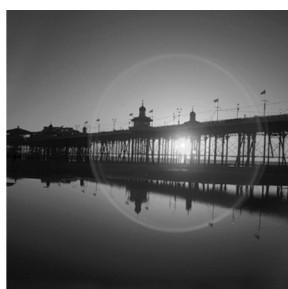


B L A C K P O O L C O U N C I L



STATEMENT OF POLICY AND PRINCIPLES UNDER THE GAMBLING ACT 2005



2004-2005
Benefits Administration



Blackpool Council

BUILDING A BETTER COMMUNITY FOR ALL

INDEX

PART A

1.	The Licensing Objectives	2
2.	Introduction	2
3.	Declaration	3
4.	Responsible Authorities	3
5.	Interested Parties	3
6.	Exchange of Information	4
7.	Enforcement and Inspections	4
8.	Licensing Authority Functions	5

PART B – Premises Licences – Consideration of applications

1.	General Principles	7
2.	Adult Gaming Centres	13
3.	(Licensed) Family Entertainment Centres	13
4.	Casinos	14
5.	Bingo Premises	14
6.	Betting Premises	14
7.	Tracks	15
8.	Travelling Fairs	16
9.	Provisional Statements	17
10.	Reviews	18

PART C - Statement of Principle on permits/Temporary and Occasional Use Notices

1.	Unlicensed Family Entertainment Centre	20
2.	Licensed Premises Gaming Machine Permit	20
3.	Prize Gaming Permit	21
4.	Club Gaming & Club Machine Permit	22
5.	Temporary Use Notices	23
6.	Occasional Use Notices	24

Appendix 1		25
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PART A

1. The Licensing Objectives

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

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

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

This licensing authority is aware that, as per Section 153, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it:

- In accordance with any relevant code of practice issued by the Gambling Commission
- In accordance with any relevant guidance issued by the Gambling Commission
- Reasonably consistent with the licensing objectives and
- In accordance with the authority’s statement of licensing policy

2. Introduction

This policy covers the administrative area of Blackpool (for map see Appendix 1)

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

The authority consulted widely upon this statement before finalising and publishing. A list of those persons consulted is provided at Appendix 2

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

- The Chief Officer of Police for the Licensing Authority’s area;

- One or more persons who appear to the authority to represent the interest of persons carrying on gambling businesses in the authority's area; and
- One or more persons who appear to the Licensing Authority to represent the interest of persons who are likely to be affected by the exercise of the Licensing Authority's functions under the Gambling Act.

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

3. Declaration

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

4. Responsible Authorities

Section 157 of the Gambling Act lists those bodies designated as Responsible Authorities. A full list can be found in our supplementary publication – “advertising and submitting applications”. This is available on the Council's website www.blackpool.gov.uk

The licensing authority is required to state the principles it will apply in exercising its powers under Section 157(h) to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:

- The need for the body to be responsible for an area covering the whole of the licensing authority's area; and
- The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

The body advising the Council about the protection of children from harm will be the Local Safeguarding Children Board.

5. Interested Parties

Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:

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

- a) Lives sufficiently close to the premises to be likely to be affected by the authorised activities;
- b) Has business interests that might be affected by the authorised activities; or
- c) Represents persons who satisfy paragraphs (a) or (b).

The Licensing Authority, in determining whether a person is an interested party, will consider each case on its merits. The Authority will not apply a rigid rule to its decision-making. In reaching its decision, the Licensing Authority will consider factors such as the likelihood of the person/business being affected by the licensable activities at the premises as well as the geographical proximity. Larger premises may affect people over a broader geographical area than smaller premises offering the same facilities.

“Business interests” will be given its widest possible interpretation and may include partnerships, charities, faith groups and medical practices.

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

6. Exchange of Information

The Licensing Authority 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 shall not be contravened. The Licensing Authority will have regard to any guidance issued by the Gambling Commission as well as any relevant regulations issued by the Secretary of State. In the event of protocols being established as regards information exchange with other bodies, they will be made available on the Council website.

7. Enforcement and Inspections

Gambling in the town will be regulated by the Gambling Commission and through its powers as Licensing Authority by the Council. As a Licensing Authority, the Council is committed to facilitating the provision of a wide range of high quality gaming venues operated in a socially responsible manner.

Where it is considered that operational standards in existing venues are lacking, the premises will be encouraged to raise their standards. If standards are not raised to appropriate levels, the Council will consider what action to take which may involve

using its powers, not renewing a licence, or even revoking one when appropriate to do so.

The main enforcement and compliance role for the Licensing Authority will be in relation to the premises licences and other permissions that it issues. The Gambling Commission will be the enforcement body for operating and personal licences. Concerns about the manufacture, supply or repair of gaming machines will be notified to the Gambling Commission.

Premises will be subject to appropriate risk-based enforcement on a multi-agency basis. The Authority's power to review premises not complying with conditions, or where complaints have been received will be used whenever necessary.

In carrying out its enforcement and prosecution powers, the Council will seek an appropriate response in accordance with the following criteria:

- 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
- Target: regulation should be focused on the problem, and minimise side effects.

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

The authority recognises that certain bookmakers have a number of premises within its area. In order to ensure that any compliance issues are recognised and resolved at the earliest stage, operators are requested to give the authority a single named point of contact, who should be a senior individual, and whom the authority will contact first should any compliance queries or issues arise.

8. Licensing authority functions

Licensing Authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are taking place by issuing Premises Licences;
- Issue Provisional Statements;

- Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits;
- Issue Club Machine Permits to commercial clubs;
- Grant permits for the use of certain lower stake gaming machines at Unlicensed Family Entertainment Centres;
- Receive notifications from alcohol licensed premises for the use of up to two gaming machines
- Issue Licensed Premises Gaming Machine Permits for premises licensed to supply alcohol for consumption on the premises where more than two machines are required
- Register Small Society Lotteries below prescribed thresholds;
- Issue permits for prize gaming;
- Receive Temporary Use Notices; and
- Receive Occasional Use Notices;
- Provide information to the Gambling Commission regarding details of licences issued
- Maintain registers of permits and licences that are issued under these functions.

PART B

Premises Licences: Consideration of applications

1. General Principles

Premises licences are subject to the requirements set out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

(i) Decision making

The Licensing Authority's primary obligation is to permit the use of premises in so far as it thinks that is:

- In accordance with the relevant codes of practice issued by the Gambling Commission;
- In accordance with the guidance issued by the Gambling Commission;
- Reasonably consistent with the licensing objectives; and
- In accordance with this Statement of Licensing Policy.

Unmet demand is not a criterion for a licensing authority in considering an application for a premises licence. Each application will be considered on its merits without having regard to demand.

The Licensing Authority will, as far as possible, avoid imposing conditions on premises licences, which duplicate the requirements of other regulatory regimes.

(ii) Definition of premises

In the Act "premises" is defined as including "any place". Section 152 therefore prevents more than one premises 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 reasonably be 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 licence, where appropriate safeguards are in place. Care must be taken to ensure that the mandatory conditions relating to access are observed.

The Licensing Authority 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, will take into account that:

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 that they are not permitted to be 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; and

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.

The Gambling Commission guidance gives a list of factors which the licensing authority should be aware of, which may include:

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

The 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:

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 customers must be able to enter a casino directly from any other premise which holds a gambling premises licence.

Adult Gaming Centre

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

Betting Shops

- Access must be from a street (as defined at 7.23 of the Guidance)
- 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 should be able to access the premises directly from:
 - A casino
 - An adult gaming centre
 - A betting premises, other than a track

Family Entertainment Centre

- No customer should be able to access the premises directly from:
 - A casino
 - An adult gaming centre
 - A betting premises, other than a track

Part 7 of the Gambling Commission's Guidance to Licensing Authorities contains further guidance on this issue which this authority will also take into account in its decision making.

(iii) Premises "ready for gambling"

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

If the construction of the premises is not yet complete, or if they need alteration, or if the applicant does not yet have the 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 is outstanding construction or alteration works at premises, this authority will determine applications on their merits, applying a two stage consideration process:

- First, whether the premises ought to be permitted to be used for gambling

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

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

(iv) Location

Whilst it has already been stated that demand is not a factor to be taken into account, the Licensing Authority will consider the proximity of the proposed premises to schools, vulnerable adult centres, or residential areas where there is likely to be a high concentration of families. It is obviously open to the applicant to show that premises of the type applied for have historically been situated in these areas without problems occurring. Whilst the authority will consider the location of premises, it is also aware that unless there is evidence that the regulation of gaming facilities is insufficient under the Act, taking into consideration licence conditions and codes of practice, it would not be appropriate to take action based upon location alone.

(v) Planning

The Gambling Commission Guidance to Licensing Authorities states:

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 i.e. those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.

(vi) Duplication with other regulatory regimes

This licensing authority seeks to avoid any duplication with other statutory/regulatory systems where possible. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval. It will however listen to and consider carefully any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

When dealing with a premises licence application for finished buildings, this authority will not take into account whether those buildings have to comply with the necessary planning or building 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.

Licensing objectives – The Licensing Authority is determined that the residents of, and visitors to Blackpool should be provided with high quality venues for betting and gaming, whilst reducing the risk of crime and disorder, and protecting children and the vulnerable. The Licensing Authority will expect detailed plans from operators to show how the objectives will be met.

Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime - The Gambling Commission takes a lead 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. Where an area has high levels of organised crime, this authority will consider whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors.

Ensuring that gambling is conducted in a fair and open way - The Gambling Commission has stated that it would not generally expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way, as personal and operating licences will address this.

Protecting children and other vulnerable persons from being harmed or exploited by gambling - This means preventing children from taking part in gambling (as well as restricting advertising so that gambling products are not aimed at, or are, particularly attractive to children). The licensing authority will consider whether specific measures are required at particular premises. Appropriate measures may include supervision of entrances, segregation of areas.

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

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

Each application however will be decided on its merits.

Conditions - Conditions will only be attached to licences if they are necessary and proportionate. Conditions attached will be:

- Relevant to the need to make the proposed building suitable as a gambling facility,
- Directly related to the premises and the type of licence applied for,
- Fairly and reasonably related to the scale and type of premises, and
- Reasonable in all other respects.

Decisions on individual conditions will be made on a case-by-case basis. There is an expectation that the applicant will offer their own suggestions as to the way in which the licensing objectives can effectively be met. Conditions imposed should not duplicate matters already subject of regulation by the Gambling Commission.

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 specific premises in order to pursue the licensing objectives.

The authority will wish to ensure that where category C 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 staff or the licence holder; and
- At the entrance to and inside such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

Door Supervisors - In some cases there may be a need for door supervisors in terms of protection of children or preventing the premises becoming a source of crime. It cannot, however, be a condition that door supervisors at casinos or bingo premises must be licensed by the Security Industry Authority. Where a requirement for door supervisors is identified in casinos or bingo halls, the licensing authority will determine specific requirements for door supervisors working at these venues on a case-by-case basis.

For premises other than casinos or bingo premises, door supervisors may be required to be registered with the SIA. It will not automatically be assumed that they need to be.

There is no evidence that the operation of betting offices has required door supervisors for the protection of the public. The authority will make a door supervision requirement only if there is clear evidence from the history of trading at the premises

that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.

2. Adult Gaming Centres

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

This licensing authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures / licence conditions may cover issues such as:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location or entry

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

3. (Licensed) Family Entertainment Centres:

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

This licensing authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures / licence conditions may cover issues such as:

- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-barring schemes
- Provision of information leaflets / help-line numbers for organisations such as GamCare.

- Measures / training for staff on how to deal with suspected truant school children on the premises.

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

This licensing authority will, as per 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. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

4. Casinos

This licensing authority has not passed a "no casinos" resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so

5. Bingo Premises

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

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.

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, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

7. Tracks

This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

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

This licensing authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures / licence conditions may cover issues such as:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Notices / signage
- Specific opening hours
- Self-barring schemes
- Provision of information leaflets / help line numbers for organisations such as GamCare

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

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

Betting machines - This licensing authority will, as per the Gambling Commission's 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 wants to offer.

Applications and plans – The Gambling Act (s51) requires applicants to submit plans of the premises with their application in order to ensure that the licensing authority has the necessary information to make an informed judgment about whether the premises are fit for gambling.

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.

The licensing authority appreciates that it is sometimes difficult to define the precise location of betting area on tracks. The precise location of where betting facilities are provided are not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place.

8. Travelling Fairs

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

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

It has been noted that the 27-day statutory maximum for the land being used as a fair, s per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land crossing our boundaries is monitored so that the statutory limits are not exceeded.

9. **Provisional Statements**

Developers may wish to apply 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 for them to apply for a provisional statement.

Section 204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:

- Expects to be constructed;
- Expects to be altered; or
- Expects to acquire the right to occupy.

The process for considering an application for a provisional statement is the same as that for a premises licence. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.

In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered, or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from responsible authorities or interested parties can be taken into account unless:

- They concern matters which could not have been addressed at the provisional statement stage, or
- They reflect a change in the applicant's circumstances.

In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- Which could not have been raised by objectors at the provisional statement stage;
- Which in the authority's opinion reflect a change in the operator's circumstances; or

- Where the premises have not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and the licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

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10. **Reviews:**

Requests for a review of a premises licence can be made by responsible authorities or interested parties; 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:

- In accordance with any relevant Code of Practice issued by the Gambling Commission;
- In accordance with any relevant guidance issued by the Gambling Commission;
- Reasonably consistent with the licensing objectives; and
- In accordance with the authority's statement of principles.

The authority will also consider whether the request for review is frivolous, vexatious, or whether it will certainly not cause this authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

The licensing authority can also initiate a review of a licence on the basis of any reason, which it thinks is appropriate.

Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28day period. This period begins 7 days after the application was received by the licensing authority who will publish notice of the application within 7 days of receipt.

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

The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:

- Add, remove or amend a licence condition imposed by the licensing authority

- Exclude a default condition imposed by the Secretary of State or remove or amend such an exclusion;
- Suspend the premises licence for a period not exceeding three months, and
- Revoke the premises licence.

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

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

PART C

Statement of Principle on Permits/ Temporary & Occasional Use Notices

1. Unlicensed Family Entertainment Centre Gaming Machine Permit

Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.

This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises. This licensing authority will also expect, as per Gambling Commission Guidance, that applicants demonstrate:

- A full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- That the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and
- That staff are trained to have a full understanding of the maximum stakes and prizes.

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

2 Licensed Premises Gaming Machine Permit

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines of categories C or D. The premises merely need to notify the licensing authority. This automatic authorisation can be removed by the licensing authority if:

- Provision of the machines is not reasonably consistent with the licensing objectives;

- Gaming has taken place on the premises that breaches a condition of section 282;
- The premises are mainly used for gaming; or
- An offence under the Gambling Act has been committed on the premises.

If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*” Such matters will be decided on a case-by-case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling. The applicant will be expected to show that there will be sufficient measures to ensure that under 18-year-olds do not have access to adult only gaming machines. Measures may include the adult machines being placed in sight of the bar, or in the sight of staff that will monitor the use of the machines. The applicant may also wish to consider the provision of information leaflets/help-line numbers for organisations such as Gamcare. Where the applicant for additional machines can demonstrate compliance with the Gambling Commission Code of Practice on gaming machines, granting of the application would be the normal course as long as the number of machines requested can be shown to be reasonable in relation to the size of the premises.

Under the Gaming Act 1968, the granting of an application for four gaming machines (two in relation to guest houses) is delegated to Officers. In an attempt to reduce administration and bureaucracy, this practice will continue.

It should be noted that the licensing authority could 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.

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

3 Prize Gaming Permit

The Licensing Authority is concerned that premises with the benefit of a prize gaming permit will particularly appeal to children and young persons. When considering an application, the Licensing Authority will give significant weight to child protection

issues, and will need to be satisfied that the granting of a permit will not place children and young persons at risk as a consequence.

- The applicant should 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.

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

4 Club Gaming and Club Machines Permits

Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines 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)

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. It is anticipated that this will cover bridge and whist clubs, which will replicate 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."

The Commission Guidance also notes "licensing authorities may only refuse an application on the grounds that:

- The applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- The applicant's premises are used wholly or mainly by children and/or young persons;

- An offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- A permit held by the applicant has been cancelled in the previous ten years; or
- The Commission or the police have lodged an objection.

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 for local 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." and "The grounds on which an application under the process may be refused are:

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

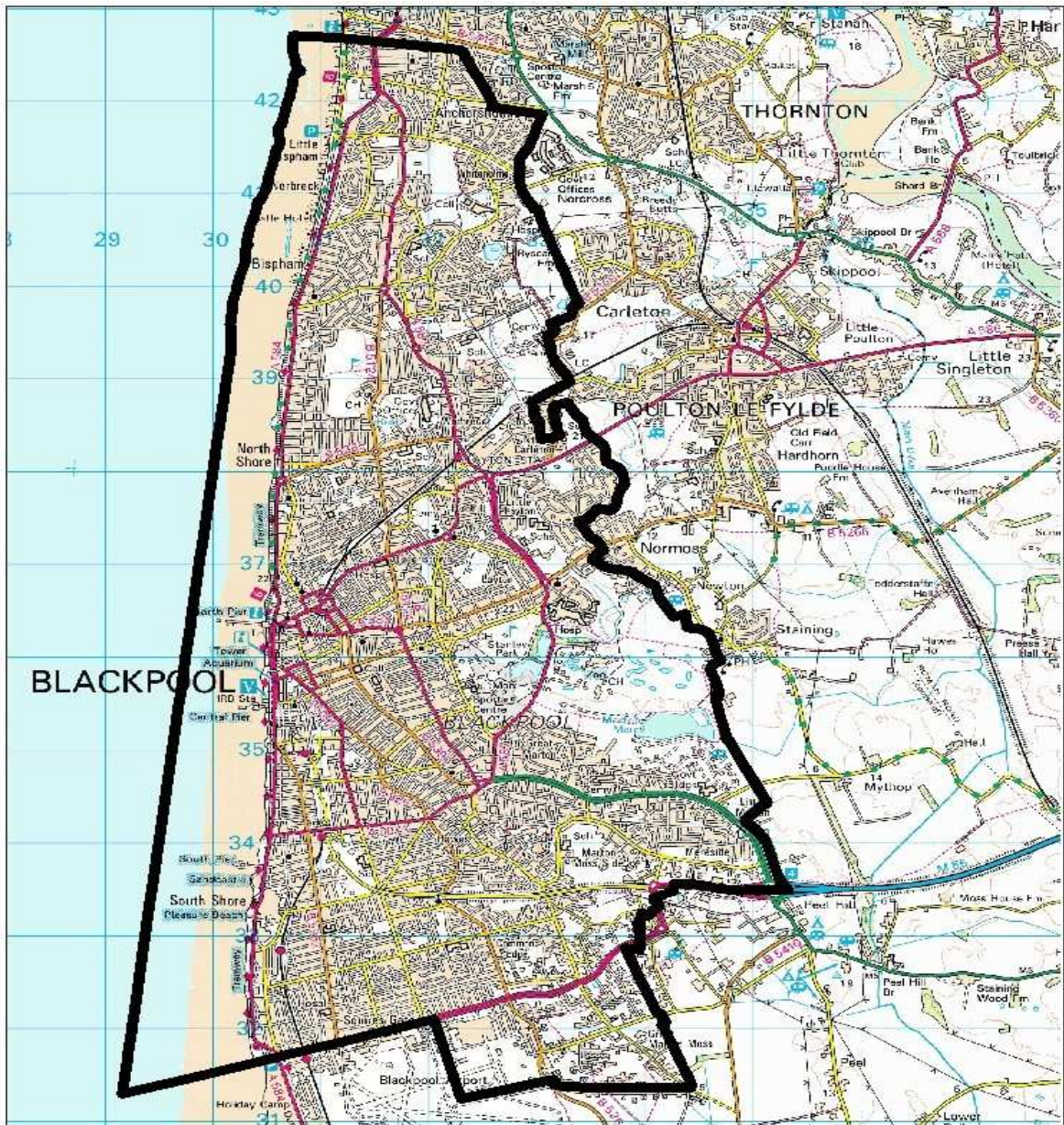
There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

5. Temporary Use Notices

There are a number of statutory limits as regards temporary use notices. Gambling Commission Guidance notes "The meaning of "premises" in part 8 of the Act is discussed in Part 7 of this guidance. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place". In considering whether a place falls within the definition of "a set of premises", licensing authorities will need to look at, amongst other things, the ownership/occupation and control of the premises. This is a new permission and licensing authorities should be ready to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises."

6. Occasional Use Notices:

The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.



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