casinos can also provide betting machines.

There are no casinos currently permitted within the Harrogate District.

This 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 council 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.

#### **4.13 Bingo premises**

There is no official definition for bingo in the Gambling Act 2005 however from a licensing point of view there is a category of premises licence specifically for bingo premises which is used by traditional commercial bingo halls for both cash and prize bingo. In addition this premises licence permits the provision of a limited number of gaming machines in line with the provisions of the Act.

The council is aware that it is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted then the council will ensure that:

- all such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance. For this purpose a rope, floor markings or similar provision will not suffice and the council may insist on a permanent barrier of at least one meter high
- only adults are admitted to the area where the machines are located
- access to the area where the machines are located is supervised at all times



- the area where the machines are located is arranged so that it can be observed by staff
- at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18
- children will not be admitted to bingo premises unless accompanied by an adult.

The Gambling Commission has provided Guidance for Licensing Authorities and Licence Conditions and Code of Practice which are applied to operator's licences. The council will take this into consideration when determining licence applications for bingo premises.

Where certain measures are not already addressed by the mandatory/default conditions, the Gambling Commission code of practice or the applicant, the council may consider licence conditions to address such issues.

#### **4.14 Betting premises**

Betting premises are premises such as bookmakers where various types of gambling are authorised to take place. The Act contains a single class of licence for betting premises, however within this single class there are different types of premises which require licensing, including high street bookmakers, bookmakers located in self-contained facilities at race courses as well as general betting premises licences that track operators require.

#### **4.15 Betting machines**

The council is aware that Section 181 of the Act contains an express power for licensing authorities to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence.

When considering whether to impose a condition to restrict the number of betting machines in particular premises, the council, 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.

#### **4.16 Tracks**

Tracks are sites (including racecourses and dog tracks) where races or other sporting events take place. Betting is a major gambling activity on tracks, both in the form of pool betting (often known as the "totaliser" or "tote"), and also general betting, often known as "fixed-odds" betting. Multiple betting outlets are usually located on tracks such as 'on-course' betting operators who come onto the track just on race days to provide betting for the races taking place on that track. There can also be 'off-course' betting operators who may operate self-contained facilities at the tracks which offer customers the chance to bet on other events, not just those taking place on the track.

All tracks will require a primary 'general betting premises licence' that the track operator will hold. It should be noted that track operators do not require an operating licence from the Gambling Commission although they may apply for one. This is because the various gambling operators offering betting at the track will each hold an operating licence.

Tracks may also be subject to one or more premises licences, provided each licence relates to a specified area of the track. This may be preferable for any self-contained premises providing off-course betting facilities at the track. The council will however assess each individual case on its merits before deciding if this is necessary. Where possible the council will be happy for the track operator to decide if any particular off-course operators should apply for a separate premises licence.

If any off-course operators are permitted to provide betting facilities under the authorisation of the track operator's premises licence, then it will be the responsibility of the premises licence holder to ensure the proper conduct of such betting within the premises boundary.

Gambling Commission guidance also indicates that it would be possible for other types of gambling premises to be located at a track under the authorisation of separate premises licences, e.g. a casino premises licence or adult gaming centre premises licence. If you require further guidance on this provision please contact the Licensing Team.

Children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, although they are still prevented from entering areas where gaming machines and betting machines (other than category D machines) are provided.

The council will consider the impact upon the protection of children licensing objective and the need to ensure that entrances to each type of betting premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

#### **4.17 Travelling fairs**

Travelling fairs have traditionally been able to provide various types of low stake gambling without the need for a licence or permit provided that certain conditions are met and this provision continues in similar fashion under the new Act.

Travelling fairs have the right to provide an unlimited number of category D gaming machines and/or equal chance prize gaming (without the need for a permit) as long as the gambling amounts to no more than an ancillary amusement at the fair.

The council will consider whether any fairs which take up the above entitlement fall within the statutory definition of a travelling fair.

The council is aware that the 27 day statutory maximum for the land being used as a fair is per calendar year and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. The council will work with neighbouring authorities to ensure that land which crosses the council boundary is monitored so that the statutory limits are not exceeded.

#### **4.18 Provisional statements**

A provisional statement application allows a developer to examine the likelihood of whether a building which he expects to be constructed, to be altered or to acquire a right to occupy, would be granted a premises licence.

A provisional statement is not a licence and merely gives the holder some form of guarantee that a premises licence would be granted so the developer can consider if a development is worth continuing in light of the need to obtain a premises licence.

The application process for a provisional statement is the same as that for a premises licence, except that the applicant does not have to hold or have applied for an operating licence from the Gambling Commission and do not have to demonstrate a right to occupy the premises in respect of which their provisional application is made.

Applications are subject to a consultation and both responsible authorities and interested parties may make representations. It should be noted that following the grant of a provisional statement, no further representations can be considered 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.

The council may only later 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 licence stage, or which in the council's opinion reflect a change in the operator's circumstances.

When determining a provisional statement application the council will operate in accordance with the Act and will not have regard to any issues related to planning consent or building regulations.

#### **4.19 Plans**

The Act requires applicants to submit plans of the premises with their application, in order to ensure that the council has the necessary information to make an informed judgement about whether the premises are fit for gambling.

Information on the minimum detail required to be submitted within plans is contained in The Gambling Act 2005 (Premises Licences and Provisional Statements) Regulations 2007.

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

In the rare cases where the outer perimeter cannot be defined, it is likely that the track was not specifically designed for frequent 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.

The precise location of where betting facilities are provided at tracks is not required to be shown on plans, as betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should however provide sufficient information in order to satisfy the licensing authority 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.

## **5 Part D Permits, Notices and Lottery Registrations**

### **5.1 Permits**

Where a premise does not hold a premises licence but wishes to provide gaming machines, it may apply to the council for a permit. These regulate gambling and the use of gaming machines in premises where the stakes are low or gambling is not the main function of the premises.

The council is responsible for issuing the following permits:

- unlicensed family entertainment centre gaming machine permits;
- alcohol-licensed premises gaming machine permits;
- prize gaming permits;
- club gaming permits and club machine permits.

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

The council may refuse an application for renewal of a permit, but only on the grounds that an authorised council officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with the licensing objectives.

The Gambling Act 2005 contains provision for local licensing authorities to prepare a Statement of Principles that they propose to consider in determining the suitability of an applicant for a permit. Schedule 10, Para 7 of the Act states:

“In preparing this statement, and/or considering applications, it (the council) need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission”.

### **5.2 Unlicensed family entertainment centre gaming machine permits (UFECs)**

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 are ‘unlicensed’ in that it does not require a premises licence but does require a permit to be able to provide category D machines.

UFECs should not be confused with a ‘licensed family entertainment centre’ which do require a premises licence, because these contains both category C and D gaming machines.

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 efficiency of such policies and procedures will each be considered on their merits, however, they may include:

- appropriate measures and training for staff as regards suspected truant children on the premises
- measures and training covering how staff would deal with unsupervised very young children being on the premises
- measures and training covering how staff would deal with children causing perceived problems on or around the premises.
- the arrangements for supervision of premises either by staff or the use of CCTV. Any CCTV system installed should cover both the interior and the entrance working to the latest [Home Office](#) standards and to the satisfaction of North Yorkshire Police and the council. The system must record images clearly and these recordings be retained for a minimum of 31 days. If the equipment is inoperative the police and council must be informed as soon as possible and immediate steps taken to make the system operative. Notices must be displayed at the entrances advising that CCTV is in operation.

Due to the nature of these premises, which are attractive to children, applicants who employ staff to supervise the premises should consult with the [Disclosure and Barring Service](#) to determine whether or not their staff need to be DBS checked.

The council will also expect, as per the Gambling Commission Guidance, that applicants demonstrate:

- A full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs
- That the applicant has no relevant conviction (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.

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 have been addressed through the application.

Applicants only need to address this statement when making their initial applications and not at renewal time.

### **5.3 Gaming machine permits in premises licensed for the sale of alcohol**

There is provision for premises licensed to sell alcohol for consumption on the premises, to make available two gaming machines, of categories C and/or D. The current premises on licence holder must serve notice to the council of their intention to make such machines available and pay the prescribed fee.

This automatic right can be refused in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of Section 282 of the Gambling Act (i.e. that written notice has not been provided to the council that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the

- machine has been complied with)
- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises.

If a licence holder wishes to provide more than two machines, they may apply for a permit. The council must then consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “such matters as they think relevant.”

The council considers that “such matters” will be decided on a case by case basis, but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling. The council will expect the applicant to satisfy the council that there will be sufficient measures to ensure that children and young people under the age of 18 do not have access to the adult only gaming machines.

Measures which may satisfy the council that persons under 18 years will be prevented from using the machines may include the machines being in close proximity to the bar, or in any other area where they are capable of being adequately supervised. Notices and signage may also help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets and or helpline numbers for organisations such as [Gamcare](#).

The council can decide to grant the permit with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

The holder of a permit must comply with any code of practice issued by the Gambling Commission about the location and operation of the machine(s).

It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would need to be dealt with under the relevant provisions of the Act.

Alcohol licensed premises are able to provide some limited equal chance gaming. Licensees are referred to the advice provided by the Gambling Commission.

#### **5.4 Prize gaming permits**

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 prizes will be determined by the operator 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 on the walls.

A prize gaming permit is issued by the council to authorise the provision of facilities for gaming with prizes on specified premises.

The Gambling Act 2005 contains provision for local authorities to prepare a Statement of Principles that they propose to consider in determining the suitability of an applicant for a permit. Schedule 14, Para 8 of the Act states:

“in preparing this statement, and/or considering applications, it (the council) 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 council has prepared a Statement of Principles in relation to prize gaming permits as follows:

- a) 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.
- b) The efficiency of such policies and procedures will each be considered on their merits, however, they may include:
  - appropriate measures and training for staff as regards suspected truant children on the premises
  - measures and training covering how staff would deal with unsupervised very young children being on the premises
  - measures and training covering how staff would deal with children causing perceived problems on or around the premises.
  - the arrangements for supervision of premises either by staff or the use of CCTV. Any CCTV system installed should cover both the interior and the entrance working to the [Home Office](#) standards as described PSDB leaflet 09/05 and to the satisfaction of North Yorkshire Police and the council. The system must record images clearly and these recordings be retained for a minimum of 31 days. If the equipment is inoperative the police and council must be informed as soon as possible and immediate steps taken to make the system operative. Notices must be displayed at the entrances advising that CCTV is in operation.
- c) Due to the nature of these premises, which are attractive to children, applicants who employ staff to supervise the premises should consult with the [Disclosure and Barring Service](#) to determine whether or not their staff need to be DBS checked.

The council will also expect, as per the Gambling Commission Guidance, that applicants demonstrate:

- A full understanding of the maximum stakes and prizes of the gambling that is permissible
- That the gaming offered is within the law.

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 the Statement of Principles have been addressed through the application.

Applicants only need to address this statement when making their initial applications and not at renewal time.

There are conditions in the Gambling Act 2005 by which the permit holder 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.

## 5.5 Club gaming and club machine permits

Members clubs and miners' welfare institutes may apply for a 'club gaming permit' or a 'club machine permit'.

**Club gaming permits** allow the provision of no more than three gaming machines in total. Each of the three machines must be from categories B3A, B4, C or D but only one B3A machine can be sited, by agreement, as part of this entitlement. Club gaming permits also allow equal-chance gaming (for example, poker) and games of chance (for example, pontoon) under certain restrictions.

**Club machine permits** allow the holder to have no more than three gaming machines in total. Members' clubs and miners' welfare institutes may site up to three machines from categories B3A, B4, C or D but only one B3A machine can be sited, by agreement, as part of this entitlement.

Commercial clubs can only apply for a 'club machine permit' and may site up to three machines from categories B4, C or D, but not B3A machines.

Members' clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming (excluding bridge or whist clubs).

A club must be permanent in nature, not established to make commercial profit and be controlled by its members equally. Examples include working men's clubs, branches of the Royal British Legion and clubs with political affiliations.

Commercial clubs have the same characteristics as members' clubs, but are established with a view to making a profit. An example of a commercial club is a snooker club.

Clubs must have regard to the protection of children and vulnerable persons from harm or being exploited by gambling. They must provide sufficient measures to ensure that under 18 year olds do not use the adult only gaming machines. These measures may include:

- the machines being in close proximity to the bar, or in any other area where they are capable of being adequately supervised
- notices and signage
- the provision of information leaflets / helpline numbers for organisations such as GamCare.



Before granting the permit the council will need to satisfy itself that the premises meets the requirements of a members' club and that the majority of members are over 18.

The council may only refuse an application on the grounds that:

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

There is also a 'fast-track' procedure available for premises which hold a club premises certificate under the Licensing Act 2003. Under this procedure there is no opportunity for objections to be made by the Gambling Commission or the police, and the ground upon which the council can refuse a permit is reduced. The grounds on which an application under the process may be refused are:

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

## 5.6 Temporary use notices

Temporary use notices allow the use of premises on not more than 21 days in any 12 month period 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 useful for a temporary use notice would include hotels, conference centres and sporting venues.

Temporary Use Notices allow the use of premises for any form of equal chance gambling where those participating in the gaming are taking part in a competition which is intended to produce a single, overall winner.

Only persons or companies holding a relevant operating licence can apply for a temporary use notice to authorise the particular class of gambling permitted by their operating licence.

A temporary use notice must be lodged with the council not less than three months and one day before the day on which the gambling is due to take place. Detailed information about how to serve a temporary use notice will be available in a separate guidance note.

The Act makes a special reference, in the context of temporary use notices, to a "set of premises" to try and ensure that large premises which cannot reasonably be viewed as separate are not used for more temporary use notices than permitted under the Act.

The council considers that the determination of what constitutes “a set of premises” will be a question of fact in the particular circumstances of each notice that is given. In considering whether a place falls within the definition of a “set of premises”, the council will look at, amongst other things, the ownership/occupation and control of the premises. The council will be ready 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.

### **5.7 Occasional use notices (for tracks)**

There is a special provision in the Act which provides that where there is betting on a track on eight days or less in a calendar year, betting may be permitted by an occasional use notice without the need for a full premises licence. Track operators and occupiers need to be aware that the procedure for applying for an occasional use notice is different to that for a temporary use notice. The application may be made in writing, to the council by the person responsible for the administration of the events on a track or by an occupier of the track.

The council has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. The council will however consider the definition of a ‘track’ and whether the applicant is entitled to benefit from such notice.

### **5.8 Small society lottery registrations**

A lottery generally refers to schemes under which prizes are distributed by chance among entrants who have given some form of value for their chance to take part.

The Act creates two principal classes of lotteries: Licensed lotteries and exempt lotteries. Licensed lotteries are large society lotteries and lotteries run for the benefit of local authorities. These will be regulated by the Gambling Commission. Other exempted lotteries are:

- (a) incidental lotteries – must be held at an event (either commercial or non-commercial), eg a charity dinner, exhibition, festival, fete.
- (b) private lotteries
  - private society lotteries – only members of the society and those on the society premises can participate in the lottery
  - work lotteries – only people who work together on the same premises may participate
  - residents’ lotteries – only people who live at the same premises may participate
- (c) customer lotteries – only customers at the business premises may participate.

A small society lottery is a lottery promoted on behalf of a non-commercial society as defined in the Act which also meets specific financial requirements set out in the Act. These will be administered by the council for small societies who have a principal office in Harrogate district and want to run such lottery.

A lottery is small if the total value of tickets put on sale in a single lottery is £20,000 or less and the aggregate value of the tickets put on sale in a calendar year is £250,000 or less.

To be 'non-commercial' a society must be established and conducted:

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

## **6 Part E Enforcement**

### **6.1 Enforcement principles**

The council will work closely with the responsible authorities in accordance with a locally established joint enforcement protocol and will aim to promote the licensing objectives by targeting known high risk premises following government guidance around better regulation.

In carrying out its enforcement duties with regards to the inspection of premises; and the powers to institute criminal proceedings in respect of certain offences under the Act the council will endeavour to be:

- proportionate - regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
- accountable - regulators must be able to justify decisions, and be subject to public scrutiny;
- consistent - rules and standards must be joined up and implemented fairly;
- transparent - regulators should be open, and keep regulations simple and user friendly; and

The council will endeavour to avoid duplication with other regulatory regimes so far as possible.

Where there is a Primary Authority Scheme in place, the council will seek guidance from the Primary Authority before taking any enforcement action. At the time of the publication of this policy there were four Primary Authority arrangements with host local authorities:

- Ladbrokes Betting and Gaming – Milton Keynes Council
- Coral Racing – Milton Keynes Council
- William Hill – City of Westminster Council
- Paddy Power – Reading Borough Council

Further information, including an index of all Primary Authority arrangements can be found on the [Primary Authority Register](#).

This council has adopted a risk-based inspection programme in line with government recommendations around better regulation and the principles of the Hampton Review.

The main enforcement and compliance role for the council in terms of the Gambling Act 2005 will be to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for the operator and personal licences. Concerns about the manufacture, supply or repair of gaming machines will not be dealt with by the council but will be notified to the Gambling Commission. In circumstances where the council believes a premise requires

a premises licence for gambling activities and no such licence is in force, the council will alert the Gambling Commission.

The council will also keep itself informed of developments as regards the work of the [Better Regulation Delivery Office](#) and the [Regulator's Code](#) (last published April 2014) in its consideration of the regulatory functions of local authorities.

A printed copy of the Harrogate Borough Council Safer Communities [inspection and enforcement policy](#) is available upon request by contacting the licensing department, using details provided at the end of this policy.

## 6.2 Reviews

A review is a process defined in the legislation which leads to a licence being reassessed by the licensing committee with the possibility that the licence may be revoked, suspended or that conditions may be amended or new conditions added.

Section 197 of the Act provides that an application for review may be made by a responsible authority or an interested party. Applications must be submitted to the council in the prescribed form and state the reasons why a review is being requested, together with any supporting information and documents.

It is for the council to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is:

- in accordance with any relevant code of practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives and
- in accordance with this council's Gambling Act 2005 Statement of Licensing Policy.

The council may reject a review application on the grounds that the request is frivolous, vexatious, will certainly not cause this council to wish to alter, revoke or suspend the licence, or is substantially the same as previous representations or requests for review.

The council may also initiate a review of a gambling premises licence, without the need for representations having been made to us. This will be on the basis of where we suspect that the licence conditions are not being complied with, or for other reasons where we believe a review is appropriate.

Reviews will be conducted in accordance with the requirements of the Act (s.197-203) and any regulations issued by the Secretary of State. Details of these requirements can be viewed by accessing the following link

[section 197 - 203, Gambling Act 2005](#)

Produced by  
Licensing  
Safer Communities  
Harrogate Borough Council  
PO Box 787  
Harrogate  
HG1 9RW

Tel: 01423 500600 Ext 56842  
E-mail: [Licensing@harrogate.gov.uk](mailto:Licensing@harrogate.gov.uk)  
Website: [www.harrogate.gov.uk](http://www.harrogate.gov.uk)