

Report of: Environmental Health Business Manager

To: Licensing and Gambling Acts Committee

Date: 30 June 2006

Item No: 4

Title of Report : Gambling Act 2005 – programme and responsibilities

Summary and Recommendations

Purpose of report: To advise Committee of the implementation programme for the Council's responsibilities under the Gambling Act 2005, to advise and seek Committee's view on a possible 'no casino' resolution, and to seek approval of a draft Statement of Licensing Policy for consultation.

Key decision: No

Portfolio Holder: Not applicable

Scrutiny Responsibility: Not applicable

Ward(s) affected: All

Report Approved by:
 Environmental Health Business Manager (Tony Payne)
 Legal and Democratic Services Business Manager (William Reed)
 Finance and Asset Management Business Manager (Mike Baish)

Policy Framework: Statement of Licensing Policy (January 2007)

Recommendation(s): The Committee is recommended to ...

- a) Note the programme for implementation of the Council's responsibilities under the Gambling Act 2005.
- b) Approve the timing proposed for any "no-casino" resolution under s.166 of that Act.
- c) Indicate whether it is minded to recommend Council to pass a 'no-casino' resolution.
- d) Approve the draft Statement of Licensing Policy (Appendix 3) for public consultation.

Introduction

1. The Gambling Act 2005 will transfer responsibility for licensing of premises used for betting and gaming, from the Magistrates to licensing authorities. The City Council is a licensing authority under the Act.
2. The 2005 Act has already transferred responsibility for issuing permits for gaming machines in alcohol-licensed premises, supplementing the Council's ongoing responsibility for issuing gaming machine permits for other premises.
3. Appendix 1 lists the numbers of licences, permits and notices that the Council as Licensing Authority is expected to administer under the 2005 Act. For comparison, it also lists the much larger numbers already administered under the Licensing Act 2003.
4. The Government has set out a programme for implementing the Gambling Act 2005, which requires licensing authorities to determine and publish, by 3 January 2007, a Statement of Licensing Policy that will become effective on 31 January 2007.
5. Council has delegated the authority to determine fees to this Committee. The Regulation that will set fee bands will not be laid until sometime in November, so officers will report to this Committee in January 2007.
6. Appendix 2 includes an outline of the programme for implementation of the Council's responsibilities under the Gambling Act.

Statement of Licensing Policy

7. Appendix 3 includes the draft Statement of Licensing Policy that officers propose to put out for consultation. The adopted statement must give appropriate weight to comments received as a result of a 12-week public consultation period.
8. The Council is required to have regard to the licensing objectives of the Gambling Act 2005 and the Gambling Commission's 'Guidance to Licensing Authorities'. With the sole exception of any 'no-casino' policy, this leaves little discretion over the meaning of the Statement of Licensing Policy. However, the Council may include any additional information that it considers necessary or helpful.
9. Before publication, the statement must have been approved by the Executive Board (under the Functions and Responsibilities Regulations) and adopted by a meeting of full Council.
10. Officers propose to report the outcome of consultation to a meeting of this Committee on 2 November, which would then report to Executive Board on 6 November, which in turn would report to Council on 20 November 2006.

Casinos

11. The Council may resolve not to issue casino licences (under s.166(5) of the 2005 Act). The matter may not be delegated to the licensing committee. Such resolutions lapse after three years. However, they may be renewed as often as required.
12. There will be no application for a casino premises licence in Oxford for several years, because the Council expressed no interest in being chosen as the location for one of the 17 new casinos permitted by the 2005 Act.
13. The Secretary of State has the power to increase the permitted numbers of casinos, but should not do so until the effects of the new casinos have been properly assessed. It seems that any resulting casino licence applications are much less likely to be targeted on Oxford than on the 67 licensing authorities that have already expressed an interest in having new casinos.
14. Although considering a 'no-casino' resolution may have no immediate practical effect, if the Council were minded to adopt a 'no-casino' resolution, there could be some advantages in doing so this year.
15. That is because any 'no-casino' resolution must be included in the Statement of Licensing Policy, which must be reviewed at least once every three years. Such reviews could ensure that any 'no-casino' resolution would not lapse inadvertently.
16. There is no need for Council to consider a 'no-casino' resolution in time for consultation on the draft Statement of Licensing Policy. However, if Council is likely to consider a 'no-casino' resolution that should be stated in the consultation draft. If Committee is minded to recommend Council to pass such a resolution, that should also be stated.
17. If Committee is not so minded, officers propose that the consultation draft should include the minimum necessary to "*have regard to*" the Gambling Commission's Guidance, which indicates that the statement should "*include details about how the authority has taken or will take a decision to pass (or not to pass) a casino resolution*".
18. Council will be invited to determine its Statement of Licensing Policy at its meeting on 20 November 2006. Officers propose that the Licensing and Gambling Acts Committee of 2 November 2006 should report to Council its recommendation on a 'no-casino' resolution shortly before that item.

Financial implications

19. Officers expect no net financial implications to arise from work under the Gambling Act 2005.
20. The preparatory costs for meeting the implications of the new legislation are covered by existing budgets, whilst the Government's standard fees

cover administration of the additional Gaming Permits and Gaming Machine Permits that transferred from the Magistrates.

21. Fees for premises licences must do no more than cover costs but must be within fee bands sets by regulations and will be the subject of a further report as referred to in paragraph 5 above. Officers expect any net costs to be minimal as this will be only a small part of the Licensing Authority's work.

Recommendations

22. Committee is recommended to:
 - a. Note the programme for implementation of the Council's responsibilities under the Gambling Act 2005
 - b. Approve the timing proposed for deciding on a "no-casino" resolution (paragraph 17 of the report).
 - c. Indicate whether it is minded to recommend Council to pass a 'no-casino' resolution.
 - d. Approve use of the draft Statement of Licensing Policy for public consultation.

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Background papers: None

Appendix 1 – Estimated numbers of permissions

Gambling Act 2005

Totals	Premises with licences	22
	Premises with permits	~ 160
	Estimated applications each year	~ 10

Licensing Act 2003

Totals	Premises with licences or permits	775
	People with licences	650
	Estimated applications each year	750

Appendix 2 – Gambling Act: Outline of implementation programme

- | | |
|-----------|--|
| Jul 06 | Start of 12 weeks consultation on the statement |
| Oct 06 | End of consultation period |
| 2 Nov 06 | Licensing and Gambling Acts Committee considers report on: <ul style="list-style-type: none">• Consultation on Statement of Licensing Policy• A possible 'no-casino' resolution |
| 6 Nov 06 | Executive Board considers report on: <ul style="list-style-type: none">• Statement of Licensing Policy |
| Nov 06 | Gambling (Premises Licences) (Fees) Regulation laid |
| 20 Nov 06 | Council Meeting agenda to include <ul style="list-style-type: none">• Determining a Statement of Licensing Policy• (possibly) decision on a 'no-casino' resolution |
| 4 Jan 07 | Licensing and Gambling Acts Committee considers report on: <ul style="list-style-type: none">• Fees |
| 31 Jan 07 | Licensing Authority may receive first licence applications |
| 1 Sep 07 | Gambling Act comes into full effect. |

Oxford City Council

Gambling Act 2005

DRAFT

Licensing Policy Statement

... with consultation notes

This draft licensing policy statement has necessarily been prepared before publication of several proposed regulations, conditions for operating licences and personal licences and further guidance from the Gambling Commission.

The statement is therefore subject to the publication of these documents, and may be amended in light of their contents.

All references to the Gambling Commission's guidance to licensing authorities (GC Guidance) refer to the guidance as published in April 2006.

**This Licensing Policy Statement applies from 31 Jan 2006
until 26 Jan 2009
(unless revised sooner)**

Contact details for licensing under the Gambling Act 2005 ...
(in the Oxford City Council area)

Write to: The Licensing Authority
Oxford City Council
10, St Ebbe's Street
OXFORD
OX1 1PT

email: licensing@oxford.gov.uk

phone: 01865 252565

fax: 01865 252344

You can also find much information and links to other sources of information on Oxford City Council's website: <http://www.oxford.gov.uk>

This document remains valid for three years, during which the Council is likely to amend its website. So, rather than providing a direct link to "gambling", we suggest either looking for links for "licensing" then "gambling", or using the site's "A-Z" search.

	Date	Areas of revision
First published:	{## Dec 2006}	-
Revised:		
Revised:		
Revised:		
Revised:		
Revised:		
Revised:		

Acknowledgements...

... to LACORS and colleagues in other licensing authorities for template documents.

Abbreviations

[###]	= dates and other information to be completed for final version
{{ 20 Nov }}	= provisional information for the above
GC Guidance	= The Gambling Commission's "Guidance to Licensing Authorities" (Published (in part) on 28 April 2006)
{GCG nn.n}	= Reference to paragraph 'nn.n' of the GC Guidance (Some references will differ in later versions of GC Guidance)
[will have]	= text that will be removed, or require editing, following consultation

Notes on the draft consultation copy

The Licensing Authority has very little discretion in choice of content of this licensing policy statement. Most content is required in order to comply with one or more of the following ...

- The Gambling Act 2005
- Regulations made under that Act
- The Gambling Commission's "Guidance to Licensing Authorities" ("GC Guidance").

This means that the Council cannot alter many of the policies included in this statement in response to consultation.

Consultation comments

The Council can only take account of consultation comments that relate to one or more of the three licensing objectives. These are stated in paragraph 1.

So, in deciding its statement of licensing policy, the Council cannot take account of any moral or religious objections to gambling or comments about the level of demand for gambling facilities. Nor can it take account of such issues when it decides on applications for premises licences.

However, the 2005 Act enables the Council to consider much wider issues if it considers whether to adopt a 'no casino' resolution (2005 Act, s.166). So, on this topic alone, the Council can take account of a wider range of consultation comments.

For comparison, the Licensing Authority estimates that the following numbers of licences and permits will be needed in its area ...

Gambling Act 2005

• Premises licences		
• Betting premises		15
• Race tracks		2
• Bingo premises		1
• Adult gaming centres		3
• Family entertainment centres		1
• Casinos		0
• Permits		
• Club gaming or gaming machine permits		~ 3
• Alcohol premises (notices: up to two gaming machines)		~ 105
• Alcohol premises (permits: more than two gaming machines)		~ 35
• Other gaming machine permits (which expire by July 2009)		~14
• Small society lotteries		1
• Temporary user notices	(estimate for the year)	~ 10
• Occasional use notices	(estimate for the year)	0
Totals	Premises with licences	22
	Premises with permits	~ 160
	Estimated applications each year	~ 10

Licensing Act 2003

• Premises licences		704
• Club premises certificates		71
• Variations to the above	(estimate for the year)	90
• Personal licences		650
• Temporary event notices	(estimate for the year)	600
Totals	Premises with licences or permits	775
	People with licences	650
	Estimated applications each year	750

CONTENTS**PART A: GENERAL MATTERS**

1.	The licensing objectives	2
2.	The Licensing Authority	2
3.	The Oxford City Council area.....	2
4.	Glossary of terms.....	2
5.	This Statement of Licensing Policy	3
6.	Effective period	4
7.	Functions of the Licensing Authority	4
8.	Functions of others	5
9.	General principles	5
10.	Responsible Authorities	5
11.	Interested parties	6
	11.1 Proximity to premises	6
	11.2 'Business interests'	6
	11.3 Representatives of interested parties	7
12.	Exchange of Information	7
13.	Enforcement.....	7
	13.1 Risk methodology	8

PART B: PREMISES LICENCES

14.	General Principles.....	9
15.	Definition of "premises"	9
16.	Location	10
17.	Duplication with other regulatory regimes	10
18.	Licensing objectives.....	10
19.	Representations.....	12
20.	Conditions	12
21.	Door Supervisors	13
22.	Specific types of premises	13
	22.1 Adult Gaming Centres	13
	22.2 Licensed Family Entertainment Centres	14
	22.3 Casinos	15
	22.4 Bingo premises	16
	22.5 Betting premises	16
	22.6 Tracks	16
	22.7 Travelling Fairs	18
23.	Provisional Statements	19
24.	Reviews	19

PART C: PERMITS, TEMPORARY & OCCASIONAL USE NOTICES

25.	Unlicensed Family Entertainment Centre gaming machine permits	21
26.	Alcohol-licensed premises gaming machine permits	22
	26.1 Notification for up to two gaming machines	22
	26.2 Permit for more than two gaming machines	22
27.	Prize Gaming Permits	23
28.	Club Gaming and Club Machines Permits	24
29.	Temporary Use Notices	25
30.	Occasional Use Notices:.....	25

APPENDICES

Appendix 1 – Map of Oxford	29
Appendix 2 – Licensing Authority delegations	31
Appendix 3 – Gaming machines	33
Appendix 4 – Responsible Authorities	35

PART A: GENERAL MATTERS**1. The licensing objectives**

The licensing objectives of the Gambling Act 2005 are:

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

The Licensing Authority must have regard to these licensing objectives in exercising most of its functions under the 2005 Act.

2. The Licensing Authority

The Gambling Act 2005 has made Oxford City Council the Licensing Authority for its district. From 31 January 2007 the Council is responsible for granting premises licences for:

- Betting premises, including tracks;
- Adult Gaming Centres;
- Family Entertainment Centres;
- Bingo premises; and
- Casino premises.

3. The Oxford City Council area

Oxford City Council is one of the five district councils of Oxfordshire. The City of Oxford has a population of 142,400 (2003 mid-year estimate) in an area of 4,566 ha (17.6 square miles). A significant proportion of the land area within the city boundary is rural, with the population concentrated in the urban parts. The district is shown on the map in Appendix 1.

Oxford is one of the principal entertainment centres for Oxfordshire, however local road, bus and rail links foster a wider catchment area than this and also enable Oxford residents to use centres outside the county boundary, such as Aylesbury, Reading, Swindon and Newbury. Oxford residents also have reasonable access to the facilities offered by Bristol, London, Birmingham or Southampton.

Although Oxford is generally affluent, some of its wards are ranked amongst those of highest multiple-deprivation in the country.

4. Glossary of terms

Within this Statement of Licensing policy, the following words and terms are defined as stated:

Council	Oxford City Council
GC Guidance	The Gambling Commission's "Guidance to Licensing Authorities" published April 2006

(Changes made to GC Guidance from May 2006 onwards will have to be incorporated into the Statement of Licensing Policy without public consultation, in order to meet the mandatory publication date.)

Licensing Authority	Oxford City Council
The 2005 Act	The Gambling Act 2005
The 2003 Act	The Licensing Act 2003
LACORS	Local Authorities Co-ordinators of Regulatory Services

5. This Statement of Licensing Policy

The 2005 Act requires the Council to prepare and publish a Statement of Licensing Policy that sets out the policies that the Council will generally apply to promote the licensing objectives when making decisions on applications made under the 2005 Act.

In preparing this consultation draft of the Statement of Licensing Policy, the Council has had regard to the licensing objectives and the Guidance issued by the Gambling Commission.

In determining the formal Statement of Licensing Policy, the Council [will have] had regard to the licensing objectives, the Guidance issued by the Gambling Commission up to {1 Nov 2006} had due regard to comments received as a result of the consultation process.

This statement must be reviewed from "time to time" and published at least once every three years. The Council must consult on any proposed amendments before re-publishing the whole statement.

The 2005 Act requires each Licensing Authority to consult the following parties...

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

Before finalising and publishing this policy statement, the Council [will have] consulted the following ...

- Thames Valley Police
- The Oxfordshire Safeguarding Children Board}
- The management of all premises in Oxford that the Council expects to convert a current licence to a licence under the 2005 Act.
- The Council's Area Committees as representatives of other interests

As a result of this consultation, including advertisements in the local press, the Licensing Authority also [expects to have] received unsolicited comments from other persons not listed here. The full list of comments made and the consideration by the Council of those comments is available from the Licensing

Authority or from the Council's website (see inside front cover for contact details).

Consultation took place from {## Jul 2006} to {## Oct 2006}.

The Licensing Authority followed the Revised Code of Practice (which came into effect in April 2004) and the Cabinet Office Guidance on consultations by the public sector. These documents are available via:

<http://www.cabinetoffice.gov.uk/regulation/consultation/code/index.asp>

<http://www.cabinetoffice.gov.uk/regulation/consultation/documents/pdf/code.pdf>

The policy was approved at the meeting of Oxford City Council on {20 Nov 2006} and was published on the Council's website on {## Dec 2006}. From that date copies of the statement have been available from the Licensing Authority office (details inside front cover) and reference copies have been available in these public libraries .

- Oxford Central Library.
- Bury Knowle Library, Headington.
- Cowley Library, Junction Road.

If you have any comments about this licensing policy statement, please write to the Licensing Authority (details inside front cover).

6. Effective period

This licensing policy statement becomes effective on 31 Jan 2007.

It will remain effective for three years (or any longer period in accordance with the 2005 Act) unless replaced sooner by a revised version that the Council adopts. At the date of publication, this licensing policy is expected to last until 30 Jan 2010.

7. Functions of the Licensing Authority

The 2005 Act gives Licensing Authorities the following functions...

- Licensing premises where gambling activities are to take place by issuing Premises Licences
- Issuing Provisional Statements
- Regulating members' clubs and miners' welfare institutes who wish to undertake certain gaming activities, by issuing Club Gaming Permits and/or Club Machine Permits
- Issuing Club Machine Permits to Commercial Clubs
- Granting permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
- Receiving notifications of the use of two or fewer gaming machines, from premises licensed (under the 2003 Act) to sell/supply of alcohol (for consumption on the premises other than with a meal).
- Issuing Licensed Premises Gaming Machine Permits where more than two machines are required for premises licensed (under the 2003 Act) to sell/supply alcohol (for consumption on the premises other than with a meal).
- Registering small society lotteries below prescribed thresholds
- Issuing Prize Gaming Permits
- Receiving and endorsing Temporary Use Notices

- Receiving Occasional Use Notices
- Providing information to the Gambling Commission on details of licences issued (see section above on 'information exchange')
- Maintaining registers of permits and licences issued under these functions.

[LACORS has asked the Gambling Commission to provide a definitive list of the Licensing Authority's functions, which will be incorporated into this policy statement when available.]

8. Functions of others

Under the 2005 Act, the role of the Gambling Commission includes the following matters, which are therefore not the responsibility of the Licensing Authority...

- Issuing and enforcing Operating Licences.
Operating Licences are required by organisations providing casinos, remote gambling, bingo, lotteries, facilities for betting and providing gaming machines etc. (There are exceptions within some of these categories.)
- Issuing and enforcing Personal Licences.
For each Operating Licence there must be at least one person who both occupies a specified management office in connection with that licence and holds a Personal Licence. Conditions may require more than one such person to hold a Personal Licence.

Conditions may also require persons performing specified operational functions to each hold a Personal Licence.
- Ensuring compliance by manufacturers, suppliers and repairers of gaming machines.

The Financial Services Authority regulates spread betting and the National Lottery Commission regulates the National Lottery under separate legislation.

9. General principles

This licensing policy 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 matter will be considered on its own merits and according to the statutory requirements of the 2005 Act.

10. Responsible Authorities

Appendix 3 lists provides details for all the Responsible Authorities under the 2005 Act that have a role in the Licensing Authority's area.

The latest version of those details can be found on the Council's website, and the Licensing Authority will also provide this information in printed form on request. (see details inside front cover)

The Licensing Authority designates the Oxfordshire Safeguarding Children Board as the body that is competent to advise the authority about the protection of children from harm.

The principles on which it based this decision are the need for the body to:

- have broad experience of children's issues;
- be responsible for an area covering the whole of the Licensing Authority's area; and
- be accountable to the community, rather than to any particular vested interest group.

11. Interested parties

Interested parties can make representations about licence applications, or apply for a review of an existing licence. However, the Licensing Authority has powers under the 2005 Act to determine whether a person is an interested party.

In doing so, the Licensing Authority will decide each case on its merits, based upon the following principles:

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

- (a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,*
- (b) has business interests that might be affected by the authorised activities,*
- or*
- (c) represents persons who satisfy paragraph (a) or (b)" (2005 Act s.158)*

11.1 Proximity to premises

In accordance with GC Guidance, when determining what "sufficiently close to the premises" means the Licensing Authority may include consideration of:

- the size of the premises;
- the nature of the premises;
- the distance of the premises from the location of the person making the representation;
- the potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment); and
- the circumstances of the complainant. This is not the personal characteristics of the complainant, but the interests of the complainant which may be relevant to the distance from the premises. For example, it could be reasonable for an authority to conclude that "sufficiently close to be likely to be affected" could have a different meaning for (a) a private resident (b) a residential school for children with truanting problems and (c) a residential hostel for vulnerable adults." {GCG 8.14}

The Licensing Authority will not generally view trade associations and trade unions, and residents' and tenants' associations as interested parties unless they have a member who lives sufficiently close to the premises to be classed as one, although GC Guidance recommends that licensing authorities should do so. {GCG 8.17}

11.2 'Business interests'

The Licensing Authority will also consider the GC Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

However, the Licensing Authority considers that "has business interests" should not entitle an operator to make representations on an application

for premises anywhere. The factors that are likely to be relevant include:

- the size of the premises;
- the 'catchment' area of the premises (i.e. how far people travel to visit); and whether the person making the representation has business interests in that catchment area, that might be affected." {GCG 8.15}

11.3 Representatives of interested parties

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, any parish councils that are likely to be affected will also be considered to be interested parties. Other than these however, the Licensing Authority will generally require written evidence that the representative has been appointed by the person likely to be affected. A letter from one of these persons, requesting the representation is sufficient.

The Licensing Authority does not permit councillors who either are, or represent, an interested party in a case to participate as a member of the Licensing Committee (or sub-committee) that considers that case.

If individuals wish to approach councillors to ask them to represent their views then they should ensure that those councillors are not part of the Licensing Committee dealing with the licence application, by contacting the Licensing Authority. (see inside front cover)

12. Exchange of Information

In fulfilling its functions under the 2005 Act, the Licensing Authority will exchange relevant information with other regulatory bodies and will establish protocols in this respect. In exchanging such information, the Licensing Authority will conform to the requirements of data protection and freedom of information legislation in accordance with the Council's existing policies.

13. Enforcement

The Licensing Authority will apply the following principles in accordance with GC Guidance {GCG 5.25} in exercising its functions about the inspection of premises (2005 Act, Part 15) and powers to institute criminal proceedings in respect of the offences specified (2005 Act, s.346).

The Licensing Authority will endeavour to be...

- Proportionate: regulators should only intervene when necessary; remedies should be appropriate to the risk posed, and costs identified and minimised;
- Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
- Consistent: rules and standards must be joined up and implemented fairly;
- Transparent: regulators should be open, and keep regulations simple and user friendly; and
- Targeted: regulation should be focused on the problem, and minimise side effects.

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

The main enforcement and compliance role for the Licensing Authority under the 2005 Act will be to ensure compliance with the premises licences and other permissions that it authorises. The Gambling Commission is the enforcement body for other matters under the 2005 Act, as noted above.

The Licensing Authority will also keep aware of advice from the Better Regulation Executive on the regulatory functions of local authorities.

13.1 Risk methodology

The Licensing Authority will adopt a risk-based inspection programme and in order to comply with the principle of transparency, the Licensing Authority will make available, on request, details of its risk methodology, and its protocols or written agreements for enforcement and compliance. (For contact details, see inside front cover).

At the time of writing LACORS is working with the Gambling Commission to produce a risk model for premises licences. The Licensing Authority will consider that model once it is made available.

PART B: PREMISES LICENCES**14. General Principles**

Premises Licences will be subject to the requirements set-out in the 2005 Act and regulations, and specific mandatory and default conditions [yet to be] detailed in regulations.

Where the Licensing Authority considers it appropriate, it may exclude default conditions, attach other conditions, or both.

In making decisions about premises licences, the 2005 Act (s.153) requires the Licensing Authority to aim to permit the use of premises for gambling in so far as it thinks it:

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

The Licensing Authority is also aware that that unmet demand (for gambling facilities) is not a criterion for a licensing authority and that GC Guidance states "moral objections to gambling are not a valid reason to reject applications for premises licences". However, such reasons may be taken into account in considering any 'no casino resolution' (see the section on casinos below).

15. Definition of "premises"

'Premises' is defined in the 2005 Act as 'any place'. A single building cannot be subject to more than one premises licence unless those licences are for different parts of the building that can be reasonably regarded as being different premises. The Gambling Commission advises that areas of a building that are artificially or temporarily separate cannot be properly regarded as different premises, but that this ...

"will always be a question of fact in the circumstances."

Different premises licences cannot apply at different times to the same premises.

The Licensing Authority notes that the GC Guidance states ...

"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 that entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area." {GCG 7.17}

And that...

"Licensing authorities should pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). Clearly, there will be specific issues that authorities should consider before granting such applications, for example whether children can gain access; compatibility of the two

establishments; and ability to comply with the requirements of the Act. But, in addition, an overriding consideration should be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act." {GCG 7.13}

The Gambling Commission has advised that reference to "the premises" is to the premises in which gambling may now take place and emphasises that requiring the building to be complete ensures that the authority can, if necessary, inspect it fully, as can other responsible authorities with inspection rights.

So the Licensing Authority will not grant a premises licence until the premises in which the applicant proposes to offer the gambling are constructed and ready to be used for gambling. It will be a question of fact whether the premises are finished to a degree that it can be considered for a premises licence.

The 2005 Act provides for applications for provisional statements where premises are not complete.

16. Location

The Licensing Authority cannot consider the issue of demand for gambling facilities in any location, but will address considerations in terms of the licensing objectives that relate to the location of premises. The Licensing Authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as to issues of crime and disorder that may relate to location.

This licensing policy statement will be amended if the Council requires any specific policy about areas where gambling premises should not be located.

Such policies do not prevent submission of any application and each application will be decided on its merits. However, the Licensing Authority expects applicants to show how potential concerns would be overcome where location is an issue.

17. Duplication with other regulatory regimes

The Licensing Authority will seek to avoid any duplication with other statutory / regulatory systems where possible.

In considering a premises licence application the Licensing Authority will take no account of whether the premises is likely to be awarded planning consent or building regulations approval. However, the Licensing Authority will consider carefully any concerns about conditions that licensees would be unable to meet due to planning restrictions.

18. Licensing objectives

Premises licences granted must be reasonably consistent with the licensing objectives. The Licensing Authority has considered the GC Guidance on these objectives, and comments as follows...

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

The Licensing Authority is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. The GC Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, if an area has known high levels of organised crime this authority will consider carefully whether gambling premises should be located there and whether conditions, such as the provision of door supervisors, may be necessary.

Issues of nuisance cannot be addressed under the 2005 Act. However, the Licensing Authority is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required at incidents and how threatening the behaviour was to those who could see it, so as to make that distinction.

Ensuring that gambling is conducted in a fair and open way:

The Licensing Authority notes that the Gambling Commission has stated that it would generally not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. {GCG 5.16}

However, tracks are different from other premises, as track operators will not necessarily have an operating licence, and the Premises Licence may then need to contain conditions to ensure that the environment in which betting takes place is suitable." {GCG 5.17}

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

The Licensing Authority notes the GC Guidance 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 children or advertised in such a way that makes them particularly attractive to them. {GCG 5.18}

The Licensing Authority will consider, as suggested in the GC Guidance and in any Gambling Commission Code of Practice, whether specific measures are required at particular premises to further to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

The Licensing Authority notes that the Gambling Commission is not seeking to offer a definition for 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." {GCG 5.21}

The Licensing Authority will consider this licensing objective as it applies to each case on its merits. If a "vulnerable person" is adequately defined in future then the Licensing Authority will revise this licensing policy statement accordingly.