

## LICENSING COMMITTEE

03 November 2015

### GAMBLING ACT 2005 – STATEMENT OF PRINCIPLES

Report of the Director for Places (Environment, Planning and Transport)

Strategic Aim:	Meeting the health & wellbeing needs of the community	
Exempt Information	No	
Cabinet Member(s) Responsible:	Councillor Tony Mathias, Portfolio Holder for Places (Environment and Transport)	
Contact Officer(s):	Peter Gell, Head of Regulatory Services	Tel: 01733 453419 peter.gell@peterborough.gov.uk
	Kerry Leishman, Licensing Development officer	Tel: 01733 453502 kerry.leishman@peterborough.gov.uk
Ward Councillors	All Wards	

#### DECISION RECOMMENDATIONS

That the Committee:

1. Approve the draft proposed Gambling Act 2005, Statement of Principles; and
2. Recommends to Council the formal adoption of the proposed Gambling Act 2005, Statement of Principles for Rutland County Council.

#### 1. PURPOSE OF THE REPORT

- 1.1. To make members aware of the comments received during the consultation process.
- 1.2. To seek approval of the draft Statement of Principles and to seek recommendation to Council for adoption.

#### 2. BACKGROUND

- 2.1. Under Section 349 of the Gambling Act 2005, it is a requirement for each Council to produce, adopt and publish a Statement of Principles. This Statement will govern the way decisions are made by the Council and how it will administer its

duties under the Act. Without a Statement of Principles the Council may be subject to Judicial Review for failing in its responsibilities to carry out a statutory duty.

- 2.2. In order to meet our statutory obligations, a revised Statement has been drafted. Also in accordance with the Act, this revised Statement has been consulted upon.
- 2.3. In formulating the draft revised Statement, officers have given full consideration to the requirements of the Act and guidance issued by the Gambling Commission. This draft is based on the nationally accepted template produced by the Local Authorities Co-ordinators of Regulatory Services (LACORS), now known as Local Government Regulation overseen by the Local Government Association. We have also liaised with colleagues from neighbouring authorities to ensure our Statements are consistent.

### **3. CONSULTATION**

- 3.1. The following outlines the procedure taken, in providing the opportunity for members, statutory consultees and members of the public to be involved in the process of reviewing our Statement of Principles.
- 3.2. Before determining its Statement for any three year period (as required under s.349 of the Act), the licensing authority must consult the persons listed in s349 (3) as follows:
  - a. Chief Officer of Police for the area;
  - b. One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the area;
  - c. 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 Act
- 3.3. For information purposes a list of consultees is attached at **Appendix A**.
- 3.4. A 9 (nine) week consultation took place between 20 July 2015 and 27 September 2015. The consultation letter gave advice on the following:
  - i) Options on where to access and obtain copies of the draft revised Statement
  - ii) Opportunity to make relevant representations, in writing, on the draft Statement
  - iii) Notification that any comments must be received by 27 September 2015
- 3.5. The responses received during the consultation are attached at **Appendix B**.

### **4. CONSIDERATIONS**

- 4.1. In determining its Statement, the licensing authority must have regard to the Gambling Commission's guidance and give appropriate weight to the views of

those whom it has consulted. In determining what weight to give particular representations, the factors taken into account include:

- Who is making the presentation (what is their expertise or interest);
- What the motivation may be for their views;
- How many other people have expressed the same or similar views;
- How far the representations relate to matters the licensing authority should be including in its statement.

4.2. A copy of the final proposed Statement of Principles showing track changes of inclusions after the consultation is attached at **Appendix C**.

## **5. ALTERNATIVE OPTIONS**

5.1. The alternative option is to do nothing. This presents a risk to the council as failure to adopt a policy could result in a Judicial Review being sought.

## **6. FINANCIAL IMPLICATIONS**

6.1. Any costs in relation to the production of the Statement of Principles will be met by income from gambling licensing fees.

## **7. LEGAL AND GOVERNANCE CONSIDERATIONS**

7.1. The statement of Principles should be read in conjunction with the Statutory Guidance issued under Section 25 of the Gambling Act 2005 (“the Act”).

7.2. Section 349 of the Act requires the Licensing Authority to publish a statement of Principles every three years, and to consult with the statutory consultees and any other persons who may have an interest.

## **8. EQUALITY IMPACT ASSESSMENT**

8.1. An *Equality* Impact Assessment (EqIA) has not been carried out.

## **9. CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS**

9.1. As stated earlier, Section 349 of the Act requires the Licensing Authority to publish a statement of Principles every three years. Failure to have a Statement of Principles could result in a Judicial Review being sought against the council.

## **10. BACKGROUND PAPERS**

Guidance to Licensing Authorities (issued under section 25 of the Act) issued by the Gambling Commission.

## **11. APPENDICES** (*mandatory, simply state if there are no appendices*)

Appendix A – List of Consultees

Appendix B – Responses received to the consultation  
Appendix C – Proposed Statement of Principles

A Large Print or Braille Version of this Report is available  
upon request – Contact 01572 722577.

## **APPENDIX A**

### **LIST OF CONSULTEE'S**

The Gambling Act requires that the following parties are consulted by Licensing Authorities:

#### **Responsible Authorities**

- The Licensing Authority
- Leicestershire Constabulary – the chief officer of police
- Gambling Commission
- Leicestershire Fire & Rescue Service
- Rutland County Council – Planning Control
- Local Safeguarding Children Board
- Environment Agency
- HM Revenue & Customs

**One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area. The authority has therefore consulted:**

- Ketton Sports Association
- British Beer and Pub Association
- British Bookmakers Trade Association
- British Amusement Catering Trade Association
- All local Gambling Act 2005 Licence/Permit/Registration Holders (through the Council website).

**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:**

- Ward & Parish Councillors
- GamCare
- All residents and businesses within the Rutland County area (through the Council website)

The Licensing Team  
Rutland County Council  
Catmose  
Oakham  
Rutland  
LE15 6HP

24<sup>th</sup> September 2015

Dear Sir,

**Consultation on Rutland County Council's Statement of Principles – Gambling Act 2005**

Coral Racing Limited is most grateful to be given the opportunity to respond to this consultation exercise. Coral was one of the first national bookmakers to be licensed under the Betting and Gaming Act of 1960, and so has been operating the length and breadth of the UK for over 50 years. Its premises comprise locations in the inner city, on the high street, in suburbs and in rural areas, and in areas of both high and low deprivation. It now operates 1850 betting offices across Great Britain, which comprise about 20% of all licensed betting offices. It is, therefore, a highly experienced operator.

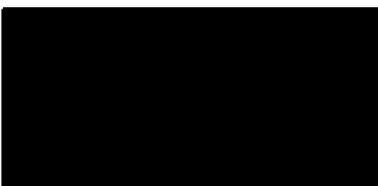
Coral Racing Limited are supportive of the document. It again notes that the Board when considering applications are still required to 'aim to permit gambling' where this is 'reasonably consistent with the licensing objectives', We politely note that the Statement does not indicate that the Board should not take into account any moral objections to gambling and kindly suggest its inclusion.

Coral Racing Limited recognise the requirement to supply risk assessments with future applications, variations as well as local changes, following the consultation completion – effective date is from the 6<sup>th</sup> April 2016. The document does not include any information about this however, when the Council amends its policy to include risk assessments, Coral Racing would be happy to contribute.

Coral's experience is that, through all it does, it achieves an exemplary degree of compliance, and attracts negligible evidence of regulatory harm. Through the additional local risk assessment to be introduced Coral believe that these should be a) to assess specific risks to the licensing objectives in the local area, and b) to assess whether control measures going beyond standard control measures are needed. There should be no requirement to list specific locations or styles of areas which should be included, notwithstanding this, such locations if necessary would automatically be included with the operators risk assessment when the application is considered.

If we can provide any further information, we would be pleased to do so.

Yours faithfully,



Director of Development – Coral Retail



**Coral Racing Limited**  
One Stratford Place, Montfichet Road, London E20 1EJ  
**Registered Office:** New Castle House, Castle Boulevard, Nottingham NG7 1FT  
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GOSCHALKS  
SOLICITORS

Rutland Council  
The Licensing Team  
Catmose  
Oakham  
Rutland  
LE15 6HP

Dear Sir/Madam,

**Re: Gambling Act 2005 Policy Statement Consultation**

We act for the Association of British Bookmakers (ABB) and have received instructions to respond on behalf of our client to the current consultation on the Council's review of its gambling policy statement.

The ABB represents over 80% of the high street betting market. Its members include large national operators such as William Hill, Ladbrokes, Coral and Paddy Power, as well as almost 100 smaller independent bookmakers.

This response will explain the ABB approach to partnership working with local authorities, it will detail its views on the implementation of the new LCCP requirements, from April 2016, relating to operators' local area risk assessments and their impact on the licensing regime and will then make specific comment with regard to any statement(s) of concern/that are welcomed in your draft policy.

The ABB is concerned to ensure that any changes are not implemented in such a way as to fundamentally change the premises licence regime through undermining the "aim to permit" principle contained within s153 Gambling Act 2005.

The current regime already adequately offers key protections for communities and already provides a clear process (including putting the public on notice) for representations/objections to premises licence applications. The recent planning law changes effective since April 2015 have also already increased the ability of local authorities to consider applications for new premises, as all new betting shops must now apply for planning permission.

It is important that any consideration of the draft policy and its implementation at a local level is put into context. There has recently been press coverage suggesting that there has been a proliferation of betting offices and a rise in problem gambling rates. This is factually incorrect.

Over recent years betting shop numbers have been relatively stable at around 9,000 nationally, but more recently a trend of overall downwards decline can be seen. The latest Gambling Commission industry statistics show that numbers as at 31 Mar 2015 were 8,958 - a decline of 179 from the previous year, when there were 9,137 recorded as at 31 March 2014.

As far as problem gambling is concerned, successive prevalence surveys and health surveys reveal that problem gambling rates in the UK are stable (0.6%) and possibly falling.

### **Working in partnership with local authorities**

The ABB is fully committed to ensuring constructive working relationships exist between betting operators and licensing authorities, and that where problems may arise that they can be dealt with in partnership. The exchange of clear information between councils and betting operators is a key part of this and we welcome the opportunity to respond to this consultation.

There are a number of examples of the ABB working closely and successfully in partnership with local authorities.

### **LGA – ABB Betting Partnership Framework**

In January 2015 the ABB signed a partnership agreement with the Local Government Association (LGA). This was developed over a period of months by a specially formed Betting Commission consisting of councillors and betting shop firms and established a framework designed to encourage more joint working between councils and the industry.

Launching the document Cllr Tony Page, LGA Licensing spokesman, said it demonstrated the *“...desire on both sides to increase joint-working in order to try and use existing powers to tackle local concerns, whatever they might be.”*

The framework built on earlier examples of joint working between councils and the industry, for example the Ealing Southall Betwatch scheme and Medway Responsible Gambling Partnership.

In Ealing, the Southall Betwatch was set up to address concerns about crime and disorder linked to betting shops in the borough. As a result, crime within gambling premises reduced by 50 per cent alongside falls in public order and criminal damage offences.

In December last year, the Medway Responsible Gambling Partnership was launched by Medway Council and the ABB. The first of its kind in Britain, the voluntary agreement allows anyone who is concerned they are developing a problem with their gambling to exclude themselves from all betting shops in the area.

The initiative also saw the industry working together with representatives of Kent Police and with the Medway Community Safety Partnership to develop a Reporting of Crime Protocol that is helpful in informing both the industry, police and other interested parties about levels of crime and the best way to deal with any crime in a way that is proportionate and effective.

Lessons learnt from the initial self-exclusion trial in Medway have been incorporated into a second trial in Glasgow city centre, launched in July this year with the support of Glasgow City Council, which it is hoped will form the basis of a national scheme to be rolled out in time for the LCCP deadline for such a scheme by April 2016.

Jane Chitty, Medway Council's Portfolio Holder for Planning, Economic Growth & Regulation, said: *"The Council has implemented measures that work at a local level but I am pleased to note that the joint work we are doing here in Medway is going to help the development of a national scheme."*

Describing the project, Glasgow's City Treasurer and Chairman of a cross-party Sounding Board on gambling, Cllr Paul Rooney said:

*"This project breaks new ground in terms of the industry sharing information, both between operators and, crucially, with their regulator."*

### **Primary Authority Partnerships in place between the ABB and local authorities**

All major operators, and the ABB on behalf of independent members, have also established Primary Authority Partnerships with local authorities.

These Partnerships help provide a consistent approach to regulation by local authorities, within the areas covered by the Partnership; such as age-verification or health and safety. We believe this level of consistency is beneficial both for local authorities and for operators.

For instance, Primary Authority Partnerships between Milton Keynes Council and Reading Council and their respective partners, Ladbrokes and Paddy Power, led to the first Primary Authority inspection plans for gambling coming into effect in January 2015.

By creating largely uniform plans, and requiring enforcing officers to inform the relevant Primary Authority before conducting a proactive test-purchase, and provide feedback afterwards, the plans have been able to bring consistency to proactive test-purchasing whilst allowing the Primary Authorities to help the businesses prevent underage gambling on their premises.

### **Local area risk assessments**

With effect from 6<sup>th</sup> April 2016, under new Gambling Commission LCCP provisions, operators are required to complete local area risk assessments identifying any risks posed to the licensing objectives and how these would be mitigated.

Licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy and local area profile in their risk assessment, and these must be reviewed where there are significant local changes or changes to the premises, or when applying for a variation to or a new premises licence.

The ABB is concerned that overly onerous requirements on operators to review their local risk assessments with unnecessary frequency could be damaging. As set out in the LCCP a review should only be required in response to significant local or premises change. In the ABB's view this

should be where evidence can be provided to demonstrate that the change could impact the premises' ability to uphold the three licensing objectives.

Although ABB members will be implementing risk assessment at a local premises level, we do not believe that it is for the licensing authority to prescribe the form of that risk assessment. We believe that to do so would be against better regulation principles. Instead operators should be allowed to gear their risk assessments to their own operational processes informed by Statements of Principles and the local area profile.

The ABB supports the requirement as set out in the LCCP, as this will help sustain a transparent and open dialogue between operators and councils. The ABB is also committed to working pro-actively with local authorities to help drive the development of best practice in this area.

### **Local Area Profiles – Need for an evidence based approach**

It is important that any risks identified in the local area profile are supported by substantive evidence. Where risks are unsubstantiated there is a danger that the regulatory burden will be disproportionate. This may be the case where local authorities include perceived rather than evidenced risks in their local area profiles.

This would distort the “aim to permit” principle set out in the Gambling Act 2005 by moving the burden of proof onto operators. Under the Act, it is incumbent on licensing authorities to provide evidence as to any risks to the licensing objectives, and not on the operator to provide evidence as to how they may mitigate any potential risk.

A reversal of this would represent a significant increase in the resource required for operators to be compliant whilst failing to offer a clear route by which improvements in protections against gambling related harm can be made.

We would also request that where a local area profile is produced by the licensing authority that this be made clearly available within the body of the licensing policy statement, where it will be easily accessible by the operator and also available for consultation whenever the policy statement is reviewed.

### **Concerns around increases in the regulatory burden on operators**

Any increase in the regulatory burden would severely impact on our members at a time when overall shop numbers are in decline, and operators are continuing to respond to and absorb significant recent regulatory change. This includes the increase to 25% of MGD, changes to staking over £50 on gaming machines, and planning use class changes which require all new betting shops in England to apply for planning permission.

Moving away from an evidence based approach would lead to substantial variation between licensing authorities and increase regulatory compliance costs for our members. This is of particular concern for smaller operators, who do not have the same resources to be able to put

into monitoring differences across all licensing authorities and whose businesses are less able to absorb increases in costs, putting them at risk of closure.

Such variation would in our opinion also weaken the overall standard of regulation at a local level by preventing the easy development of standard or best practice across different local authorities.

### **Employing additional licence conditions**

The ABB believes that additional conditions should only be imposed in exceptional circumstances where there are clear reasons for doing so - in light of the fact that there are already mandatory and default conditions attached to any premises licence. The ABB is concerned that the imposition of additional licensing conditions could become commonplace if there are no clear requirements in the revised licensing policy statements as to the need for evidence.

This would further increase variation across licensing authorities and create uncertainty amongst operators as to licensing requirements, over complicating the licensing process both for operators and local authorities.

### **Specific Policy Comments**

#### **13.5 Location**

The final two sentences of this paragraph cause the ABB concern. Any policy that a specific area is an area where gambling premises should not be located may be unlawful. This paragraph appears to implement a cumulative impact type policy as exists within the licensing regime under Licensing Act 2003. Such a policy is contrary to the overriding principles of "aim to permit" contained with s153 Gambling Act 2005. Similarly, the reversal of the burden of proof in the final sentence that requires the applicant to demonstrate why an application should be granted is contrary to that principle. These two sentences should be removed and replaced with the reiteration of the principle earlier in the policy that each case will be determined on its own merits.

#### **13.8.1**

This paragraph deals with the meaning of the licensing objective "preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime." The policy would be assisted by a statement that nuisance is not a relevant consideration for applications under Gambling Act 2005 and that the gambling commission has indicated that *"disorder is intended to mean activity that is more serious and disruptive than mere nuisance."*

#### **13.8.5**

This paragraph indicates that the council will seek to limit the advertising for premises. The policy may benefit from an acknowledgement that there is already a gambling industry code for socially responsible advertising which includes a requirement that advertisements should not be specifically and intentionally targeted toward people under the age of 18 through the selection of media, style of presentation, context or content in which they appear.

## 17.2

The ABB welcomes the statement that there is no evidence that the operation of betting offices has required door supervisors for the protection of the public.

### Conclusion

The industry fully supports the development of proportionate and evidenced based regulation, and is committed to minimising the harmful effects of gambling. The ABB is continuing to work closely with the Gambling Commission and the government to further evaluate and build on the measures put in place under the ABB Code for Responsible Gambling, which is mandatory for all our members.

ABB and its members are committed to working closely with both the Gambling Commission and local authorities to continually drive up standards in regulatory compliance in support of the three licensing objectives: to keep crime out of gambling, ensure that gambling is conducted in a fair and open way, and to protect the vulnerable.

Indeed, as set out, we already do this successfully in partnership with local authorities now. This includes through the ABB Code for Responsible Gambling, which is mandatory for all our members, and the Safe Bet Alliance (SBA), which sets voluntary standards across the industry to make shops safer for customers and staff. We would encourage local authorities to engage with us as we continue to develop both these codes of practice which are in direct support of the licensing objectives.

Yours faithfully,



**GOSSCHALKS**

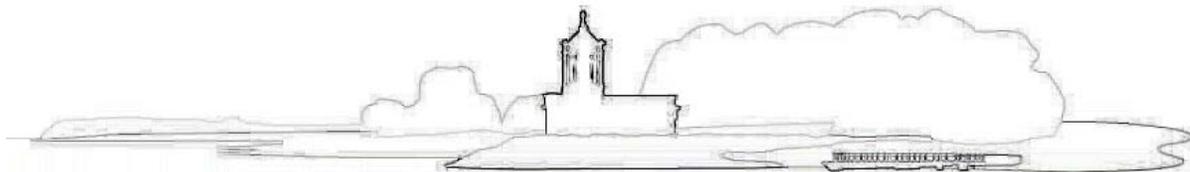


# Rutland County Council

## Gambling Act 2005 Statement of Principles

Version & Policy Number	
Guardian	
Date Produced	
Next Review Date	<a href="#">31 January 2019</a>

Approved by <a href="#">Licensing Committee</a>	
Approved by Full Council	



## **BACKGROUND**

The Gambling Act 2005 (“the Act”) gives effect to the Government’s proposals for reform of the law on gambling. The Act contains a regulatory system to govern the provision of all gambling in Great Britain, other than the National Lottery and spread betting. The Act received Royal Assent on 07 April 2005.

A draft bill was published in November 2003 following a publication of a Government White Paper “A Safe Bet for Success” published in March 2002. The White Paper was the Government’s response to the report of the Gambling Review Body published in July 2001.

The Act introduced a new unified regulator for gambling in Great Britain, the Gambling Commission and a new licensing regime for commercial gambling (to be conducted by the Gambling Commission or by licensing authorities, depending on the matter to be licensed). The Act removed from licensing justices all responsibility for granting gaming and betting permissions, which they exercised previously. Instead, the Gambling Commission and licensing authorities now share between them responsibility for all matters previously regulated by licensing Justices.

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## THE COUNTY OF RUTLAND

Rutland became a Unitary Authority in 1997. Rutland covers a total area of 39,398 hectares. This is mainly an area of mixed farms with small farms predominating. Rutland is a sparsely populated rural County, with a population density is approximately 0.87 people per hectare. Two main market towns, Oakham and Uppingham, plus 50 villages make up the County. There are 37,369 residents according to the 2011 census. Oakham has a population of c.10,500 and Uppingham c.4,000, thus neither are large enough to meet the Government definition of 'a town'. The number of residents from ethnic backgrounds other than white (British) account for less than 2% of the population.

Tourism makes a significant contribution to the local economy within Rutland and provides a major focus for the Service's work. There are estimated to be about two million visitors a year, of those visiting, most are day-trippers.

There are around 1700 businesses operating in Rutland with a majority employing less than 10 people. Small businesses are the norm for Rutland.

Please refer to Appendix 1 for a map of Rutland.

## **DEFINITIONS**

The **Council** means Rutland County Council

The **Licensing Authority** means the Council acting as defined by section 2 of the Gambling Act 2005.

The **Act** means the Gambling Act 2005.

**Members** means Rutland County Councillors

The **Licensing Committee** means the full committee or a subcommittee of no less than three Members.

**Guidance** means the guidance issued under part 2 section 25 of the Gambling Act 2005 by the Gambling Commission in April 2006

**Child** means an individual who is less than 16 years old, as defined in part 4 section 45(1) of the Act.

A **young person** means an individual who is not a child but who is less than 18 years old, as defined in part 4 section 45(2) of the Act.

**LA** means Local Authority.

## **PART A - INTRODUCTION**

### **1. THE LICENSING OBJECTIVES**

- 1.1 The Act sets out licensing functions to be exercised by licensing authorities in relation to the licensing of premises and the grant of certain permits. In exercising most of these functions licensing authorities must have regard to the licensing objectives, which underpin the regulatory regime.

The licensing objectives are:

- Preventing gambling from being a source of crime or disorder, being associated with crime and disorder or being used to support crime,
  - Ensuring that gambling is being conducted in a fair and open way, and
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 1.2 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”.

### **2. STATEMENT OF PRINCIPLES**

- 2.1 The Act requires this licensing authority to publish a ‘Statement of Principles’ that it proposes to apply when exercising its functions. This statement must be published at least every three years and amended from time to time with any amended parts re-consulted upon and subsequently re-published.

### **3. CONSULTATION**

- 3.1 Rutland County Council consulted widely upon this statement before finalising and publishing.
- 3.2 The Gambling Act 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

For a full list of persons this authority consulted please refer to Appendix 2.

- 3.3 The consultation took place between 20 July 2015 and 27 September 2015.

## **4. APPROVAL OF POLICY STATEMENT**

4.1 *This statement was approved at a meeting of the full council on (date to be inserted) and was published via Rutland County Council's website on (date to be inserted).*

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

[Sections 4 to be completed subject to adoption]

## **5. DECLARATION**

5.1 Rutland County Council would like to declare that in producing this Statement 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.

## **6. RESPONSIBLE AUTHORITIES**

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

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

6.2 In accordance with the suggestion in the Gambling Commission's guidance to local authorities this authority designates our Local Safeguarding Children Board for this purpose.

For a full list of the Responsible Authorities in relation to premises please refer to Appendix 3 or alternatively via the council website.

## **7. INTERESTED PARTIES**

7.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence.

7.2 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 this licensing authority the person:

- Lives sufficiently close to the premises to be likely to be affected by the authorised activities;
- Has business interests that might be affected by the authorised activities; or

- Represents persons who satisfy the above.
- 7.3 Licensing authorities are required to state the principles they will apply in exercising their powers under the Act to determine whether a person is an interested party. The principles this authority will apply are:
- 7.4 Each case shall be decided upon its own merits. This authority will not apply a rigid rule to its decision making. It will however consider the following in accordance with the Gambling Commission's guidance for local authorities.
- 7.5 When determining what "sufficiently close to the premises" means (in each case), this authority might include:
- The size of the premises
  - The nature of the premises
  - The distance of the premises from the location of the person making the representation
  - The potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment), and
  - The circumstances of the complainant. This is not the personal characteristics of the complainant, but the interests of the complainant which may be relevant to the distance from the premises. For example, it could be reasonable for an authority to conclude that "sufficiently close to be likely to be affected" could have a different meaning for (a) a private resident (b) a residential school for children with truanting problems and (c) a residential hostel for vulnerable adults.
- 7.6 In relation to "persons with business interests that could be affected" it could be argued that any gambling business could be affected by another gambling business expanding into any part of Great Britain, however that is unlikely to satisfy the test of being "a person with business interests that could be affected by the premises" under consideration. It should be borne in mind however that the "demand test" in the 1963 and 1968 Acts have not been preserved in the Gambling Act 2005, therefore unmet demand is not a criterion for a licensing authority in considering an application.
- 7.7 Factors that this licensing authority is likely to include are:
- The size of the premises;
  - The 'catchment' area of the premises (i.e. how far people travel to visit); and
  - Whether the person making a representation has business interests in that catchment area that might be affected.
- 7.8 The Gambling Commission recommended in its guidance that licensing authorities should state that interested parties include trade associations, trade unions, residents' and tenants' associations. This authority however will not generally view these bodies as interested parties unless they have a member who can be classed as an interested party under the terms of the Act e.g. lives sufficiently close to the premises to be likely to be affected by the activities applied for.

7.9 Interested parties can also be represented by other persons such as their local councillors and Members of Parliament (MP's). There is a burden on ward councillors who are also licensing committee members to avoid beyond doubt any conflict of interest; therefore care should be taken when seeking representation. If there are any doubts please contact the licensing department.

## **8. EXCHANGE OF INFORMATION**

8.1 Licensing authorities are required to include in their statement, the principles to be applied under Section 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 the respect of information between it and the other persons listed in schedule 6 of the Act:

- A Constable or Police Force
- An Enforcement Officer
- A Licensing Authority
- Her Majesty's Commissioners of Customs and Excise
- The Gambling Commission
- The National Lottery Commission
- The Secretary of State
- The Scottish Ministers

8.2 The principle that this licensing authority applies is that it will act in accordance with provisions of the Act in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. This licensing authority shall have regard to the guidance issued by the Gambling Commission as and when it is published on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Act.

8.3 Details of applications and representations which are referred to the Licensing Sub-Committee for determination will be detailed reports that are made publicly available in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000. Personal details of people making representations will be disclosed to applicants and only be withheld from publication on the grounds of personal safety where the Licensing Authority is asked to do so.

8.4 Should any protocols be established as regards information exchange with other bodies then they will be made available. Please contact the licensing team for further information on our protocols.

## **9. ENFORCEMENT**

9.1 Licensing authorities are required by regulation to state the principles they propose to apply 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 instigate criminal proceedings in respect of the offences specified.

- 9.2 The Council follows the principles of the Regulators Code. The Code is based on consistency, transparency and proportionality.
- 9.3 The council proposes, in line with the code that a graduated response is taken where offences against legislation are found or where licence conditions have been contravened. An isolated administrative offence, such as failing to maintain certain records, may be dealt with by way of a written warning. More serious offences may result in a referral to the Licensing Act Committee, the issue of a Formal Caution or a referral for prosecution.
- 9.4 The main enforcement and compliance role of 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 the operating and personal licences. It is also worth noting that concerns about manufacturer, supply or repair of gaming machines will not be dealt with by the licensing authority but will be notified to the Gambling Commission.
- 9.5 The Council will seek to work actively with the Police and Leicestershire Fire and Rescue Service in enforcing licensing legislation and on compliance issues to ensure an efficient deployment of resources.
- 9.6 This licensing authority will endeavour to avoid duplication with other regulatory regimes, so far as is possible and adopt a risk based inspection programme.

## **10 PUBLIC REGISTER**

- 10.1 In accordance with section 156 of the Act, Rutland County Council maintains an electronic public register which contains premises licences issued by the authority. The register is available to view at [www.rutland.gov.uk](http://www.rutland.gov.uk). This information is available for inspection by members of the public at all reasonable times. Further information such as fees can also be found on the website.

## **11. DECISION MAKING / DELEGATION**

- 11.1 A Licensing Panel of three Councillors will sit to hear applications where representations have been received from interested parties and responsible authorities. Ward Councillors will not sit on a Licensing Panel involving an application within their ward.
- 11.2 Where a Councillor who is a member of the Licensing Act Committee is making or has made representations regarding a licence on behalf of an interested party, in the interests of good governance they will disqualify

themselves from any involvement in the decision-making process affecting the licence in question.

- 11.3 The Licensing Act Committee will also refer to the Council any matter it is unable to deal with because of the number of its members who are unable to take part in the consideration or discussion of any matter or vote on any question with respect to it.
- 11.4 Every determination of a licensing decision by the Licensing Act Committee shall be accompanied by clear, cogent reasons for the decision. The decision and the reasons for that decision will be sent to the applicant and those who have made relevant representations as soon as practicable where it will form part of the statutory licensing register required to be kept by the Council.
- 11.5 The Council's Licensing Officers will deal with all other licensing applications where either no representations have been received, or where representations have been received and it is agreed by the parties that a hearing is not necessary.
- 11.6 Decisions as to whether representations are irrelevant, frivolous or vexatious will be made by Council Officers, who will make the decisions on whether representations or applications for licence reviews should be referred to the Licensing Act Committee. Where representations are rejected, the person making that representation will be given written reasons as to why that is the case. There is no right of appeal against a determination that representations are not admissible.
- 11.7 When determining applications this licensing authority will have regard to the guidance issued by the Gambling Commission, any relevant code of practice, this policy and the licensing objectives. Determination of applications made to the licensing authority will be made in accordance with section 153 of the Act.

For a summary of this licensing authorities delegations permitted under the Gambling Act 2005 please refer to Appendix 4.

## 12. LICENSING AUTHORITY FUNCTIONS

12.1 Licensing authorities are required under 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 via issuing **Club Gaming permits** and/or **Club Machine Permits**
- issue **Club Machine Permits to Commercial Clubs**
- grant permits for the use of certain lower stake gaming machines at **Unlicensed Family Entertainment Centres**
- receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- issue **Licensed Premises Gaming Machine Permits** for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- register **Small Society Lotteries** below prescribed thresholds
- issue **Prize Gaming Permits**
- receive and endorse **Temporary Use Notices**
- receive **Occasional Use Notices**
- provide information to the Gambling Commission regarding details of licences issued
- maintain registers of the permits and licences that are issued under these functions
- the exercise of its powers of compliance and enforcement under the Act in partnership with the Gambling Commission and other relevant responsible authorities.

12.2 It should be noted that local licensing authorities will not be involved in licensing remote gambling at all. This will fall to the Gambling Commission via operating licences.

## **PART B - PREMISES LICENCES**

### **13. GENERAL PRINCIPLES**

- 13.1 Premises licences are subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where considered to be appropriate.
- 13.2 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:
- 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

#### **13.3 Definition of “premises”**

- 13.3.1 In the Act, “premises” is defined as including “any place”. Section 152 of the Act prevents more than one premises licence applying to any one place. 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 reasonably be regarded as being different premises. However, this licensing authority will pay particular attention if there are issues about subdivisions of a single building or plot and will ensure that mandatory conditions relating to access between premises are observed.
- 13.3.2 Whether different parts of a building can properly be regarded as being separate premises will always be a question of fact in the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter of discussion between the operator and the licensing officer.
- 13.3.3 The local authority will consider the Gambling Commission's Guidance and all other circumstances of the case in making any decision as to what can properly be regarded as premises.

#### **13.4 Premises “ready for gambling”**

- 13.4.1 The guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future,

consistent with the scale of building or alterations required before the premises are brought into use.

13.4.2 If the construction of a 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.

### 13.5 Location

13.5.1 Demand issues cannot be considered with regards to the location of premises but that considerations in terms of licensing objectives can. This authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.

### 13.6 Duplication with Other Regulatory Regimes

13.6.1 This licensing authority will seek to avoid any duplication with other statutory/regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of any application. The licensing authority will listen to, and consider carefully, any concerns about conditions which cannot be met by licensees due to planning restrictions, should such a situation arise.

### 13.7 Integrating Strategies

13.7.1 There are many stakeholders involved in the Leisure industry and many are involved in the promotion of the licensing objectives. A number of stakeholders' plans and strategies deal with matters related to the licensing function. Where this is the case, the Council will aim, as far as possible, to co-ordinate them.

13.7.2 The Council recognises in particular the importance of the co-ordination and integration of the Gambling policy with other plans aimed at the management of town centres and the night-time economy.

### 13.8 Licensing Objectives

13.8.1 Premises licences granted must be reasonably consistent with the licensing objectives, this licensing authority has considered the Gambling Commission's guidance to local authorities and some comments are made below.

13.8.2 **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** – This licensing authority is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. The Gambling Commission's guidance does however envisage that licensing authorities should pay particular attention to the proposed location of gambling premises in terms of

this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located in such areas and whether conditions may be suitable such as the provision of door supervisors.

13.8.3 This licensing authority has noted the Gambling Commissions guidance where it states that licensing authorities should generally consider disorder as activity that is more serious and disruptive than mere nuisance.

13.8.4 Applicants are encouraged to discuss the crime prevention procedures in their premises with the Council's Licensing Officers and Leicestershire Constabulary before making a formal application.

**13.8.5 Ensuring that gambling is conducted in a fair and open way** – This licensing authority has noted that the Gambling Commission has stated that it would generally not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. Further guidance on this issue may be provided by the Gambling Commission and if so this authority will have regard to it, when available.

**13.8.6 Protecting children and other vulnerable persons from being harmed or exploited by gambling** – This licensing authority has noted that Gambling Commission guidance states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children).

13.8.7 The Council will work with licensees to ensure advertising on premises is such t that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children.

13.8.8 The Council will consult with the Leicestershire and Rutland Safeguarding Children Board on any application that indicates there may be concerns over access for children or vulnerable persons

13.8.9 The Council will judge the merits of each separate application before deciding whether to impose conditions to protect children on particular categories of premises. This may include such requirements as:-

- Supervision of entrances;
- Segregation of gambling areas from areas frequented by children;
- Supervision of gaming machines in non-adult gambling specific premises

13.8.10 There is no definition of 'vulnerable person' and it is noted that the Gambling Commission are not seeking to offer one, but this could include 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. Should a practical definition prove possible in future then this statement will be updated with it, by way of a revision.

This licensing authority will consider this licensing objective on a case by case basis.

## 13.9 Conditions

13.9.1 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

13.9.2 Decisions upon individual conditions will be made on a case by case basis, although there are a number of measures this licensing authority may consider using should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. This licensing authority will also expect the licence applicant to offer his/her own suggestions as to ways in which they can meet the licensing objectives effectively.

13.9.3 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 supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's guidance.

13.9.4 This authority will also ensure where necessary and deemed appropriate that where category C or above machines are on offer in premises to which children are admitted:

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

13.9.5 As the licensing authority we note that there are conditions which we are unable to attach to premises licences, these are:

- any condition on the premises licence which makes it impossible to comply with an operating licence condition
- conditions relating to gaming machine categories, numbers, or method of operation
- conditions which provide that a membership of a club or body be required for casino and bingo clubs (the Act specifically removed the membership requirement)
- conditions in relation to stakes, fees, winning or prizes

13.9.6 This licensing authority may consider a need for door supervisors in terms of the licensing objectives for protection of children and vulnerable persons and preventing premises becoming a source of crime or disorder. Door supervisors at casinos or bingo premises are exempt from the requirements of the Private Security Industry Act 2001. Where this authority imposes door supervision requirements on such licences, the personnel will not need licensing under the 2001 Act. This authority may however consider imposing the requirement of a Criminal Record Bureau check on door supervisors, by way of a condition on a licence.

13.9.7 For premises other than casinos and bingo premises, operators and licensing authorities may decide that supervision of entrances / machines is appropriate for particular cases but it will need to be decided whether these shall be SIA licensed or not. It will not be automatically assumed that they shall be.

## **13.10 Risk Assessments**

13.10.1 Under new social responsibility code provisions from April 2016 licensees are required to undertake a local risk assessment when applying for a new premises licence. Their risk assessment must also be updated:

- When applying for a variation of a premises licence
- To take into account of significant changes in local circumstances, including those identified in a licensing authority's statement of policy
- When there are significant changes at a licensee's premises that may affect their mitigation of local risks.

## **13.11 Local Area Profiles**

13.11.1 Such risk assessments can make reference to the council's Area Profile which may be compiled with respect to reported gambling-related problems in an area. At the time of preparing this edition of the Statement of Principles there has been no evidence presented to support the assertion that any part of Rutland County Council had or is experiencing problems from gambling activities. This position will be kept under review.

## **14. ADULT GAMING CENTRES**

- 14.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to address these issues.
- 14.2 This licensing authority will expect applicants to offer their own measures to meet licensing objectives however appropriate measures / licence conditions may cover issues such as:
- proof of age schemes
  - CCTV
  - supervision of entrances / machine areas
  - physical separation
  - location of entry
  - notices / signage
  - 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.

- 14.3 The question of sub-division of such premises has become an issue and been the subject of Gambling Commission Guidance. There must be no direct entry from one adult gaming centre into another. This Authority will take note of the guidance issued in respect of such applications.

## **15. LICENSED FAMILY ENTERTAINMENT CENTRES**

- 15.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, ensure that under 18 year olds do not have access to the adult only gaming machine areas.
- 15.2 This licensing authority will expect applicants to offer their own measures to meet licensing objectives however appropriate measures / licence conditions may cover issues such as:
- notices / signage
  - physical separation of areas
  - CCTV
  - supervision of entrances / machine areas
  - specific opening hours
  - self-barring schemes
  - provision of information leaflets / helpline numbers for organisations such as GamCare
  - suspected child truancy handling training

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

- 15.3 This licensing authority will, as per the Gambling Commission's guidance, refer to the Gambling 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.

For a full list of machine categories please refer to appendix 5.

## **16. CASINOS**

- 16.1 This authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the powers to do so. Should this authority decide in the future to pass such a resolution, it will update this statement with details of that resolution. Any such decision would need to be made by full council.

## **17. BETTING PREMISES**

- 17.1 **Betting machines** - This licensing authority will, as per the Gambling Commission's guidance, take into account the size the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.
- 17.2 There is no evidence that the operation of betting offices has required door supervisors for the protection of the public. This 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 the door supervision is both necessary and proportionate.

## **18. TRACKS**

- 18.1 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.
- 18.2 This licensing 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.

18.3 Applicants will be expected to offer their own measures to meet the licensing objectives however appropriate measures / licence conditions may cover issues such as:

- proof of age schemes
- location of gaming machines
- supervision of entrances / machine areas
- notices / signage
- 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.

18.4 **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 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. We will also take note of the Gambling Commission's suggestion that licensing authorities will want to consider restricting the number and location of such machines in respect of applications for track betting premises licences.

18.5 **Condition on rules being displayed** - The Gambling Commission has advised in its guidance for local authorities that "...licensing authorities should attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office."

18.6 **Applications and plans** – The Gambling Act 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 judgement about whether the premises are fit for gambling.

The Gambling Commission's suggestion "To ensure that licensing authorities gain a proper understanding of what they are being asked to license they should, in their licensing policies, set out the information that they will require, which should include detailed plans for the racetrack itself and the area that will be used for temporary "on-course" betting facilities (often known as the "betting ring") and in the case of dog tracks and horse racecourses fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed

gambling facilities." and that "Plans should make clear what is being sought for authorisation under the track betting premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence."

- 18.7 This authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the "five times rule" (commonly known as betting rings) must be indicated on the plan.
- 18.8 In rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined.

## **19. BINGO PREMISES**

- 19.1 This licensing authority notes that the Gambling Commission's guidance states:
- 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.
- 19.2 This licensing authority must satisfy itself that bingo can be played in any bingo premises for which a premises licence has been issued. 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.
- 19.3 This authority also notes the Guidance at paragraph 18.8 regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted.

## **20. TRAVELLING FAIRS**

- 20.1 It will fall to this licensing authority to decide whether, where category D machines and / or equal chance 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. This licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

20.2 It has been noted that the 27-day statutory maximum for 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. This licensing authority will work with its neighbouring authorities to ensure that land which crosses its boundaries is monitored so that the statutory limits are not exceeded.

## **21. PROVISIONAL STATEMENTS**

21.1 Developers may wish to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

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:

- expect to be constructed;
- expects to be altered; or
- expects to acquire a right to occupy.

21.2 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired.

21.3 In terms of representations about premise 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, this 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 licence stage; or
- which in the authority's opinion reflect a change in the operator's circumstances

## **22. REVIEWS**

22.1 Requests for a review of a premise licence can be made by interested parties or responsible authorities; however, it is for this licensing authority to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below

- in accordance with any relevant code of practice issued by the Gambling Commission;

- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the authorities statement of principles.

The request for the review will also be subject to the consideration by the authority as to whether the request 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.

- 22.2 This licensing authority can also initiate a review of a licence on the basis of any reason which it considers is appropriate.
- 22.3 Once a valid application for a review has been received, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by 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 making representations has passed.
- 22.4 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:-
- a) add remove or amend a licence condition imposed by the licensing authority;
  - b) exclude a default condition imposed by the Secretary of State (e.g. opening hours) or amend such an exclusion;
  - c) suspend the premises licence for a period not exceeding three months; and/or
  - d) 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.

- 22.5 In particular, the licensing authority may 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 - PERMITS / REGISTRATIONS / NOTICES**

### **23. UNLICENSED FAMILY ENTERTAINMENT CENTRE GAMING MACHINE PERMITS**

- 23.1 Where a premises does not hold a premises licence but wishes to provide category D gaming machines, it may apply to this 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.
- 23.2 This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children and other vulnerable persons from harm. Harm in this context is not limited to harm from gambling but includes wider protection considerations. The efficiency of such policies and procedures will each be considered on their own 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.
- 23.3 This licensing authority will expect that applicants demonstrate a full understanding of the licensing objectives as well as the maximum stakes and prizes of the gambling that is permissible in Unlicensed Family Entertainment Centres; that the applicant has no relevant convictions and that staff are trained to have a full understanding of the maximum stakes and prizes.

### **24. (ALCOHOL) LICENSED PREMISES GAMING MACHINE PERMITS**

- 24.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have two gaming machines, of category C and / or D. To take advantage of this entitlement, the person who holds the on-premises licence must give notice to this licensing authority of their intention to make gaming machines available for use, and must pay the prescribed fee.
- 24.2 This licensing authority can remove the automatic authorisation in respect of any particular premises if:
- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives
  - gaming has taken place on the premises that breaches a condition of Section 282 of the Gambling Act (i.e. that written notice has 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 Act has been committed on the premises
- 24.3 If a premises wishes to have more than two machines, an application for a permit is required and this licensing authority shall consider that application based upon

the licensing objectives, any guidance issued by the Gambling Commission under Section 25 of the Act, and “such matters as they think relevant”. This 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 being harmed or exploited by gambling and will 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. Such measures may include:

- adult machines being in site of bar
- notices / signage

24.4 It should 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.

24.5 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 Gaming Centre premises licence.

24.6 Where an application is received for more than 19 gambling machines in alcohol licensed premises Officers will have the discretion to arrange a hearing for members to consider the application.

24.7 It should be noted that this licensing authority can decide to grant the application with a smaller number of machines and / or different category of machines than applied for. Conditions (other than these) cannot be attached.

## **25. PRIZE GAMING PERMITS**

25.1 This licensing authority can grant or refuse an application for a permit, but cannot add conditions. This licensing authority can only grant an application for a permit if it has consulted with the chief officer of police about the application. This licensing authority will take into account any objections that the police may make which are relevant to the licensing objectives. Relevant considerations would be the suitability of the applicant in terms of any convictions that they may have that would make them unsuitable to operate prize gaming; and the suitability of the premises in relation to their location and issues about disorder.

25.2 Given that the premises will particularly appeal to children and young persons, in considering what to take into account in the application process and what information to request from the applicant, this licensing authority will give weight to child protection issues. Applicants will be required to set out the types of gaming that he or she is intending to offer and 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.

25.3 The licensing authority will determine each application on its own merits.

*(The Council as a licensing authority has the remit to set its own criteria for the above statement of principles on permits – the principles as set out above reflect the general issues considered to be most relevant by a number of other licensing authorities)*

25.4 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's guidance.

25.5 It should be noted that there are conditions in the Gambling Act 2005 to which the permit holder must comply, but that the licensing authority cannot attach conditions. The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

## **26. CLUB GAMING AND CLUB GAMING MACHINE PERMITS**

26.1 Members Clubs and Miners' Welfare Institutes (but **not** Commercial Clubs) may apply for a Club Gaming Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines, of which one may be a category B3A, the others being of categories B4, C or D), equal chance gaming and games of chance as prescribed in regulations.

26.2 Members Clubs and Miner's welfare institutes – and also Commercial Clubs – may apply for a Club Machine Permit. A Club Machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D). NB Commercial Clubs may not site category B3A gaming machines offering lottery games in their club.

26.3 Members clubs must have at least 25 members and be established and conducted 'wholly or mainly' for the purposes other than gaming, unless the gaming is permitted by separate regulations. A members club must be

permanent in nature, not established to make commercial profit, and controlled by its members equally.

- 26.4 This licensing authority is aware that it 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
  - an objection has been lodged by the Gambling Commission or the police.
- 26.5 There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

## **27 SMALL SOCIETY LOTTERIES**

- 27.1 Under the Gambling Act 2005, a lottery is unlawful unless it runs under an operating licence or is an exempt lottery. This Licensing Authority will register and administer small society lotteries as defined under the Act. Promoting or facilitating a lottery will fall into two categories:
- Licensed Lotteries (requiring an operating licence from the Gambling Commission)
  - Exempt Lotteries (including small society lotteries registered with Rutland County Council)
- 27.2 Exempt lotteries are lotteries permitted to run without a licence from the Gambling Commission and are defined as:
- Small society lotteries;
  - Incidental non-commercial lotteries;
  - Private lotteries;
  - Private society lottery;
  - Work lottery;
  - Residents' lottery;
  - Customers' lottery.

Advice regarding the definitions of the above exempt lotteries is available from the Gambling Commission website:

## **28. TEMPORARY USE NOTICES**

- 28.1 A Temporary Use Notice (TUN) allows the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for facilities for gambling. A Temporary Use Notice may only be granted to a person or company holding a relevant operating licence issued by the Gambling Commission.
- 28.2 The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of revising this Statement the relevant regulations state that Temporary Use Notices can only be used to permit the provision of facilities of equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.
- 28.3 There are a number of statutory limits as regards Temporary Use Notices. It is noted that it falls to licensing authorities to decide what constitutes a 'set of premises' where TUN's are received relating to the same building / site.
- 28.4 This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Local Authorities.

## **29. OCCASIONAL USE NOTICES**

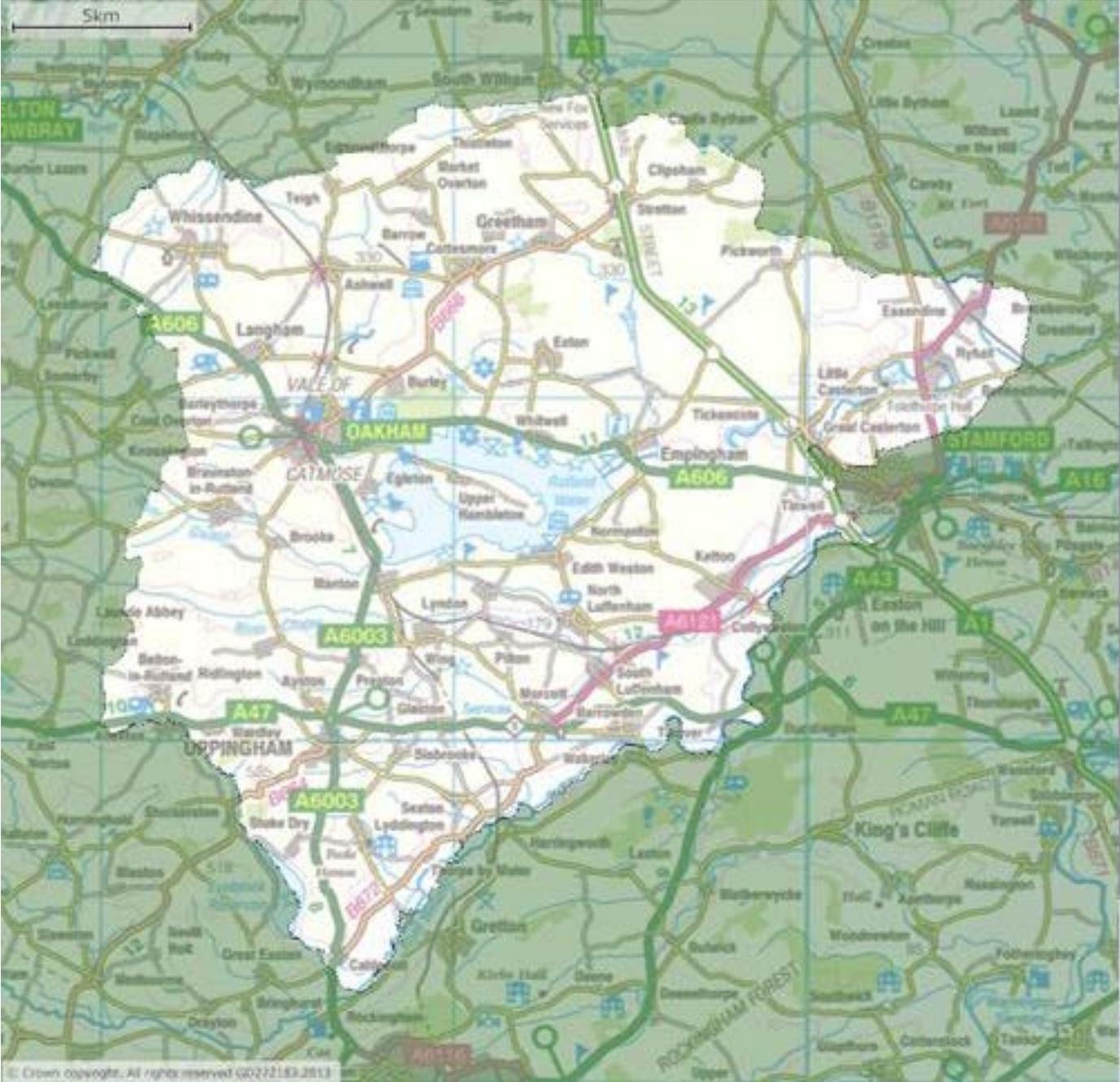
- 29.1 This licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself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

## **30. ADDITIONAL INFORMATION**

Further information on the application process, application forms and applicable fees can be found at [www.rutland.gov.uk](http://www.rutland.gov.uk)

APPENDIX 1

MAP OF RUTLAND



## **APPENDIX 2**

### **LIST OF CONSULTEE'S**

The Gambling Act requires that the following parties are consulted by Licensing Authorities:

#### **Responsible Authorities**

- The Licensing Authority
- Leicestershire Constabulary – the chief officer of police
- Gambling Commission
- Leicestershire Fire & Rescue Service
- Rutland County Council – Planning Control
- Local Safeguarding Children Board
- Environment Agency
- HM Revenue & Customs

**One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area. The authority has therefore consulted:**

- Ketton Sports Association
- British Beer and Pub Association
- British Bookmakers Trade Association
- British Amusement Catering Trade Association
- All local Gambling Act 2005 Licence/Permit/Registration Holders (through the Council website).

**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:**

- Ward & Parish Councillors
- GamCare
- All residents and businesses within the Rutland County area (through the Council website)

## APPENDIX 3

### **GAMBLING ACT 2005** **RESPONSIBLE AUTHORITIES CONTACT DETAILS**

#### **THE RESPONSIBLE AUTHORITIES:**

<b>Licensing Team:</b>	The Licensing Team Catmose Oakham Rutland LE15 6HP <a href="mailto:licensing@rutland.gov.uk">licensing@rutland.gov.uk</a>
<b>The Gambling Commission:</b>	Victoria Square House Victoria Square Birmingham B2 4BP Tel: 0121 230 6500 Fax: 0121 237 2236 Email: <a href="mailto:info@gamblingcommission.gov.uk">info@gamblingcommission.gov.uk</a>
<b>Leicestershire Constabulary:</b>	Licensing Department Leicestershire Constabulary Mansfield House 74 Belgrave Gate Leicester LE1 3GG
<b>Fire Authority:</b>	Leicestershire Fire & Rescue Service LFRS Headquarters 12 Geoff Monk Way Birstall Leicester LE4 3BU
<b>Pollution Control:</b>	Pollution Control Rutland County Council Catmose Oakham Rutland LE15 6HP

**Planning:**

Head of Planning & Development Control  
Rutland County Council  
Catmose  
Oakham  
Rutland  
LE15 6HP

**HM Revenue & Customs:**

National Registration Unit  
Portcullis House  
21 India House  
Glasgow  
G2 4PZ

**Safeguarding Children Board:**

Safeguarding Service Manager  
Rutland County Council  
Catmose  
Oakham  
Rutland  
LE15 6HP

## APPENDIX 4

Summary of licensing authority delegations permitted under the Gambling Act 2005.

Matter to be dealt with	Full Council	Sub-committee of licensing committee	Officers
Final approval of three year licensing policy	X		
Policy not to permit casinos	X		
Fee setting (when appropriate)			X
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premise licence		X	
Application for club gaming/club machine permits		Where objections have been made (and not withdrawn)	Where no objections made/objections have been withdrawn
Cancellation of club gaming/club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give counter notice to temporary use notice		X	

## APPENDIX 5

Section 236 of the Act provides for the Secretary of State to make regulations to define four classes of gaming machine: categories A, B, C and D, with category B to be further divided into sub-categories.

The below table sets out the current proposals for the different categories with the maximum stakes and prizes that apply (please note the below information is subject to change upon regulations being set).

Category of Machine	Maximum Stake	Maximum Prize
A	Unlimited	Unlimited
B1	£5	£10,000 <sup>1</sup>
B2	£100	£500
B3	£2	£500
B3A	£2	£500
B4	£2	£400
C	£1	£100
D Non-money prize (other than a crane grab machine or a coin pusher or penny falls machine)	30p	£8
D Non money prize (crane grab machine)	£1	£50
D Money prize (other than a coin pusher or penny falls)	10p	£5
D Combined money and non-money prize (other than a coin pusher or penny falls machine)	10p	£8 (of which no more than £5 may be money prize)
D Combined money and non-money prize (coin pusher or penny falls machine)	20p	£20 (of which no more than £10 may be a money prize)

<sup>1</sup> with the option of a maximum £20,000 linked progressive jackpot on a premises basis only

**A large print version of this document is available on request**



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County Council

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