

# Agenda



## Licensing Committee

Date	Friday, 12 October 2012 at 9:30 am
Venue	Town Hall, St Annes
Committee members	<p>Councillor Angela Jacques (Chairman)  Councillor Dawn Prestwich (Vice-Chairman)</p> <p>Councillors Christine Akeroyd, Susan Ashton, Brenda Ackers, Keith Beckett, Alan Clayton, Simon Cox, Susanne Cunningham, David Donaldson, Leonard Davies, John Davies, Kathleen Harper, Karen Henshaw, Ken Hopwood</p>

Item		Page
1	<b>Declarations of Interest:</b> Any member needing advice on Declarations of Interest should contact the Monitoring Officer before the meeting.	1
2	<b>Confirmation of Minutes:</b> To confirm the minutes of the previous meeting held on 30 September 2009 as a correct record. As attached at the end of the agenda.	1
3	<b>Substitute Members:</b> Details of any substitute members notified in accordance with council procedure rule 24.3.	1
4	<b>Revised Gambling Policy – 2013 - 2015</b>	3 - 36
5	<b>Licensing Act 2003</b>	37 - 38

The code of conduct for members can be found in the council's constitution at [www.fylde.gov.uk/council-and-democracy/constitution](http://www.fylde.gov.uk/council-and-democracy/constitution)

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# REPORT



REPORT OF	MEETING	DATE	ITEM NO
COMMUNITY SERVICES DIRECTORATE	LICENSING COMMITTEE	12 <sup>th</sup> OCTOBER 2012	4

## REVISED GAMBLING POLICY – 2013-2015

### 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 Development 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.
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. There has recently been a consultation exercise by the Gambling Commission relating to a review of the Guidance but the revised version has not yet been issued.
7. The draft revised Gambling Policy was issued for consultation on the 20<sup>th</sup> August 2012 and the final date for any comments to the proposals is the 11<sup>th</sup> November 2012.
8. The existing Policy has been kept under review since coming into force on 1st January 2010 and no revision has been deemed necessary to the existing policy apart from references which have become outdated at 1.2, 1.4, 1.6 and an update at 3.5.1.
9. 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
10. 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 3<sup>rd</sup> December 2012.
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 21<sup>st</sup> November 2012.
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 Development 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	18 <sup>th</sup> September 2012	

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 <a href="http://www.fylde.gov.uk/licensing">www.fylde.gov.uk/licensing</a>	

### Attached documents

Revised Gambling Policy Statement



FYLDE BOROUGH COUNCIL



**GAMBLING ACT 2005**

# **Gambling Policy Statement**

**2013 - 2015 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 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.
- 1.3 The Act introduced an independent unified regulator for commercial gambling in Great Britain, the Gambling Commission, and a licensing regime to be operated by the commission or by licensing authorities depending on the matter to be licensed.
- 1.4 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.
- 1.5 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.
- 1.6 Licensing Authorities may also authorise premises that are not generally licensed for gambling purposes to be used for gambling for limited periods.
- 1.7 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 was adopted by the Full Council at its meeting on the *Date to be inserted once adopted*.

## **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**

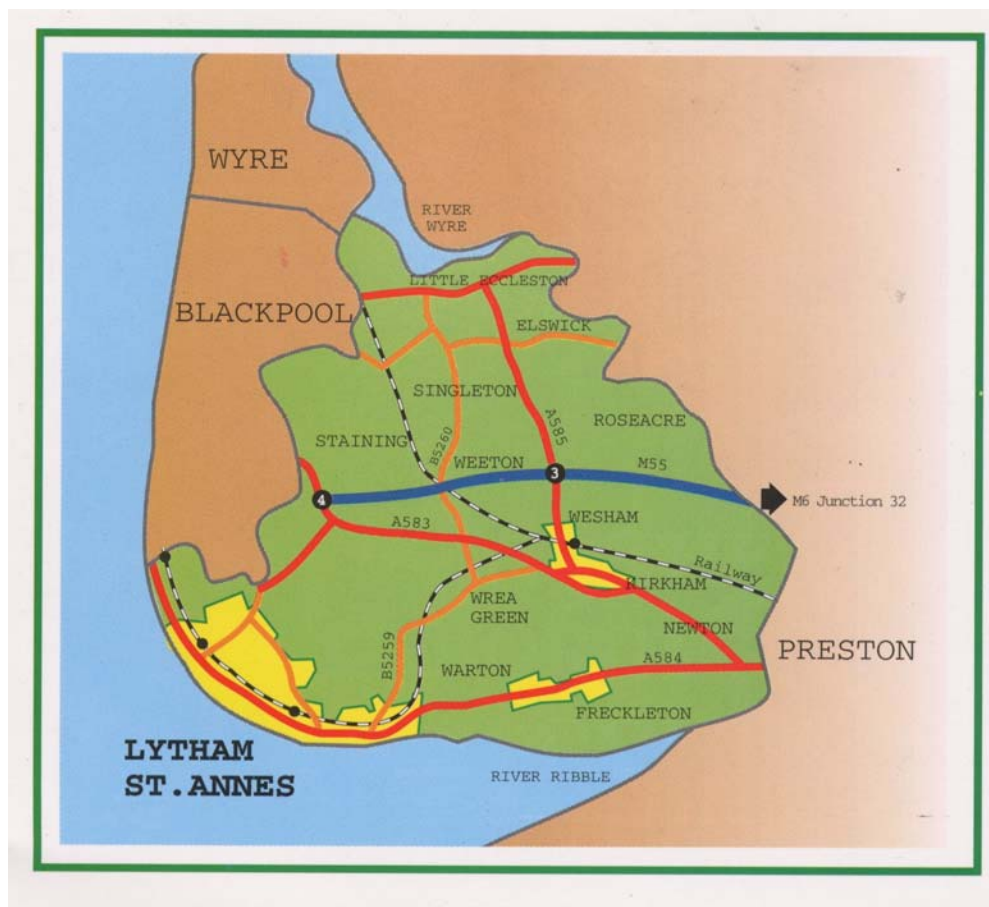
**3.4.1** This policy covers all the functions of the Licensing Authority which include:-

- 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 76,600. This is expected to rise to 83,100 by 2033 with an increasingly mature population. 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 235<sup>th</sup> out of 354 English authorities, based on the government's indices of multiple deprivation. (Fylde District Profile 2011-12).

#### 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 2012, there is one casino in the Borough which is located within St Annes, seven betting shops are located in the area with 3 each in St Annes and Kirkham and one in Lytham. 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 (defined in S45 of the Act as being less than 16 years old or a young person as between 16 and 18 years old) 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) (or successor body) 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 *DATE TO BE INSERTED*. 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](mailto:licensing@fylde.gov.uk) Tel No: 01253 658658

### Contact details of responsible authorities:

<i>Responsible Authority</i>	<i>Address</i>
<b>The Gambling Commission</b>	Gambling Commission Victoria Square House Victoria Square Birmingham B2 4BP Tel No. 0121 230 6500 Fax. 0121 237 2236 <a href="mailto:info@gamblingcommission.gov.uk">info@gamblingcommission.gov.uk</a>
<b>Police Authority</b>	Lancashire Constabulary Licensing Department Western Division Bonny Street Blackpool Lancashire FY1 5RL Tel No: 01253 293933
<b>Fire Authority</b>	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
<b>Environmental Protection</b> and <b>Planning</b>	C/O Licensing Team Fylde Borough Council Town Hall Lytham St Annes Lancashire FY8 1LW Email: <a href="mailto:licensing@fylde.gov.uk">licensing@fylde.gov.uk</a> Tel No: 01253 658658
<b>Protection of Children</b>	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	

# REPORT

REPORT OF	MEETING	DATE	ITEM NO
DEVELOPMENT SERVICES DIRECTORATE	LICENSING COMMITTEE	12 <sup>th</sup> OCTOBER 2012	5

## LICENSING ACT 2003

### Public Item

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

### Summary

A presentation will be made to the members regarding the current numbers of licensed premises in the Borough and provide information regarding changes and updates to the Licensing Act 2003.

### 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:
  - 329 Premises Licences (alcohol) – 253 are currently in force, the others being either surrendered, lapsed or revoked
  - 52 Premises licenses (non – alcohol) – 48 currently in force
  - 33 Club premises Certificates – 28 currently in force
  - 1164 Temporary event notices
  - 845 Personal Licences

2. A number of changes to the Licensing Act 2003 have recently come into force together with the provisions of the Live Music Act 2012. Therefore, a presentation will be made to the Committee Members providing an update and the potential impact of these changes.
3. Members will be requested to note the presentation.

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	19 <sup>th</sup> September 2012	

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

#### Attached documents

## Licensing Committee



Date	30 September 2009
Venue	Town Hall, St Annes
Committee members	Angela Jacques (Chairman) Dawn Prestwich (Vice-Chairman)  Christine Akeroyd, Keith Beckett, Elizabeth Clarkson, Barbara Douglas, John Davies, Tony Ford, Ken Hopwood.
Other Councillors	None
Officers	Chris Hambly, Clare Holmes, Hazel Wood

### 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 January 2009 as a correct record for signature by the chairman.

### 3. Substitute members

There were no substitute members.

### 4. Licensing Act 2003 - Disapplication of a Mandatory condition for Community Premises

Chris Hambly, (Licensing Officer) introduced the report 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.

Mr Hambly explained that it was also sought to amend the Statement of Licensing Policy to reflect the procedure introduced by the order.

Following consideration it was RESOLVED:

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, subject to a statutory consultation exercise. Any technical and drafting amendments following the consultation period shall be delegated to the Chair and Vice Chairman of Licensing Committee together with the Director of Community Services.

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.

5. Minor Variations - Licensing Act 2003

Chris Hambly, (Licensing Officer) presented the report and informed 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 subject to a consultation exercise.

Mr Hambly explained that it was also sought to amend the Statement of Licensing Policy to reflect the minor variation procedure introduced by the order.

Following consideration it was RESOLVED:

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 subject to a statutory consultation exercise. Any technical and drafting amendments following the consultation period shall be delegated to the Chair and Vice Chairman of Licensing Committee together with the Director of Community Services
2. That the determination of minor variation applications under the Licensing Act 2003 be delegated to the Director of Community Services.

6. Revised Gambling Policy - 2010-2013

Chris Hambly, (Licensing Officer) presented members with the draft revised Gambling Policy Statement and informed the committee of the ongoing consultation.

Following consideration it was RESOLVED:

1. To 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.
2. To delegate to the Chair and Vice Chairman of Licensing Committee together with the Director of Community Services the authority to make any technical and drafting amendments following the consultation period.

7. Licensing Act 2003 Enforcement 2008/2009 Review

Chris Hambly, (Licensing Officer) introduced the report which provided an update for the members on the number of licences issued under the Licensing Act 2003 and gave an overview on enforcement.

Following consideration it was RESOLVED:

To note the contents of the report and recommend to Council that serious consideration be given to the increase of Enforcement staff to the Licensing function and Public protection provision.