

Agenda Item 9

Communities Overview and Scrutiny Committee

28 October 2009

JT



Gambling Act 2005 – Tri-annual Review of the Council’s Licensing Policy

Summary

An explanation to Members of the Communities Overview and Scrutiny Committee on the consultation process and timescales for the tri-annual review of the Council’s Gambling Act Licensing Policy and invite the Committee’s views on the draft policy.

Recommendation

That the Committee note the report and make comment relating to the draft policy as the Committee feels relevant

a) Reasons for Recommendation

To brief Members on the consultation process and timescales for the tri-annual review of the Council’s Gambling Act 2005 and to give the Committee the opportunity to make comment on the draft policy.

b) Alternative Options

None

c) Risk Considerations

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

d) Policy and Budgetary Considerations

None

e) Date for Review of Decision

N/A

1 Main Body of the Report

1.1 Under the Gambling Act 2005, it is the responsibility of the Council to develop and publish a Statement of Licensing Policy. The published Policy then provides the framework for all decisions on applications relating to the Licensing Act 2003 and the way the Authority carries out its functions in relation to the legislation.

1.2 Licensing authorities are also required to review their policy at least every three years. The Council’s current Policy was adopted by Council on the 6 December 2006 and will expire on the 31 January 2010.

- 1.3 The Licensing Manager, in consultation with licensing colleagues within other Devon Authorities, has prepared a new draft based on the Council's current policy and the template published by the Gambling Commission. Our current policy has been updated to remove information relating to transitional matters, and to include relevant changes in legislation. Also included are proposed statements of principles to be applied to unlicensed family entertainment centres and prize gaming permits. A copy of the draft policy is attached to this report at **Appendix A**. A summary of main changes is also attached as **Appendix B**. There is also a colour version of the draft policy on the Policy Consultation page within the licensing pages of the Council's website. That version shows the various additions and deletions made to the draft.
- 1.3 In August the Licensing Service started the consultation process by giving all stakeholders, interested parties and the public in general the opportunity to have their say on the content of the draft. The public consultation closes on Monday 26 October 2009.
- 1.4 The results of the consultation together with any comments received from the Communities Overview and Scrutiny Committee will collated and reported to the Licensing and Enforcement Committee at its meeting on Tuesday 24 November 2009.
- 1.5 The Licensing and Enforcement Committee will, after taking into consideration the results of consultation exercise, be asked to agree a final draft of the Policy for approval by Council on 9 December 2009.

Legal Implications

The legal implications are set out within the report.

Financial Implications

There are no financial implications from this review of the Council's Licensing Policy.

Appendices

- | | | |
|--------------------------|---------------------------------------|------------|
| <input type="checkbox"/> | Revised Draft Policy for consultation | Appendix A |
| <input type="checkbox"/> | Summary of Main Changes Sheet | Appendix B |

Background Papers

- Gambling Act 2005
- Guidance issued by the Gambling Commission under the Gambling Act 2005
- East Devon District Council's Draft Policy Statement under the Gambling Act 2005 issued for consultation in August 2009
- Gambling Commissions Policy Template

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Communities Overview and Scrutiny Committee
28 October 2009

EAST DEVON DISTRICT COUNCIL



DRAFT
**Statement of Licensing
Policy**

UNDER THE GAMBLING ACT 2005

For the period 31 January 2010 to 30 January 2013

[Version Updated 08.2009](#)

(Approved by Full Council ~~XX~~ December 2009)
Responsible Authorities updated January 2010

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STATEMENT OF GAMBLING LICENSING POLICY

Text in the shaded boxes within this Statement of Licensing Policy is advisory only intended to give assistance to applicants, interested persons and responsible authorities.

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

Applicants are also advised to note Part B of this Statement of Principles:-
Premises Licences – General Principles

2 Introduction

2.1 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.

2.2 The Statement takes effect on 31 January 2013.

3 The Geographical Area

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. The rural nature of the area is emphasised by the low population density of 1.66 per hectare (the England and Wales average is 3.4). The District is fully parished with 68 Town and Parish Councils. Areas of Outstanding Natural Beauty and the World Heritage Coast cover a high proportion of the District.

The main settlements comprise the coastal resorts of Exmouth (Devon's largest town – population 35,688), Budleigh Salterton, Sidmouth and Seaton. In the mainly rural inland area the settlements comprise Honiton, Ottery St Mary, and Axminster. There are numerous villages and hamlets.

The District's population currently stands at 135,560: 63,200 males and 69,100 females. The black and ethnic minority population of East Devon is considerably small – only 2.5% (3400 people described their ethnic group as non-white in the 2006 ethnicity census, with Mixed race being the single largest grouping at 1,100). East Devon also has a high percent of elderly residents with 34% of the population over 60 years of age.

The East Devon population is set to grow considerably over the next few years, projected to reach 170,800 in 2011 – a growth of around 25%. The age band predicted to have the largest growth over the next 3 years is the 65-69 year old band.

The entertainment industry within the District is a major contributor to the economy of East Devon. It attracts tourists and visitors, makes for vibrant towns and communities and is a major employer.



4 Consultation

- 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 then be 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 has consulted with the following:

- All premises licensed to sell alcohol in East Devon district
- British Beer & Pub Association
- Chambers of Commerce within East Devon area
- Citizen's Advice Bureau
- Communities Directorate (Environmental Health)
- Devon and Cornwall Constabulary
- Devon County Council Children and Young Peoples Services
- Devon Fire and Rescue Service
- Devon Licensing Officers Group
- East and Mid Devon Community Safety Partnership
- Environment Directorate
- Gamblers Anonymous
- Gambling Commission
- Gamcare
- HM Commissioners of Custom and Excise
- Information Points and CABs within the East Devon area
- Local businesses and their representatives
- Local faith groups
- Local residents and their representatives
- Libraries within East Devon area
- 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 been consulted prior to the date of implementation of the Statement of Principles.

Our consultation took place between x date and x date and we followed the HM Government Code of Practice on Consultation (published July 2008), which is available at:

<http://www.berr.gov.uk/files/file47158.pdf>

4.5 The Statement of Principles was approved at a meeting of the Full Council on XX December 2009 and was published via our website on XXXXXXXXXXXX. Copies were 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

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 final Licensing Policy Statement, this licensing authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the Guidance to Licensing Authorities issued by the Gambling Commission, and any responses from those consulted on the 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://www.eastdevon.gov.uk/>.
- 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 Local Safeguarding Children Board (Devon County Council) for this purpose.

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. It will also consider the Gambling Commission’s Guidance that “has 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 MPs. 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 or telephone:- 01395 517410/517411

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 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 Regulatory Compliance 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.
- 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 Executive 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.

It should be noted that this Licensing Authority will not be involved in licensing remote gambling. This is the responsibility of the Gambling Commission through Operator Licences.

12 The Licensing Process

- 12.1 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.
- 12.2 Many of the licensing procedures are largely administrative in nature. In the interests of efficiency, non-contentious procedures are carried out by licensing officers.
- 12.3 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.

- 12.4 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.
- 12.5 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 fit:
- in accordance with any relevant code of practice issued by the Gambling Commission
 - in accordance with any relevant guidance issued by the Gambling Commission
 - reasonably consistent with the licensing objectives and
 - in accordance with 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 sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

The Gambling Commission states in the third edition of 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.

- 1.5 This licensing authority takes particular note of the Gambling Commission's Guidance to licensing authorities which states that: Licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:
- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in

gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.

- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not “drift” into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers should be able to participate in the activity named on the premises licence.

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

- Do the premises have a separate registration for business rates?
- Is the 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, 7.25:

Casinos

- The principal access entrance to the premises must be from a street (as defined at 7.23 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 per paragraph 7.23 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.

1.6 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.

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.

More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.59 – 7.66 of the Guidance.

- 1.7 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.

1.8 **Planning:**

The Guidance states:

Paragraph - 7.59 – 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, that is, 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 - 7.66 - 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.

- 1.9 **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.

- 1.10 **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.

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

threatening the behaviour was to those who could see it) so as to make that distinction.

- 1.12 **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.
- 1.13 **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.
- 1.14 This licensing authority is also aware of the Gambling Commission's Codes of Practice regarding this licensing objective in relation to specific premises.
- 1.15 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.
- 1.16 **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.
- 1.17 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.
- 1.18 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.
- 1.19 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.

1.20 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.

1.21 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.

1.22 **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).

1.23 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
- 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.

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.

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, in line with the Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

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.

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.

7.6 **Applications and plans**

The Act (s151) 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 that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 8.2 The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 8.3 It 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)
- 1.4 It should be noted that a licensing authority cannot attach conditions to this type of permit.
- 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 (e.g. 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.

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. 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 term 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
- 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 that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);

- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises

The Licensing Authority will use its discretion to remove permits where appropriate taking into account individual circumstances.

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 a machine 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 (the old Part IV restaurant licences under the former Licensing Act 1964) will no longer 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.
 - the clear policies that outline steps to be taken for the protection of 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 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 e.g. 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 (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.

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 e.g. training manuals or other similar documents/written statements should be attached to the application.

4 Club Gaming and Club Machine Permits

- 4.1 Members Clubs (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming Machine Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set out in forthcoming regulations. A Club Gaming Machine Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).
- 4.2 Gambling Commission Guidance states: "Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulation and these cover bridge and whist clubs, which replicates the position under the Gaming Act 1968. A members club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations."
- 4.3 The Commission Guidance also notes that "licensing authorities may only refuse an application on the grounds that:
 - (a) the applicant does not fulfil the requirements for a members or commercial club or miners welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
 - (b) the applicant's premises are used wholly or mainly by children and/or young persons;
 - (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
 - (d) a permit held by the applicant has been cancelled in the previous ten years; or
 - (e) an objection has been lodged by the Commission or the police.
- 4.4 There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). As the Gambling Commission's Guidance to licensing authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced"

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

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

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

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 expect 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 Vessels

- 7.1 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.

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 or telephoning 01395 517410.

East Devon Licensing Authority

The Licensing Manger
East Devon District Council
Knowle
Sidmouth
EX10 8HL
Email: licensing@eastdevon.gov.uk
Tel: 01395 517410
Fax: 01395 517507

The Gambling Commission

Victoria Square House
Victoria Square
Birmingham
B2 4BP
Email: info@gamblingcommission.gov.uk
Tel: 0121 233 1058

Devon & Cornwall Constabulary

The Chief Officer of Police
(For attention of The Licensing Office)
Devon & Cornwall Constabulary
North Street
EXMOUTH
EX8 1JZ
Non-Urgent Calls (24 Hours) - 08452 777444
Email: EastDevonLicensing@devonandcornwall.pnn.police.uk
Web site: <http://www.devon-cornwall.police.uk/v3/homepage/index.htm>

Devon & Somerset Fire & Rescue Service

East Division
Agriculture House
Pynes Hill
Rydon Lane
Exeter
EX2 5AZ
<http://www.devfire.gov.uk/>
Tel: 01392 872200
Fax: 01392 266839

Area Child Protection Committee and Local Safeguarding Children Board

Head of Safeguarding for the Children's Service

Child Protection Manager

Children's Services Division

Parkers Barn

Parkers Way

Totnes

TQ9 5UF

<http://www.devon.gov.uk/index/cyps/child-protection.htm>

Tel: 01392 386657

Head of Environmental Health and Equalities

(Nuisance, Public Health & Health & Safety)

East Devon District Council

Environmental Health Service

Council Offices

Knowle

Sidmouth

EX10 8HL

Tel: 01395 517467

Email: general@eastdevon.gov.uk

www.eastdevon.gov.uk

Head of Planning and Countryside Services

East Devon District Council

Planning & Countryside Service

Council Offices

Knowle

Sidmouth

EX10 8HL

www.eastdevon.gov.uk

Tel: 01395 516551

HM Customs and Excise

HM Revenue and Customs

National Registration Unit

Portcullis House

21 India Street

Glasgow

G2 4PZ

Tel: 0141 555 3633

Email: nru.betting&gaming@hmrc.gsi.gov.uk

**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

<http://www.mcga.gov.uk/c4mca/mcga07-home>

Tel: (01752) 266 211

GLOSSARY

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 Constabulary
- (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.

DCMS - Department for Culture, Media and Sport

http://www.culture.gov.uk/what_we_do/gambling_and_racing/default.aspx/

Licensing Documents...

Gambling Act 2005

Guidance under Section 25 of the Act

Consultation on the Draft Statement of Licensing Policy under the Gambling Act 2005



Summary of main changes

Part A	Brief Description
8.2	Sets out Principles that the Licensing Authority will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party.
10.4	Explains the basis on which the authority's risk-based inspection programme is based.
Part B	
1.4 & 1.5	Definition of "Premises" – this section has been extensively reworded to reflect the LACORS and Gambling Commission's Guidance.
1.6	Sets out new guidance as to when the Licensing Authority will deem a premises to be ready for gambling.
1.7	Sets out new guidance based on Gambling Commission Guidance relating to location.
1.8	Sets out further guidance based on Gambling Commission Guidance on the relevance of planning approval for applications made for permissions under the Gambling Act 2005.
1.9	Sets out further guidance based on Gambling Commission Guidance on the avoidance of duplication with other regulatory regimes.
1.22	Sets out amended guidance based on Gambling Commission Guidance relating to the use of door supervisors at premises licensed under the Gambling Act 2005.
5	Sets out new guidance based on Gambling Commission Guidance relating to Bingo Premises.
6	Sets out new guidance based on Gambling Commission Guidance relating to Betting Premises.
7.4	Sets out new guidance based on Gambling Commission Guidance relating to Gaming Machines at Tracks.
7.5	Sets out new guidance based on Gambling Commission Guidance relating to Betting Machines at Tracks.
7.8	Gives more detailed information regarding the Licensing Authority's requirements in relation to plans for tracks and the details to be shown.
9	Sets out new guidance with regard to the process of applying for a provisional statement.
10.4 to 10.9	Sets out new guidance based on Gambling Commission Guidance relating to Reviews.
Part C	
1.5 to 1.10	Sets out additional information required by the Licensing Authority's statement of principles in relation to unlicensed family entertainment centres.
3.2 to 3.7	Sets out additional information required by the Licensing Authority's statement of principles in relation to prize gaming permits.
5.3 to 5.3	Gives more information about the need for temporary use notices

Please note: That the minor alterations (i.e. dates/grammar etc.) made to the draft Policy are not included in this list.

Consultation commenced on 14 August 2009

Closing date for comments/responses Monday 26 October 2009