

BABERGH DISTRICT COUNCIL

FROM: Head of Natural and Built
Environment

REPORT NUMBER **F47**

TO: LICENSING AND APPEALS
COMMITTEE

DATE OF MEETING 13 July 2006

GAMBLING ACT 2005: STATEMENT OF LICENSING PRINCIPLES DOCUMENT

1. **SUMMARY:**

- 1.1 The Gambling Act 2005 places new functions and responsibilities, for the issuing of licences and permits for gambling/gaming premises, on local Licensing Authorities. The Act received Royal Assent on 07 April 2005 and is likely to be fully implemented in September 2007. Licensing Authorities will, however, receive applications from 31 January 2007 onwards. One of the first functions for a Licensing Authority under the new legislation is to prepare and publish a statement of the principles it will apply when dispensing its new functions. The deadlines for publication of this document have now been confirmed by regulation.

2. **RECOMMENDATION:**

- 2.1 That the Licensing and Appeals Committee approve the draft Gambling Act 2005 ‘Statement of Licensing Principles’ document, attached as Appendix 1, and instruct officers to proceed with the commencement of a period of statutory consultation in accordance with Gambling Act 2005 regulations.

The Committee is able to resolve this matter.

3. **FINANCIAL IMPLICATIONS:**

- 3.1 The Gambling Act 2005 places new statutory duties on local Licensing Authorities. Central Government have advised that ‘start-up costs’ associated with the Gambling Act 2005, including costs incurred with formulation of the statement of principles, have been made available in the Revenue Support Grant awarded to Local Authorities in both 2004/5 and 2005/6. These funds were neither ‘ring-fenced’ nor identifiable at the time of these grants.
- 3.2 It is the intention of officers to share costs of advertising, and pool resources wherever possible with other Suffolk Licensing Authorities, in order to achieve efficiencies in the development of the statement of principles document and keep costs to the Authority at a minimum.

4. **KEY INFORMATION:**

- 4.1 The Licensing and Appeals Committee is the “Licensing Committee” for the purposes of the Licensing Act 2003 and the Gambling Act 2005. The Licensing Committee established under Section 6 of the Licensing Act 2003 will be responsible for dealing with applications under the Gambling Act 2005. Some of these functions may be delegated to a Sub-Committee or Officers, and this will be the subject of a further report at a later time.

- 4.2 All powers under the Gambling Act 2005 are delegated to the Licensing Committee with the exceptions of:
- (a) functions relating to resolutions by the Licensing Authority not to issue casino premises licences
 - (b) formulation of the 3 year licensing policy (Statement of Licensing Principles).
 - (c) determination of premises licence fees

These are matters for full Council.

- 4.3 Section 349 of the Gambling Act 2005 requires that each local Licensing Authority shall prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act.
- 4.4 This ‘statement of principles’ must contain certain information as required by regulation. The statement must also take into account guidance issued by the newly formed Gambling Commission (a body independent of Central Government) under section 25 of the Gambling Act 2005. However this guidance will not be fully complete for some months, so Licensing Authorities are required to prepare and publish a policy without this information or regulations which will prescribe much of the procedural detail and finer workings of the Act. The Department of Culture Media and Sport advise that Licensing Authorities should ensure that their statement of principles is only concerned with the ‘higher level principles’ of dispensing functions under the Act and less concerned with procedural detail. This situation has however caused some uncertainty and problems for Licensing Authorities in developing the required document.
- 4.5 Babergh’s Licensing Section has worked closely in partnership with all other Suffolk Licensing Authorities to create the draft ‘Statement of Licensing Principles’. This is to ensure consistency of approach across the County. Albeit there will be some local variations based on local circumstances and requirements following consultation, the template should ensure that there is broadly little variation in the dispensation of functions under the Act between neighbouring authorities. This statement of principles has taken into account all legislative, regulatory and guidance considerations available at this time.
- 4.6 The legislation requires that Licensing Authorities shall widely consult upon their draft statement of principles with stakeholders, before finalising and publishing the document by 03 January 2007 to take effect for a three-year period from 31 January 2007 (although the statement may be revised sooner if necessary). It is the intention of Babergh’s Licensing Section to co-ordinate the administration and advertising of a full targeted and public consultation period with the other Suffolk Authorities in order to achieve efficiency and cost savings. In view of Committee schedules for the various Authorities, any consultation period is likely to run for 8-10 weeks.
- 4.7 Once the consultation period has been completed, all responses will be collated and the statement of principles may be revised in the light of any representations/comments. Any revised document will be brought before the Licensing and Appeals Committee for further consideration prior to the document being recommended to full Council for adoption.
- 4.8 Once the document has been adopted it will be published on the Council website and made widely available, no later than 3 January 2007. It will be an integral point of reference for the Committee, officers, applicants and other responsible/interested parties.

5. **APPENDIX:**

Appendix 1: Draft 'Gambling Act 2005: Statement of Licensing Principles' document (version 4 dated June 2006).

6. **BACKGROUND PAPERS REFERRED TO:**

None

MALCOLM FIRTH
Head of Natural and Built Environment

CONTACT: Lee Carvell (Principal Licensing Officer) **DIRECT LINE:** 01473 825719

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APPENDIX

DRAFT

BABERGH DISTRICT COUNCIL



GAMBLING ACT 2005: STATEMENT OF LICENSING PRINCIPLES

DRAFT - version 4 (June 2006)

Preface:

This 'Gambling Act 2005: Statement of Principles' document has been drafted by the Licensing Authority in accordance with the implementation timeframe set by Central Government and having due regard to local Licensing Authority requirements for drafting, consulting upon, adopting and publishing this document by the statutory deadline of 03 January 2007.

This document has been developed at a time when a number of regulations, conditions, codes of practice and statutory guidance are not yet finalised or published. Should anything in these forthcoming publications impact upon the content of this 'Statement of Principles' document, then it will be taken into account and the document may be amended at a later stage and with due consideration to the resource implications for the Licensing Authority.

All references made within this document to the Gambling Commission Guidance for Licensing Authorities, and any extracts quoted thereof, refer to the Guidance document published in April 2006.

For further information please refer to:

www.gamblingcommission.gov.uk

www.culture.gov.uk

www.babergh.gov.uk

GAMBLING ACT 2005: STATEMENT OF PRINCIPLES

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PART A - GENERAL

1. The Licensing Objectives

- 1.1 In exercising most of its functions under the Gambling Act 2005, the Licensing Authority must have regard to the licensing objectives as set out in section 1 of the Gambling Act 2005 ('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".

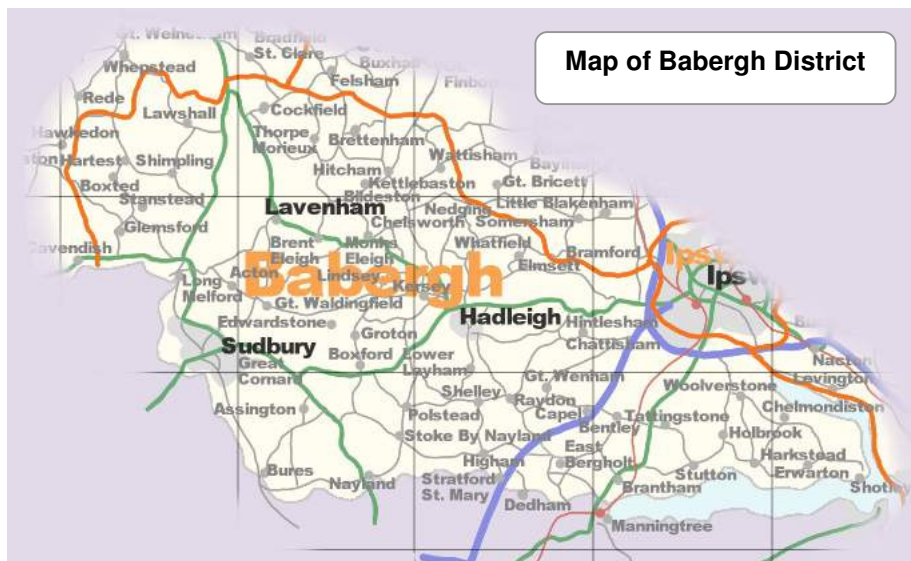
- 1.2 The Licensing Authority is aware that, in accordance with section 153 of the Act, in making decisions about premises licences and temporary use notices it should aim to permit the use of the premises for gambling purposes in so far as it thinks it:
- in accordance with any relevant code of practice issued by the Gambling Commission;
 - in accordance with any relevant guidance issued by the Gambling Commission;
 - reasonably consistent with the licensing objectives; and
 - in accordance with the Authority's statement of principles.

2. Introduction

- 2.1 Babergh District Council is situated in the County of Suffolk, which contains seven District/Borough Councils in total.

Whilst the Babergh District remains very rural, it is within close and convenient distance of London and the Continent. The District has a population of approximately 84,000. It covers an area of 230 square miles and contains several small towns and villages which still retain much of their original outstanding character and appearance, including the nationally recognised villages of Lavenham and Long Melford.

The largest town in Babergh is Sudbury which, along with its neighbouring village of Great Cornard, has a population of approximately 20,000. The other market town of Hadleigh has a population of approximately 7,000. Ipswich (10 miles from Hadleigh) is now spilling over into the District, and has a population of 130,000 people. These areas are shown in the map below:



Ease of communications, the many seaside resorts along the east coast and picturesque towns, villages and countryside make South Suffolk a very popular place to live, work and to visit.

- 2.2 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 must be re-consulted upon. Following any amendment and consultation, the revised statement will then be re-published.
- 2.3 Babergh District Council consulted widely upon this statement of principles before it was finalised and published.
- 2.4 The Gambling Act 2005 requires that the following parties are 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

A list of the persons consulted by the Licensing Authority is **attached as Schedule X**.

The consultation took place between **x date and x date**.

The full list of comments made and the consideration by the Licensing Authority of those comments is available upon request by contacting:

Babergh District Council, Licensing Section, Corks Lane, Hadleigh, IPSWICH, Suffolk IP7 6SJ (Tel: 01473 822801) e-mail: licensingsection@babergh.gov.uk
 website: www.babergh.gov.uk

- 2.5 The statement of principles was approved at a meeting of the full Council of Babergh District Council on **x date** and was published on the Council website on **x date**. Copies were placed in the public libraries within the District as well as being available at the Babergh District Council Offices. Should you have any comments concerning this document then please send them via e-mail or letter to the Licensing Section as above.
- 2.6 It should be noted that this statement of 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

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

4. Responsible Authorities

- 4.1 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 Licensing 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
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group

In accordance with the Gambling Commission Guidance for Licensing Authorities this Authority intends to designate the **Suffolk Safeguarding Children Board** for this purpose.

The contact details of all the Responsible Bodies under the Gambling Act 2005 are available via the Babergh District Council website at www.babergh.gov.uk or available upon request to the Licensing Section.

5. Interested parties

- 5.1 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 follows:

“... 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)”

- 5.2 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:
- Each case will be decided upon its merits.
 - The Licensing Authority will not apply a rigid rule to its decision making. It will consider the examples of factors provided in the Gambling Commission Guidance at 8.14 and 8.15. The Licensing Authority notes that decisions made concerning Premises Licences must be in accordance with Gambling Commission Guidance. It will also consider the Gambling Commission Guidance view that the definition “has business interests” should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.
- 5.3 The Gambling Commission has recommended in section 8.17 of its Guidance that the Licensing Authority should state that interested parties include trade associations and trade unions, and residents’ and tenants’ associations. The Licensing Authority will not however generally view these bodies as interested parties unless they have a member who can be classed as one under the terms of the Gambling Act 2005 (ie. lives or operates sufficiently close to the premises to be likely to be affected by the activities being applied for) and this will be considered on a case by case basis.
- 5.4 Interested parties can be persons who are democratically elected such as councillors and MPs. Where appropriate this will include county, parish and town councillors. Other than these persons, the Licensing Authority will normally require written evidence that a person ‘represents’ someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or business interests that might be affected by the authorised activities.
- 5.5 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 Committee dealing with the licence application. If there are any doubts then please contact the Licensing Section at Babergh District Council.

6. Exchange of Information

- 6.1 Licensing Authorities are required to include in their statement of principles 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 the Licensing Authority and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.
- 6.2 The principle that this Licensing Authority will apply 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 on this matter when it is published, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.
- 6.3 Should any protocols be established concerning information exchange with other bodies then these will be made available by the Licensing Authority. Discussions over information exchange between Licensing Authorities and the Gambling

Commission are at a formative stage and ongoing at the time this document has been drafted.

7. Enforcement

- 7.1 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.
- 7.2 This Licensing Authority's principles are that it will be guided by the Gambling Commission Guidance and will endeavour to be:
- Proportionate: regulators should only intervene when necessary and 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
- 7.3 In accordance with the Gambling Commission Guidance, the Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 7.4 Any inspection programme, which may be adopted by the Licensing Authority, shall be risk-based as recommended by the Gambling Commission Guidance.
- 7.5 The main enforcement and compliance role for the 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 will be the enforcement body for Operator and Personal Licences. Concerns about manufacture, supply or repair of gaming machines will not be dealt with by the Licensing Authority but will be notified to the Gambling Commission.
- 7.6 This Licensing Authority will also keep itself informed of developments concerning the work of the Better Regulation Executive in its consideration of the regulatory functions of Local Authorities.
- 7.7 Bearing in mind the principle of transparency, any enforcement/compliance protocols or written agreements developed by the Licensing Authority will be made available upon request to the Licensing Section.

8. Licensing Authority functions

- 8.1 Licensing Authorities are required by the Act 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) of 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 more than two machines are required
- 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 6 above on 'Exchange of Information')
- Maintain registers of the permits and licences that are issued under these functions

8.2 It should be noted that local Licensing Authorities will not be involved in licensing remote gambling. This will be the responsibility of the Gambling Commission via Operator Licences.

8.3 The Gambling Commission has recommended that Licensing Authorities include a list of licensable activities in the statement. Once this information is available it will be attached as **Schedule X**.

PART B - PREMISES LICENCES

1. General Principles

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

1.2 This Licensing Authority is aware that in making decisions about Premises Licences it should aim to permit the use of premises for gambling in so far as it thinks it 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.

1.3 **Definition of "premises"**: Premises is defined in the Act as "any place". Different Premises Licences cannot apply in respect of a single premises at different times. However, it is possible for a single building to be subject to more than one Premises Licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. Whether different parts of a building can properly be regarded as being separate premises will always be a question of fact in the circumstances. However, the Gambling Commission does not consider that areas of a building that are artificially or temporarily separated can be properly regarded as different premises.

- 1.4 The Licensing Authority takes particular note of the Gambling Commission Guidance which states that Licensing Authorities should take particular care when 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 Licensing Authorities 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.
- 1.5 The Licensing Authority takes particular note of the Gambling Commission Guidance which states 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 Licensing 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.
- 1.6 It should also be noted that an applicant cannot obtain a full Premises Licence until the premises in which it is proposed to offer the gambling are constructed. The Gambling Commission has advised that reference to "the premises" are to the premises in which gambling may now take place. Therefore a licence to use premises for gambling will only be issued in relation to premises that are ready to be used for gambling. The Licensing Authority agrees with the Gambling Commission Guidance that it is a question of fact whether premises are finished to a degree that they can be considered for a Premises Licence. The Gambling Commission Guidance emphasises that requiring the building to be complete ensures that the Licensing Authority can, if necessary, inspect it fully, as can other responsible authorities with inspection rights.
- 1.7 **Location:** The 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 can. In accordance with the Gambling Commission Guidance, the Licensing Authority will pay particular attention to 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 concerning areas where gambling premises should not be located, this policy 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 any concerns can be overcome.
- 1.8 **Duplication with other regulatory regimes:** The Licensing Authority will seek to avoid any duplication with other statutory / regulatory systems wherever possible, including planning. The Licensing Authority will not consider whether a licence application is likely to obtain planning or building consent, in its consideration of it. The Licensing Authority will however listen to, and consider carefully, concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.
- 1.9 **Licensing objectives:** Premises Licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, the Licensing Authority has considered the Gambling Commission Guidance and provide some commentary below:

(1) 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 Gambling Commission Guidance does however envisage that Licensing Authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Therefore, where a particular area is associated with criminal activity the 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. The Licensing Authority is aware that there is a distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction. Issues of nuisance cannot be addressed via the Gambling Act 2005 provisions.

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

The Licensing Authority has noted that the Gambling Commission has stated in its Guidance that it would, with the exception of tracks (see Part B section 7 of this document), 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 Operator and Personal licences.

(3) Protecting children and other vulnerable persons from being harmed or exploited by gambling:

The Licensing Authority has noted the Gambling Commission Guidance which states that this objective means preventing children from taking part in gambling (as well as restricting advertising so that gambling products are not aimed at or are made particularly attractive to children). The Licensing Authority will therefore consider, as suggested in the Gambling Commission Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include such matters as supervision of entrances/machines or segregation of areas.

The Licensing Authority will also make itself aware of any Codes of Practice issued by the Gambling Commission concerning this licensing objective in relation to specific premises, such as casinos.

Regarding the term “vulnerable persons” it is noted that the Gambling Commission is not seeking 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 a mental impairment, alcohol or drugs.” The Licensing Authority will consider this licensing objective on a case by case basis. Should a practical definition prove possible in future then this statement of principles will be updated with it, when it is appropriate to do so, by way of a revision.

1.10 **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; and
- reasonable in all other respects.

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of control measures the Licensing Authority may consider utilising should there be a perceived need, such as the use of door supervisors, supervision of adult gaming machines and appropriate signage for adult only areas. There are specific comments made in this regard under each of the licence types below. The Licensing Authority will normally expect the applicant to offer his own proposals as to ways in which the licensing objectives will be met effectively.

1.11 The 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 specific non-adult gambling premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission Guidance.

1.12 The Licensing Authority will normally also ensure that where category C or above machines are available 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 may apply to premises including buildings where multiple Premises Licences are applicable.

1.13 The 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. In accordance with the Gambling Commission Guidance, the Licensing Authority will consider the impact upon the protection of children 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.

1.14 It is noted that there are conditions which the Licensing Authority cannot attach to Premises Licences. These are:

- any condition on the Premises Licence which makes it impossible to comply with an Operator 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, winning or prizes.

1.15 In accordance with Gambling Commission Guidance, the Licensing Authority may consider whether door supervisors are appropriate in particular circumstances in order to:

- prevent premises from becoming a source of crime or disorder; or
- protect children and vulnerable persons from being harmed or exploited by gambling.

Should the Licensing Authority consider that door supervisors are appropriate to promote the licensing objectives for a particular premises, it will normally expect that any person employed as a door supervisor at that premises will either:

- meet the minimum requirements necessary for that individual to be licensed by the Security Industry Authority (SIA) in normal circumstances (accepting that there is a specific exemption for the licensing of door supervisors by the SIA for casino and bingo premises); or
- the holder of the operator licence will have recruitment criteria for their door supervisors, which specifies:
 - (a) a minimum training qualification (whether within the organisation, or a nationally accredited training course); and
 - (b) an assessment of whether that individual is fit and proper, for example by means of a subject access search, Criminal Records Bureau (CRB) basic disclosure or other means; and
 - (c) the operator will make their assessment criteria known to the Licensing Authority.

2. Adult Gaming Centres

2.1 The Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will normally 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 measures may cover matters such as:

- Proof of age schemes
- 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/helpline numbers for organisations such as GamCare.

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

3. (Licensed) Family Entertainment Centres

- 3.1 The Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will normally 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.

The Licensing Authority will normally expect applicants to offer their own measures to meet the licensing objectives. Appropriate measures 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/helpline 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.

- 3.2 The Licensing Authority will, in accordance with the Gambling Commission Guidance, refer to the Commission's website to view any conditions that may apply to Operator licences covering the way in which the area containing the category C machines should be delineated. The Licensing Authority will ensure that is also aware of any mandatory or default conditions on these Premises Licences, when they have been published.

4. Casinos

- 4.1 The Licensing Authority 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 the Licensing Authority decide in the future to pass such a resolution, it will update this policy statement accordingly, when it is appropriate to do so, with details of that resolution.
- 4.2 The Licensing Authority is aware that where a Licensing Authority area is enabled to grant a Premises Licence for a new style casino (i.e. the Secretary of State has made such regulations under Section 175 of the Gambling Act 2005) there are likely to be a number of operators which will want to run the casino. In such situations the Licensing Authority will run a 'competition' under Schedule 9 of the Gambling Act 2005. The Licensing Authority will run any such competition in accordance with any relevant regulations issued under the Gambling Act 2005 by the Secretary of State.
- 4.3 **Licence considerations / conditions:** The Gambling Commission has stated that "further guidance will be issued in due course about the particular issues that Licensing Authorities should take into account in relation to the suitability and layout

of casino premises" (Gambling Commission Guidance paragraph 17.30) This guidance will be considered by the Licensing Authority when it is made available.

- 4.4 **Betting machines:** The Licensing Authority will normally, in accordance with the Gambling Commission 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 persons, when considering the number/nature/circumstances of betting machines an operator wants to make available.

5. Bingo premises

- 5.1 The Licensing Authority notes that the Gambling Commission Guidance (paragraph 18.4) states:

"It is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are available on premises to which children are admitted Licensing Authorities should ensure that:

- all such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where the machines are located;
- access to the area where the machines are located is supervised;
- the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
- at the entrance to, and inside, any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18."

- 5.2 The Licensing Authority is also aware that the Gambling Commission is likely to issue further guidance about the particular issues that Licensing Authorities should take into account in relation to the suitability and layout of bingo premises. Any such guidance will be considered by the Licensing Authority once it is made available.

6. Betting premises

- 6.1 **Betting machines:** The Licensing Authority will normally, in accordance with the Gambling Commission 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 make available.

7. Tracks

- 7.1 Only one Premises Licence may be issued for any particular premises at any time unless the premises is a "track". Tracks are sites (including horse racing courses and dog tracks) where races or other sporting events take place. Betting is a major gambling activity on tracks, both in the form of pool betting (often known as the "TOTALISATOR" or "TOTE") and also general betting, often known as "fixed-odds" betting.

- 7.2 There is no special class of betting Premises Licence for a track, but the Act does contain rules which apply specifically to Premises Licences granted in respect of tracks.
- 7.3 Special rules apply to applicants for a Premises Licence in relation to a track. Most importantly the applicant need not hold an Operator licence. That is because, unless the occupier of the track wishes to offer pool betting (or general betting) facilities himself (for which he will need a licence) the betting that is provided upon the track will not be provided by him, but will be provided by other operators who come on-course. Since those people will require the necessary Operator Licences, the Act allows the track operator to obtain a Premises Licence without also having to hold an Operator Licence. This track Premises Licence then authorises anyone upon the premises with a valid Operator Licence offer betting facilities.
- 7.4 This Licensing Authority is aware that the Gambling Commission may provide further specific guidance concerning tracks. There may be some specific considerations with regard to the protection of children and vulnerable persons from being harmed or exploited by gambling, the need to ensure entrances to each type of premises are distinct and that children are excluded from gambling or betting areas where they are not permitted to enter.
- 7.6 Children and young persons will by law be permitted to enter track areas where facilities for betting are provided on days when dog racing and/or horse racing takes place, although they are still prevented from entering areas where gaming machines (other than category D machines) are provided. The Licensing Authority will normally expect Premises Licence applicants to demonstrate suitable measures to ensure the children do not have access to adult only gambling facilities.

Appropriate measures may include:

- Proof of Age schemes
- CCTV
- Door Supervisors
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- The location of gaming machines
- Self barring schemes
- Provision of information leaflets/helpline numbers for organisations such as GAMCARE.

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

- 7.7 **Gaming Machines on Tracks:** The Licensing Authority awaits further guidance from the Gambling Commission addressing where such machines may be located on tracks, and any special considerations that should apply to promote the protection of children and vulnerable persons from being harmed or exploited by gambling licensing objective.

- 7.8 The Licensing Authority note the Gambling Commission Guidance that Licensing Authorities need to consider the location of gaming machines at tracks. Applicants for licences at tracks will need to demonstrate that, where the applicant holds a pool betting Operator Licence and is going to use the entitlement to four gaming machines, these machines will be located in areas from which children are excluded. Children and young persons will not however be excluded from playing category D gaming machines on a track.
- 7.9 **Betting Machines:** Licensing Authorities have a power under the Gambling Act 2005 to restrict the number of betting machines, their nature and the circumstances in which they are made available, by attaching a licence condition to a betting Premises Licence.
- 7.10 Similar conditions apply in relation to tracks. The potential space required for such machines may be considerable, bringing with it significant problems in relation to the proliferation of machines, the ability of track staff to supervise them if they are scattered around the track and the ability of the track operation to comply with the law and prevent children betting on the machines.
- 7.11 The Licensing Authority will normally, in accordance with the Gambling Commission 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/young persons or by vulnerable persons, when considering the number/nature/circumstances of betting machines an operator wants to make available.
- 7.12 The Licensing Authority also notes that, “In the Commission’s view, it would be preferable for all self-contained premises operated by off-course betting operators on track to be the subject of separate Premises Licence. This would ensure that there was clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

8. Travelling Fairs

- 8.1 It will be the duty of the Licensing Authority to decide whether, where category D machines and / or equal chance prize gaming without a permit are 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.
- 8.2 The Licensing Authority will also carefully consider whether an application falls within the statutory definition of a travelling fair (provided by section 286 of the Act).
- 8.3 It has been noted that the 27-day statutory maximum for the land being used as a fair, is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. The Licensing Authority shall endeavour to work with neighbouring authorities to ensure that land which crosses district/borough boundaries is monitored so that the statutory limits are not exceeded.

9. Provisional Statements

- 9.1 The Licensing Authority notes the Gambling Commission Guidance which states that “It is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence” and that “requiring the building to be complete ensures that the authority can inspect it fully”.
- 9.2 In terms of representations about Premises Licence applications, following 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, the 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:
- (a) which could not have been raised by objectors at the Provisional Statement stage; or
 - (b) which in the Licensing Authority’s opinion reflect a change in the operator’s circumstances.
- 9.3 The Licensing Authority has noted the Gambling Commission Guidance that: “A Licensing Authority should not take into account irrelevant matters...one example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal”.

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. Any request for a review will be considered on the basis of whether the request is relevant to the matters listed below, whether the request is considered to be frivolous, vexatious, or will certainly not cause the Licensing Authority to amend/revoke/suspend the licence, and whether the request is substantially the same as any previous representations or requests made for a review. Any request for a review should be:
- 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 Licensing Authority’s statement of principles.
- 10.2 The Licensing Authority may also initiate a review of a specific Premises Licence, or class of Premises Licences, on the basis of any reason which it thinks is appropriate.

PART C
PERMITS / TEMPORARY USE NOTICES AND
OCCASIONAL USE NOTICES

1. Unlicensed Family Entertainment Centre gaming machine permits

- 1.1 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 satisfy the Licensing Authority that the premises will be wholly or mainly used for making gaming machines available for use and will be used as an unlicensed Family Entertainment Centre.
- 1.2 If the operator of a Family Entertainment Centre wants to make category C machines available in addition to category D machines, the operator will need to apply for an Operator Licence from the Gambling Commission and a Premises Licence from the Licensing Authority. If the operator wishes to make category D machines available only then he may apply to the Licensing Authority for the grant of a permit which will allow any number of category D machines to be made available. Any duties on the applicant to comply with other legislation such as fire regulations or Health and Safety are not issues for the Licensing Authority under the Gambling Act 2005.
- 1.3 The form and manner in which an application for a permit should be made, will be specified by the Licensing Authority having consideration to any Gambling Commission Guidance in this respect. It should be noted that regulations may prescribe any plans requirements. The Licensing Authority shall ensure that details of up to date application requirements are made available on the Council website or from the Licensing Section direct
- 1.4 The Gambling Act 2005 states that a Licensing Authority may prepare a statement of principles that it proposes to consider when 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 but shall have regard to any relevant guidance issued by the Gambling Commission. The Gambling Commission Guidance recommends that in particular Licensing Authorities will want to give weight to child protection issues in considering applications for this permit.
- 1.5 It should be noted that a Licensing Authority cannot attach conditions to this type of permit.

1.6 Statement of Principles:

The Licensing Authority will expect the applicant to adopt and comply with any relevant British Amusements and Catering Trade Association (BACTA), or other industry approved guidelines/codes of practice, on the operation of unlicensed Family Entertainment Centres. Such guidelines may offer best practice regarding appropriate measures to promote the licensing objectives and training for staff concerning:

- suspected truant school children on the premises;
- how staff would deal with unsupervised very young children being on the premises;
- children causing problems on or around the premises; and
- maximum stakes and prizes of the gambling that is permissible in unlicensed FEC's

- 1.7 In view of the statutory requirement that the Chief Officer of Police is a consultee for all such permit applications, it is the expectation of the Licensing Authority that the Police will notify the Licensing Authority of any concerns they might have concerning the suitability of the applicant to be granted a permit. The Licensing Authority may also consult the Suffolk Safeguarding Children Board in respect of applications for this permit.
- 1.8 The Licensing Authority may also require the applicant to submit a declaration of convictions with their application to confirm whether they have any relevant convictions (those that are set out in Schedule 7 of the Act).

2. (Alcohol) Licensed Premises Gaming Machine Permits

- 2.1 There is provision made in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have up to 2 gaming machines, of categories C and/or D. The premises merely need to notify the Licensing Authority. The Licensing Authority may remove the automatic authorisation in respect of any particular premises if it is satisfied that:
- 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 (ie. 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.
- 2.2 If a premises wishes to have more than 2 gaming machines, then it will need to apply to the Licensing Authority for a permit and the Licensing Authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission, and “such matters as they think relevant.” This Licensing Authority considers that “such matters” will be decided on a case by case basis, but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling.
- 2.3 The Licensing Authority may normally expect the applicant to satisfy the Authority that there will be sufficient measures in place to ensure that under 18 year olds do not have access to the adult only gaming machines. The applicant may consider appropriate measures to monitor access to machines, and these may include steps such as ensuring that the adult gaming machines are within sight of the bar, or within the sight of staff who can monitor that the machines are not being used by persons under the age of 18. Notices and signage may also be an appropriate measure/safeguard. With regard to the protection of vulnerable persons, the applicant may wish to consider the provision of information leaflets / helpline numbers for organisations that give support to vulnerable persons such as GamCare.
- 2.4 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 gaming machines.

- 2.5 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 Entertainment Centre premises licence.
- 2.6 It should be noted that the Licensing Authority can and may 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 to the grant of this permit.

3. Prize Gaming Permits

- 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 in considering applications for permits 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:**

The Licensing Authority will expect the applicant to adopt and comply with any relevant British Amusements and Catering Trade Association (BACTA), or other industry approved guidelines/codes of practice, on the operation of Prize Gaming permits. Such guidelines may offer best practice regarding appropriate measures to promote the licensing objectives and training for staff concerning:

- the type of gaming which they intend to provide; and
- the stakes and prizes which apply under the regulations relevant to the type of gaming they intend to offer.

- 3.3 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.
- 3.4 In view of the statutory requirement that the Chief Officer of Police is a consultee for all such permit applications, it is the expectation of the Licensing Authority that the Police will notify the Licensing Authority of any concerns they might have concerning the suitability of the applicant/premises to be granted a permit. The Licensing Authority will take into account any objections the Police may wish to make which are relevant to the licensing objectives. Relevant considerations may include whether the applicant has any convictions that would render them unsuitable to operate prize gaming, or the suitability of the location of the premises in relation to any disorder issues.
- 3.5 It should be noted that whilst there are conditions in the Gambling Act 2005 by which the permit holder must comply, the Licensing Authority cannot attach conditions to this permit.

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 monetary 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.

It should be also noted that this permit cannot be issued in respect of a vessel or vehicle.

4. Club Gaming Permits and Club Machine Permits

- 4.1 Members Clubs and Miners' welfare institutes (but not commercial Clubs) may apply for either a Club Gaming Permit or a Club Machine Permit. The Club Gaming Permit will enable the premises to provide gaming machines (up to 3 machines of categories B, C or D), equal chance gaming, and games of chance as set-out in forthcoming regulations. A Club Machine Permit will enable the premises to provide gaming machines (up to 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. 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".
- 4.3 If a club does not wish to have the full range of facilities permitted by a Club Gaming Permit, or if they are a commercial club not permitted to provide non-machine gaming (other than exempt gaming under section 269 of the Act), they may apply to the Licensing Authority for a Club Machine Permit. A Club Machine Permit will enable the premises to provide gaming machines (up to 3 machines of categories B, C or D).
- 4.4 The Gambling Commission Guidance also advises 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 Gambling Commission or the Police

It should be noted that either type of permit may not be issued in respect of a vessel or vehicle.

- 4.5 There is also a 'fast-track' procedure available for premises which hold a Club Premises Certificate under the Licensing Act 2003. As the Gambling Commission Guidance states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the Police, and the grounds upon which an Authority can refuse a permit are reduced" and "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."
- 4.6 There are statutory conditions concerning Club Gaming Permits and Club Machine Permits that no child may use a category B or C machine on the premises and that the permit holder complies with any relevant provision or code of practice regarding the location and operation of gaming machines.

5. Temporary Use Notices

- 5.1 Temporary Use Notices (TUNS) allow the use of premises for gambling where there is no Premises Licence but where a gambling operator wishes to use the premises for providing facilities for gambling. The Gambling Commission Guidance suggests that premises that might be suitable for TUNS would include hotels, conference centres and sporting venues.
- 5.2 There are a number of statutory limits that apply in respect of Temporary Use Notices, including that a TUN may only be granted to a person or company holding a relevant Operator Licence. For example, the holder of a betting Operator Licence could apply to provide betting facilities at a snooker tournament.
- 5.3 The Licensing Authority notes that a 'set of premises', as referred to in section 218 of the Act, is the subject of a Temporary Use Notice if any part of the premises is the subject of a notice. This reference to 'premises' is not the same as that in Part 8 of the Act and prevents one large premises from serving TUNS for different parts of the premises and exceeding the statutory limit of 21 days in any 12 month period.
- 5.4 The Licensing Authority will take into account Gambling Commission Guidance when considering whether a place falls within the definition of a 'set of premises'. This consideration may include looking at the ownership, occupation and control of the premises. The Licensing Authority notes that the Gambling Commission Guidance advises that: "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

- 6.1 The intention behind Occasional Use Notices (OUNS) is to permit licensed betting operators (with appropriate permission from the Gambling Commission) to use tracks for short periods for conducting betting, where the event upon which the betting is taking place is of a temporary, infrequent nature. The OUN dispenses with the need for a betting Premises Licence for the track in these circumstances. The processes

set out in the Act for applying for an Occasional Use Notice are different to those for Temporary Use Notices.

- 6.2 The notice must be served by a person who is responsible for the administration of events on the track or by an occupier of the track.
- 6.3 The Licensing Authority has little discretion concerning Occasional Use Notices apart from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. However, the Licensing Authority will carefully consider the definition of a 'track', which need not be a permanent fixture, and whether the applicant is eligible to serve the notice.