

# **STATEMENT OF PRINCIPLES**

## **Gambling Act 2005**

January 2013



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## Background Information

Bath & North East Somerset Council (the Council), is the Licensing Authority for Bath and North East Somerset under the Gambling Act 2005 (the Act). This means that the Council has responsibility for granting premises licences and various permits with respect to gambling activities in the area and is responsible for processing Temporary and Occasional Use Notices.

The Act created a new system of licensing and regulation for commercial gambling. Amongst other changes, it gave to local authorities new and extended responsibilities for licensing premises for gambling. In some cases, such as gaming machine arcades, those built on existing responsibilities. In other major areas, including betting, casino gaming and bingo, they transferred to local authorities responsibilities which previously lay with local Licensing Justices.

Under the Act, each Licensing Authority is required to develop, consult on and publish a statement of its licensing principles. The statement must set out the principles, which the Authority proposes to apply in exercising its licensing functions under the Act.

The Gambling Commission has issued Guidance to all Licensing Authorities on the manner by which they are to exercise their functions under the Act and the principles to be applied when exercising those functions. The principles are set out in Parts A – E of this document and have been developed in accordance with the requirements of the Guidance.

The Act requires that Licensing Authorities carry out consultation of their proposed principles and that all of the following parties are consulted:

- The Chief Officer of Police;
- One or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area;
- One or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's functions under the Act.

In addition to the above, the following have also been consulted: a wide range of organisations including voluntary and community organisations working with children and young people; organisations including those that work with people who are problem gamblers; **NHS B&NES (formerly PCT)** and advocacy organisations such as the Citizen's Advice Bureau.

There has also been consultation with other tiers of local government such as planning, economic development, environmental health and local businesses who are, or will be, holders of premises licences under the Act.

The list of persons who have been consulted is deliberately wide. This has enabled the Licensing Authority to undertake a comprehensive consultation exercise with anyone who may be affected by, or otherwise have an interest in, the licensing policy statement.

Copies of this Statement of Principles can be found on the Council's web site at [www.bathnes.gov.uk/gambling](http://www.bathnes.gov.uk/gambling) If you would like us to send you a hard copy please write to us at:

Licensing Services  
Bath & North East Somerset Council  
Lewis House  
Manvers Street  
Bath  
BA1 1JG

Or email us at [licensing@bathnes.gov.uk](mailto:licensing@bathnes.gov.uk).

If you require further information please telephone us on 01225 477531.

This document can be made available in a range of languages, large print, Braille, audio, electronic and other accessible formats. Please use the above contact details if you would like any further information.

## GLOSSARY OF TERMS

Within this Statement of Principles, the following words and terms are defined as stated:

Act:	The Gambling Act 2005
The Authority	Bath & North East Somerset Council
Better Regulation Executive	The Better Regulation Executive (BRE) is part of the Department for Business, Enterprise and Regulatory Reform (BERR) and is responsible for the regulatory reform agenda across government.
Betting Machine:	This is a machine which has been designed or adapted for use to bet on future real events, such as horse racing and used as a substitute for placing a bet over the counter.
CCTV:	Closed Circuit Television
Code of Practice:	Means any relevant code of practice under section 24 of the Gambling Act 2005
Council:	Bath & North East Somerset Council
Council area:	The area of Bath and North East Somerset administered by Bath & North East Somerset Council (Map appended at Appendix A)
DCMS:	Department for Culture, Media and Sport
Default Condition:	Means a specified condition provided by regulations to be attached to a licence, unless excluded by Bath & North East Somerset Council
FEC	(Unlicensed) Family Entertainment Centre
GamCare:	This is a registered charity that has a commitment to promote responsible attitudes to gambling and to work for the provision of proper care for those who have been harmed by gambling dependency.
<b>Gaming Machine:</b>	<b>As defined by S172 Gambling Act 2005.</b>
Guidance:	Guidance issued to Licensing Authorities by the Gambling Commission as required by section 25 of the Gambling Act 2005, dated September 2012.
Licensing Authority:	Bath & North East Somerset Council

Mandatory Condition:	Means a specified condition provided by regulations to be attached to a licence
Notifications:	Means notification of Temporary and Occasional Use Notices
Premises:	Any place, including a vehicle, vessel or moveable structure
PSIA:	Private Security Industry Act 2001
Regulations:	Regulations made by the Secretary of State under the Gambling Act 2005
Regulators Compliance Code	A statutory code that local authorities must have regard to when carrying out enforcement duties - issued by the Local Better Regulation Office
Responsible Authority:	With regard to the Act and the Gambling Commission's guidance, the following are responsible authorities in relation to premises: The Licensing Authority in whose area the premises are wholly or mainly situated ("Bath & North East Somerset Council"); The Gambling Commission; Avon & Somerset Constabulary; Avon Fire and Rescue Service; Bath & North East Somerset Council; Development Control Manager, Planning Dept. Environmental Protection Manager, Policy & Performance Manager, Social Services, HM Customs and Excise.



## PART A - INTRODUCTION

### Gambling Act 2005

“Gambling” is defined in the Act as either gaming, betting or taking part in a lottery.

- Gaming means playing a game of chance for a prize.
- Betting means making or accepting a bet on the outcome of a race, competition or any other event; the likelihood of anything occurring or not occurring or whether anything is true or not.
- A lottery is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance.

The Act provides for three categories of licence

- Operating Licence
- Personal Licence
- Premises Licence

The Licensing Authority will be responsible for issuing premises licences. The main functions of the Authority are to:

- Licence premises for gambling activities;
- Grant permits for gaming and gaming machines in clubs;
- Regulate gaming and gaming machines in alcohol licensed premises;
- Grant permits to family entertainment centres for the use of certain lower stake gaming machines;
- Grant permits for prize gaming;
- Consider notices given for the temporary use of premises for gaming;
- Consider occasional use notices for betting at tracks;
- Register small society lotteries.

It should be noted that:

- Spread betting is regulated by The Financial Services Authority;
- Remote (on line) gambling is dealt with by the Gambling Commission; and
- The National Lottery is regulated by the National Lottery Commission.

This document sets out the policies that the Licensing Authority will apply when making decisions on applications or notifications for:

- Premises Licences;
- Temporary and Occasional Use Notices;
- Permits as required under the Act; and
- Regulations under the Act.

This Statement of Principles relates to all those licensable premises, notices, permits and registrations identified as falling within the provisions of the Act, namely:

- Casinos
- Bingo Premises
- Betting Premises
- Tracks
- Adult Gaming Centres
- Family Entertainment Centres
- Club Gaming and Club Machine Permits
- Prize Gaming and Prize Gaming Permits
- Temporary Use Notices
- Registration of small society lotteries

## **1 The Licensing Objectives**

1.1 In exercising most of their functions under the Act, the Licensing Authority will have regard to the licensing objectives as set out in Section 1 of the Act.

The licensing objectives are:

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

1.2 The Licensing Authority will, when making decisions about premises licences and Temporary Use Notices, aim to permit the use of premises for gambling in so far as it thinks it is:

- in accordance with any relevant code of practice issued by the Gambling Commission and/or DCMS;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives (subject to the above); and
- in accordance with the authority's statement of licensing policy (subject to the above).

## 2 Introduction

- 2.1 Bath & North East Somerset Council (the Council) is situated in North East Somerset, and runs from the outskirts of Bristol, south into the Mendips and east to the Southern Cotswolds and Wiltshire border. Its 220 square miles, two thirds of which is green belt, combine Areas of Outstanding Natural Beauty with some of the most significant historical treasures found anywhere in Europe.
- 2.2 Approximately half the population lives in the City of Bath, the largest settlement and a UNESCO World Heritage Site famed for its Georgian splendour and its Roman antiquities. Bath and North East Somerset is also home to vibrant high technology and multi media business sectors. Keynsham is the largest town in North East Somerset, and occupies a key position in this respect. It represents an important commercial and cultural centre, including a number of strategic industrial sites.
- 2.3 There are also important residential and commercial centres at Midsomer Norton and Radstock in the south. This area also boasts its own unique industrial heritage, being the site of the former Somerset coalfield.
- 2.4 The Council is responsible for serving the needs of this unique area and its 170,000 population, and as a Unitary Authority, is charged with the delivery of all Local Authority services – from **highways maintenance to parks**, from planning to social services, from libraries to **school transport**.
- 2.5 A map of the Council area is shown at Appendix A.
- 2.6 Licensing Authorities are required, by the Act, to publish a statement of the principles which they propose to apply when exercising their functions. This statement must be published at least every three years and must also be reviewed from “time to time” and any amended parts re-consulted upon.
- 2.7 **The Council has consulted widely before finalising and publishing this Statement of Principles.**
- 2.8 The Act requires that the following parties are consulted by Licensing Authorities:
- The Chief Officer of Police;
  - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority’s area;
  - One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority’s functions under the Act.

### 3 Declaration

- 3.1 In producing its final Statement of Principles, the Licensing Authority declares that it will have had regard to the licensing objectives of the Act, the Guidance issued by the Gambling Commission, any relevant Codes of Practice and any responses from those consulted on the policy statement.

### 4 Responsible Authorities

- 4.1 Responsible Authorities are public bodies that must be notified of all applications and are entitled to make representations to the Licensing Authority if they are relevant to the licensing objectives. Section 157 of the Act defines those as:

- a licensing authority in whose area the premises is situated;
- the Gambling Commission;
- The Police;
- The Fire Service;
- The Local Planning Authority;
- The Environmental Protection Team;
- A body designated by the local authority to advise about the protection of children from harm; and
- HM Revenue and Customs.

The Licensing Authority will apply the following principles when designating in writing a body which is competent to advise the Authority about the protection of children from harm:

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

- 4.2 In accordance with the Gambling Commission's Guidance, this Authority designates the Local Safeguarding Children Board for this purpose.
- 4.3 Section 211 (4) of the Act provides that in relation to a vessel, but to no other premises, responsible authorities should also include navigation authorities within the meaning of section 221 of the Water Resources Act 1991 that have functions in relation to the waters where the vessel is usually moored or berthed or in any waters where it is proposed to be navigated at a time when it is used for licensable activities.
- 4.4 The contact details of all the Responsible Authorities under the Act are available via the Council's website at: [www.bathnes.gov.uk/gambling](http://www.bathnes.gov.uk/gambling).

## 5 Interested Parties

- 5.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined as someone who, in the opinion of the Licensing Authority:
- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities;
  - b) has business interests that might be affected by the authorised activities; or
  - c) represents persons who satisfy paragraph (a) or (b).
- 5.2 In determining whether someone lives sufficiently close to a particular premise so as to be affected, the licensing authority will take into account, among other things:
- The size of the premises;
  - The nature of the premises;
  - The distance of the premises from the person making the representation; and
  - The potential impact of the premises.
- 5.3 In determining whether a person has a business interest which could be affected the licensing authority will consider, amongst other things:
- The size of the premises;
  - The catchment area of the premises; and
  - Whether the person making the representations has business interests in the catchment area that might be affected.
- 5.4 Business interests will be given a wide interpretation and could include, for example, partnerships, faith groups and medical practices.
- 5.5 Each case will be decided upon its merits. The Authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance. Larger premises may be considered to affect people over a broader geographical area compared with smaller premises offering similar facilities.
- 5.6 The Gambling Commission has recommended that the Licensing Authority states that interested parties include trade associations, trade unions and residents' associations. This Authority will not, however, generally view these bodies as interested parties unless they have a member who can be classed as one under the terms of the Act, e.g. lives sufficiently close to the premises to be likely to be affected by the activities being applied for.
- 5.7 Interested parties can be persons who are democratically elected such as Councillors and MPs. No specific evidence of being asked to represent an interested party will be required 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 persons, this Authority will generally require written evidence that a person 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation, is sufficient.

- 5.8 If individuals wish to approach Councillors to ask them to represent their views then care should be taken that the Councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact Licensing Services via e-mail at [licensing@bathnes.gov.uk](mailto:licensing@bathnes.gov.uk). or by telephone on 01225 477531.
- 5.9 Details of those persons making representations will be made available to applicants. In the event of a hearing being held such details will form part of a public document, unless it can be shown by the persons making representations that they are in fear of reprisals from the applicant.

## **6 Exchange of Information**

- 6.1 The principle that this Licensing Authority applies is that it will act in accordance with the provisions of the Act in its exchange of information between itself and the gambling Commission, which includes the provision that the Data Protection Act 1998 will not be contravened. The Licensing Authority will also have regard to any Guidance issued by the Gambling Commission on this matter as well as any relevant regulations issued by the Secretary of State.

## **7 Enforcement**

- 7.1 In general, the Gambling Commission will take the lead role on the investigation and, where appropriate, the prosecution of illegal gambling.
- 7.2 The Gambling Commission is the enforcement body for the Operator and Personal Licences. Any concerns about manufacture, supply or repair of gaming machines will not be dealt with by the Licensing Authority but will be notified to the Gambling Commission. The Gambling Commission will be responsible for compliance as regards unlicensed premises.
- 7.3 The main enforcement and compliance role for this Licensing Authority in terms of the Act will be to ensure compliance with the Premises Licences and other permissions, which it authorises.
- 7.4 The Licensing Authority will be guided by the Gambling Commission's Guidance for Local Authorities and it will endeavour to be:
- Proportionate: regulators should only intervene when necessary, remedies should be appropriate to the risk posed, and the costs identified and minimised;

- **Accountable:** regulators must be able to justify decisions and be subject to public scrutiny;
- **Consistent:** rules and standards must be “joined up” and implemented fairly;
- **Transparent:** regulators should be open: regulations should be kept simple and user friendly; and
- **Targeted:** regulation should be focused on the problem and minimise side effects.

7.5 The Licensing Authority will endeavour to avoid duplication with other regulatory regimes as far as possible.

7.6 The Licensing Authority will also adopt a risk-based inspection programme. This would include targeting high-risk premises that require greater attention so that resources are more effectively concentrated on problem premises.

7.7 The Licensing Authority 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. The website for the Better Regulation Executive can be viewed at:

[www.cabinetoffice.gov.uk](http://www.cabinetoffice.gov.uk)

7.8 The Licensing Authority will have regard to the Regulators Compliance Code and will take account of any guidance issued by the Better Regulation Delivery Office (BRDO), and its own enforcement policy, which proposes that a graduated response is taken where offences against legislation are found or where licence conditions have been contravened. An isolated administrative offence, such as failing to maintain certain records, may be dealt with by way of a written warning. More serious offences may result in a referral to Sub-Committee, the issue of a formal caution or a referral for prosecution.

7.9 The Licensing Authority intends to use appropriate enforcement to promote the licensing objectives. 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 area for unlicensed premises.

7.10 The Licensing Authority will seek to work actively with the police in enforcing licensing legislation and intends to establish protocols with the Avon and Somerset Constabulary, the Avon Fire and Rescue Service, and other Council bodies such as Environmental Health, Trading Standards and Child Protection on enforcement issues to ensure an efficient deployment of officers.

- 7.11 According to the principle of transparency, this Licensing Authority's enforcement policy will be available upon request from:

Licensing Services  
Lewis House  
Manvers Street  
Bath and North East Somerset Council  
BA1 1JG

Tel: 01225 477531

E-mail: [licensing@bathnes.gov.uk](mailto:licensing@bathnes.gov.uk)

## **8 Licensing Authority Functions**

- 8.1 The Licensing Authorities' functions under the Act are to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences;
- Issue Provisional Statements;
- Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits;
- Issue Club Machine Permits to Commercial Clubs;
- Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres;
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or fewer gaming machines;
- Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required;
- Register small society lotteries below prescribed thresholds;
- Issue Prize Gaming Permits;;
- Receive and Endorse Temporary Use Notices;
- Receive Occasional Use Notices;
- Provide information to the Gambling Commission regarding details of licences issued (see Section 6 above "Exchange of Information");
- Maintain registers of the permits and licences that are issued under these functions.

- 8.2 The Council will comply with all requirements set out in the Gambling Act 2005 (Proceedings of Licensing Committees (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007 with regard to hearings to be held under the Act.

- 8.3 It should be noted that the Local Licensing Authority will not be involved in licensing remote gambling at all. This will fall to the Gambling Commission via Operator Licences.



## **9 Gambling Commission Functions**

- 9.1 The Gambling Commission regulates gambling in the public interest. It does so by keeping crime out of gambling by ensuring that gambling is conducted fairly and openly, and by protecting children and vulnerable people.
- 9.2 The Commission provides independent advice to the Government about the manner in which gambling is carried out, the effects of gambling and the regulation of gambling generally.
- 9.3 The Commission has issued Guidance under Section 25 of the Act regarding the manner in which Local Authorities exercise their licensing functions under the Act and, in particular, the principles to be applied by local authorities.

## **10 Legislation**

- 10.1 In undertaking its licensing function under the Act, the Council is also bound by other legislation including:
  - s.17 of the Crime and Disorder Act 1988
  - Human Rights Act 1998
  - Health and Safety at Work Act 1974
  - Environmental Health Act 1990
  - The Anti Social Behaviour Act 2003
  - The Race Relations Act 1976 (as amended)
- 10.2 However, the policy is not intended to duplicate existing legislation and regulation regimes that already place obligations on operators and employers.

## PART B – PREMISES LICENCES – (GENERAL)

### 11 Premises Licences

- 11.1 Premises Licences will be subject to the permissions/restrictions set out in the Act and Regulations, as well as specific mandatory and default conditions. Licensing Authorities are able to exclude default conditions, and also attach others, where it is believed to be appropriate to achieve the licensing objectives.
- 11.2 The Licensing Authority is aware that, in making decisions about premises licences, it should aim to permit the use of premises for gambling in so far as it thinks it is:
- In accordance with any relevant code of practice issued by the Gambling Commission;
  - In accordance with any relevant guidance issued by the Gambling Commission;
  - Consistent with the licensing objectives (subject to the above); and
  - In accordance with the Authority's Statement of Principles (subject to the above).
- 11.3 "Premises" is defined in the Act as "any place" but the Act prevents more than one premises licence applying to any one place. A single building could be subject to more than one premises licence provided they are for different parts of the building and those parts can genuinely be regarded as different premises.
- 11.4 There are particular requirements for entrances and exits from parts of a building covered by one or more licences to be separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area. The Gambling Act (Mandatory and Default Conditions) Regulations 2007 set out the access provisions for each different type of premises.
- 11.5 This Licensing Authority will also pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed).
- 11.6 The Licensing Authority is aware that demand issues cannot be considered with regard to the location of premises, but that considerations in terms of the licensing objectives can. The Licensing Authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this Statement of Principles will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how any concerns raised can be overcome.

- 11.7 The Licensing Authority will seek to avoid any duplication with other statutory/regulatory systems where possible, including planning. This Licensing Authority will not consider whether a licence application is likely to be awarded planning or building consent, in its consideration of it. This Licensing Authority 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.
- 11.8 Premises licences which are granted by the Council must be reasonably consistent with the licensing objectives. With regard to these objectives, this Licensing Authority has considered the Gambling Commission's Guidance to Local authorities.

## **12 Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime**

- 12.1 The Council places considerable importance on the prevention of crime and disorder, and will fulfil its duty under s.17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the area. A high standard of control is therefore expected to be exercised over licensed premises.
- 12.2 The Licensing Authority will, when determining applications, consider whether the grant of a Premises Licence will result in an increase in crime and disorder.
- 12.3 Applicants are encouraged to discuss the crime prevention procedures in their premises with the Council's Licensing Officers and Avon and Somerset Constabulary before making a formal application.
- 12.4 In considering licence applications, the Local Authority will particularly take into account the following:
- The location of the premises;
  - The design and layout of the premises;
  - The training given to staff in crime prevention measures appropriate to those premises;
  - Physical security features installed in the premises. This may include matters such as the position of cash registers or the standard of CCTV that is installed;
  - Where premises are subject to age restrictions, the procedures in place to conduct age verification checks;
  - The likelihood of any violence, public order or policing problem if the licence is granted.

### **13 Ensuring that gambling is conducted in a fair and open way**

- 13.1 The Gambling Commission does not expect Licensing Authorities to become concerned with ensuring that gambling is conducted in a fair and open way. This will be a matter for 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.
- 13.2 As betting tracks operators do not need a separate licence from the Commission, the local authority may, in certain circumstances, consider whether the premises licence may need to contain conditions to ensure that the environment in which betting takes place is suitable.

### **14 Protecting children and other vulnerable persons from being harmed or exploited by gambling**

- 14.1 Apart from one or two limited exceptions, the intention of the Act is that children and young persons should not be allowed to gamble and should therefore be prevented from entering gambling premises which are “adult only” environments.
- 14.2 In practice, steps will generally be taken to prevent children from taking part in, or being in close proximity to gambling or being attracted to take part in gambling, such as may be caused by advertising.
- 14.3 The Licensing Authority will pay particular attention to the Code of Practice issued by the Gambling Commission as regards this licensing objective in relation to specific premises such as casinos. The Code provides that licensees of casinos must:
- Put into place policies and practices for the prevention of under age gambling and monitor these.
  - Designate a supervisor at each entrance to the premises.
  - A Supervisor must check the age of customers who appear to be under age and refuse entry to those who cannot provide satisfactory documentation as to their age.
  - Take action to remove from the premises any person who is under age.
  - Ensure that any under aged persons accompanying adults are not permitted entry.
  - Ensure that gambling is not promoted in such a way as to appeal to children and young persons, i.e. by being linked to youth culture.
- 14.4 The Act does not define the term “vulnerable people” but the local authority considers that this group includes people who gamble more than they want to, people who gamble beyond their means, and people who may not be able to make informed or balanced decisions about gambling perhaps due to a learning disability, mental health issues, alcohol or drugs.

## 15 Licence Conditions

15.1 There are three types of conditions that may be attached to premises licences:

- Mandatory – Conditions prescribed in regulations which are made by the Secretary of State and must be attached
- Default - Conditions prescribed in regulations which are made by the Secretary of State which will be attached unless specifically excluded by the local authority
- Conditions imposed by the local authority

15.2 Any conditions attached to licences will be proportionate and will be:

- relevant to the need to make the proposed building suitable as a gambling facility;
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises;
- enforceable; and
- reasonable in all other respects

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

15.4 It is noted that there are conditions which the Licensing Authority cannot attach to premises licences. These are:

- Any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- Conditions relating to gaming machine categories, numbers, or method of operation;
- Conditions which provide that membership of a club or body be required (the Act specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated); and
- Conditions in relation to stakes, fees, winnings or prizes.

15.5 An application for a premises licence can only be made by a person who either holds an operating licence authorising him to carry on the activity in respect of which a premises licence is sought, OR has made an application for an operating licence, which has not yet been determined.

- 15.6 Applications for the grant, transfer or variation of a licence are not required to be accompanied by an operating schedule. However, the Licensing Authority would expect an applicant to provide a written statement, demonstrating how the licensing objectives would not be undermined by the operation of the premises, where appropriate and relevant.
- 15.7 The level of detail should be proportionate to the scale and nature of the application made.
- 15.8 Definitions of “Responsible Authorities” and “Interested Parties” who are able to make representations under this Act can be found in the Glossary of Terms.
- 15.9 This Licensing Authority, in determining whether to grant a premises licence, will not have regard to the expected demand for the facilities which it is proposed to provide.
- 15.10 Conditions will be applied to licences that are proportionate and appropriate to the business, organisation and/or individual concerned. The Licensing Authority will draw upon the advice issued by the Gambling Commission and attach conditions relative to the given circumstances of each individual case.
- 15.11 Conditions attached to Premises Licences will, so far as possible, reflect local crime prevention strategies. For example, CCTV may be appropriate in certain premises.

## 16 Door Supervision

- 16.1 Whilst considering whether or not to impose a condition relating to door supervision the Licensing Authority will take account of the content of Section 178 Gambling Act 2005 and have regard to Statutory Guidance. Accordingly, conditions will not impose the same or similar duties as other legislation and will only be imposed if it appears to the Licensing Authority that it is necessary and or appropriate to impose a responsibility to guard the premises against unauthorised access or occupation or against the outbreak of disorder or against damage.
- 16.2 This Licensing Authority considers that it is good practice for door supervisors working at licensed premises to be SIA trained and to undergo a Criminal Records Bureau check every three years. This is in recognition of the nature of the work in terms of potential under age customers, searching individuals and dealing with potentially aggressive persons, etc. However, each case will be determined on its merits.

## 17 Provisional Statements

- 17.1 An applicant may apply for a provisional statement in respect of any premises expected to be constructed, altered or acquired.
- 17.2 Applications will be dealt with in a similar manner to applications for Premises Licences
- 17.3 In terms of representations about premises licence applications, following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances. In addition, the Authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:
- a) which could not have been raised by objectors at the provisional licence stage; or
  - b) which in the Authority's opinion reflect a change in the operator's circumstances.
- 17.4 The Licensing Authority will not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with planning or building law.

## PART C – PREMISES LICENCES (SPECIFIC)

### 18 Adult Gaming Centres

- 18.1 Adult Gaming Centres (AGCs) are a new category of premises introduced by the Act. No one under the age of 18 is permitted to enter an AGC and the persons operating an AGC must hold a gaming machines general operating licence from the Gambling Commission and must seek a premises licence from the Licensing Authority. They will be able to make category B3, B4, C and D gaming machines available to their customers.
- 18.2 The Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises. Appropriate licence conditions may cover issues such as:
- Proof of age schemes
  - Door Supervisors
  - CCTV
  - Supervision of entrances/machine areas
  - Physical separation of areas
  - Location of entry
  - Notices/signage
  - Specific opening hours
  - Measures for training staff etc.

This list is not exhaustive and is merely for example.

- 18.3 As regards the protection of vulnerable persons, the Licensing Authority will consider measures such as the use of self-barring schemes and provision of information leaflets/helpline numbers for organisations such as GamCare, whose website can be found at [www.gamcare.org.uk](http://www.gamcare.org.uk), Gamblers Anonymous, National Debtline, local Citizens Advice Bureaux and independent advice agencies.

### 19 (Licensed) Family Entertainment Centres:

- 19.1 The Act creates two classes of family entertainment centre (FEC). Licensed FECs provide category C and D machines and require a premises licence. Unlicensed FECs provide category D machines only and are regulated through FEC gaming machine permits.
- 19.2 Children and young persons are permitted to enter an FEC and may play on the category D machines. They are not permitted to play on the category C machines and there must be a clear segregation between the two types of machine, so that children do not have access to category C machines.



19.3 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 Licensing 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 issues such as:

- Proof of age schemes
- Door Supervisors
- CCTV
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- Measures for training staff etc.

This list is not exhaustive and is merely for example

19.4 With regard to the protection of vulnerable persons, this Licensing Authority will consider measures such as the use of self-barring schemes and provision of information leaflets/helpline numbers for organisations such as GamCare, whose website can be found at [www.gamcare.org.uk](http://www.gamcare.org.uk), Gamblers Anonymous, National Debtline, local Citizens Advice Bureaux and independent advice agencies.

## 20 Casinos

20.1 Under the Act Licensing Authorities have been given the new role of issuing premises licences for casinos and monitoring those licences. At a meeting of the Full Council in September 2006 it was resolved that the Council: “Agrees that, subject to proper consideration through the licensing process, in accordance with Regulations to be issued by the Government, the Council would be prepared in principle to issue a licence for a small casino in Bath”.

20.2 The Council submitted a proposal for a Premises Licence for a small casino to the independent Casino Advisory Panel. Small casinos are defined as having a maximum total customer area of 750m<sup>2</sup>. A small casino will be able to offer casino games, betting and gaming machines only insofar as permitted under Section 172 of the Gambling Act 2005.

20.3 Details regarding the Council’s submission can be found at [www.bathnes.gov.uk/casino](http://www.bathnes.gov.uk/casino) or are available on request from the Council’s Licensing Service.

20.4 Following the local elections in May 2007 a report was taken to Council in September that year, where the proposal to issue a small casino licence in Bath was reaffirmed.

- 20.5 On 15 May 2008 the Categories of Casino Regulations 2008 and the Gaming (Geographical Distribution of Large and Small Casino Premises Licences) Regulations 2008 were published. Bath & North East Somerset was one of the local authorities authorised to issue a Small Casino Premises Licence.
- 20.6 In 2010 the Council invited applications for a Small Casino Premises Licence. The Council ran a competition in line with The Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008 and DCMS Code of Practice issued by the Secretary of State.
- 20.7 Four applications were received at Stage 1 of the process and all applicants were successful at this stage. All four applicants were then invited to apply for stage two of the process. In October 2011 two applications were received for Stage 2 and, following extensive evaluation, the Council's Licensing Committee granted a provisional statement for a casino premises licence in August 2012.
- 20.8 The legislation enabled the Council to decide between competing applications and grant the available licence to the applicant that it considered will bring the greatest benefit to the Bath and North East Somerset area. Stage 1 of the competition ensured that the application complied with the requirements of the Gambling Act 2005 and Stage 2 enabled the application to be judged on a wide range of issues that the Council had given priority as a result of consulting with the residents and community of Bath and North East Somerset.
- 20.9 In making any determination in relation to the competing applications the Council paid specific regard to:
- Any provision made for the protection of children and other vulnerable people from harm or exploitation arising from gambling, whether in the proposed casino or the wider community;
  - Any provision made for preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
  - Any provision made for ensuring that gambling is conducted in a fair and open way;
  - The design and location of the proposed development and the nature/character of the surrounding area;
  - Range and nature of non gambling facilities to be offered as part of the proposed development;
  - Likely effects on employment, training opportunities and regeneration in the local area;
  - Any financial and other contributions proposed by the applicant; and
  - Any proposed steps to be taken by the applicant to monitor the impact of the casino and to mitigate adverse effects and to assess the community benefits.

In addition, the following were also taken into consideration:

- Provision of a range of high quality leisure and entertainment Facilities;
- Place considerations and location sensitivities;
- Physical environmental and security;
- Contributing financially to additional community services and facilities;
- Control of generating traffic and noise;
- Communication and consultation with local communities;
- Maximising job and training opportunities for local people;
- Quality of building design and the environment;
- Financial viability;
- Attracting tourists and other visitors;
- Monitoring and reporting on the impact of the casino.

20.10 In making a decision on both stages the Council took heed of the Codes of Practice, Regulations and Guidance issued by the Secretary of State, Department of Culture, Media and Sport (DCMS) and Gambling Commission.

20.11 The Council wishes to ensure that the benefits offered by the successful casino licence applicant are delivered as soon as reasonably practicable by the construction and use of the casino in accordance with the licence. The Council wishes in particular to guard against the successful applicant leaving the licence dormant for whatever reason. Therefore, the Council required a commitment from applicants to develop their proposed casino within a contractually defined timescale and to provide the benefits, or provide a cash equivalent or liquidated and ascertained damages in lieu of benefits, during any time following the grant when the casino ought to be, but is not, trading.

## 21 Bingo Premises

21.1 Bingo is not given a statutory definition in the Act other than that it means any version of the game irrespective of by what name it is described. It is to have its ordinary and natural meaning. Two types of bingo are commonly understood:

- cash bingo, where the stakes paid make up the cash prizes that are won; and
- prize bingo, where various forms of prizes are won, not directly related to the stakes paid.

21.2 It is important that if children are allowed to enter premises licensed for bingo they do not participate in gambling, other than the category D gaming machines. The holder of a bingo premises licence may make available for use up to eight category B machines; any number of category C machines; and any number of category D machines. Regulations state that category B machines at bingo premises should be restricted to sub-

category B3 and B4 machines, but not B3A lottery machines. Where category C or above machines are available in premises to which children are admitted Licensing Authorities should ensure that:

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

21.3 The Licensing Authority will take into account any new Guidance issued by the Gambling Commission in relation to the suitability and layout of bingo premises.

## **22 Betting Premises**

22.1 Betting premises is where off-course betting takes place; i.e. betting that takes place other than at a Track in what is currently known as a licensed betting office. Under the Act Licensing Authorities are responsible for issuing and monitoring Premises Licences for all betting premises. Children and young persons will not be able to enter premises with a betting Premises Licence, although special rules apply to Tracks.

22.2 The holder of a betting Premises Licence may make available for use up to four gaming machines of category B, C or D. Regulations state that category B machines at betting premises are restricted to sub-category B2, B3 and B4 machines.

22.3 When considering whether to impose a condition to restrict the number of betting machines in particular premises, the Licensing Authority, amongst other things, will take into account the following:

- the size of the premises,
- the number of counter positions available for person-to-person transactions,
- the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable persons

22.4 Section 177 does not prevent the licensee from permitting the installation of cash dispensers (ATMs) on the premises. Such machines may accept credit cards (and debit cards) and the arrangement is 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, or receive any payment in connection with the machines. However, the provision of

credit by gambling operators and the use of credit cards are separate matters that are managed through operating licence conditions and codes of practice issued by the Commission.

## 23 Tracks

- 23.1 Tracks are sites (including horse racecourses and dog tracks) where races or other sporting events take place. Betting is a major gambling activity on Tracks, both in the form of pool betting (often known as the totalisator or tote), and also general betting, often known as “fixed-odds” betting.
- 23.2 Tracks are different from other premises in that they 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, each of whom will need to hold their own operator licences.
- 23.3 There may be some specific considerations with regard to the protection of children and vulnerable persons from being harmed or exploited by gambling by way of track betting and 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.
- 23.4 Appropriate licence conditions may be:
- Proof of age schemes
  - CCTV
  - Door supervisors
  - Supervision of entrances/machine areas
  - Physical separation of areas
  - Location of entry
  - Notices/signage
  - Specific opening hours
  - The location of gaming machines
  - Measures for training staff etc

This list is not exhaustive and is merely for example.

- 23.5 As regards the protection of vulnerable persons, the Licensing Authority will consider measures such as the use of self-barring schemes and the provision of information leaflets/helpline numbers for organisations such as GamCare, whose website can be found at [www.gamcare.org.uk](http://www.gamcare.org.uk), Gamblers Anonymous, National Debtline, local Citizens Advice Bureaux and independent advice agencies

- 23.6 A betting Premises Licence in respect of a Track does not give any automatic entitlement to use gaming machines. However, by virtue of section 172(9) of the Act, if the Track operator who holds the premises licence also holds a pool betting operating licence, then up to four gaming machines may be sited on the Track (of categories B2 to D). The Commission recommends that Track premises licence holders familiarise themselves with the social responsibility policies of betting operators, who will be offering betting facilities on their tracks.
- 23.7 The Licensing Authority will take into account any Guidance related to where gaming machines can be located on tracks and any special considerations that should apply, e.g. the supervision of such machines and preventing children from playing with them.
- 23.8 Licensing Authorities have a power under the Act to restrict the number of betting machines and the nature and circumstances in which they are made available, by attaching a licence condition to a betting premises licence. The Licensing Authority will take into account the size of the premises and the ability of staff to monitor the use of machines by vulnerable people when determining the number of machines permitted. The potential space for such machines at a Track 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 therefore consider restricting the number and location of betting machines where necessary and appropriate.
- 23.9 This Licensing Authority considers that 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 ensure that there is clarity between the respective responsibilities of the Track operator and the off-course betting operator running a self-contained unit on the premises.
- 23.10 The Licensing Authority will consider attaching a condition to Track premises licences requiring the Track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the Track office

## 24 Travelling Fairs

- 24.1 A travelling fair is defined as comprising wholly or principally for the provision of amusements and is provided by persons who travel from place to place and is held at a place which has been used for the provision of fairs on no more than 27 days per calendar year. The Licensing Authority will consider whether the applicant falls within the statutory definition of a travelling fair and will work with its neighbouring Authorities to ensure that land, which may cross local authority boundaries, is monitored so that the statutory limits are not exceeded.
- 24.2 Category D gaming machines and equal chance gaming may be provided without a permit provided that the facilities for gambling amount to no more than an ancillary amusement at the fair.

## 25 Small Society and Local Authority Lotteries

- 25.1 The Licensing Authority is responsible for the registration of small society lotteries. These are non-commercial societies, which are:
- For charitable purposes;
  - For the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity; or
  - For any other non-commercial purpose other than private gain;
- and the proceeds of any such lottery must be devoted for those purposes
- 25.2 The total value of tickets to be put on sale per single lottery must be £20,000 or less, or the aggregate value of the tickets to be put on sale for all their lotteries in a calendar year must not exceed £250,000. If the operator plans to exceed either of these values then they may need to be licensed with the Commission to operate large lotteries instead.
- 25.3 An application may be refused on the following grounds:
- An operating licence held by an applicant for registration has been revoked or an application for an operating licence made by the applicant has been refused within the last five years
  - The Society in question cannot be deemed to be non-commercial
  - A person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence
  - Information provided in or with the application for registration is found to be false or misleading
- 25.4 Registrations run for an unlimited period unless cancelled or revoked.
- 25.5 Licensing Authorities may, if they so choose, promote a lottery for the benefit of their community if they obtain an operating licence from the Commission.

## **26 Exempt Gaming (Alcohol Licensed Premises)**

- 26.1 Exempt gaming is equal chance gaming generally permissible in any club or alcohol licensed premises. Such gaming should be ancillary to the purposes of the premises. This provision is automatically available to all such premises, but is subject to statutory stakes and prize limits determined by the Secretary of State.
- 26.2 Equal chance gaming is gaming that does not involve staking against a bank and the chances of winning are equally favourable to all participants. It includes games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.
- 26.3 The Secretary of State has set both daily and weekly prize limits for exempt gaming. Different, higher stakes and prizes are allowed for exempt gaming in clubs than in alcohol-licensed premises.
- 26.4 Exempt gaming should be supervised by a nominated gaming supervisor and comply with any code of practice issued by the Commission under section 24 of the Act.
- 26.5 A fee may not be levied for participation in the equal chance gaming offered by a club or alcohol-licensed premises under the exempt gaming rules. A compulsory charge, such as charging for a meal, may constitute a participation fee, depending on the particular circumstances.
- 26.6 In order to qualify as exempt gaming, clubs and alcohol-licensed premises may not charge a rake on games or levy or deduct an amount from stakes or winnings.
- 26.7 Members' clubs may only be established wholly or mainly for the purposes of the provision of facilities for gaming if the gaming is of a prescribed kind. The Secretary of State has decided that bridge and whist should be the only prescribed kinds of gaming. So long as it does not provide facilities for other types of non-machine gaming, a bridge or whist club may apply for a club gaming permit. If gaming is the principal reason for attendance at a club (other than a dedicated whist or bridge club), then it is not exempt gaming under section 269 of the Gambling Act 2005. This would include poker clubs and the like established primarily for the purpose of providing poker or other gaming. Such clubs require Operating and Premises Licences

## **27 Bingo in Clubs and Alcohol Licensed Premises**

- 27.1 Bingo is a class of equal chance gaming permitted on alcohol-licensed premises, and in clubs and miners' welfare institutes, under the allowances for exempt gaming in Part 12 of the Act. There are regulations setting controls on this form of gaming, to ensure that it remains a low stakes and prizes activity.



- 27.2 In addition, new rules are laid down in the Act about the playing of bingo specifically in alcohol-licensed premises, clubs and miners' welfare institutes (see above). Where the level of bingo played in these premises reaches a certain threshold, it will no longer be authorised by these rules and a bingo operating licence will have to be obtained from the Commission for future bingo games. The aim of these provisions is to prevent bingo becoming a predominant commercial activity on such non-gambling premises.
- 27.3 The threshold is that if the bingo played during any seven-day period exceeds £2,000 (either in money taken or prizes awarded), all further games of bingo played on those premises for the next 12 months will require an Operating Licence in order to be legal. This only applies to future games which are over the threshold of £2,000. If, after a single incidence of 'high turnover' bingo, all further games are below the threshold, no Operating Licence is needed. There is a legal duty on the licensee or club to inform the Commission if they offer high turnover bingo in any seven day period. That allows the Commission to monitor the bingo activity on the premises, and discuss with the relevant licensee or club the need to obtain a bingo Operating Licence, if required. Where bingo is played in a genuine members club, under a bingo Operating Licence, no Premises Licence will be required.
- 27.4 If it comes to the attention of the Licensing Authority that alcohol-licensed premises, or clubs, or institutes, are playing bingo during the course of a week which involves significant stakes and prizes that makes it possible that the £2,000 in seven days is being exceeded, the Licensing Authority will inform the Gambling Commission. To help clubs and institutes to comply with the full range of statutory requirements for gaming the Commission has developed a statutory code of practice which is available on the Commission website.

## **PART D - PERMITS, TEMPORARY AND OCCASIONAL USE NOTICES**

### **28 Gaming Permits – General**

28.1 The Act does not allow applications for new gaming machine permits from premises where children will have free access to such machines. In view of this, and in order to promote the licensing objectives, this Licensing Authority will therefore not accept any applications for new gaming machine permits or applications for the renewal of existing gaming machine permits from existing gaming machine permit holders in relation to such places. This will include the following:

Accommodation Agencies, Art Galleries, Assembly Rooms, Bus Stations, Railway Stations, Cafes, Canteens, Cinemas, Theatres, Schools and Colleges, Youth Clubs, Swimming Pools, Off Licences, Loan Offices, Church Halls, Village Halls, Banks, Car Hire Premises, Employment Agencies, Garden Centres, Hospitals, Museums, Nurseries, Sales Rooms, Showrooms, Surgeries, Hotels, Registered Homes, Garages and Service Stations, Retail Shops and Warehouses, Video Hire/Sale Premises, Shopping Arcades/Centres, Dance Halls/Discotheques, Salons/Hairdressing Premises, Snooker/Billiards and Pool Halls, Taxi and Private Hire Offices and Ranks, Waiting Rooms and Reception Areas, Leisure/Health/Sports/ Community Centres, Restaurants, Take-away Food Premises.

28.2 This is not an exhaustive list and the Licensing Authority reserves the right to refuse applications where the licensing objectives are likely to be undermined.

### **29 Unlicensed Family Entertainment Centre (FEC) Gaming Machine Permits**

29.1 Where a premise does not hold a Premises Licence but wishes to provide gaming machines, it may apply to the Licensing Authority for a permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238 of the Act).

29.2 An FEC can form part of larger premises provided it is separate and identifiable.

29.3 In exercising its functions in respect of FEC permits, the Licensing Authority need not, but may have regard to, the licensing objectives and must have regard to any Guidance issued by the Gambling Commission under the Act.

29.4 A Licensing Authority can grant or refuse an application for a permit, but cannot add conditions. However, the Authority will consider the following matters in determining the suitability of an applicant for a permit:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and
- that employees are trained to have a full understanding of the maximum stakes and prizes.

29.5 Applicants will be expected to show that there are policies and procedures in place to protect children from harm e.g. appropriate measures and staff training in:

- Suspected truant school children on the premises
- Unsupervised young children on the premises
- Children causing problems in or around premises

29.6 Applicants will be required to demonstrate that they have no relevant convictions as set out in Section 7 of the Act.

29.7 The Licensing Authority will only grant a permit if it is satisfied that the premises will be used as an unlicensed FEC, and if the Chief Officer of Police has been consulted on the application. Relevant considerations to take into account would be the applicant's suitability such as any convictions that they may have that would make them unsuitable to operate a FEC and the suitability of the premises in relation to their location and issues about disorder.

29.8 The Act provides that Licensing Authorities may adopt a statement of principles with respect to determining the suitability of an applicant (this should not be confused with this Statement of Principles, which is concerned with licensing overall). This Licensing Authority has not currently adopted such a statement of principles. Should it decide to do so it will be made available from the Licensing Services upon request.

29.9 With regard to renewals of these permits, a Licensing Authority may refuse an application for renewal of a permit only 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.

### **30 Alcohol Licensed Premises - Gaming Machine Permits**

30.1 Premises licensed to sell alcohol and which contain a bar where alcohol is served without a requirement that it be served only with food are automatically entitled to have two gaming machines of categories C or D. Such premises must notify the licensing authority of its intention to take up its entitlement by completing the requisite application form and pay the prescribed fee. The applicant must also comply with any relevant Code of Practice issued by the Gambling Commission under Section 282 of the Act.

- 30.2 The Licensing Authority may 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 Act has been committed on the premises.
- 30.3 If a licensed premises wishes to have more than 2 machines, then a permit is required.
- 30.4 The Licensing Authority must consider an application based upon the licensing objectives and any Guidance issued by the Gambling Commission issued under Section 25 of the Act.
- 30.5 The Licensing Authority may also consider such matters as it thinks relevant. Such matters may be considered on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and the Authority will expect the applicant to satisfy it that there will be sufficient measures to ensure that under 18 year olds do not have access to adult only gaming machines.
- 30.6 Applicants will be expected to show that there will be no access for children to such machines and that all adult gaming machines are within sight of the bar, and/or in the sight of staff, who will monitor that the machines are not being used by those under 18. Such measures may include notice and signage. As regards the protection of vulnerable persons is concerned, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare, whose website can be found at [www.gamcare.org.uk](http://www.gamcare.org.uk), Gamblers Anonymous, National Debtline, Citizen's Advice Bureaux and independent advice agencies.
- 30.7 The 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. No other conditions can be attached.
- 30.8 The holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machines.
- 30.9 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 dealt with as a FEC or Adult Gaming Centre Premises Licence.

### **31 Prize Gaming and Prize Gaming Permits**

- 31.1 Gaming is prize gaming if the prize is not affected by the number of people playing or the amount paid for or raised by the gaming. Certain prize gaming requires a permit and other prize gaming may be offered without a permit.
- 31.2 In making its decision on an application for a permit the Licensing Authority does not need to, but may, have regard to the licensing objectives, but must have regard to any Gambling Commission Guidance.
- 31.3 There are conditions in the Act with which the permit holder must comply, but the Licensing Authority cannot attach conditions of its own. The conditions set out 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 in 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.

### **32 Club Gaming and Club Machines Permits**

- 32.1 Members Clubs and Miners' Welfare Institutes (but not Commercial Clubs) may apply for a Club Gaming Permit.
- 32.2 The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B3A, B4, C or D), equal chance gaming and games of chance in accordance with Regulations under the Act (currently pontoon and chemin de fer).
- 32.3 A Club Gaming Machine Permit will enable Members Clubs and Miners' Welfare Institutions to provide three machines of categories B3A, B4, C or D. Commercial Clubs may apply for a Club Gaming Machine Permit which will enable the premises to provide three machines of categories B4, C or D.

Members clubs must:

- have at least 25 members;
- be established and conducted 'wholly or mainly' for purposes other than gaming, unless the gaming is permitted by separate regulations (currently bridge and whist);

- 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.

32.4 The Licensing Authority will need to satisfy itself that the premises meet the requirements of a members' club and may grant the permit if the majority of members are over 18.

32.5 The Licensing Authority may only refuse an application on the grounds that:

- a) the applicant does not fulfil the requirements for a members' club, 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

32.6 There is also a 'fast-track' procedure available for premises, which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 Paragraph 10 of the Act).

32.7 Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which an Authority can refuse a permit are reduced.

32.8 The grounds on which an application under the process may be refused are:

- that the club is established primarily for gaming, other than gaming of a prescribed kind (currently bridge and whist)
- that in addition to the prescribed gaming, the applicant provides facilities for other gaming, or
- that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled

### **33 Temporary Use Notices**

33.1 A Temporary Use Notice may only be given by the holder of an operators licence.

33.2 A set of premises may not be the subject of temporary use notices for more than 21 days within a 12 month period.

- 33.3 The definition of “a set of premises” in relation to such notices will be a question of fact in the particular circumstances of each notice that is given. In determining whether a place falls within the definition of a “set of premises” the licensing authority will take into consideration the ownership/occupation and control of the premises.
- 33.4 A set of premises will be the subject of a temporary use notice if any part of the premises is the subject of a notice. Operators therefore cannot extend the limits on temporary use notices in respect of large premises by giving separate notices for different parts of the premises. Premises that might be suitable for a temporary use notice would include hotels, conference centres and sporting venues.

#### **34 Occasional Use Notices**

- 34.1 Where betting takes place on a track on eight days or less in a calendar year, betting may be permitted by an Occasional Use Notice without the need for a full Premises Licence.
- 34.2 A Track includes a horse racing course, a dog track or any other premises on any part of which a race or other sporting event takes place or is intended to take place. This could include a track on agricultural land upon which a point to point takes place. The track does not need to be a permanent fixture.
- 34.3 The Licensing Authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. The Licensing Authority will need to consider the definition of a ‘Track’ and whether the applicant is permitted to avail him/herself of the notice.

## **PART E - DECISION MAKING, REVIEWS & COMPLAINTS**

### **35 Licensing Committee Terms of Reference**

- 35.1 The Committee's Terms of Reference will be set out in the Council's Constitution. The Terms of Reference have been guided by Regulations issued under the Act.

### **36 Allocation of Decision Making Responsibilities**

- 36.1 These responsibilities will be set out in the Council's Constitution. The table in Appendix B indicates how the delegation of functions is allocated.

### **37 Complaints Against Licensed Premises**

- 37.1 The Council 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.
- 37.2 Where an interested party has made either a valid representation about licensed premises or a valid application for a licence to be reviewed, the Council may initially arrange a conciliation meeting to address and clarify the issues of concern.
- 37.3 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.
- 37.4 When dealing with a complaint about a licensed premises the Licensing Authority will have due regard to the Environmental Services Enforcement Policy (see paragraph 7.10 above).

### **38 Reviews**

- 38.1 Requests for a review of a Premises Licence can be made by interested parties or responsible authorities; however, it is for the Licensing Authority to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below, as well as consideration as to whether the request is frivolous, vexatious, or will certainly not cause this authority to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.



A request for a review will be deemed relevant if it is:

- In accordance with any relevant code of practice issued by the Gambling Commission;
- In accordance with any relevant guidance issued by the Gambling Commission;
- Reasonably consistent with the licensing objectives; and
- In accordance with the Authority's statement of Gambling Policy.

38.2 Representations may include issues relating to the following use of licensed premises:

- 1 for the sale and distribution of class A drugs and/or the laundering of the proceeds of drugs crimes;
- 2 for the sale and distribution of illegal firearms;
- 3 for prostitution or the sale of unlawful pornography;
- 4 as a base for organised crime activity;
- 5 for the organisation of racist, homophobic or sexual attacks or abuse;
- 6 for the sale of smuggled tobacco or goods;
- 7 for the sale of stolen goods;
- 8 where children and/or vulnerable persons may be put at risk.

38.3 Due consideration will be given to all relevant representations unless they fall within the following categories:

- The grounds are vexatious;
- The grounds are frivolous;
- They would not influence the Authority's determination of the application.

38.4 The Licensing Authority may also initiate a review of a licence on the basis of any reason which it thinks is appropriate.

## 39 Further Information

39.1 Further information about the Act, this Statement of Licensing Policy or the application process can be obtained from:

Licensing Services  
Lewis House  
Manvers Street  
Bath  
BA1 1JG

Tel: 01225 477531  
Fax: 01225 477596  
Email: [licensing@bathnes.gov.uk](mailto:licensing@bathnes.gov.uk)  
Website: [www.bathnes.gov.uk/gambling](http://www.bathnes.gov.uk/gambling)

Information is also available from:

The Home Office  
<http://www.homeoffice.gov.uk/>

Gambling Commission  
Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP

Tel: 0121 230 6500  
Website: [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

The Gambling Act 2005 can be viewed online at:

<http://www.gamblingcommission.gov.uk/Client/detail.asp?ContentId=222>

Gamcare: [www.gamcare.org.uk](http://www.gamcare.org.uk)

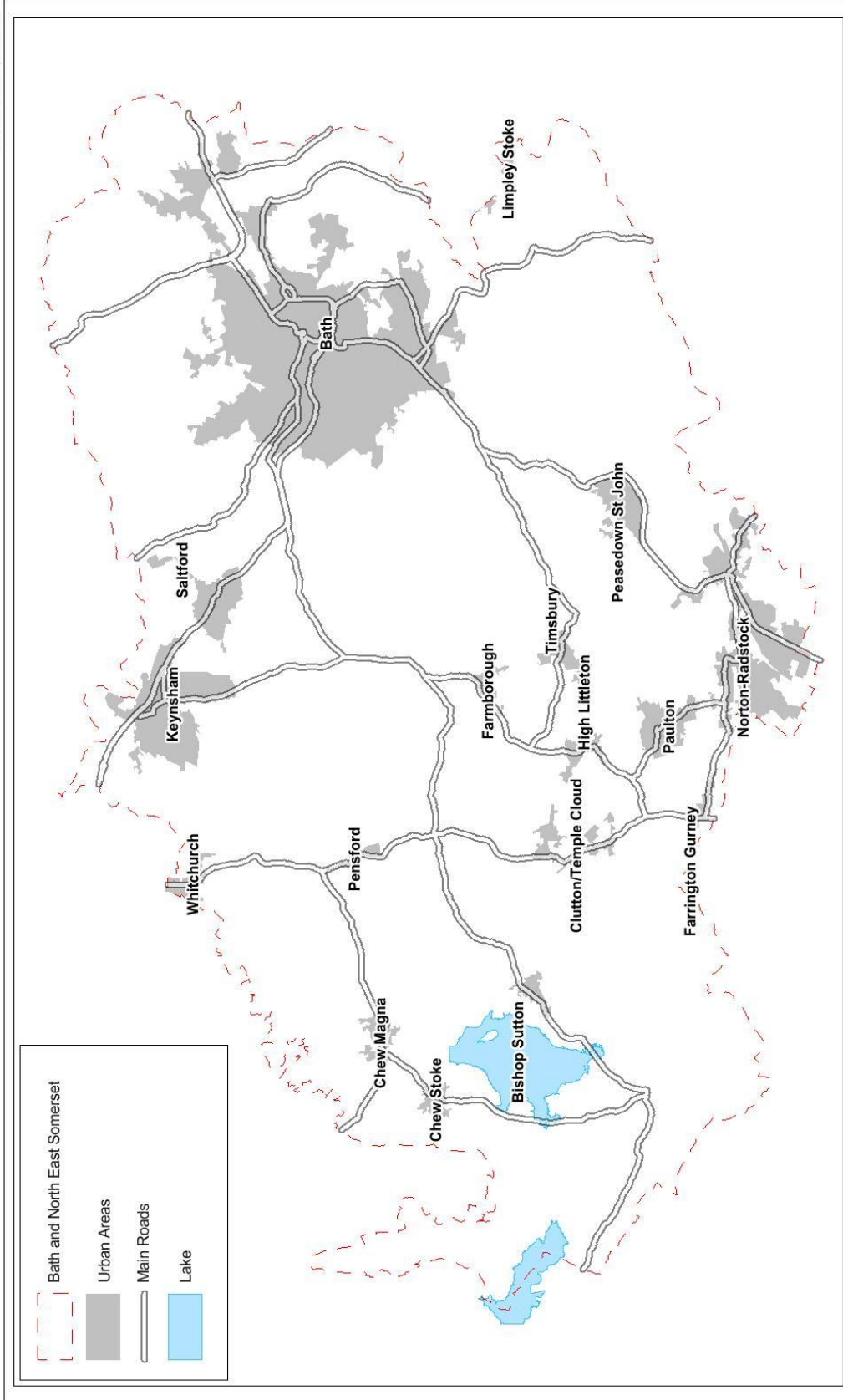
# Bath and North East Somerset

Bath & North East Somerset Council  
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Temple Street  
Keynsham  
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Tel: 01225 477000



Compiled by Alison Szajdzicka on 10 September 2012

Scale 1:127960



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Table of Delegations of Licensing Functions

<b>Matter to be dealt with</b>	<b>Full Council</b>	<b>Licensing Committee</b>	<b>Sub Committee</b>	<b>Officers</b>
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
<b>Matter to be dealt with</b>	<b>Full</b>	<b>Licensing</b>	<b>Sub</b>	<b>Officers</b>

	<b>Council</b>	<b>Committee</b>	<b>Committee</b>	
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	
Consideration of an Occasional Use Notice				X
Designation of "authorised person".				X
Exchange of information between various persons/bodies listed in the Act				X
Decision to initiate criminal proceedings.				X
Power to make Orders disapplying exempt gaming and the automatic entitlement to gaming machines in relation to specified premises.				X
Functions relating to the registration and regulation of small society lotteries.				X
To appoint an advisory panel		X		
Stage 1 of an application for a casino licence			X	
Stage 2 of an application for a casino licence		X		
Consideration of vexatious/frivolous/repetitive representations.				X