



FYLDE BOROUGH COUNCIL



Meeting Agenda

**Licensing Committee
Town Hall, St. Annes
Wednesday 30 September 2009,
14:00pm**

Membership Licensing Committee

CHAIRMAN - Councillor Angela Jacques

VICE-CHAIRMAN – Councillor Dawn Prestwich

Councillors

Brenda Ackers	Christine Akeroyd
Elizabeth Clarkson	Barbara Douglas
Susan Fazackerley	Angela Jacques
Keith Beckett	Lyndsay Greening
Peter Hardy	Ken Hopwood
Tony Ford	John Davis
Janine Owen	

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Licensing Objectives

Fylde Borough Council will carry out its functions under the Licensing Act 2003 with a view to promoting the licensing objectives.

The licensing objectives are:

- 1. The prevention of crime and disorder;**
- 2. Public safety;**
- 3. The prevention of public nuisance; and**
- 4. The protection of children from harm.**

In carrying out its licensing functions, Fylde Borough Council must also have regard to:

- 1. Our licensing statement published under section 5 of the Licensing Act, and**
- 2. Any guidance issued by the Secretary of State under section 182 of the Licensing Act**



A G E N D A

PART I - MATTERS DELEGATED TO COMMITTEE

ITEM	PAGE
1. DECLARATIONS OF INTEREST: <i>If a member requires advice on Declarations of Interest he/she is advised to contact the Monitoring Officer in advance of the meeting. (For the assistance of Members an extract from the Councils Code of Conduct is attached).</i>	4
2. CONFIRMATION OF MINUTES: <i>To confirm as a correct record the Minutes of the Licensing Committee held on 24 January 2008 (appended at the back of the agenda)</i>	4
3. SUBSTITUTE MEMBERS: <i>Details of any substitute members notified in accordance with council procedure rule 25.3</i>	4
4. LICENSING ACT 2003 – DISAPPLICATION OF A MANDATORY CONDITION FOR COMMUNITY PREMISES	7 – 12
5. MINOR VARIATIONS – LICENSING ACT 2003	13 – 24
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Personal interests

8.—(1) You have a personal interest in any business of your authority where either—

(a) it relates to or is likely to affect—

- (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
- (ii) any body—
 - (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),

of which you are a member or in a position of general control or management;

- (i) any employment or business carried on by you;
 - (ii) any person or body who employs or has appointed you;
 - (iii) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
 - (iv) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
 - (v) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);
 - (vi) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
 - (vii) any land in your authority's area in which you have a beneficial interest;
 - (viii) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;
 - (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward, as the case may be, affected by the decision;

(2) In sub-paragraph (1)(b), a relevant person is—

- (a) a member of your family or any person with whom you have a close association; or
- (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors;
- (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

Disclosure of personal interests

- 9.—**(1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- (3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.

- (5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.
- (6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- (7) In this paragraph, "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000(d).

Prejudicial interest generally

- 10.—**(1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- (2) You do not have a prejudicial interest in any business of the authority where that business—
- (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
 - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
 - (c) relates to the functions of your authority in respect of—
 - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
 - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
 - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
 - (iv) an allowance, payment or indemnity given to members;
 - (v) any ceremonial honour given to members; and
 - (vi) setting council tax or a precept under the Local Government Finance Act 1992.

Prejudicial interests arising in relation to overview and scrutiny committees

- 11.—** You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—
- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
 - (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

Effect of prejudicial interests on participation

- 12.—**(1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority—
- (a) you must withdraw from the room or chamber where a meeting considering the business is being held—
 - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;
 - (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;
 unless you have obtained a dispensation from your authority's standards committee;
 - (b) you must not exercise executive functions in relation to that business; and
 - (c) you must not seek improperly to influence a decision about that business.
- (2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

REPORT



REPORT OF	MEETING	DATE	ITEM NO
COMMUNITY SERVICES DIRECTORATE	LICENSING COMMITTEE	30 TH SEPTEMBER 2009	4

LICENSING ACT 2003 – DISAPPLICATION OF A MANDATORY CONDITION FOR COMMUNITY PREMISES

Public

This item is for consideration in the public part of the meeting.

Summary

The purpose of the report is to inform members of the changes to the Licensing Act 2003 brought about by the Legislative Reform (Supervision of Alcohol Sales in Church Halls) Order 2009.

It is also sought to amend the Statement of Licensing Policy to reflect the procedure introduced by the order.

Recommendation/s

1. To recommend to Council the amendment to the Statement of Licensing Policy to reflect the use of an alternative licence condition in replacement of the mandatory conditions specified in 19(2) and 19(3) of the Licensing Act 2003 introduced by the Legislative Reform Order (Supervision of Alcohol Sales in Church and Village Halls) Order 2009.
2. That the replacement of the mandatory condition with the alternative condition be delegated to the Director of Community Services except where there are Police objections.

Cabinet Portfolio

The item falls within the following Cabinet portfolio:

Community and Social Wellbeing:

Councillor Cheryl Little

Continued....

Report

1 The Licensing Act 2003 lies down, in section 19, mandatory conditions to be added to premises licences that authorise the sale or supply of alcohol. These conditions are:

- No supply of alcohol may be made under the premises licence :-
at a time when there is no designated premises supervisor in respect of the premises licence, or
at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

2 This means that currently every community premises whose premises licence authorises the sale or supply of alcohol must appoint a designated premises supervisor (DPS) who has the benefit of a personal licence and that every sale of alcohol needs to be authorised by a personal licence holder.

3 A Community Premises is defined as a premises which is or forms part of a church hall, chapel hall or similar building or a village hall, parish hall, community hall or similar building.

4 The Government have decided to allow community premises to apply to for an alternative condition to be added to their premises licence instead of the mandatory conditions in 1 above.

5 The alternative condition is as follows:

- That every supply of alcohol under the licence must be made or authorised by the management committee.

6 The effect of this alternative condition is that community premises need no longer have a DPS and the sale of alcohol does not need to be supervised by a personal licence holder. When making such applications the management committee of the premises should, however, make it clear how they will ensure that alcohol is sold in compliance with the Licensing Act.

7 This alternative condition can only be requested where the licence holder is the management committee of the community premises.

8 The alternative condition can be requested when new applications are made or when a variation under s 34 is applied for. Alternatively where community premises already have a premises licence and wish to disapply the mandatory conditions and replace them with the alternative condition an application can be made to the licensing authority.

9 The procedure is identical to that already in place to change the DPS. That is a copy of the application is sent to the police who have the option to make representations against the proposal if they feel that it will have an adverse effect on the prevention of crime and disorder licensing objective. A fee of £23 is made for such applications.

- 10** Where a representation is made by the police a hearing must be held to determine the application.
- 11** If at any time after the mandatory conditions are disapplied, the premises licence is brought before the Licensing Committee for a review then Members have the power to reinstate the mandatory conditions.
- 11** As stated earlier the new procedure for dealing with applications for the mandatory conditions to be disapplied is similar to that for the change of a DPS. Under the current delegations for that variation the decision to allow the change is made by officers where there are no representations from the police. Where representations are made then the application is determined at a hearing before the Licensing Committee.
- 5.2** It is proposed that the same delegation should be adopted where applications are made to replace the mandatory conditions with the alternative condition.
- 5.3** The current Fylde Borough Council Statement of Licensing Policy contains at section 36 & 37 information on designated premises supervisors and the authorisation of the sale of alcohol. The table of delegations within the Policy also the delegations for various functions under the Act. In the light of the changes brought about by the introduction of the new legislation these parts of the policy require slight modifications as indicated in Appendix 1 of the report.

IMPLICATIONS	
Finance	The fee for the disapplication of the mandatory conditions is set at £23. Most community premises in the Borough have premises licences which do not authorise the supply of alcohol and therefore very few applications are anticipated.
Legal	This is a statutory function and failure to make responsive changes prompted by the legislative reform of the Licensing Act 2003 may leave the Council open to legal challenge.
Community Safety	It is not anticipated that these changes will have any effect of community safety
Human Rights and Equalities	None arising directly from the report.
Sustainability	None arising directly from the report.
Health & Safety and Risk Management	. This change in legislation carries very low risk to the Council as the police have the right to make representations and the changes can be reversed should a review of the licence take place.

Report Author	Tel	Date	Doc ID
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Chris Hambly	(01253) 658422	15 th September 2009	
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List of Background Papers		
Name of document	Date	Where available for inspection
Fylde Borough Council Statement of Licensing Policy	January 2008	www.fylde.gov.uk or Town Hall

Attached documents

Appendix 1	Amendment to Paragraphs 36 and 37 and appendix 2 of Fylde Borough Council's Licensing Policy 2008/2011
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APPENDIX 1

36. DESIGNATED PREMISES SUPERVISOR (DPS)

36.1 The holder of a premises licence must nominate a personal licence holder as a Designated Premises Supervisor except where in the case of a community premises the mandatory licence conditions in s 19 have been disapplied. The Designated Premises Supervisor will then be responsible for the day to day running of the premises. Whilst it is not essential for the Designated Premises Supervisor to be at the premises the whole time that alcohol is being sold, they should visit the premises regularly and be able to attend the premises in the case of an emergency.

36.2 Where the Designated Premises Supervisor is not available at the premises for whatever reason, an individual should be nominated as a point of contact who will have details of where the Designated Premises Supervisor can be contacted.

36.3 The statutory guidance indicates that a Designated Premises Supervisor may supervise more than one premise. To do so, however, they must be able to ensure that the four licensing objectives are properly promoted and that all the premises supervised comply with licensing law and licence conditions. The licensing authority accepts that, whilst this may be achieved in respect of a small number of relatively closely located shops or off-licences, it would be more difficult to demonstrate where a DPS intended to supervise a number of large pubs or nightclubs with little or no geographic proximity.

37. AUTHORISATION FOR SALE OF ALCOHOL

37.1 The sale of alcohol can only take place if it is authorised by a personal licence holder unless in the case of a community premises the mandatory licence conditions in s 19 have been disapplied. However, the fact that every supply of alcohol must be made under the authority of a personal licence holder does not mean that only personal licence holders can make such sales or that they must be personally present at every transaction. A personal licence holder may authorise others to sell alcohol under their supervision and may then occasionally be absent at times from the premises when such a transaction takes place. Such authorisations should be given in writing and only to those persons who have been given sufficient training to ensure that the four licensing objectives are not compromised. The personal licence holder will, nevertheless, not be able to escape responsibility for the actions of those he authorises to make such sales. At least one personal licence holder would normally be expected to be on the premises when alcohol is being sold but if a personal licence holder is not on the premises for any reason, provision should be made for the immediate contact of the personal licence holder or Designated Premises Supervisor in the event of an emergency

Table of Delegations in respect of the Licensing Functions

Matter to be dealt with	Full Committee/ Sub Committee	Officer Delegation
Application for personal licence	If the applicant has unspent convictions and police representations have been made	All other cases
Application for Premises Licence/Club Premises Certificate	If a representation made	If no representation made
Application for provisional statement	If a representation made	If no representation made
Application to vary Premises Licence/Club Premises Certificate	If a representation made	If no representation made
Application to vary Designated Premises Supervisor	If a police representation made	All other cases
Request to be removed as Designated Premises Supervisor		All cases
Minor Variation Applications		All cases
Applications to disapply the mandatory conditions	If a police representation is made	All other cases
Application for transfer of Premises Licence	If a police representation made	All other cases
Applications for Interim authority	If a police representation made	All other cases
Application to review Premises Licence/Club Premises Certificate	All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious etc		All cases
Decision to object when local authority is a consultee and not the lead authority		All cases
Determination of a police representation to a temporary event notice	All cases	
Decision as to whether to withhold some or all of an interested party's personal details from the applicant.		All cases

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REPORT



REPORT OF	MEETING	DATE	ITEM NO
COMMUNITY SERVICES DIRECTORATE	LICENSING COMMITTEE	30 TH SEPTEMBER 2009	5

MINOR VARIATIONS - LICENSING ACT 2003

Public

This item is for consideration in the public part of the meeting.

Summary

The purpose of the report is to inform members of the changes to the Licensing Act 2003 brought about by the Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009.

It is also sought to amend the Statement of Licensing Policy to reflect the minor variation procedure introduced by the order.

Recommendation/s

1. To recommend to Council an amendment to the Statement of Licensing Policy to reflect the minor variation introduced by the Legislative Reform Order (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009.
2. That the determination of minor variation applications under the Licensing Act 2003 be delegated to the Director of Community Services.

Cabinet Portfolio

The item falls within the following Cabinet portfolio:

Community and Social Wellbeing:

Councillor Cheryl Little

Report

- 1 Prior to this new legislation any variation to the conditions attached to a premises licence, no matter how small, required a procedure that was similar to an application for a new licence. The exception to this was where the variation was to change the designated premises supervisor or to change the name or address of someone named on the licence which only needed to follow a simplified procedure.
- 2 The new order introduces a simplified process for the variation of a premises licence for the following types of changes as long as they do not adversely impact on the licensing objectives:
 - Minor changes to the structure or layout of the premises
 - Small adjustments to the licensing hours
 - Removal of out of date or unenforceable conditions
 - Adding certain licensable activities including live music.
- 3 The new minor variation procedure does not require an advertisement in the press but does require an advertisement on the premises for the reduced period of 10 working days.
- 4 It will not be a requirement for the applicant to send a copy of the application to the Responsible Authorities but the Licensing Authority must consult with any of the Responsible Authorities they feel appropriate if they are in any doubt about the impact of the variation on the licensing objectives.
- 5 Interested parties can make representations within 10 working days but under the minor variation procedure there is no right to a hearing before the Committee.
- 6 In considering applications for minor variations the licensing authorities must consider whether the proposals will have an adverse impact on the licensing objectives. If they believe that they will then the application must be refused. In determining this, the Authority must take account of any representations from those responsible authorities consulted and any interested parties. As stated earlier, however, there is no requirement to hold a hearing before the Licensing Committee even if representations are made.
- 7 The fee for a minor variation is not dependant on the rateable value of the premises as is the case with a full variation but is a flat rate of £89.
- 8 A decision to grant or refuse an application for a minor variation must be made within 15 working days of the application. If a decision is not made within this time it is deemed to be refused and the fee must be returned to the applicant.
- 9 The DCMS have amended the guidance issued under s182 of the Act to take account of the new minor variation procedure and a copy of the amended section is attached as Appendix 1.
- 10 This guidance indicates the circumstances where it will be appropriate to use the minor variation procedure and where it will not be. If it is considered by the Licensing Authority that the intended variation may impact adversely on the licensing objectives the application should be refused and a recommendation that the full variation procedure be followed.

- 11 The Licensing Act 2003 requires licensing Authorities to prepare and from time to time review a statement of licensing policy. This policy must be reviewed every 3 years.
- 12 The Act also requires that during each 3 year period, a licensing authority should keep its policy under review and make such revisions to it, at such times as it considers appropriate.
- 13 The current Fylde Borough Council Licensing Policy was adopted in January 2008 and contains, at section15, information on the variation of premises licences and a list of delegations for various functions under the Act. In the light of the changes brought about by the introduction of the minor variation procedures these sections require modification as indicated in Appendix 2 of this report.
- 14 The DCMS guidance attached at Appendix 1 recommends that decisions on minor variation applications be delegated to officers (paragraph 8.36). This advice reflects the fact that there are no rights to hearings and the need to determine applications within 15 working days.
- 15 It is therefore requested that the determination of minor variations be delegated to the Director of Community Services.

IMPLICATIONS	
Finance	The fee for a minor variation is less than that for a full variation which is dependant on the rateable value within the range £100 to £365. As minor variation will be used in circumstances that would previously have required a full variation some loss of income will be experienced however this should not impact significantly on the cost of the service.
Legal	This is a statutory function and failure to make responsive changes prompted by the legislative reform of the Licensing Act 2003 may leave the Council open to legal challenge.
Community Safety	As minor variations will only be granted where there is not considered to be an impact on the public safety licensing objective, there should be no community safety issues
Human Rights and Equalities	None arising directly from the report.
Sustainability	None arising directly from the report.
Health & Safety and Risk Management	None arising directly from the report.

Report Author	Tel	Date	Doc ID
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Chris Hambly	(01253) 658422	2 nd September 2009	
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List of Background Papers		
Name of document	Date	Where available for inspection
Fylde Borough Council Statement of Licensing Policy	January 2008	www.fylde.gov.uk or Town Hall

Attached documents

Appendix 1	Guidance from DCMS on minor variation issued under s 182 Licensing Act 2003
Appendix 2	Amendment to Paragraph 15 and appendix 2 of Fylde Borough Council's Licensing Policy 2008/2011

Part 1: A simplified process for minor variations to premises licences and club premises certificates

[Chapter 8: Applications For Premises Licences]

VARIATIONS

Introduction

8.33 This Guidance revises and replaces the Guidance on variations of premises licences published on 28 June 2007*. Where a premises licence holder wishes to amend the licence the Act allows, in most cases, for an application to vary to be made rather than requiring an application for a new premises licence. The process to be followed will depend on the nature of the variation and its potential impact on the licensing objectives.

Changes of name and address/ Designated Premises Supervisor

8.34 There are simplified processes for making applications in the following cases: a change of the name or address of someone named in the licence (section 33); an application to vary the licence to specify a new individual as the designated premises supervisor (section 37); an application in relation to a licence in respect of community premises that authorises the sale of alcohol to disapply the mandatory conditions concerning the supervision of alcohol sales by a personal licence holder and the need for a Designated Premises Supervisor who holds a personal licence (sections 25A and 41D); an application for minor variation of a premises licence (sections 41A to 41C).

Minor variations process

8.35 The Licensing Act 2003 has been amended by the insertion of sections 41A to 41C relating to minor variations. These sections were commenced on 29 July 2009. Small variations that will not impact adversely on the licensing objectives are subject to a simplified 'minor variations' process. Under this process, the applicant is not required to advertise the variation in a newspaper or circular or copy it to responsible authorities. However, they must display it on a white notice (to distinguish it from the blue notice used for full variations and new applications). The notice must comply with the requirements set out in regulation 26A of the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 (SI 2005/42). In

* http://www.culture.gov.uk/reference_library/publications/3667.aspx

accordance with those Regulations, the notice must be displayed for a period of ten working days starting on the working day after the minor variation application was given to the licensing authority.

- 8.36 On receipt of an application for a minor variation, the licensing authority must consider whether the variation could impact adversely on the licensing objectives. The Government recommends that decisions on minor variations should be delegated to licensing officers.
- 8.37 In considering the application, the licensing authority must consult relevant responsible authorities if there is any doubt about the impact of the variation on the licensing objectives and they need specialist advice, and take their views into account in reaching a decision. For instance, they may need to consult the environmental health officer on an application with possible public nuisance implications. But there is no requirement to consult all responsible authorities on each application and in many cases the licensing authority may be able to make a decision without consultation.
- 8.38 The licensing authority must also consider any relevant representations received from interested parties within the time limit referred to below. As stated earlier in this Guidance, representations are only relevant if they clearly relate to the likely effect of the grant of the variation on the promotion of at least one of the licensing objectives. In the case of minor variations, there is no right to a hearing (as for a full variation or new application), but licensing authorities must take any representations into account in arriving at a decision.
- 8.39 Interested parties have ten working days from the 'initial day', i.e., the day after the application is received by the licensing authority, to submit representations. The licensing authority must therefore wait until this period has elapsed before determining the application, but must do so at the latest within 15 working days, beginning on the first working day after the authority received the application, with effect either that:
- the minor variation is granted; or,
 - the application is refused.
- 8.40 If the licensing authority fails to respond to the applicant within 15 working days (see section 193 of the Act for the definition of working day) the application will be treated as refused and the authority must return the fee to the applicant forthwith. However, the licensing authority and the applicant may agree instead that the undetermined application should be treated as a new application and that the fee originally submitted will be treated as a fee for the new application.
- 8.41 Where an application is refused and is then re-submitted through the full variation process, the full 28 days notification period will apply from the date the new application is received and applicants should advertise the application and copy it to all responsible authorities (in accordance with the regulations applicable to full variations).
- 8.42 Minor variations will generally fall into four categories: minor changes to the structure or layout of a premises; small adjustments to licensing hours; the removal of out of date, irrelevant or unenforceable conditions or addition of volunteered conditions; and the addition of certain licensable activities. **In all cases the overall test is whether the proposed variation could impact adversely on any of the four licensing objectives.**

Changes to structure/layout

- 8.43 Many small variations to layout will have no adverse impact on the licensing objectives. However, changes to layout should be referred to the full variation process if they could potentially have an adverse impact on the promotion of the licensing objectives, for example by:

- increasing the capacity for drinking on the premises ;
- affecting access between the public part of the premises and the rest of the premises or the street or public way, e.g. block emergency exits or routes to emergency exits;
- impeding the effective operation of a noise reduction measure such as an acoustic lobby;

8.44 Licensing authorities will also need to consider the combined effect of a series of applications for successive small layout changes (for example, as part of a rolling refurbishment of a premises) which in themselves may not be significant, but which cumulatively may impact adversely on the licensing objectives. This emphasises the importance of having an up to date copy of the premises plan available.

8.45 An application to remove a licensable activity should normally be approved as a minor variation.

8.46 Variations to add the sale by retail or supply of alcohol to a licence are excluded from the minor variations process and must be treated as full variations in all cases.

8.47 The Act covers a wide range of other licensable activities and licensing authorities will need to consider each application on a case by case basis and in light of any licence conditions put forward by the applicant.

8.48 For example, the addition of live or recorded music to a licence may impact on the public nuisance objective, but this will depend on many factors. Licensing authorities will need to consider factors such as proximity to residential areas and any noise reduction conditions volunteered by the applicant. It is very much the Government's intention that applications to vary a licence for live music should benefit from the minor variations process unless there is likely to be an adverse impact on the licensing objectives.

8.49 Similarly, in some circumstances, the addition of other types of regulated entertainment, such as the performance of plays or exhibition of films, to a licence may have no adverse impact on the licensing objectives.

8.50 In considering applications to add licensable activities, licensing authorities and officers may find it helpful to consider the following factors:

- the nature of the licensable activity;
- proximity of the premises to residential areas;
- any licence conditions volunteered by the applicant to mitigate the impact of the activity;
- whether alcohol is sold at the premises when the licensable activity is taking place; and whether it will continue to be sold during the extended period. For example, a pub that applies to stay open an extra hour after the sale of alcohol has ended to sell hot drink and food could be considered to benefit the promotion of the licensing objectives;
- track record of the premises – whether positive or negative. For example, any complaints or enforcement action related to the licensing objectives, or conversely any evidence of good practice in carrying on the licensable activity, e.g. under temporary event notices;

- proximity and density of public houses, nightclubs, etc. if customers from these premises are likely to be attracted to the proposed licensable activity in large numbers. For example, people visiting a takeaway after leaving a public house.

This is not an exhaustive list and licensing officers should bring their own experience and knowledge of licensing to bear when considering applications.

Licensing hours

8.51 Variations to:

- extend licensing hours for the sale or supply of alcohol for consumption on or off the premises between the hours of 23.00 and 07.00; or
- to increase the amount of time on any day during which alcohol may be sold or supplied for consumption on or off the premises

are **excluded** from the minor variations process and must be treated as full variations in all cases. Applications to reduce licensing hours for the sale or supply of alcohol or to or move (without increasing) the licensed hours between 07.00 and 23.00 will normally be processed as minor variations.

8.52 Applications to vary the time during which other licensable activities take place should be considered on a case by case basis with reference to the likely impact on the licensing objectives. In arriving at a decision, licensing authorities may wish to consider the following factors:

- the nature of the licensable activity;
- the extent of additional hours sought and whether it will involve later opening or opening between 23.00 and 07.00;
- proximity of the premises to residential areas;
- any licence conditions already in place to mitigate the impact of the activity; any additional conditions volunteered by the applicant;
- arrangements for dispersal, i.e. when people leave the premises is there potential for noise and disturbance near the venue? Is the only means of dispersal a single route through residential areas?
- whether the proposed extension applies only on the weekend or also during week days;
- whether there will be new admittances during that period;
- track record of the establishment whether positive or negative, e.g. complaints related to the licensing objectives, any enforcement action or conversely any evidence of good practice in carrying on the licensable activity, e.g. under temporary event notices;
- whether the premises is already open during the extended period for other licensable activities;
- proximity and density of public houses, nightclubs, etc. if customers from these premises are likely to be attracted to the proposed licensable activity in large numbers. For example, people visiting a takeaway after leaving a public house.

8.53 These factors are not an exhaustive list and licensing authorities and officers should bring their own experience and knowledge of licensing to bear when considering applications.

Licensing conditions

a) Imposed conditions

8.54 Licensing authorities cannot impose their own conditions on the licence through the minor variations process. If the licensing officer considers that the proposed variation would impact adversely on the licensing objectives unless conditions are imposed, they should refuse it.

b) Volunteered conditions

8.55 Applicants may volunteer conditions as part of the minor application process. These conditions may arise from their own risk assessment of the variation, or from informal discussions with responsible authorities or the licensing authority.

8.56 For instance, there may be circumstances when the licence holder and a responsible authority such as the police or environmental health authority, agree that a new condition should be added to the licence. For example, that a nightclub adds the provision of late night refreshment to its licence to ensure a longer period of dispersal. Such a change would not normally impact adversely on the licensing objectives and could be expected to promote them by preventing crime and disorder or public nuisance. In these circumstances, the minor variation process may provide a less costly and onerous means of amending the licence than a review, with no risk to the licensing objectives. However, this route should only be used where the agreed variations are minor and the licensee and the responsible authority have come to a genuine agreement. The licensing authority should be alive to any attempts to pressure licensees into agreeing to new conditions where there is no evidence of a problem at the premises and, if there is any doubt, should discuss this with the relevant parties.

c) Amending or removing existing conditions

8.57 Licence or club certificate conditions will normally have been volunteered or imposed to mitigate any possible adverse impact on the licensing objectives. In most cases therefore, any application to remove or change the wording of a condition should be treated as a full variation.

8.58 However, there may be some circumstances when the minor variation process is appropriate. Premises may change over time and the circumstances that originally led to the condition being attached or volunteered may no longer apply. For example, there may be no need for door supervision if a bar has been converted into a restaurant. Equally some embedded conditions may no longer apply.

8.59 Changes in legislation may invalidate certain conditions. For instance, the recent Regulatory Reform (Fire Safety) Order 2005 annulled all fire safety related conditions imposed on licences purely for fire safety reasons. Although the conditions do not have to be removed from the licence, licensees and licensing authorities may agree that this is desirable to clarify the licensee's legal obligations.

8.60 There may also be cases where it is necessary to revise the wording of a condition that is unclear and/or unenforceable. This would be acceptable as a minor variation as long as the purpose of the condition and its intended effect remain unchanged. Such a change could be expected to promote the licensing objectives by making it easier for the licensee to understand and comply with the condition and easier for the licensing authority to enforce it.

Full variations process

- 8.61 Any other changes to the licence require an application to vary under section 34 of the Act.
- 8.62 Licensing authorities will wish to consider whether there is any likely impact on the promotion of the licensing objectives in deciding whether there is a need for an application to vary in relation to features which are not required to be shown on the plan under section 17 of the Act, but have nevertheless been included, for example, moveable furniture (altering the position of tables and chairs) or beer gardens (installation of a smoking shelter that will not affect the use of exits or escape routes).
- 8.63 However, it should be noted that a section 34 application cannot be used to vary a licence so as to:
- extend a time limited licence; or to
 - transfer the licence from one premises to another.
- 8.64 If an applicant wishes to make these types of changes to the premises licence they should make a new premises licence application under section 17 of the Licensing Act 2003.

[Chapter 6: Club Premises Certificates]

- 6.11 The arrangements for applying for or seeking to vary club premises certificates are extremely similar to those for a premises licence. Clubs may also use the minor variation process to make small changes to their certificates as long as these could have no adverse impact on the licensing objectives. Licensing authorities should refer to Chapter 8 of this Guidance on the handling of such applications. In that Chapter most of the references to the premises licence, premises licence holders, and applicants can be read for the purposes of this Chapter as club premises certificates, qualifying clubs and club applicants.

15 VARIATIONS

15.1 Where a premises licence holder wishes to make changes to their licence or to their premises, the Act allows, in most cases, for an application to vary the licence to be made rather than requiring an application for a new premises licence. The licensing authority considers that, in general, any changes to the licence which may impact on one or more of the licensing objectives require an application under section 34 of the Act.

15.2 The Act does, however, allow for a simplified procedure for varying a licence where the changes do not have a detrimental effect on the licensing objectives. These are:

- Changes to the name or address of anyone mentioned on the licence
- Variations to specify a new individual as the designated premises supervisor
- To disapply the mandatory condition requiring the sale of alcohol to be carried out under the authority of a personal licence holder and the need to have a designated premises supervisor in community premises.
- Minor variations which do not impact on the licensing objectives

15.3 Minor variations can include the following:

- Minor changes to the structure or layout of a premises
- Small adjustments to the licensing hours
- The removal of out of date irrelevant or unenforceable conditions
- Adding certain licensable activities including live music.

15.4 Changes to the structure of the premises will not fall within the definition of a minor variation if they have an adverse impact on the licensing objectives. For example:

- If it increases the capacity for drinking on the premises;
- Affects access between the public part of the premises and the rest of the premises or the street or public way e.g. block emergency exits or routes to emergency exits;
- Impedes the effective operation of a noise reduction measure such as an acoustic lobby.

15.5 The following alterations to licensing hours are excluded from the minor variation procedures:

- Extending licensing hours for the sale of alcohol for consumption on or off the premises between the hours of 23.00 and 07.00; or
- To increase the amount of time on any day during which alcohol may be sold or supplied for consumption off or on the premises.

APPENDIX 3

Table of Delegations in respect of the Licensing Functions

Matter to be dealt with	Full Committee/ Sub Committee	Officer Delegation
Application for personal licence	If the applicant has unspent convictions and police representations have been made	All other cases
Application for Premises Licence/Club Premises Certificate	If a representation made	If no representation made
Application for provisional statement	If a representation made	If no representation made
Application to vary Premises Licence/Club Premises Certificate	If a representation made	If no representation made
Application to vary Designated Premises Supervisor	If a police representation made	All other cases
Request to be removed as Designated Premises Supervisor		All cases
Minor Variation Applications		All cases
Applications to disapply the mandatory conditions	If a police representation is made	All other cases
Application for transfer of Premises Licence	If a police representation made	All other cases
Applications for Interim authority	If a police representation made	All other cases
Application to review Premises Licence/Club Premises Certificate	All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious etc		All cases
Decision to object when local authority is a consultee and not the lead authority		All cases
Determination of a police representation to a temporary event notice	All cases	
Decision as to whether to withhold some or all of an interested party's personal details from the applicant.		All cases

REPORT

REPORT OF	MEETING	DATE	ITEM NO
COMMUNITY SERVICES DIRECTORATE	LICENSING COMMITTEE	30 th SEPTEMBER 2009	6

REVISED GAMBLING POLICY – 2010-2013

Public Item

This item is for consideration in the public part of the meeting.

Summary

To present members with the draft revised Gambling Policy Statement and inform them of the ongoing consultation.

Recommendation/s

That the Committee note the contents of the report and recommend the draft Policy for approval subject to any alterations following the consultation period and approval of Full Council.

To delegate to the Director of Community Services the authority to make any technical and drafting amendments following the consultation period.

The item falls within the following Portfolio Holders Brief:

Community & Social Wellbeing

Councillor Cheryl Little

Report

1. The Gambling Act received Royal Assent in April 2005 and consolidates regulation of casinos, bingo, gaming machines, lotteries, betting and remote gambling in one Act.
2. The Act established the Gambling Commission which has responsibility for advising both central and local government on issues relating to Gambling. In addition, the Gambling Commission has responsibility for issuing Operating Licences and Personal Licences to organisations and individuals who wish to undertake certain activities under the Act.

3. Fylde Borough Council has responsibility under the Act to issue premises licences, permits and temporary use notices in respect of premises where it is proposed that gambling should take place. Additionally, the Authority continues to be responsible for the registration of Small Society Lotteries.
4. Members will be aware that under the Act the Council, as Licensing Authority, is required to produce a policy every 3 years setting out how it intends to implement the Act. The first revision of the Policy presents the opportunity to incorporate and clarify any alterations and interpretational issues of the legislation and guidance from the Gambling Commission.
5. S25 of the Gambling Act requires the Gambling Commission to issue Guidance to Licensing Authorities on the discharge of functions under the Act. The Guidance was originally issued in April 2006 and deals primarily with matters intended to assist the Licensing Authorities in the development of Gambling Policy.
6. The Guidance has been subject to several revisions, the latest being in May 2009 following emerging issues since the implementation of the Act. This Guidance sets out the principles that must be applied by the Licensing Authority in exercising its functions under the Act.
7. The draft revised Gambling Policy was issued for consultation on the 3rd August 2009 and the final date for any comments to the proposals is the 15th October 2009.
8. The Act requires the Council to consult with various groups before the Policy is determined as follows:
 - the chief officer of police for the authority's area
 - 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 this Act
9. In respect of paragraph 8 above, the consultation has included the following organisations:
 - Lancashire Constabulary
 - The Fire Authority
 - Representatives of businesses and residents in the borough
 - Representatives of persons representing the interests of persons carrying on gambling businesses in the borough
 - Fylde Community Safety Partnership
 - Local licensing solicitors
 - Representatives of child welfare groups
 - Town and Parish Councils
 - Youth organisations
 - Gambling industry organisations and associations
 - Gambler support organisations
 - Faith groups

8. The purpose of this report is to highlight the changes to the Policy and seek the approval of the Licensing Committee so that the revised policy may be finally approved by a meeting of the Full Council on the 23rd November 2009.
9. Prior to being considered by Full Council it is also intended to submit the revised Policy to the Policy Improvement Scrutiny Committee followed by Cabinet on the 11th November 2009.
10. As Members may acknowledge, the timescales for the approval of the Policy are relatively restrictive and it therefore asked that the Committee approve the revised Policy subject to any consultation responses received. It is also asked that the approval of any amendments to the Policy following the conclusion of the consultation period is delegated to the Director of Community Services.

IMPLICATIONS	
Finance	Any costs from the revision to the Policy and consultation will be met from existing budgets/
Legal	None arising directly from the report.
Community Safety	None arising directly from the report.
Human Rights and Equalities	None arising directly from the report.
Sustainability	None arising directly from the report.
Health & Safety and Risk Management	None arising directly from the report.

Report Author	Tel	Date	Doc ID
Chris Hambly	(01253) 658422	15 th September 2009	

List of Background Papers			
Name of document	Date	Where available for inspection	
Gambling Commission Guidance to Local Authorities	May 2009	Licensing Office, Town Hall, St Annes and www.fylde.gov.uk/licensing	

Attached documents

Revised Gambling Policy Statement

Summary of Alterations/Updates



FYLDE BOROUGH COUNCIL



GAMBLING ACT 2005

Gambling Policy Statement

2010 - 2013 for Consultation

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Fylde BOROUGH COUNCIL Gambling Policy Statement

1. BACKGROUND

- 1.1 The Gambling Act 2005 (The Act) gave effect to the Government's proposals for the reform of the law on gambling. The Act, which received royal assent on the 7 April 2005, replaces most of the existing law about gambling in Great Britain and puts in place an improved, more comprehensive structure of gambling regulation covering practically all forms of gambling other than the national Lottery and spread betting.
- 1.2 One of the primary reasons for overhauling gambling regulation in the UK was the fact that so much of the existing legislation was out of date, particularly in light of advances in technology in recent years. The aim of this the new legislation is, therefore, to create a new framework of controls which are, as far as possible, flexible and can easily be applied to new technologies and future ways of providing services.
- 1.3 The Act introduces two comprehensive offences which are:-
 - providing facilities for gambling or
 - using premises for gambling without the appropriate licence, permit, or registration granted under the Act.
- 1.4 The Act introduces a new independent unified regulator for commercial gambling in Great Britain, the Gambling Commission (which takes over from the existing Gaming Board), and a new licensing regime to be operated by the commission or by licensing authorities depending on the matter to be licensed.
- 1.5 The Act also puts in place a strong role for local authorities in licensing gambling premises in their area, as well undertaking functions in relation to lower stake gaming machines.
- 1.6 Local authorities, as Licensing Authorities, will grant premises licenses for: casinos, betting offices and race tracks, bingo clubs, adult gaming centres and family entertainment centres. They will also issue permits for: gaming machines in members' clubs and licensed premises, gaming in members' clubs, prize gaming and unlicensed family entertainment centres. The issuing of temporary use notices and provisional statements (permission issued before a building is built or altered for the purpose of gambling) will also be the responsibility of Licensing Authorities. The Authority will also be responsible for the issue of occasional use notices at tracks.
- 1.7 A new system has also been introduced that will authorise premises that are not generally licensed for gambling purposes to be used for gambling for limited periods.
- 1.8 The Gambling Act 2005 requires the Council to prepare and publish a "Statement of Licensing Policy" that sets out the policies that the Council will generally apply to promote the Licensing Objectives when making decisions on applications made under the Act.

2 THE LICENSING OBJECTIVES

2.1 In exercising most of their functions under the Gambling Act 2005, licensing Authorities must have regard to the licensing objectives as set out in section 1 of the Act namely:-

- 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")

3 INTRODUCTION

3.1 General

3.1.1 The Gambling Act 2005 requires the Licensing Authority to determine a statement of the principles that they proposed to apply when exercising their functions under the Act. Those who may be affected by it must be consulted as part of the process. This statement must be published at least every three years and must also be reviewed from "time to time". Any amended parts must be re-consulted upon. The statement must then be re-published.

3.1.2 This "Gambling Policy Statement" in respect of the Gambling Act 2005 has been prepared having regard to the licensing objectives of the Gambling Act 2005 listed in paragraph 2.1 above and the Guidance issued by the Gambling Commission.

3.1.3 The Council recognises that gambling is a legitimate pastime of many of the residents of Fylde but also understands the problems that can be caused by debt as a result of gambling. It is therefore necessary to ensure that the necessary safeguards are in place to protect the young and vulnerable. It will, accordingly, regulate gambling in the public interest but is aware that, as per Section 153 of the Act, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it considers that it is:-

- in accordance with any codes 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 this Gambling Policy Statement

3.1.4 This Gambling Policy Statement will not override the right of any person to make an application, make representations about an application, or to 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. Nothing in this Gambling Policy Statement will detract from the principle that every application will be determined on the merits of the particular case.

3.1.5 This policy will be considered for adoption by the Full Council at its meeting on the 23rd November 2009.

3.2 Types of Licence

3.2.1 This document sets out the policies that this Licensing Authority will apply when making decisions upon applications or notifications made for:-

1. Premises Licences;
2. Temporary Use Notices;
3. Permits as required under the Act;
4. Registrations as required under the Act.

3.3 Licensable Premises and Permits

3.3.1 This policy relates to all those licensable premises, notices, permits and registrations identified as falling within the provisions of the Act, including:-

1. Casinos;
2. Bingo Premises;
3. Betting Premises;
4. Tracks;
5. Adult Gaming Centres;
6. Family Entertainment Centres;
7. Club Gaming Permits;
8. Prize Gaming and Prize Gaming Permits;
9. Temporary Use Notices;
10. Registration of small society lotteries.

3.3.2 This policy does not address remote gambling as this is entirely controlled by the Gambling Commission. Remote gambling means gambling not associated with a premises such as internet gambling.

3.4 Licensing Authority Functions

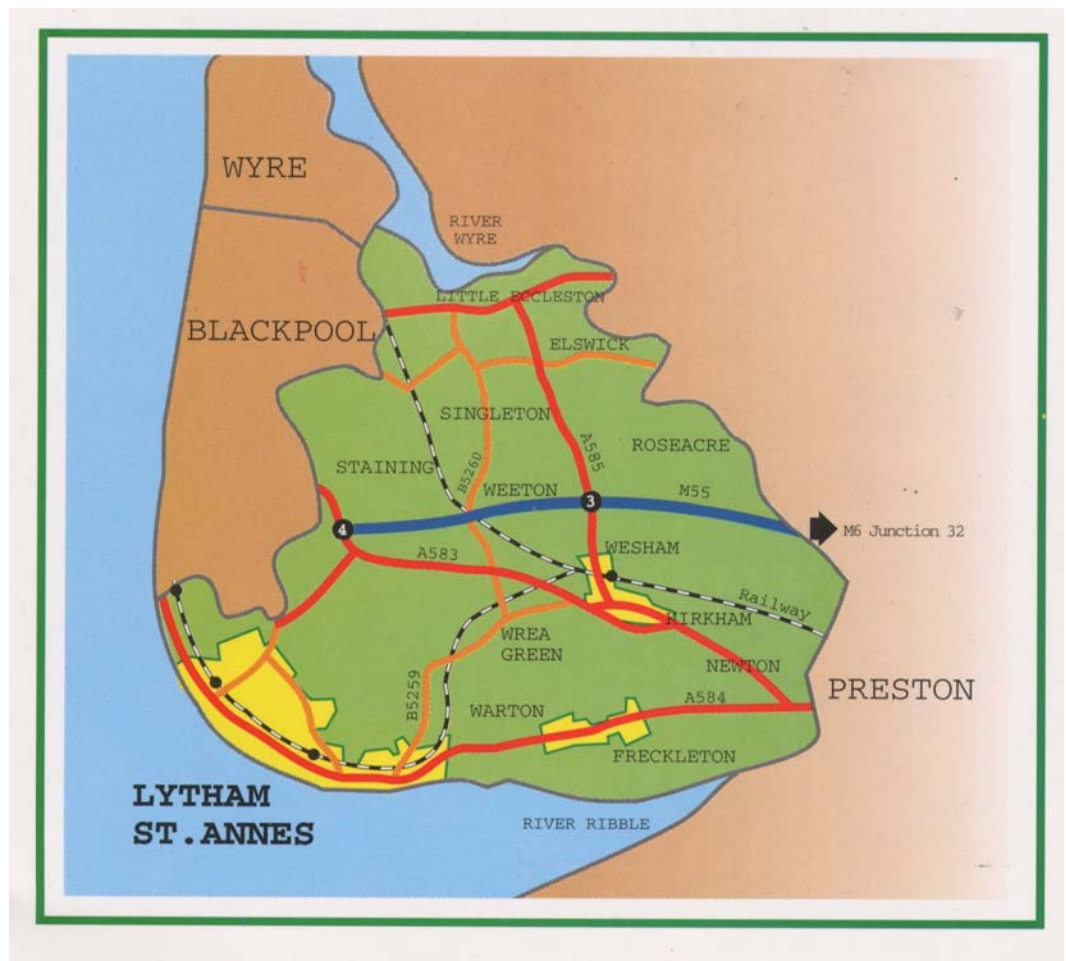
3.4.1 This policy covers all the functions of the Licensing Authority which include:-

- Responsibility for the licensing of premises where gambling activities take place by issuing premises licences
- Issue of Provisional Statements
- Regulation of members clubs and miners welfare institutions who may wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue of Club Machine Permits to Commercial Clubs
- Granting of permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
- Receiving notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of not more than two gaming machines
- Granting of Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the premises where two or more machines are required
- Registering small society lotteries
- Issuing Prize Gaming Permits
- Receiving and endorsing Temporary Use notices
- Receiving Occasional Use notices
- Providing information to the Gambling Commission regarding details of licences issued
- Maintaining registers of the permits and licences that are issued under these functions

3.5 Profile of the Authority

3.5.1 Fylde Borough Council is a coastal borough situated in the County of Lancashire, which contains 12 District Councils in total. The Council area has a population of 73,217 (2001 Census). This is expected to rise to 77,300 by 2010 with fewer children and more people over the age of 65. A large proportion of the area is rural in nature. The main towns within the borough are the resorts of Lytham and St Annes. Further inland the borough contains smaller urban areas at Wesham, Kirkham, Freckleton and Warton. It has a geographical area of 166 square km. Fylde is a reasonably affluent area, ranking 251st out of 354 English authorities, based on the government's indices of multiple deprivation.

3.5.2



3.5.3 The main concentrations of premises in the district providing any form of gambling and indeed the sale of alcohol, can be found in the town centres of St Annes, Lytham and the market town of Kirkham. As of Summer 2009, there is one casino in the Borough which is located within St Annes and 2 Bingo Halls both of which are located within a large holiday centre on the Blackpool boundary. Eight betting shops are located in the area with 3 each in St Annes and Kirkham, one in Lytham and one in Wesham. There are 8 amusement arcades associated with the holiday trade mostly located on holiday centres or complexes, caravan sites or on the pier at St. Annes. At present around 60 pubs and 20 clubs have permits for gaming machines.

3.6 Consultation

3.6.1 There are a number of groups that have a stake in the gambling industry, including providers, customers, residents and enforcers, all of whom have views and concerns that require consideration. In determining this policy, the authority consulted widely and in particular with the following individuals and organisations:

- The Chief Officer of Police
- The Fire Authority
- Representatives of businesses and residents in the borough
- Representatives of persons representing the interests of persons carrying on gambling businesses in the borough
- Fylde Community Safety Partnership
- Local licensing solicitors
- Representatives of child welfare groups
- Town and Parish Councils
- Youth organisations
- Gambling industry organisations and associations
- Gambler support organisations
- Faith groups

3.6.2 Proper weight will be given to the views of all those consulted prior to this Gambling Policy Statement being finalised and taking effect.

4 DUPLICATION WITH OTHER REGULATORY REGIMES ETC.

4.1 Legislation

4.1.1 In undertaking its licensing function under the Gambling Act 2005, this authority is also bound by other legislation, including:-

1. Section 17 of the Crime and Disorder Act 1988;
2. Human Rights Act 1998;
3. Health and Safety at Work Act 1974;
4. Environmental Protection Act 1990;
5. The Anti-Social Behaviour Act 2003;
6. The Race Relations Act 1976 (as amended);

4.1.2 The intention of this policy is not to duplicate other legislation or regulatory regimes. Every effort will be made to avoid any duplication with other statutory / regulatory systems that already place obligations on employers and operators, including planning. Whilst it will not consider whether a licence application is likely to be awarded planning or building consent, it will listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

4.1.3 No account will be taken as to whether buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and will not form part of considerations for the premises licence.

4.2 Human Rights

4.2.1 The Human Rights Act 1998 incorporated the European Convention on Human rights and makes it unlawful for a local authority to act in a way, which is incompatible with a Convention right. This Authority will have particular regard to the following relevant provisions in determining licence applications:

Article 1 - of the First Protocol that every person is entitled to a peaceful enjoyment of his or her possessions

Article 6 - In the determination of civil rights and obligations everyone is entitled to a fair public hearing within a reasonable time by an independent and impartial tribunal established by law

Article 8 - That everyone has the right to respect for his home and family life

Article 10 - Right to freedom of expression.

4.3 Discrimination

4.3.1 In undertaking its licensing function, the Council will have due regard to the need to eliminate unlawful discrimination and to promote equality and good relations between persons of all diversity groups in accordance with the Councils Equality and Diversity Policy.

5 EXCHANGE OF INFORMATION

- 5.1 In fulfilling its functions and obligations under the Gambling Act 2005 this Licensing Authority will exchange information which it holds with other regulatory bodies including the Gambling Commission. In doing so it will have regard to any Guidance issued by the Gambling Commission on this matter as well as to any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005. Should any protocols be established relating to information exchange with other bodies then they will be made available.
- 5.2 The Gambling Commission will, similarly, provide to the Licensing Authority any information it holds for use in the exercise of the Authority's functions under the Act.
- 5.3 The Licensing Authority is required to maintain a register of the premises licences that it has issued. This register will be made available at any reasonable time to members of the public. Details of the availability of the register will be advertised on the Council's website. Copies of entries in the register may be taken subject to a reasonable charge being made.
- 5.4 The exchange of information will be in full compliance with the requirements of the Data Protection Act and freedom of information legislation in accordance with the Council's existing policies.
- 5.5 Details of those persons making representations will be made available to applicants to allow for negotiation and, in the event of a hearing being held, will form part of a public document. Anyone making representations or applying for the review of a premises licence will be informed that their details will be disclosed.

6 PREMISES LICENCES

- 6.1 Premises Licences will be subject to the permissions/restrictions set-out in the Gambling Act 2005 and regulations made thereunder, as well as to specific mandatory and default conditions detailed in the regulations. This Authority may exclude default conditions and also attach others, where it believes it to be appropriate.
- 6.2 **Demand for Premises**
- 6.2.1 This Licensing Authority will not take into account whether or not there is a demand for gambling premises when considering applications for premises licences. It also recognises that moral objections to gambling are not a valid reason to reject applications for premises licences.
- 6.3 **Definition of Premises**
- 6.3.1 The Gambling Act prohibits more than one premises licence applying to single premises. The term premise is defined in the Act as "any place" and therefore it is possible for a single building to consist of more than one premises providing that the different parts of the building can reasonably be considered as separate premises. Every application will be judged on its merits but in general the authority will consider a single building to be single premises unless it can be shown that the parts are truly separate. Examples of this are where different floors of a building are distant and separate or where shopping centres have discrete trading units.

- 6.3.2** The Authority will not support the artificial separation of premises by temporary or artificial means where it is believed that the purpose of such separation is to circumvent the intention of the Act to limit the number of gaming machines allowable at that particular type of premises. The Authority will expect all separations between different premises to be clearly defined permanent structures.
- 6.3.3** In determining whether two or more proposed premises are truly separate, the Authority will take into account the following:
- Are the different parts subject to separate business rates?
 - Are the different parts of the premises in the same ownership?
 - Can each of the premises be accessed from the street or a public passageway?
 - Can the premises only be accessed from other gambling premises?
- 6.3.4** The proper application of section 152 of the Act also means that, with the single exemption of tracks (i.e. a horse-race course, dog track or other premises where races or sporting events take place), different premises licences cannot apply in respect of a single premises at different times. There is no temporal element to a premises licence. Therefore, premises will not, for example, be licensed as a bingo hall on week days and a betting shop at weekends.
- 6.3.5** In considering applications for multiple licences for a building or for a discrete part of a building used for other non gambling purposes the Authority will be aware of the following:
- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from being in close proximity to gambling. Therefore the Authority will expect the premises to be configured so that children are not invited to participate in, have accidental access to, or closely observe gambling where they are prohibited from participating.
 - Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not drift into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
 - Customers should be able to participate in the activity named on the premises licence.
- 6.3.6** The Authority will expect that any premises licensed for a particular activity such as betting or bingo will provide that activity as the primary gambling activity and any gaming machines authorised to be provided under this licence should be subsidiary to this main activity.
- 6.3.7** Applicants will need to be aware that they 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 can now take place. A licence to use premises for gambling will, accordingly, only be issued in relation to premises that are ready to be used for gambling. This authority agrees with the Gambling Commission that it is a question of fact and degree whether premises are finished to a degree that can be considered for a premises licence. By requiring the building to be complete, the authority can, ensure that it and other responsible authorities with inspection rights may, if necessary, inspect it fully.

6.4 Location of Premises

- 6.4.1** This Licensing Authority is aware that demand issues cannot be considered with regard to the location of premises and will only consider the location of premises in the context of the licensing objectives. It 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.
- 6.4.2** Likewise when an application for premises close to a school or other building holding vulnerable people or to a centre for gambling addicts is received the Licensing Authority will have to be satisfied that protecting children and vulnerable persons can be met.
- 6.4.3** Should any specific policy be decided upon as regards areas where gambling premises should not be located, this Gambling Policy Statement will be updated. It should be noted that any such policy would not preclude any application being made and each application will always be decided on its merits, with the onus upon the applicant showing how the concerns can be overcome.

6.5 Achieving the Licensing Objectives

- 6.5.1** Decisions taken by this Licensing Authority and premises licences granted will, as far as possible, be consistent with the three licensing objectives detailed above at 2.1 and in accordance with any guidance issued to local authorities by the Gambling Commission. Specific policy issues in respect of each of the licensing objectives are set out below.

(i) *Preventing Crime and Disorder*

- 6.5.2** Where an application is received for a premises licence in an area which has high levels of organised crime or a history of crime and disorder the Licensing Authority will pay particular attention to the proposed location of the gambling premises in terms of this licensing objective and may decide to attach additional conditions such as the employment of door staff.
- 6.5.3** This Licensing Authority is aware of the distinction between disorder and nuisance and will only seek to address issues of disorder under the Act if the disorder amounts to activity that is more serious and disruptive than mere nuisance. A disturbance could be serious enough to constitute disorder if police assistance was required to deal with it. Another factor the Authority is likely to take into account is how threatening the behaviour was to those who could see or hear it, whether those people live sufficiently close to be affected or have business interests that might be affected.
- 6.5.4** The Gambling Commission has powers to make enquiries and investigate those who are involved in the control of a company or the provision of gambling. In considering applications for operating and personal licences the commission has stated it will take a serious view of any offences involving dishonesty committed by applicants or persons relevant to the application.
- 6.5.5** As it is a requirement for any applicant for a premises licence to also hold an operators licence, this Authority will not investigate the suitability of an applicant. However, if any information becomes apparent during the course of the processing of application which causes concern, the details will be forwarded to the Gambling Commission.
- 6.5.6** This Licensing Authority places a considerable importance on the prevention of crime and disorder, and will fulfil its duty under s17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the borough. The exercise of a high standard of control over licensed premises is, therefore, considered necessary. Applicants will be encouraged to discuss any necessary crime prevention procedures in their premises with the Authority's Licensing Officers and Lancashire Constabulary before making a formal application.

- 6.5.7** This Authority will take into account any representations made by responsible authorities, especially the police, when deciding if a particular application would be detrimental to this licensing objective and potentially result in an increase in crime and disorder.

(ii) Ensuring that Gambling is Conducted in a Fair and Open Way

- 6.5.8** It is noted that the Gambling Commission do not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way. They point out that this will be a matter for either the management of the gambling business, and therefore subject to the operating licence, or will be in relation to the suitability and actions of an individual and therefore subject to the personal licence. It is recognised, however, that there is more of a role with regard to tracks which is explained in more detail in the 'tracks' section below.

- 6.5.9** The Gambling Commission is concerned to ensure that, not only is gambling fair in the way it is played, but that the rules are transparent to players and they know what to expect.

It will achieve this by:-

- operating and personal licences are issued only to those who are suitable to offer gambling facilities or work in the industry.
- easily understandable information is made available by operators to players about, for example: the rules of the game, the probability of losing or winning, and the terms and conditions on which business is conducted.
- the rules are fair
- advertising is not misleading
- the results of events and competitions on which commercial gambling takes place are public; and
- machines, equipment and software used to produce the outcome of games meet standards set by the Commission and operate as advertised.

(iii) Protecting children and other vulnerable persons

- 6.5.10** This Licensing Authority has noted the Gambling Commission's Guidance for local authorities states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). It accepts that, whilst the licensing objective refers to protecting children from being harmed or exploited by gambling, in practice, that often means preventing them from taking part in or being in close proximity to gambling. It will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective.

- 6.5.11** This Authority will consult with the Lancashire Safeguarding Children Board on any application that indicates there may be concerns over access for children or vulnerable persons.

- 6.5.12** Each separate application will be judged on its merits before a decision is taken as to whether conditions to protect children are imposed on particular categories of premises. These may include such requirements as:-

- the supervision of entrances,
- the segregation of gambling from other areas where children are admitted
- the supervision of gaming machines in non adult gambling specific premises
- the introduction of 'proof of age' schemes'

6.5.13 The authority will make itself aware of the Codes of Practice which the Gambling Commission issues as regards this licensing objective, in relation to specific premises such as casinos. It will be a condition of a casino licence that adherence to any code of practice produced on access of children will be mandatory. The requirements of the code may include controls for the protection of children which:-

- specify steps that the premises licence-holder must take to ensure that children and young persons (that is those under the age of 18) do not enter the casino premises.
- ensure that each entrance to the casino or gambling area is supervised by at least one person who is responsible for compliance with the code of practice; and
- require that, unless the supervisor is certain that a person seeking admittance is an adult, evidence of age must be required of all those seeking to enter the casino.

6.5.14 It is not an aim of this policy to exclude any particular groups of adults from gambling, however, where vulnerable persons may come into contact with gambling appropriate measures will be taken to protect them. Whilst the neither the Gambling Commission nor the legislation offer no definition of "vulnerable persons" it will be assumed, for the purposes of this policy, that this group includes those who

- gamble more than they want to
- gamble beyond their means
- may not be able to make informed or balanced judgements about gambling because of mental impairment, alcohol or drugs.

This Authority will balance the need to introduce measures to protect vulnerable persons against the overall aim to permit the use of premises for gambling.

6.6 Conditions

6.6.1 The Act allows for conditions to be attached to premises licences by the following methods:-

- automatically, having been prescribed in the Act
- being attached by virtue of a Regulation made by the Secretary of State
- at the discretion of the Licensing Authority

6.6.2 Licensing Authorities are specifically precluded from conditions on licences which:-

- make it impossible to comply with an operating licence condition;
- relate to gaming machine categories, numbers, or methods of operation;
- provide that membership of a club or body is necessary to participate in the gambling facilities;
- relate to stakes, prizes or winnings.

6.6.3 Decisions will be taken on the imposition of individual conditions on a case by case basis, however this will be against the background contained in the Gambling Commission guidance and this Gambling Policy Statement.

6.6.4 The starting point in determining applications will be to grant the application without discretionary conditions. Conditions will only be considered where they are needed to meet the requirements of the licensing objectives, They will generally be considered unnecessary if they are already adequately covered by other legislation. Any conditions imposed by this Authority will, so far as possible, reflect local crime prevention strategies. For example, closed circuit television cameras may be appropriate in certain

premises. They will not be overly onerous and will be proportionate to the scale of the application and the risks involved. In particular any conditions imposed on licences 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.

6.6.5 When considering any conditions to be attached to licences, the Council will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned. Control measures this Licensing Authority will consider utilising should there be a perceived need, include:-

- the use of door supervisors,
- supervision of adult gaming machines,
- appropriate signage for adult only areas

These are specifically dealt with under each of the licence types below. This Licensing Authority will, however, also consider that the licence applicant should offer his/her own suggestions as to way in which the licensing objectives can be met effectively.

6.6.6 In the case of buildings which are subject to multiple premises licences, consideration will be given to specific measures which may be required. These may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives.

6.6.7 Where category C or above machines are on offer in premises to which children are admitted, this authority will ensure that:

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

These considerations will apply to premises including buildings where multiple premises licences are applicable.

6.6.8 Where there is concern that a particular premises will attract disorder or be subject to attempts at unauthorised access by, for example, children or vulnerable adults a condition may be added to a licence requiring that the entrances to such premises be controlled by door supervisors. Where the Private Security Industry Act 2001 requires such door supervisors to be licensed by the Security Industry Authority (SIA) then this requirement will normally also be deemed to be a condition of the premises licence. Where, however, door supervisors are employed as 'in house' staff in casinos and bingo halls they do not need to be licensed by the SIA.

- 6.6.9** For premises other than casinos and bingo premises, this authority may decide that for particular premises where there is evidence that supervision from counters or other normal staff positions has proved inadequate to meet the licensing objectives, that additional supervision of entrances / machines is appropriate. The Authority may decide, in the light of the particular circumstances, that these need to be SIA licensed. It will, however, not be automatically assumed that they need to be so licensed.

6.7 Adult Gaming Centres

- 6.7.1** The term adult gaming centre was introduced by the Gambling Act 2005. Such premises are entitled to provide gaming machines which payout higher jackpots. The numbers and categories of higher jackpot machines that can be placed in adult gaming centres are specified in Regulations made by the Secretary of State.
- 6.7.2** This Authority's main concern in these premises is to protect children and vulnerable persons.
- 6.7.3** In considering applications for a premises licence for an adult gaming centre the Licensing Authority will, in particular, consider the measures put in place to prevent under 18s from gaining access to the premises. Such matters as the position of entrances, supervision and the use that other parts of the premises are put will be relevant.
- 6.7.4** Conditions may be attached to such licences to cover, amongst other matters, issues such as:
- Proof of age schemes
 - CCTV
 - Door supervisors
 - 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.

6.8 Family Entertainment Centres (Licensed)

- 6.8.1** The Act created two classes of family entertainment centres, only one of which requires a premises licence.
- 6.8.2** Licensed family entertainment centres are permitted to provide category C and D gaming machines. Unlicensed family entertainment centres can only provide category machines. No limits are set on the numbers of machines in these categories.
- 6.8.3** Children and young persons are permitted in licensed family entertainment centres but are not allowed to use any category C machines. In determining applications the Licensing Authority will consider any guidance issued by the Gambling Commission regarding the marking and segregation of such machines and the level of supervision required to protect children.

- 6.8.4** This Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or from being exploited by gambling and considers that the applicant should be able 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. Appropriate licence conditions may cover the issues detailed in paragraph 6.7.4 above.

6.9 Casinos

- 6.9.1** This Licensing Authority currently has one licensed casino within its area. It has not passed a 'no casino' resolution under section 166 of the Gambling Act 2005 but is aware of its power to do so. Should at any time the Authority decide to pass such a resolution, this decision will be taken by way of a resolution of the Full Council following considered debate, the reasons for making the resolution will be given and this policy will be updated accordingly.

- 6.9.2** If the Secretary of State, by Regulation, enables the Authority to issue a new style casino licence they are aware that there may be a number of operators wishing to run such a casino. In such a situation this Licensing Authority will determine the successful bidder by following the procedure laid out in Schedule 9 of the Act and in line with any regulations / codes of practice issued under the Gambling Act 2005.

- 6.9.3** This Licensing Authority is aware that powers are provided, in the Act, to allow them to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching conditions to a casino premises licence (where betting is permitted in the casino). It 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.

6.10 Bingo Premises

- 6.10.1** This Licensing Authority acknowledges that children and young people can be allowed entry into bingo premises but are not allowed to take part in bingo or use category B and C machines that are on the premises. This Authority will wish to ensure that sufficient measures are in place to prevent children participating in these activities.

- 6.10.2** The Licensing Authority will take into account guidance or codes of practice from the Gambling Commission on the suitability and layout of bingo premises when determining any applications for premises licences. This guidance includes a requirement that:-

- all category B & C gaming machines are located in an area of the premises 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 the machines are located;
- access to 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.

6.11 Betting Premises

- 6.11.1** Children are not permitted to enter premises licensed for betting and therefore this Licensing Authority will consider the measures which an applicant for a premises licence will be taking to prevent this.

- 6.11.2** This Licensing Authority will generally only consider whether to impose a condition on ~~to~~ any premises licence for a betting premises restricting the number and or nature of betting machines (not to be confused with gaming machines) and the circumstances in which those machines are available for use when there is evidence that such machines have been or are likely to be used in breach of the licensing objectives. The authority will take into account those issues set out in 6.9.3 above when considering the number/nature/circumstances of betting machines an operator wants to offer.

6.12 Tracks

- 6.12.1** There are currently no tracks within the Borough. It is recognised, however, that tracks are different from other premises in that there may be more than one premises licence in effect (provided each licence relates to a specified area of the track.) and that the track operator may not be required to hold an operator licence as there may be several premises licence holders at the track which will need to hold their own operator licences.

Should an application be made for a track premises licence, it will be determined in accordance with the guidance of the Gambling Commission. This Licensing Authority will, however, 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.

- 6.12.2** There may be some specific considerations with regard to the protection of children and vulnerable persons from being harmed or exploited by gambling at tracks. This Authority considers that premises licence applicants should be able to demonstrate that suitable measures will be in place 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, although they are still prevented from entering areas where gaming machines (other than category D machines) are provided. As well as the introduction of a proof of age scheme, appropriate licence conditions may cover the issues detailed in paragraph 6.7.4 above.
- 6.12.3** Further guidance from the Gambling Commission is awaited as regards where Gaming Machines (as distinct from betting machines) may be located on tracks and any special considerations that should apply in relation, for example, to supervision of the machines and preventing children from playing them. This Licensing Authority notes the Commission's Guidance that it will need to consider the location of gaming machines at tracks, and applications for track premises licences will need to demonstrate that, where the applicant holds a pool betting operating licence and is going to use his entitlement to four gaming machines, these machines are located in areas from which children are excluded. Children and young persons are not prohibited from playing category D gaming machines on a track.
- 6.12.4** In respect of betting machines at tracks, this authority will, as per the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer. It 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.

- 6.12.5** In accordance with Gambling Commission advice, this Authority will attach a condition to any track premises licences issued 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.)
- 6.12.6** This Licensing Authority awaits regulations setting-out any specific requirements for applications for premises licences. It, however, accepts the Gambling Commission's suggestion "To ensure that licensing authorities gain a proper understanding of what they are being asked to licence 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."
- 6.12.7** This Licensing Authority also accepts the Commission's view that it would be preferable for all self-contained premises operated by off-course betting operators on track to be the subject of separate premises licences. This would then 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.
- 6.13 Travelling Fairs**
- 6.13.1** Whilst the Act defines a travelling fair as wholly or principally providing amusements, this Licensing Authority will decide, in each case, whether this the statutory definition is met on the evidence available.
- 6.13.2** Any number of category D (small stake and prize) gaming machines may be made available for use at travelling fairs subject to a requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair. This Licensing Authority will, decide, in each case, whether this requirement is met on the evidence available.
- 6.13.3** It is recognised that land may only be used for a travelling fair up to a maximum of 27 days in any calendar year and that such use 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 monitor whether land is used in excess of the statutory limit and will work with its neighbouring authorities to ensure that land that crosses its boundaries is similarly monitored so that the statutory limits are not exceeded.

7 REPRESENTATIONS

- 7.1** Only *Interested Parties* and *Responsible Authorities* (see below for definition) can make representations about licence applications, or apply for a review of an existing licence.
- 7.2 Admissible and Relevant**
- 7.2.1** A representation will only be admissible if it is from a responsible authority or interested party.
- 7.2.2** The only representations that are likely to be considered as relevant are those that relate to the licensing objectives (set out in 2.1 above), or that raise issues under the licensing Gambling Policy Statement, or the Commission's guidance or codes of practice. For example a representation which concerns public nuisance or public safety

at the premises would not be considered to be relevant, as these are not licensing objectives but concerns over crime and disorder or the protection of children would be.

7.3 Frivolous or Vexatious or Likely to have no Influence on a Decision

7.3.1 This Licensing Authority will determine an application without a hearing if the representations are considered to be either frivolous or vexatious.

7.3.2 Decisions as to whether representations are frivolous, vexatious or likely to have no Influence on a Decision 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 Committee or a Panel of the Licensing Committee. These words will be judged to have their normal dictionary definitions. Frivolous will be interpreted as having little substance, as not serious or flippant whilst vexatious will be interpreted as having an ulterior motive or as vindictive.

7.3.3 A hearing will also be dispensed with if in the opinion of this Authority the substance of the representation will certainly not influence the Authorities determination of the application.

7.3.4 In the event of this Authority considering a representation to be frivolous or vexatious or as likely to have no influence on the decision, then the person who made the representation will be informed and the reasons for coming to such a conclusion will be clearly stated. There is no right of appeal against a determination that representations are not admissible

7.4 Responsible Authorities

7.4.1 A Responsible Authority is defined in the Act as:-

- A Licensing Authority in England and Wales in whose area the premises are wholly or partly situated
- The Gambling Commission
- The Chief Officer of Police for the police area in which the premises are wholly or partly situated
- The Fire and Rescue Authority for an area in which the premises are wholly or partly situated
- The local planning authority
- An Authority which has functions by virtue of an enactment in respect of minimising or preventing the risk of pollution of the environment or of harm to human health in an area where the premises is wholly or partly situated
- A body which is designated in writing for by the Licensing Authority for an area in which the premises are wholly or partly situated, as competent to advise the authority about the protection of children from harm
- Her Majesty's Commissioners of Custom and Excise.

Although current contact details for all responsible authorities listed above are included in Appendix A to this policy, it should be noted that the Secretary of State may from time to time amend this list by Regulation.

7.4.2 The Authority accepts that the protection of children and vulnerable persons is key responsibility under the Act. It considers that the most appropriate body to advise them about the protection of children to be the Lancashire Safeguarding Children Board.

7.5 Interested Parties

7.5.1 Although each case will be determined on its individual merits, a person will generally be considered to be an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the 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 either of the above

7.5.2 In determining whether or not a person “lives sufficiently close to the premises to be likely to be affected by the authorised activities”, account will be taken of the following factors:-

- 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 nature of the complainant. (In terms of the nature of their interest rather than their personal. For example ‘sufficiently close to be likely to be affected’ could be interpreted differently for a private resident as distinct from a residential school with truancy problems or a hostel housing vulnerable persons.)

7.5.3 In determining whether a person’s business interest might be affected by the authorised activities, consideration will be given to the Gambling Commission’s Guidance that “has business interests” should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices. It will not, however, be considered sufficient only to argue that a rival business will be a competitor in the same gambling sector. The Authority will have to be satisfied that the business would be likely to be directly affected. The question of demand will likewise not be considered. Factors which will be taken into account include:-

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

7.5.4 The Gambling Commission has recommended that licensing authorities include trade associations and trade unions, and residents’ and tenants’ associations as interested parties. This authority will not however 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 Gambling Act 2005. (e.g. lives sufficiently close to the premises to be likely to be affected by the activities being applied for.)

7.5.5 Interested parties may be represented by advocates which include legal representatives and others, provided that they can produce written evidence that they have been authorised to act on behalf of the interested party.

7.5.6 Interested parties can be persons who are democratically elected such as councillors and MP’s. No specific evidence of being asked to represent an interested person will be required in these cases as long as the councillor / MP represents the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these, however, written evidence will generally be required that a person/body (e.g. an advocate / relative) ‘represents’ someone who

either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation will be considered sufficient.

- 7.5.7** 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 or Panel dealing with the licence application. If there are any doubts then the Council's Licensing Section should be contacted.

8 REVIEW OF PREMISES LICENCES

- 8.1** The review of a premises licence may be instigated by this Licensing Authority or at the request of a responsible authority or interested party. It is, however, for the Licensing Authority to decide whether the review is to be carried-out.

- 8.2** A request for review will not be granted by this Authority unless it is: is "relevant" i.e.
- In accordance with any relevant code of practice issued by the Gambling Commission
 - In accordance with any relevant guidance issued by the Gambling Commission
 - Is consistent with the licensing objectives (see 2.1 above) and In accordance with the Authority's Gambling Policy Statement.

- 8.3** The Licensing Authority will similarly not hold a review if, in the opinion of the authority, the grounds :-

1. are frivolous (see paragraph 7.3 above)
2. are vexatious (see paragraph 7.3 above)
3. will certainly not' cause the authority to revoke or suspend a licence or to remove, amend or attach conditions on the premises licence. (see paragraph 7.3 above)
4. are substantially the same grounds cited in a previous application for a review relating to the same premises
5. are substantially the same as representations made at the time of an application for a premises licence.

In the case of reasons 4 and 5 above, the Authority will take into account the time, which has passed since the earlier application.

- 8.4** A review can be held in relation to a class of premises or in relation to a particular premises.

- 8.5** This Licensing Authority will consider initiating a review themselves against a premises or class of premises if complaints are made against the use made of those premises or the measures put in place by licensees to comply with licence conditions. It may, however, decide to initiate a review of a licence on the basis of any reason relevant to its duties and functions under the Act, which it thinks is appropriate. The outcome of such a review may be the introduction of default conditions attached to all premises licences within that class.

9 PROVISIONAL STATEMENTS

- 9.1** An applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling is constructed. It is recognised, therefore, that developers may wish to have some assurance that a premises licence would be granted before entering into a contract to develop land or renovate a property In these circumstances an application can be made for a provisional statement.

- 9.2 This Licensing Authority recognises that it is a question of fact and degree as to whether premises are finished to such a degree that they can be fully inspected and considered for a premises licence.
- 9.3 Unlike an application for a premises licence applicants for provisional statements do not have to hold an operating licence from the commission. This Licensing Authority, when determining any such application will not speculate or take any account the likelihood or not of an operating licence being granted. Should the commission subsequently refuse an operating licence the provisional statement will not be able to be converted into a premises licence.
- 9.4 Any application for a provisional statement shall be treated in exactly the same way as would have been the case if the application had been for a premises licence and no regard will be taken of the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal.
- 9.5 When an application is made for a premises licence for a premises which has the benefit of a provisional statement, this Licensing Authority will disregard any representations from responsible authorities or interested parties unless:
- They address matters that could not have been addressed in representations relating to the application for the provisional statement. or
 - They reflect a change in the applicants circumstances.

10 PERMITS, NOTICES & LOTTERIES

- 10.1 The Act allows for a number of gambling activities to take place outside of the licensing regime. These are authorised by permits which are issued by the Authority. These are :-
- Unlicensed family entertainment centres
 - Club gaming permits and club machine permits
 - Alcohol licensed premises gaming machine permits
 - Prize gaming permits.
- 10.2 The issue of all such permits will be undertaken by the Licensing Authority in accordance with the statutory procedures with regard to any guidance issued by the Gambling Commission.
- 10.3 **Unlicensed Family Entertainment Centres-Gaming Machine Permits**
- 10.3.1 Where a premises does not hold a Premises Licence and wishes to provide gaming machines but does not wish to apply for a Family Entertainment Centre (FEC) premises licence as they only wish to offer category D gaming machines, it may apply to the Licensing Authority for a permit to do so. An application for a permit will only be considered if this Authority is satisfied that the premises will be used as an unlicensed FEC, and that the Chief Officer of Police has been consulted on the application.
- 10.3.2 In considering applications for such permits this Authority will give weight to child protection issues. It will take into account the applicant's suitability including any convictions that they may have that would make them unsuitable to operate a family entertainment centre, the suitability of the premises in relation to their location as well as issues about disorder.

10.3.3 Although this Licensing Authority recognises that it cannot attach conditions to this type of permit, it is suggested that initial applicants for permits will be able to show that there are policies and procedures in place to protect children from harm. Harm in this context will not be construed as limited to harm from gambling but to include wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include CRB checks for staff, 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.

10.3.4 Applicants will also be expected to demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed family entertainment centres;
- that staff are trained to have a full understanding of the maximum stakes and prizes.

10.3.5 This Licensing Authority has not currently formally adopted a Statement of Principles that they propose to apply when exercising their functions in considering applications for permits. Should it decide to do so it will be available from the licensing section (*see below*). Potential applicants / other interested persons are advised to check with the licensing department as to whether such a policy has been adopted.

10.3.6 Applications for renewal of a permit may only be refused on the grounds that an authorised local authority officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with pursuit of the licensing objectives.

10.4 Alcohol Licensed Premises - Gaming Machine Permits

10.4.1 Premises licensed to sell alcohol for consumption on the premises may automatically have 2 gaming machines on the premises, of categories C and/or D, provided that they notify the Licensing Authority. The Licensing Authority can only 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 Act (i.e. that written notice has been provided to the Licensing Authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with)
- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises.

10.4.2 If a premises wishes to have more than 2 machines, then it must apply for a permit. This Authority will consider such applications based upon the licensing objectives, as well as any guidance issued by the Gambling Commission and such matters as it considers to be relevant.

10.4.3 This Licensing Authority considers that such applications will be decided on a case by case basis. It will, however, have particular regard to the need to protect children and vulnerable persons from harm or from being exploited by gambling. Applicants should be able to satisfy the authority that there will be sufficient measures in place to ensure that under 18 year olds do not have access to any adult only gaming machines.

10.4.4 Measures which will satisfy the authority that there will be no access may include the adult only machines being in site of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be helpful. As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

10.4.5 This Licensing Authority 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, however, be attached. It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

10.5 Prize Gaming Permits

10.5.1 The Act provides for Licensing Authorities to prepare a statement of principles that they propose to apply in exercising their functions in respect of prize gaming permits which may, in particular, specify matters that it proposes to consider in determining the suitability of the applicant for a permit. This Licensing Authority has not prepared such a formal statement of principles. Should it decide to do so it will include details in a revised version of the statement of principles.

10.5.2 In making its decision on an application for prize gaming permits licensing authorities do not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

10.5.3 In considering applications for such permits this Authority will give particular weight to child protection issues. It will take into account the applicant's suitability including any convictions that they may have that would make them unsuitable to hold a prize gaming permit.

10.5.4 It should be noted that there are conditions in the Gambling Act 2005 by which a 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.

10.6 Club Gaming and Club Machines Permits

10.6.1 Members Clubs and Miners' welfare institutes (but not Commercial Clubs) can provide equal chance gaming and may apply for a Club Gaming Permit or a Clubs Gaming Machines Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B[4], C or D), equal chance gaming and games of chance. A Club Gaming Machine Permit will only enable the premises to provide gaming machines (3 machines of categories B[4], C or D).

10.6.2 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 Commission or the police.

10.6.3 A 'fast-track' procedure is available for premises which hold a Club Premises Certificate under the Licensing Act 2003 whereby there is no opportunity for objections to be made by the Commission or the police. The grounds upon which an authority can refuse an application for such a permit are therefore reduced to the following:-

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

10.6.4 Gambling Commission guidance indicates that 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. (This may cover bridge and whist clubs). A members' club must be permanent in nature, not established to make commercial profit, and be controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations.

10.6.5 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.

10.7 Temporary Use Notices

10.7.1 The notices allow for the temporary use of premises for gambling by the holder of a gambling operator licence without the building having the benefit of a premises licence. Such premises could include such places as hotels, conference centres and sporting venues.

10.7.2 Temporary Use Notices will only be granted to operators holding the relevant operators licence. For instance a betting operator could be permitted a licence to provide betting facilities at a snooker tournament.

- 10.7.3** The Act makes reference, in the context of temporary event notices, to a “set of premises” and provides that a set of premises is the subject of a temporary event notice if “any part” of the premise is the subject of the notice. This Licensing Authority considers that the determination of what constitutes “a set of premises” will be a question of fact in the particular circumstances of each notice that is given. In considering whether a place falls within the definition of a “set of premises”, it will look at, amongst other things, the ownership/occupation and control of the premises. A large exhibition centre, for example, would be likely to come within the definition as it is properly one premises, and should not be granted a temporary use notice for 21 days in respect of each of its exhibition halls. But in relation to other covered areas, such as shopping centres, this Authority will need to consider whether different units are in fact different “sets of premises”, given that they may be occupied and controlled by different people. This Authority is likely 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.
- 10.7.4** This Licensing Authority will hold a hearing if an objection notice is served unless all parties agree that a hearing is unnecessary.
- 10.7.5** In determining at a hearing whether to allow a temporary use notice to have effect the Licensing Authority will aim to permit the provision of gambling facilities in so far as it considers that it is :-
- in accordance with any code of practice or guidance issued by the Gambling Commission;
 - reasonably consistent with the licensing objectives; and
 - in accordance with this Gambling Policy Statement.

10.8 Occasional Use Notices

- 10.8.1** The Licensing Authority has very little discretion with regard these notices which can be used to permit betting on tracks that operate on limited occasions. It will, however, ensure that the statutory limit of 8 days in a calendar year is not exceeded. It will also give careful consideration to the definition of a ‘track’ and whether the applicant is permitted to avail him/herself of the notice.

10.9 Small Society Lotteries

- 10.9.1** This Licensing Authority will take account of any guidance issued by the Gambling Commission in registering and controlling non commercial societies which are established and conducted:-
- for charitable purposes;
 - for the purpose of enabling participation in, or supporting, sport, athletics or a cultural activity; or
 - for any other non-commercial purpose other than private gain

11 ENFORCEMENT

- 11.1** This Authority considers that, in general, the authority which issues the licence or permit should take the lead in ensuring compliance with the licence and any conditions attached to it, including compliance with the relevant codes of practice. The main enforcement and compliance role for this Licensing Authority in terms of the Gambling Act 2005 is, therefore, to ensure compliance with the Premises Licences and other permissions which it authorises. The Gambling Commission is the enforcement body for Operator and Personal Licences

- 11.2** The authority intends that the regulatory burden imposed by it will be the minimum consistent with the carrying out of its statutory duties. Accordingly its approach to ensuring compliance with licence conditions and codes of practice will be to apply a lighter touch to operators perceived by it as low risk and a heavier more intrusive touch to higher risk operators. There may be occasions in which particular circumstances give rise to breaches of both a premises and an operating licence. In such circumstances, it may be appropriate for the Licensing Authority and the Gambling Commission to each review the licences for which they are responsible, and the Gambling Commission will be a responsible authority in the premises licence review.
- 11.3** This Authority recognises that, in general, the Gambling Commission will also take the lead on the investigation and, where appropriate, the prosecution of illegal gambling and that it will deal with unlicensed premises and concerns about manufacture, supply or repair of gaming machines. It accepts, however that there may be occasions on which the Authority is better placed to take the lead, particularly where there is illegal activity on a smaller scale that is confined to its area.
- 11.4** This Authority will have regard to relevant guidance issued by the Gambling Commission, the Regulatory Compliance Code (formally the Enforcement Concordat) and the Authority's own Enforcement Policy in all its enforcement actions. It will also keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.
- 11.5** In general any enforcement actions which the Authority takes or proposes will be-
- **Proportionate** - It will intervene when necessary to promote the licensing objectives. Remedies will be appropriate having regard to the risks posed and the costs of such remedies will be minimised.
 - **Accountable** - All decisions will be justified and will be subject to public scrutiny.
 - **Consistent** - All rules, conditions or standards will be imposed or implemented fairly across all.
 - **Transparent** - It will be open at all times and will endeavour to present regulations in a simple and user friendly way.
 - **Targeted** - Enforcement focus will be on those areas which are causing the most problems and will be aimed at minimising those problems and side effects.
- 11.6** A graduated response will always be 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 Licensing-Committee or Panel, the issue of a Formal Caution or a referral for prosecution.
- 11.7** This Licensing Authority intends to use appropriate enforcement to promote the licensing objectives under the Act. Once licensed, it is essential that premises are monitored to ensure that they are run in accordance with their operating schedules, in compliance with the specific requirements of the Act and in compliance with any licence conditions. It will also be important to monitor the Borough for unlicensed premises.
- 11.8** The Authority will seek to work actively with the Police in enforcing gambling licensing legislation and intends to establish protocols with Lancashire Constabulary, Lancashire Trading Standards Department and Lancashire Fire and Rescue Service on enforcement issues to ensure an efficient deployment of police and council officers.

- 11.9 In accordance with the principle of transparency, the authority's enforcement/compliance protocols/written agreements as well as its risk methodology will be made available upon request.

12 COMPLAINTS AGAINST LICENSED PREMISES

- 12.1 This Authority will investigate complaints against licensed premises in relation to matters relating to the licensing objectives for which it has responsibility. In the first instance, complainants are encouraged to raise the complaint directly with the licence holder or business concerned to seek a local resolution.
- 12.2 Where an interested party has made either a valid representation about licensed premises or a valid application for a licence to be reviewed, the Authority may initially arrange a conciliation meeting to address and clarify the issues of concern.
- 12.3 This process will not override the right of any interested party to ask that the licensing committee consider their valid objections or for any licence holder to decline to participate in a conciliation meeting.

13 APPEALS

- 13.1 A right of appeal exists to the applicant or any person making a relevant representation against a decision of the Licensing Authority.
- 13.2 An application for an appeal has to be made to the Magistrates Court within 21 days of being notified in writing of the decision.
- 13.3 This Licensing Authority will ensure that attention is drawn to this right of appeal when decision notices are served.

14 POLICY REVIEW

- 14.1 This policy takes effect on the 1st January 2010. It will be subject to periodic reviews and further consultation in line with current Government guidance.
- 14.2 When reviewing this policy account will be taken of any additional guidance issued by the Gambling Commission and the results of any consultations received.

APPENDIX A CONTACT DETAILS RESPONSIBLE AUTHORITIES

Contact details for Licensing Authority:

Licensing Team
Fylde Borough Council
Town Hall
Lytham St Annes
Lancs
FY8 1LW
Email: licensing@fylde.gov.uk Tel No: 01253 658658

Contact details of responsible authorities:

<i>Responsible Authority</i>	<i>Address</i>
The Gambling Commission	Gambling Commission Victoria Square House Victoria Square Birmingham B2 4BP Tel No. 0121 230 6500 Fax. 0121 237 2236 info@gamblingcommission.gov.uk
Police Authority	Lancashire Constabulary Licensing Department Western Division Bonny Street Blackpool Lancashire FY1 5RL Tel No: 01253 293933
Fire Authority	Technical Fire Safety Lancashire Fire and Rescue Service St Annes Fire Station St Andrews Road North St Annes Lancashire FY8 2JQ Tel No: 01253 722268
Environmental Protection and Planning	C/O Licensing Team Fylde Borough Council Town Hall Lytham St Annes Lancashire FY8 1LW Email: licensing@fylde.gov.uk Tel No: 01253 658658
Protection of Children	Quality and Review Manager Lancashire County Council Social Services Directorate PO Box 162 East Cliffe County Offices Preston PR1 3EA Tel No: 0845 053 0000

**Her Majesty's Commissioners of
Custom and Excise.**

HM Revenue and Customs
Operational Team,
Greenock Accounting Centre
Custom House
Birmingham Custom House Quay
Greenock
PA15 1EQ

APPENDIX B

TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

MATTER TO BE DEALT WITH	FULL COUNCIL	LICENSING COMMITTEE	OFFICERS
Three year licensing policy	X		
Policy not to permit casinos	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 a 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 premises licence		X	
Application for club gaming /club machine permits		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Cancellation of club gaming/ club machine permits		X	
Applications for gaming machine permits		For more than a total maximum of 4 machines	For up to a total maximum of 4 machines
Applications for other permits			X
Decisions as to whether representations are frivolous, vexatious or likely to have no influence on a decision			X
Decisions as to whether to make representations against an application or review a premises licence.			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use		X	

**Gambling Act Policy 2010- 2013
Amendments to Original Policy**

Paragraph	Amendment
3.1.2	Removal of the word “draft”
3.1.5	Change of adoption date
3.5.3	Updated to reflect current premises
3.6.1	Amended due to duplicitous reference to organisations
4.3.1	Amended to make reference to all diversity groups
6.2.1	Removal of the word “unmet”
6.2.1	Removal of (except as regards any “no casino resolution.”
6.3	Section re-written to reflect amended guidance from the Gambling Commission on the definition of premises.
6.6.2	Remove duplicate word “prizes” from final bullet point
6.6.4	Inclusion of “discretionary” before conditions in 1 st sentence
6.6.7	Removal of description of machine re prize limits
6.6.8	Removal of “Door Supervisors” subtitle before 6.6.9
6.6.8 & 6.6.9	Amalgamated and re-written to make meaning clearer.
6.6.10	Renumbered 6.6.9
6.7.1	Date of Gambling Act corrected from 2003 to 2005
6.7.2	Point inserted to highlight Licensing Authorities concerns
6.8.2	D category machines added to text and details of stakes and prizes removed.
6.8.3	Inclusion of “licensed” in first sentence
6.8.4	Remove reference to operating licence conditions
6.9.3	Remove as no longer relevant
6.9.4	Renumbered 6.9.3
6.10	Re-written to reflect Guidance
10.6.5	Reference to actual amounts of stakes and prizes removed
11.6.	Removed
11.7 – 11.10	Re-numbered to 11.6 – 11.9
14.1	Effective date updated

REPORT

REPORT OF	MEETING	DATE	ITEM NO
COMMUNITY SERVICES DIRECTORATE	LICENSING COMMITTEE	30 th SEPTEMBER 2009	7

LICENSING ACT 2003 ENFORCEMENT 2008/2009 REVIEW

Public Item

This item is for consideration in the public part of the meeting.

Summary

The purpose of the report is to update the members on the number of licences issued under the Licensing Act 2003 and to give an overview on enforcement.

Recommendation/s

That the Committee note the contents of the report.

The item falls within the following Portfolio Holders Brief:

Community & Social Wellbeing

Councillor Cheryl Little

Report

1. The total number of licenses issued by the Authority since the introduction of the licensing Act 2003 are as follows:
 - 284 Premises Licences (alcohol)
 - 52 Premises licenses (non – alcohol)
 - 33 Club premises Certificates
 - 586 Temporary event notices
 - 668 Personal Licences

2. In 2008/09 the Authority processed:
 - 26 new premises licence applications
 - 14 variations to premises licenses
 - 166 Temporary Event Notices
 - 66 Personal Licenses
3. In respect of the above applications for 2008/09, a total of 33 representations were made by the following responsible authorities or interested parties:

Lancashire Constabulary	18
Environmental Protection	6
Health and Safety	0
Lancashire Fire and Rescue Service	0
Interested parties	9
Planning	0
Trading Standards	0
5. The majority of the representations were dealt with by way of mediation and therefore did not necessitate the need for a licensing panel hearing.
6. However, a number of the representations could not be resolved through the mediation process and therefore necessitated the need for a licensing panel hearing. In total there were 8 panel hearings in 2008/09. The decision of the Licensing Panel as a result of the hearings included, inter alia, restriction on the hours to sell alcohol, limiting the hours of use of outdoor areas and imposing conditions on the premises operating schedule, for example, the provision of CCTV and employment of door supervisors.
7. An overview on the representations made and the mediation and hearing process will be presented by officers at the Committee meeting.
8. In addition, the officers carried out a number of inspections throughout the year. The majority of the inspections were conducted by way of a multi-agency approach with the Police, and on occasions with the Fire Officer, Health and Safety Officer and Environmental Protection Officer. In most cases the premises identified for inspection were those which had proved problematic in the past, in terms of meeting the licensing objectives and potential breaches of licence conditions. The licensing objectives being:
 - Preventing Crime and Disorder
 - Ensuring Public Safety
 - Preventing Public Nuisance; and
 - Protecting Children from harm
9. An overview on the enforcement approach will be presented by officers at the Committee.

IMPLICATIONS	
Finance	None arising directly from the report.
Legal	None arising directly from the report.
Community Safety	None arising directly from the report.
Human Rights and Equalities	None arising directly from the report.
Sustainability	None arising directly from the report.
Health & Safety and Risk Management	None arising directly from the report.

Report Author	Tel	Date	Doc ID
Chris Hambly	(01253) 658422	15 th September 2009	

List of Background Papers		
Name of document	Date	Where available for inspection

Attached documents

Licensing Committee



Date	24 January 2008
Venue	Lowther Pavilion, Lytham
Committee members	David Eaves (Chairman) Dawn Prestwich (Vice-Chairman) Christine Akeroyd, Barbara Douglas, Keith Beckett, John Davies, Susan Fazackerley, Tony Ford, Ken Hopwood, Angela Jacques, John Singleton.
Other Councillors	None
Officers	Chris Hambley, Clare Holmes, Peter Welsh

1. Declarations of interest

Members were reminded that any personal/prejudicial interests should be declared as required by the Council's Code of Conduct adopted in accordance with the Local Government Act 2000.

2. Confirmation of minutes

RESOLVED: To approve the minutes of the licensing committee meeting held on 24 October 2007 as a correct record for signature by the chairman.

3. Substitute members

The following substitution was reported under council procedure rule 22.3:

Councillor John Singleton for Councillor Brenda Ackers

4. Classification of the film "underground"

Chris Hambly, (Licensing Officer) reported that a request had been received from the operator of Cinema 4 at the Island, Pleasure Island, St Annes to screen the movie "Underground". The film did not benefit from a classification laid down by the British Board of Film Classification (BBFC).

Due to financial cost of obtaining classification from the BBFC, the applicant had at the suggestion of the BBFC, approached the Licensing Authority in order to obtain a classification recommendation to enable the film to be shown.

It was therefore requested that members view and consider the film and make a recommendation as to an appropriate classification.

Having viewed the film and taking into account the guidance from the BBFC the committee RESOLVED that the classification of the film "Underground" be classed as an "18 certificate".

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