



Meeting Agenda

**Licensing Committee
Reception Room, Town Hall
31 May 2006, 10:00am**

Membership

Licensing Committee

CHAIRMAN - Councillor Dawn Prestwich
VICE-CHAIRMAN – Councillor Christine Akeroyd

Councillors

	Janine Owen
Vacancy	Albert Pounder
Elizabeth Clarkson	Heather Speak
Peter Collins	Martin Taylor
Susan Fazackerley	Vacancy
Karen Henshaw JP	Keith Wright
Steve Mason	

Contact: Lyndsey Lacey, St. Annes (01253) 658504, Email: lyndseyl@fylde.gov.uk



CORPORATE OBJECTIVES

The Council's investment and activities are focused on achieving our five key objectives which aim to :

- Conserve, protect and enhance the quality of the Fylde natural and built environment
- Work with partners to help maintain safe communities in which individuals and businesses can thrive
- Stimulate strong economic prosperity and regeneration within a diverse and vibrant economic environment
- Improve access to good quality local housing and promote the health and wellbeing and equality of opportunity of all people in the Borough
- Ensure we are an efficient and effective council.

CORE VALUES

In striving to achieve these objectives we have adopted a number of key values which underpin everything we do :

- Provide equal access to services whether you live in town, village or countryside,
- Provide effective leadership for the community,
- Value our staff and create a 'can do' culture,
- Work effectively through partnerships,
- Strive to achieve 'more with less'.



A G E N D A

PART I - MATTERS DELEGATED TO COMMITTEE

ITEM	PAGE
1. DECLARATIONS OF INTEREST: <i>In accordance with the Council's Code of Conduct, members are 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.</i>	4
2. CONFIRMATION OF MINUTES: <i>To confirm as a correct record the Minutes of the Licensing Committee held on 1 March 2006.</i>	4
3. SUBSTITUTE MEMBERS: <i>Details of any substitute members notified in accordance with council procedure rule 25.3</i>	4
4. GAMBLING ACT 2005	5 – 38
5. LICENSING ACT 2003 - UPDATE	39 - 41

REPORT



REPORT OF	MEETING	DATE	ITEM NO
CONSUMER WELLBEING AND PROTECTION	Licensing Committee	31 ST MAY 2006	4

GAMBLING ACT 2005

Public/Exempt item

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

Summary

The new Gambling Act 2005 is now partly in force. Current expectations are that the Act will be brought fully into effect on 1st September 2007 and that licensing authorities will begin to accept applications for gambling licenses from 31st January 2007. The Act imposes new duties on local authorities to licence premises used for gambling and seeks to control all forms of gambling. During 2006 the Council must consult on and adopt a licensing policy for gambling.

Recommendation/s

1. That the committee approve the draft licensing policy for consultation.

Executive brief

The item falls within the following Portfolio Holders Brief: Community & Social Wellbeing (Councillor Miss P Fieldhouse)

Report

Following a comprehensive report presented to the Licensing Committee meeting held on the 1st March 2006, the members agreed to the formulation of a draft licensing Policy.

In line with the resolution of the Committee a policy has now been drafted for the Committee's approval prior to formal consultation. See enclosed Appendix.

The Policy has been drafted in accordance with the Licensing Act 2005 and guidance issued by the Gambling Commission.

The Authority is required under the Act to publish the policy statement by the 31st January 2007.

Prior to formal adoption and publication the Authority is required to go through a formal consultation process.

In order to achieve this the following timetable has been set:

- Formal consultation process to commence the beginning of June 2006. This is to allow for a 12-week consultation period in accordance with Cabinet Office guidance. The consultation period will end the beginning of September 2006.
- The individuals and organisations to be consulted on the details of this policy are highlighted in Section 3.9 of the Policy. This is not an exhaustive list as there may be other individuals and organisations who may be identified during the consultation process. The draft Policy will also be placed on the Council's web site
- All feedback from the consultation process will be tabulated, together with officer comments. Where appropriate revisions to the Policy will be made.
- The revised version of the Policy Statement to be ready by mid October 2006, in order to allow the members to consider the revised policy at the Public Protection Committee meeting, which will be arranged for the beginning of November 2006.
- The policy will require adoption by Full Council at their last meeting for 2006, which is scheduled for 27th November 2006.
- The policy statement has to then be published 4 weeks before the first appointed day. The first appointed day as stated in the Act is 31st January 2007. The Policy must therefor be published by 31st December 2006.

IMPLICATIONS	
Finance	
Legal	
Community Safety	
Human Rights and Equalities	
Sustainability	
Health & Safety and Risk Management	

Report Author	Tel	Date	Doc ID
STUART HANDLEY	(01253) 658603	28TH APRIL 2007	

List of Background Papers		
Name of document	Date	Where available for inspection
Guidance to Licensing Authorities Consultation Document,	December 2005	Gambling Commission Berkshire House, 168-173 High Holborn, London WC1V 7AA



FYLDE BOROUGH COUNCIL



GAMBLING ACT 2005

DRAFT STATEMENT OF GAMBLING LICENSING POLICY

Revision 0 April 2006

CONTENTS

1	BACKGROUND
2	THE LICENSING OBJECTIVES
3	INTRODUCTION
	3.1 General
	3.2 Types of Licence
	3.3 Licensable Premises and Permits
	3.4 Licensing Authority Functions
	3.5 Profile of the Authority
	3.6 Consultation
4	GENERAL PRINCIPLES OF THE POLICY
5	DUPLICATION WITH OTHER REGULATORY REGIMES ETC
	5.1 Legislation
	5.2 Human Rights
	5.3 Discrimination
6	DECISION MAKING ARRANGEMENTS
7	EXCHANGE OF INFORMATION
8	PREMISES LICENCES
	8.2 Demand for Premises
	8.3 Definition of Premises
	8.4 Location of Premises
	8.5 Achieving the Licensing Objectives
	(i) Preventing Crime and Disorder
	(ii) Ensuring that Gambling is Conducted in a Fair and Open Way
	(iii) Protecting children and other vulnerable adults
	8.6 Conditions
	(i) Door Supervisors
	8.7 Adult Gaming Centres
	8.8 (Licensed) Family Entertainment Centres
	8.9 Casinos
	8.10 Bingo Premises
	8.11 Betting Premises
	8.12 Tracks
	8.13 Travelling Fairs
	8.14 Betting Machines
	8.15 Credit
9	REPRESENTATIONS
	9.2 Admissible and Relevant
	9.3 Frivolous or Vexatious or Likely to have no Influence on a Decision
	9.4 Responsible Authorities
	9.5 Interested Parties
10	REVIEW OF PREMISES LICENCES
11	PROVISIONAL STATEMENTS
12	PERMITS, NOTICES & LOTTERIES
	12.3 Unlicensed Family Entertainment Centres - Gaming Machine Permits
	12.4 Alcohol Licensed Premises - Gaming Machine Permits
	12.5 Prize Gaming Permits
	12.6 Club Gaming and Club Machines Permits
	12.7 Temporary Use Notices
	12.8 Occasional Use Notices
	12.9 Small Society Lotteries
13	ENFORCEMENT
14	COMPLAINTS
15	APPEALS
16	POLICY REVIEW
	APPENDIX A – CONTACT DETAILS RESPONSIBLE AUTHORITIES
	APPENDIX B – TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

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

2 THE LICENSING OBJECTIVES

2.2 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 adults 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 draft “Statement of Gambling Licensing Policy” has been prepared having regard to the licensing objectives of the Gambling Act 2005 listed in paragraph 2.1, the Guidance issued by the Gambling Commission. It is intended to be a discussion document leading to adoption by Fylde Borough Council of a formal Statement of Licensing Policy.

3.1.3 It is intended that this policy will be adopted by the Full Council at it's meeting on the 27th November 2006
This draft has been posted on the Councils website fylde.gov.uk

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, namely:-

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

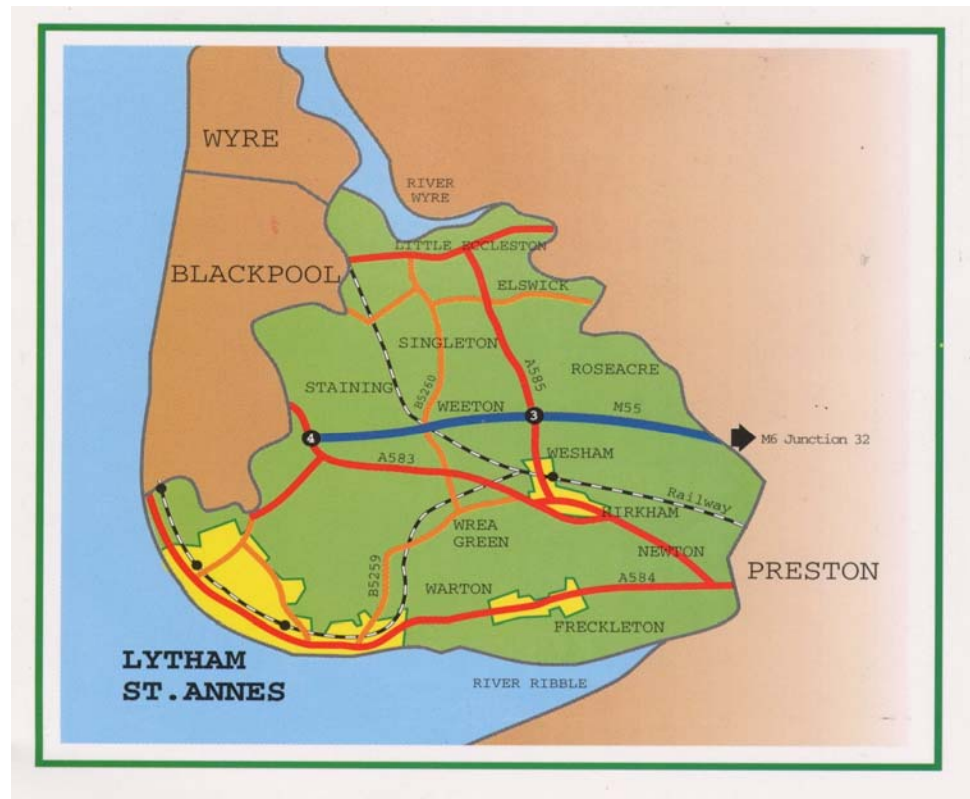
- 3.4.1** This policy covers all the functions of the Licensing Authority which are:-

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

3.5 Profile of the Authority

- 3.5.1** Fylde Borough Council is a coastal borough situated in the County of Lancashire, which contains 12 District Councils in total. The Council area has a population of 73,217 (2001 Census). This is expected to rise to 77,300 by 2010 with fewer children and more people over the age of 65. A large proportion of the area is rural in nature. The main towns within the borough are the resorts of Lytham and St Annes. Further inland the borough contains smaller urban areas at Wesham, Kirkham, Freckleton and Warton. It has a geographical area of 166 square km. Fylde is a reasonably affluent area, ranking 235th out of 354 English authorities, based on the government's indices of multiple deprivation.

3.5.2



3.5.3 The main concentrations of premises in the district providing any form of gambling and indeed the sale of alcohol, can be found in the town centres of St Annes, Lytham and the market town of Kirkham. There is one casino in the Borough which is located within St Annes and 2 Bingo Halls both of which are located within a large holiday centre on the Blackpool boundary. 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 as do up to a dozen premises that do not sell alcohol. These are primarily hotels along with a few taxi offices and a takeaway that will not be permitted any machines under the new legislation.

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 finally determining this policy the following will have been consulted:

- The Chief Officer of Police
- Representatives of persons who represent the interests of people carrying on gambling businesses in the Authorities area.
- Representatives of persons who appear to the authority to represent the interests of people likely to be affected by the exercise of the authorities functions under the Gambling Act

3.6.2 The individuals and organisations being consulted on the details of this draft policy include:-

- The Chief Officer of Police
 - The Fire Authority
 - [Trade Assoc A](#)
 - [Trade Assoc B](#)
 - [Residents Asscociation A](#)
 - [Residents Asscociation B](#)
 - Representatives of businesses and residents in the borough
 - Representatives of local late night take-away food businesses
 - Fylde Community Safety Partnership
 - Local licensing solicitors
 - Representatives of child welfare groups
 - Town and Parish Councils
- [ETC ETC](#)

3.6.3 Any comments should be made in writing to:

Stuart Handley
Commercial and Licensing Manager
Consumer Wellbeing and Protection Unit
Fylde Borough Council
Town Hall
Lytham St Annes
FY8 1LW
Tel: 01253 658658
E-mail: stuartH@fylde.gov.uk

Closing date for comments: 31st August 2006

Proper weight will be given to the views of all those consulted prior to this policy statement taking effect.

4 GENERAL PRINCIPLES OF THE POLICY

- 4.1** This 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.
- 4.2** 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.
- 4.3** This Authority will regulate gambling in the public interest but will 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 or guidance issued by the Gambling Commission;
 - reasonably consistent with the licensing objectives; and
 - in accordance with this policy statement

- 4.4** Nothing in this policy will detract from the principle that every application will be determined on the merits of the particular case.

5 DUPLICATION WITH OTHER REGULATORY REGIMES ETC.

5.1 Legislation

- 5.1.1** 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);

- 5.1.2** 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.

- 5.1.3** 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.

5.2 Human Rights

- 5.2.1** 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

5.3 Discrimination

- 5.3.1** 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 different racial groups

6 DECISION MAKING ARRANGEMENTS

- 6.1** The Council, as a Licensing Authority, is involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them.
- 6.2** Appreciating the need to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process, the Licensing Committee has delegated certain decisions and functions and has established a number of Licensing Panels to deal with them.
- 6.3** Many of the decisions and functions will be purely administrative in nature and the grant of non-contentious applications, including for example those gambling licences and permits where no representations have been made, will be delegated to Council Officers.
- 6.4** The table shown at Appendix B sets out the agreed delegation of decisions and functions to Licensing Committee, Panels and Officers.
- 6.5** This form of delegation is without prejudice to Officers referring an application to a Panel or Full Committee if considered appropriate in the circumstances of any particular case.
- 6.6** A Licensing Panel comprising three Councillors will sit to hear applications where representations have been received from interested parties and responsible authorities. Ward Councillors will not sit on a Sub-Committee involving an application within their ward.
- 6.7** Where a Councillor who is a member of the Licensing Committee is making or has made representations regarding a gambling licence on behalf of an interested party, in the interests of good governance they will disqualify themselves from any involvement in the decision making process affecting the licence in question.
- 6.8** A Licensing Panel will also refer to the Licensing Committee any matter it is unable to deal with because of the number of its members who are unable to take part in the consideration or discussion of any matter or vote on any question with respect to it.
- 6.9** Every determination of a licensing decision by the Licensing Committee or of a Panel of the Licensing Committee will be accompanied by clear, cogent reasons for the decision. The decision and the reasons for that decision will be sent to the applicant and those who have made relevant representations as soon as practicable. A summary of the decision will also be posted on the Council's website as soon as possible after the decision has been confirmed, where it will form part of the statutory licensing register required to be kept by the Council.
- 6.10** The Council's Licensing Officers will deal with all other gambling licensing applications where either no representations have been received, or where representations have been received and it is agreed by the parties that a hearing is not necessary.

7 EXCHANGE OF INFORMATION

- 7.1** 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 and will establish protocols in this respect.

- 7.2** 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.
- 7.3** 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 Councils website. Copies of entries in the register may be taken subject to a reasonable charge being made.
- 7.4** 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.
- 7.5** 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.

8 PREMISES LICENCES

- 8.1** 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.

8.2 Demand for Premises

- 8.2.1** This Licensing Authority will not take into account whether or not there is a demand for gambling premises when considering applications for premises licences.

8.3 Definition of Premises

- 8.3.1** The term premises is defined in the Act as "any place". In determining whether different parts of a building can be properly regarded as being separate premises, for the purpose of an application, this Authority will always consider the particular circumstances of the case. In general, however, it will not consider areas of a building that are artificially or temporarily separate as different premises.
- 8.3.2** This Authority is very mindful of the need to protect children from being harmed by gambling. It sees this as, not only preventing them from taking part in gambling, but also ensuring that they are not permitted to be in close proximity to gambling. It considers it important that premises should be configured so that children are not invited to participate in, have accidental access to, or closely observe gambling. This Authority will, accordingly, pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed).

- 8.3.3** In considering applications for multiple licences for a building or for a specific part of a building to be licensed, entrances and exits from parts of a building covered by one or more licences will be expected to be separate and identifiable so that the separation of different premises is not compromised and people do not 'drift' into a gambling area.

8.4 Location of Premises

- 8.4.1** 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. For example if an application is received for a premises licence in an area which has a history of crime and disorder the Licensing Authority may decide to attach additional conditions such as the employment of door staff.
- 8.4.2** 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 adults can be met.
- 8.4.3** Should any specific policy be decided upon as regards areas where gambling premises should not be located, this 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.

8.5 Achieving the Licensing Objectives

- 8.5.1** Decisions taken by this Licensing Authority and premises licences granted will, as far as possible, be consistent with the three licensing objectives detailed below 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*

- 8.5.2** This licensing authority is aware of the distinction between disorder and nuisance 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.
- 8.5.3** 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.
- 8.5.4** 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.

8.5.5 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. A high standard of control is, therefore, expected to be exercised over licensed premises. 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.

8.5.6 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

8.5.7 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.

8.5.8 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 adults

8.5.9 This licensing authority 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.

8.5.10 The 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.

8.5.11 Each separate application will, however, 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'

8.5.12 Particular attention will be paid to any Codes of Practice that 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.

8.5.13 It is not an aim of this policy to exclude any particular groups of adults from gambling, however, where vulnerable adults 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

- people who gamble more than they want to
- people who gamble beyond their means
- people who 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 adults against the overall aim to permit the use of premises for gambling.

8.6 Conditions

8.6.1 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

8.6.2 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, winnings or prizes.

8.6.3 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 policy statement.

8.6.4 The starting point in determining applications will be to grant the application without 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.

8.6.5 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 expect the licence applicant to offer his/her own suggestions as to way in which the licensing objectives can be met effectively.

8.6.6 This Authority will attempt to deal with the concerns raised in relevant representations by way of the imposition of conditions before considering refusing any application.

(i) Door Supervisors

8.6.7 It is noted that the Gambling Act 2005 has amended the Security Industry Act so that door supervisors at casinos or bingo premises cannot be licensed by the Security Industry Authority. This Authority, however, considers that it may, in some circumstances, be appropriate to impose specific requirements for suitably trained, door supervisors at casinos in recognition of the nature of the work in terms of searching individuals, dealing with potentially aggressive persons, etc.

8.7 Adult Gaming Centres

8.7.1 The term adult entertainment centre was introduced by the Gambling Act 2003. 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.

8.7.2 This Authority's main concern in these premises is to protect children and vulnerable persons.

8.7.3 In considering applications for a premises licence for an adult entertainment 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.

8.7.4 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

The use of self-barring schemes, provision of information leaflets / helpline numbers for organisations such as GamCare may be considered appropriate to protect vulnerable persons.

8.8 Family Entertainment Centres

8.8.1 The Act created two classes of family entertainment centres, only one of which requires a premises licence.

8.8.2 Licensed family entertainment centres are permitted to provide category C gaming machines that have a maximum payout of £25. Unlicensed family entertainment centres can only provide category D machines that have a maximum payout of £5 cash or £8 in tokens. No limits are set on the numbers of machines in these categories.

8.8.3 Children are permitted in 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.

8.8.4 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas. Appropriate licence conditions may cover the issues detailed in paragraph 8.7.4 above. This licensing authority will, in particular, have regard to any conditions that apply to operator licences covering the way in which the area containing the category C machines should be delineated and will make itself aware of any mandatory or default conditions on these premises licences.

8.9 Casinos

8.9.1 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 will be a resolution of Full Council following considered debate, the reasons for making the resolution will be given and this policy will be updated accordingly.

- 8.9.2** 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 who the successful bidder is by following the procedure laid out in Schedule 9 of the Act.
- 8.9.3** The Authority's position in respect of betting machines (as distinct from gaming machines) and in respect of the provision of credit in casino premises is set out at paragraphs 18.1 and 19.1 below.

8.10 Bingo Premises

- 8.10.1** 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.
- 8.10.2** 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.

8.11 Betting Premises

- 8.11.1** Children are not permitted to enter premises licensed for betting and therefore this Licensing Authority will consider what measures an applicant for a premises licence will be taking to prevent this.
- 8.11.2** Cash dispensers (ATM's) shall be permitted in betting premises however the holder of the premises licence should have no commercial connection with the ATM provider and does not either make any payment or make any profit out of the arrangement.
- 8.11.3** The Licensing Authority will consider whether to impose a condition to any premises licence for a betting premises restricting the number, nature of betting machines (not to be confused with gaming machines) and the circumstances in which those machines are available for use. When considering such conditions, amongst other things, the size of the premises and the number of counter positions available for person-to-person transactions will be taken into account.
- 8.11.4** The Authority's position in respect of betting machines (as distinct from gaming machines) and in respect of the provision of credit in betting premises is set out at paragraphs 8.14 and 8.15 below.

8.12 Tracks

- 8.12.1** 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 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.

- 8.12.2** 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 would expect the premises licence applicants to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, although they are still prevented from entering areas where gaming machines (other than category D machines) are provided. Appropriate licence conditions may cover the issues detailed in paragraph 8.7.4 above.
- 8.12.3** 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.)
- 8.12.4** 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.

8.13 Travelling Fairs

- 8.13.1** 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.
- 8.13.2** Any number of category D 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.
- 8.13.3** 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.

8.14 Betting Machines

- 8.14.1** 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 betting premises licence or to a casino premises licence (where betting is permitted in the casino). When considering whether to impose such a condition, in relation to betting premises away from tracks, account will be taken, amongst other things, of 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 such machines by children and young persons or by vulnerable persons.. Similar considerations will apply in relation to tracks,

where the potential space for such machines may be considerable, bringing with it significant problems in relation to the proliferation of such machines, the ability of track staff to supervise them if they are scattered around the track and the ability of the track operator to comply with the law and prevent children betting on the machine. This Licensing Authority will consider restricting the number and location of betting machines, in the light of the circumstances of each application for a track betting premises licence and any guidance issued by the gambling Commission.

8.15 Credit

- 8.15.1** Licence holders are prohibited from giving credit in connection with the gambling taking place on the premises or participating in, arranging, permitting or knowingly facilitating the giving of credit in connection with gambling on the premises. This licensing authority has, however, noted that nothing prevents a licensee from allowing the installation of cash dispensers (ATMs) on their premises. that may accept credit cards (and debit cards). Such provision is, however, subject to a requirement that the licensee has no other commercial connection in relation to gambling (aside from the agreement to site the machines) with the service-provider and does not profit from the arrangement, not make any payment in connection with the machines.

9 REPRESENTATIONS

- 9.1** 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.

9.2 Admissible and Relevant

- 9.2.1** A representation will only be admissible if it is from a responsible authority or interested [party](#).
- 9.2.2** 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 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.

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

- 9.3.1** This Licensing Authority will determine an application without a hearing if the representations are considered to be either frivolous or vexatious.
- 9.3.2** 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, not serious or flippant. Whilst vexatious will be interpreted as having an ulterior motive or vindictive.

9.3.3 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.

9.3.4 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

9.4 Responsible Authorities

9.4.1 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.

Contact details for all responsible authorities listed above are included in Appendix A to this policy.

9.4.2 The Authority accepts that the protection of children and vulnerable persons is key responsibility under the Act. It s considers that the most appropriate body to advise them about the protection of children is the [local Social Services Child Protection Committee](#).

9.5 Interested Parties

9.5.1 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

9.5.2 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 adults.)

9.5.3 In determining whether a person’s business interest might be affected by the authorised activities it will not be considered sufficient 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.

9.5.4 Interested parties will be taken to include trade associations and trade unions, as well as residents’ and tenants’ associations provided that 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.)

9.5.5 Interested parties may be represented by advocates, MPs or Ward Councillors and others provided that they can produce written evidence that they have been authorised to act on behalf of the interested party.

10 REVIEW OF PREMISES LICENCES

10.1 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.

10.2 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 guidance issued by the Gambling Commission
- Is consistent with the licensing objectives (see 2.1 above) and
- In accordance with the Authority’s Statement of Licensing Policy

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

1. are frivolous (see paragraph 9.3 above)
2. are vexatious (see paragraph 9.3 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 9.3 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.

10.4 A review can be held in relation to a class of premises or in relation to a particular premises.

10.5 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 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.

11 PROVISIONAL STATEMENTS

11.1 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.

11.2 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.

11.3 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.

11.4 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 given to whether or not the proposal is likely to be permitted in accordance with planning or building law.

11.5 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

12 PERMITS, NOTICES & LOTTERIES

12.1 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

12.2 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.

12.3 Unlicensed Family Entertainment Centres-Gaming Machine Permits

12.3.1 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 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

12.3.2 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.

12.3.3 Although this licensing authority recognises that it cannot attach conditions to this type of permit, it will expect initial applicants for permits 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, training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on or around the premises.

12.3.4 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 a policy has been adopted.

12.3.5 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.

12.4 Alcohol Licensed Premises - Gaming Machine Permits

- 12.4.1** 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 Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with)
 - the premises are mainly used for gaming; or
 - an offence under the Gambling Act has been committed on the premises
- 12.4.2** 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.
- 12.4.3** 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. It will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to any adult only gaming machines.
- 12.4.4** Measures which will satisfy the authority that there will be no access may include the adult 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.
- 12.4.5** 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.
- 12.4.6** It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would need to be applied for and be dealt with as an Adult Entertainment Centre premises licence.

12.5 Prize Gaming Permits

- 12.5.1** 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 policy statement.
- 12.5.2** 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.
- 12.5.3** 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.
- 12.5.4** 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

12.6 Club Gaming and Club Machines Permits

- 12.6.1** 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, C or D), equal chance gaming and games of chance. A Club Gaming machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).
- 12.6.2** Before granting a permit this Authority will need to satisfy itself that the premises meet the requirements of a members' club (see paragraph 12.6.5 below for current definition) and may grant the permit if the majority of members are over 18.

- 12.6.3** This Licensing Authority is aware that: Licensing Authorities may only refuse an application on the grounds that:
- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
 - (b) the applicant's premises are used wholly or mainly by children and/or young persons;
 - (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
 - (d) a permit held by the applicant has been cancelled in the previous ten years; or
 - (e) an objection has been lodged by the Commission or the police
- 12.6.4** 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:-
- (a) the club is established primarily for gaming, other than gaming prescribed under schedule 12;
 - (b) in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
 - (c) a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.
- 12.6.5** Current 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.

12.7 Temporary Use Notices

- 12.7.1** 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.
- 12.7.2** Temporary Use Notices will only be granted to operators holding the relevant operators licence. For instance a betting operator will not be permitted a licence for betting facilities at a snooker tournament.
- 12.7.3** 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.

12.7.4 This Licensing Authority will hold a hearing if an objection notice is served unless all parties agree that a hearing is unnecessary.

12.7.5 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 policy statement

12.8 Occasional Use Notices

12.8.1 This licensing authority has very little discretion with regard these notices. 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.

12.9 Small Society Lotteries

12.9.1 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

13 ENFORCEMENT

13.1 The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 is to ensure compliance with the Premises Licences and other permissions which is authorised. The Gambling Commission is the enforcement body for Operator and Personal Licences

13.2 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 it is better placed to take the lead, particularly where there is illegal activity on a smaller scale that is confined to its area.

- 13.3** 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.
- 13.4** 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** - It will operate a risk based inspection programme with enforcement focus on those areas which are causing the most problems and will be aimed at minimising those problems.
- 13.5** 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.
- 13.6** 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.
- 13.7** 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.
- 13.8** 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.

14 COMPLAINTS AGAINST LICENSED PREMISES

- 14.1** 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.

- 14.2** 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.
- 14.3** 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.

15 APPEALS

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

16 POLICY REVIEW

- 16.1** This policy takes effect on the 31st January 2007 and will remain in force for not more than 3 years. It will be subject to periodic reviews and further consultation.
- 16.2** When reviewing this policy account will be taken of any additional guidance issued by the Gambling Commission and the results of any consultations received.

APPENDIX A

CONTACT DETAILS RESPONSIBLE AUTHORITIES

Contact details for Licensing Authority:

Licensing Team
Fylde Borough Council
Town Hall
Lytham St Annes
Lancs
FY8 1LW

Email: licensing@fylde.gov.uk

Tel No: 01253 658658

Contact details of responsible authorities:

<i>Responsible Authority</i>	<i>Address</i>
The Gambling Commission	Gambling Commission Berkshire House 68/173 High Holborn London WC1V 7AA Tel 020 7306 6219
Police Authority	Lancashire Constabulary Insp B Horrocks/PS A Wood Licensing Department Western Division Bonny Street Blackpool Lancs FY1 5RL Tel No: 01253 293933
Fire Authority	FAO Station Officer Garrod Lancashire Fire and Rescue Service St Annes Fire Station St Andrews Road North St Annes Lancs FY8 2JQ Tel No: 01253 722268
Environmental Protection and Planning	C/O Licensing Team Fylde Borough Council Town Hall Lytham St Annes Lancashire FY8 1LW Email: licensing@fylde.gov.uk Tel No: 01253 658658
Protection of Children	Lancashire County Council Social Services Directorate PO Box 162 East Cliffe County Offices Preston PR1 3AR Tel No: 0845 053 0000

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

Custom and Excise.
Boundary House
Cheadle Point
Cheadle
Cheshire
SK8 2JZ

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		
Fee Setting - when appropriate		X	
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of 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 other permits			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 notice		X	

REPORT



REPORT OF	MEETING	DATE	ITEM NO
CONSUMER WELLBEING AND PROTECTION	Licensing Committee	31 ST MAY 2006	5

LICENSING ACT 2003 - UPDATE

Public/Exempt item

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

Summary

Between the 24th November 2005 and the 30th April 2006 the Licensing Committee and Officers have been responsible for processing over 295 premises and 399 personal licence applications under the Licensing Act 2003. This has, where appropriate, involved mediation between the various parties and where necessary hearings by the Licensing Panels.

Recommendation/s

1. That the committee note the report.

Executive brief

The item falls within the following Portfolio Holders Brief: Community & Social Wellbeing (Councillor Miss P Fieldhouse)

Report

The purpose of this report is to update the members on the number of licences issued under the Licensing Act 2003.

As from the 24th November 2005 the Authority became responsible for the issuing of premises licences, temporary event notices, club premises certificates and personal licences. Premises licences and Club premises certificates relate to the provision of regulated entertainment, supply or sale of alcohol and/or provision of late night refreshment. The issue of personal licences relate to the authorisation of persons to sell or supply alcohol on premises, which have the benefit of a premises licence.

The number of licences issued between the 24th November 2005 and 30th April 2006 are as follows:

Personal Licences

Granted – 399

Refused - 2

Premises Licenses - Alcohol

Granted – 230

Applications to vary – 10

Appeals – 3

Premises Licences – Non – alcohol

Granted – 35

Appeals – 2

Club Premises Certificates

Granted – 30

Applications to vary – 1

Temporary Events

Applications - 67

Counter Notices issued – 1

The above premises licence applications, which total 295, resulted in 116 of the applications being subject to representations.

The majority of the representations were made by the Lancashire Constabulary, which totalled 103, and interested parties (persons living within the vicinity of the premises making application) which totalled 34. The representations related in the main to crime and disorder and/or public nuisance.

Of the total number of representations made, 37 were heard by the Licensing Panel and the other 79 were dealt with by way of mediation between the responsible authority or interested party, and the applicant.

The decision of the Licensing Panel as a result of the hearings included, inter alia, restriction on the hours to sell alcohol, limiting the hours of use of out door areas and/or imposing conditions as listed within the Nightsafe scheme, for example, provision of CCTV, control of glass policy, employment of door supervisors.

5 premises licence applications were heard by the Licensing Panels and which were subsequently the subject of appeal to the Magistrates Court. Non of the appeals were actually heard by the Magistrates, in that agreement was reached prior to the court hearings. Two of the appeals related to late night refreshment and the hours of operation, 1 on the restriction of hours for the sale of alcohol and 2 on the wording of the conditions on the availability of the personal licence holder.

IMPLICATIONS	
Finance	
Legal	
Community Safety	
Human Rights and Equalities	
Sustainability	
Health & Safety and Risk Management	

Report Author	Tel	Date	Doc ID
STUART HANDLEY	(01253) 658603	5TH MAY 2006	

List of Background Papers		
Name of document	Date	Where available for inspection
LICENSING ACT 2003 DCMS GUIDANCE ON THE ACT (JULY 2004)		Council Office