

## **POLICY SCRUTINY GROUP – 25TH SEPTEMBER 2018**

### **Report of the Head of Regulatory Services**

#### **ITEM 6      GAMBLING STATEMENT OF PRINCIPLES 2019-2022**

##### Purpose of Report

To enable the Group to review the draft Statement of Principles made under the Gambling Act 2005.

##### Action Requested

To consider the draft Statement of Principles made under the Gambling Act 2005, which is appended to the report.

##### Reason

To scrutinise the Statement in a timely manner in accordance with the Group's work programme.

##### Background

The Gambling Act 2005 set up a system of regulation for the gambling industry involving the Gambling Commission and local authorities. The Gambling Commission licenses businesses and individuals and local authorities license premises in their area. Premises licences are required for bingo premises, betting premises, adult gaming centres (specifically targeted at adults, with gaming machines that promise bigger jackpots) and family entertainment centres (eg a small amusement park marketed towards families with small children to teenagers).

Section 349 of the Gambling Act 2005 requires the Council to carry out a review of its Statement of Principles, which is used to determine all applications made under the terms of the Act, every three years.

The existing Statement was adopted by the Council in 2016 and the current Statement of Principles will expire on 30th January 2019. A new Statement must be consulted on and approved by Full Council.

A copy of the proposed 2019-2022 Statement of Principles is attached as an Appendix. The Gambling Commission have suggested that the published consultation copy of the Statement of Principles has tracked changes showing the amendments that are being proposed to the existing Statement. This makes it easier for everyone to see what is being consulted on and it is also something the gaming industry have requested. The proposed Statement of Principles for 2019-2022 shows those tracked changes.

The guidance to licensing authorities issued by the Gambling Commission has been considered as part of the development of the new Statement of Principles.

The Statement must be produced following consultation with the bodies specified in section 349(3) of the Gambling Act. The organisations listed at Appendix A of the Statement of Principles will be consulted.

Following consultation, the revised Statement of Principles will be submitted to Council on 5th November 2018 for approval and implementation.

### Problem Gambling

Problem gambling has been recognised as an issue for society. In its role as the licensing authority for premises under the Gambling Act 2005 the Council has to have regard to the licensing objectives set out in section 1 of the Act, namely:

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

The Act, however, sets out a presumption in favour of permitting premises to be used for gambling. In addition, expected demand for gambling premises that are the subject of an application, should not be taken into account in deciding whether or not to grant a licence.

The Council's Statement of Principles sets out how it will meet those objectives in undertaking its licensing activities.

Background Papers:                      Licensing Committee 27th October 2015, minute 4,  
2015/16 Full Council 18th January 2016, minute  
69.3, 2015/16

[Gambling Commission Guidance to licensing  
authorities, 5th edition, September 2015](#)

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### Appendices

Draft Statement of Principles under the Gambling Act 2005



# Charnwood

## **GAMBLING ACT 2005**

### **Statement of Principles**

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## 1.0 INTRODUCTION

Charnwood Borough Council is the Licensing Authority under the Gambling Act 2005.

Licensing authorities are required by the Gambling Act 2005 to publish a Statement of Principles, which they propose to apply when exercising their functions. This statement must be published at least every three years. This statement will come into effect on the (insert date) and will have effect until the 31<sup>st</sup> January 2022. The statement must also be reviewed from "time to time" and any amended parts re-consulted upon. The statement must be then re-published.

The Authority declares that this Statement of Principles has been prepared having regard to the provisions of the Guidance issued by the Gambling Commission and the licensing objectives of the Gambling Act 2005.

This Statement of Principles will be available on Charnwood Borough Council's website. [www.chnwood.gov.uk](http://www.chnwood.gov.uk).

## 1.2 THE BOROUGH OF CHARNWOOD

Charnwood Borough Council is situated in the County of Leicestershire; the Borough and contains 28 Wards. The Council area has a population of over 176,700 making it one of the largest district councils in the country in terms of number of residents. The Council area is mainly rural with urban areas of Loughborough, Syston, Birstall, Thurmaston and Shepshed.

These areas are shown in the map of the Borough at Appendix C.

## 1.3 DECLARATION

The Authority in preparation of this Statement has had due regard to;

- ) the Gambling Act 2005
- ) the Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006
- ) current guidance issued by the Gambling Commission and by the Secretary of State under Section 25 of the Act.
- ) responses from those consulted on the Statement and the reviews thereof.

## 1.4 LICENSING OBJECTIVES

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In exercising its function under Section 153 of the Act, the Authority in making decisions about premises licences and temporary use notices shall aim to permit the use of premises for gambling in so far as it thinks it's:

- ) in accordance with any relevant Codes of Practice under section 24
- ) in accordance with any relevant Guidance issued by the Commission under section 25
- ) in accordance with this Statement of Principles, and
- ) reasonably consistent with the licensing objectives.

The Act requires that the Authority carries out its various licensing functions with regard to the following three licensing objectives:-

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

Further details of the Licensing Objectives can be found in Sections 5.1 to 5.3.2 of this Statement.

## 1.5 CONSULTTEES

The Statement of Principles will be subject to formal consultation with:-

1. Leicestershire Constabulary;
2. Representatives of the holders of the various licences for premises within the Borough who will be affected by this Policy;
3. Persons/bodies representing the interests of persons likely to be affected by this policy.

A full list is shown at Appendix A.

## 1.6 LICENSING AUTHORITY FUNCTIONS

Licensing Authorities are required under the Act to carry out a number of regulatory functions relating to gambling:

- ) Issuing a statement of licensing policy (policy statement) setting expectations about how gambling will be regulated in the area;
- ) the licensing of premises where gambling activities take place
- ) Issue Provisional Statements for premises
- ) Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits

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- ) Issue Club Machine Permits to Commercial Clubs
- ) Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
- ) Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- ) Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- ) Register small society lotteries
- ) Issue Prize Gaming Permits
- ) Receive and Endorse Temporary Use Notices
- ) Receive Occasional Use Notices
- ) Provide information to the Gambling Commission regarding details of licences issued
- ) Maintain registers of the permits and licences that are issued under these functions

Remote gambling, Operator Licences and Personal Licences are dealt with by the Gambling Commission. The National Lottery is now regulated by the Gambling Commission. Spread betting is regulated by The Financial Services Authority.

## 1.7 INTERESTED PARTIES

Interested parties are defined as persons who, **in the Licensing Authority's opinion;**

- ) live sufficiently close to the premises to be likely to be affected by the authorised activities
- ) have business interests that might be affected by the authorised activities, or
- ) represents persons who satisfy the above two points above.

It is for the authority to determine on a case by case basis whether or not a person making a representation is an 'interested party.'

## 1.8 INFORMATION EXCHANGE

In fulfilling its functions under sections 29, 30 and 350 of the Act, the licensing authority will establish protocols with respect to the exchange of relevant information with other regulatory bodies. In exchanging such information, the Council will conform to the requirements of the Data Protection Act [2018 and the General Data Protection Regulations](#) in accordance with the Council's existing policies.

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

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applying for the review of a premises licence will be informed that their details will be disclosed.

## 1.9 ENFORCEMENT

Charnwood Borough Council is a signatory to the Enforcement Concordat and will follow the principles set out in it. The Council will have regard to and follow the Statutory Duty imposed under the Regulators Code 2014. [The Council has a Corporate Enforcement Policy 2018 covering all enforcement work undertaken by the Council and also a Regulatory Services Enforcement Policy 2016.](#) Any enforcement action will endeavour to be:

- ) Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and 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, and keep regulations simple and user friendly; and
- ) Targeted: regulation should be focused on the problem, and minimise side effects.

As per the Gambling Commission's Guidance for local authorities this licensing authority will endeavour to avoid duplication with other regulatory regimes as far as possible.

The Authority will 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 Borough for unlicensed premises.

The Authority works actively with the Police and other partners in enforcing licensing legislation and responding to complaints received from the community in relation to licensed premises.

The authority recognises that certain bookmakers have a number of premises within its area. In order to ensure that any compliance issues are recognised and resolved at the earliest stage, operators are requested to give the authority a single named point of contact, who should be a senior individual, and whom the authority will contact first should any compliance queries or issues arise.

## 2.0 LOCAL RISK ASSESSMENTS and SOCIAL RESPONSIBILITY PROVISION CODE

The Gambling Commissions '*Licence Conditions and Codes of Practice (LCCP)*' (issued in February 2015) formalised the need for operators to consider local risks.

This required all licensees that provide gambling facilities at their premises, to assess the risks to the licensing objectives and have policies, procedures and control measures to reduce those risks. Licensees must take into account any relevant matters identified in the licensing authorities statement of Principles when making their risk assessments.

A local risk assessment should be undertaken by a licensee, when applying for;

- ) A new premises licence
- ) When applying for a variation of an existing premises licence
- ) To take into account any local significant changes in the local area
- ) When there are significant changes within their premises that may affect the existing local risk assessment.

There is not a risk assessment template as each which will be individual to the the premises, but the Gambling Commission do provide guidance, available at the link below;

<http://www.gamblingcommission.gov.uk/for-gambling-businesses/Compliance/General-compliance/Social-responsibility/Local-area-risk-assessments.aspx>

The Commissions, Social Responsibility Provision Code, requires licensees of gambling premises to share their risk assessments with Licensing Authorities when applying for a new premises licence or seeking a variation to an existing licensed premise, or otherwise at the request of the licensing authority, such as when inspecting the premises.

If concerns exist at a premise, the Licensing Authority may ask the licensee to share a copy of their own risk assessment setting out the measures that a licensee has in place to deal with specific concerns. It is envisaged that assessments would only be requested from existing premises licensees in circumstances where there is significant environmental change that affects the level of risk or the mitigation of those risks.

The Authority has an expectation that all local risk assessments will take into account the local profile of the area, and help reduce the occasions on which additional conditions are required on a premises licence or a review of a premises licence is required.

[Charnwoods Local Area profile](#)

Statement of Principles - Gambling Act 2005 - 2019

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The licensing service have consulted with the Police, Community Safety and Public Health to determine any potential concerns related to gambling across the Borough. At the time of preparing this statement of licensing policy, there has been no evidence presented to Charnwood Borough Council that any part of the area is experiencing problems from gambling activities.

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The Gambling Commissions 'Licence Conditions and Codes of Practice (LCCP)' requires that licensees must review (and update as necessary) their local risk assessments:

- )] to take account of significant changes in local circumstances, including those identified in this policy statement;
- )] when there are significant changes at a licensee's premises that may affect their mitigation of local risks;
- )] when applying for a variation of a premises licence; and
- )] in any case, undertake a local risk assessment when applying for a new premises licence.

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Charnwood Borough Council will expect the local risk assessment to consider as a minimum:

- )] the location of services for children such as schools, playgrounds, leisure/community centres and other areas where children will gather;
- )] the demographics of the area in relation to vulnerable groups;
- )] whether the premises is in an area subject to high levels of crime and/or disorder.

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Local risk assessments should show how vulnerable people, including people with gambling dependencies are protected.

### **3.0. PREMISES LICENSING**

#### **3.1 GENERAL PRINCIPLES**

Premises licences will be subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which will be detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where there is clear evidence of a risk to the licensing objectives in the circumstances of a particular case.

It is appreciated that as per the Gambling Commission's Guidance for local authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos below) and also that unmet demand is not a criterion for a licensing authority.

#### **3.2 PRIMARY ACTIVITY**

In accordance with section 150 of the Act, premises licences can authorise the provision of facilities on:

- (a) casino premises
  - (b) bingo premises
  - (c) betting premises, including tracks and premises used by betting intermediaries
  - (d) adult gaming centre premises (for category B3, B4, C and D machines)
  - (e) family entertainment centre premises (for category C and D machines)
- (note that, separate to this category, the licensing authority may issue a family entertainment centre gaming machine permit, which authorises the use of category D machines only).

By distinguishing between premises types the Act makes it clear that the primary gambling activity of the premises should be that described. Thus, in a bingo premises, the primary activity should be bingo, with gaming machines as an ancillary offer on the premises. This principle also applies to existing casino licences (but not 2005 Act casinos) and betting premises licences. The latest issue of the *'Licence Conditions and Codes of Practice'* sets out in full the requirements on operators. Subject to the gaming machine entitlements which various types of licence bring with them (and except in the case of tracks), the Act does not permit premises to be licensed for more than one of the above activities.

### 3.3 DEFINITION OF PREMISES

Premises licences are issued by the licensing authority with responsibility for the area in which the premises are situated.

Premises are defined in the Act as "any place". It is for the Licensing Authority to decide whether different parts of a building can be properly regarded as being separate premises and as the Gambling Commission states in its Guidance for Local Authorities, it "will always be a question of fact in the circumstances". The Gambling Commission does not however consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.

This licensing authority takes particular note of the Gambling Commission's Guidance for local authorities:

- ) The authority will take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular the Authority will be aware that entrances and exits from parts of a building covered by one or more licences should 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 authority will pay particular attention to applications where access to the licensed premises is through other premises (which

themselves may be licensed or unlicensed). Clearly, there will be specific issues that the authority will consider before granting such applications, for example, whether children can gain access; compatibility of the two establishments; and ability to comply with the requirements of the Act. But, in addition an overriding consideration should be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act.

It should also be noted that an applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed. The Gambling Commission has advised that references to “the premises” are to the premises in which gambling may now take place. Thus a licence to use premises for gambling will only be issued in relation to premises that are ready to be used for gambling. This authority agrees with the Gambling Commission that it is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence. The Gambling Commission emphasises that requiring the building to be complete, ensures that the authority can, if necessary, inspect it fully, as can other responsible authorities with inspection rights.

The authority will give sympathetic consideration to, re-sites within the same locality and extensions in order to enhance the quality of the facility provided for the benefit of the betting public.

### **3.4 LOCATION**

This 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. As per the Gambling Commission’s Guidance for local authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Each application will be decided on its own merits, with the onus upon the applicant to show how potential concerns can be overcome.

### **3.5 DUPLICATION WITH OTHER REGULATORY REGIMES**

This licensing authority will seek to avoid any duplication with other statutory / regulatory systems where possible, including planning. 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.

### **3.6 BINGO PREMISES**

It is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D 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 separated from the remainder of the premises by an effective physical barrier which prevents 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 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.

Licensing authorities need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This is a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.

### **3.7 BETTING PREMISES**

The Act contains a single class of licence for betting premises. Within this single class of licence, there are different types of premises which require licensing.

The Act also permits betting intermediaries to operate from premises, although betting intermediaries usually offer their services via remote communication, such as the internet. In principle, however, there is nothing to stop a betting intermediary applying for betting premises licences to offer intermediary services upon the premises.

This authority will consider limiting the number of betting machines only where there is clear evidence that such machines have been or are likely to be used in breach of the licensing objectives. Where there is such evidence, this authority may consider, when reviewing the licence, the ability and number of staff to monitor the use of such machines from the counter. In the event that the Authority considers whether to impose such a condition on any particular licence it may, among other things, take into account the size of the premises, the number of counter positions available for person to person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable persons.

#### **3.7.1 PLANNING LEGISLATION FOR BETTING OFFICES**



On the 15<sup>th</sup> April 2015, the Town and Country Planning (Use Classes) (Amendment) (England) Order 2015 and the Town and Country Planning (General Permitted Development) (England) Order 2015 came into force. All new betting offices now require specific planning permission and have been taken out of general 'A2' financial and professional service use class. Under previous legislation a betting office fell in the same category as an estate agent /bank/restaurant etc. and did not require a change of use application. This is no longer the case. The licensing authority will check that the application has appropriate permissions.

### 3.8 TRACKS

This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

This authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

This licensing authority notes the Commission's Guidance that licensing authorities need to consider the location of gaming machines at tracks. Applications for a track premises licence will need to demonstrate that, where the applicant holds a pool betting operating licence and is going to use his entitlement to four gaming machines (categories B2 to D), these machines are located in areas from which children are excluded. Children and young persons can play Category D gaming machines on a track, but are not allowed to play other categories.

This licensing authority will monitor the amount of machines at a track as per the Gambling Commission's Guidance. It will take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer. It will also take note of the Gambling Commission's suggestion that licensing authorities will want to consider restricting the number and location of such machines in respect of applications for track betting premises licences.

The licensing authority may attach a condition to track premises licences requiring the track operator to ensure that betting 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 at suitable central locations. For example, the rules could be printed in the race-card or programme. This requirement could also be met by making a copy of the rules available in leaflet form from the main track office, and customers could be given a copy if they request one.

The Gambling Commission's guidance requires applicants for premises licence to submit plans of their premises with their application. Plans for tracks need not be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information for regulators to make an informed judgement about whether the premises are fit for gambling. Plans should make clear the type of authorisation being sought for under the track betting premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence. This authority will liaise with applicants to ensure sufficient plans are received.

As tracks may be subject to multiple premises licence, regulations have been made to stipulate the access requirements between gambling premises and when entering or leaving gambling premises. The regulations prevent direct access from a track to a casino or adult gaming centre. Clearly defined public thoroughfares should be in place to ensure that customers have to leave one gambling premises, and be aware they have done so before entering another.

The authority also notes that in the Commission's view, 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, to 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.

### **3.9 ADULT GAMING CENTRE**

Adult gaming centres (AGCs) are a new category of premises introduced by the Act. Persons operating an AGC must hold a gaming machines general operating licence from the Commission and must seek a premises licence from the Authority.

No-one under the age of 18 is permitted to enter an AGC. This Authority will have particular regard to the location of and entry to AGCs to minimise the opportunities for children to gain access. This may be of particular importance in areas where young people may be unsupervised and an AGC is in a complex, such as a shopping centre.

This licensing authority will expect applicants to offer their own measures to meet the licensing objectives to cover issues such as:

) Proof of age schemes



- ) CCTV
- ) Supervision of entrances / machine areas
- ) Physical separation of areas
- ) Location of entry
- ) Notices / signage
- ) Specific opening hours
- ) Self-barring schemes
- ) Provision of information leaflets / helpline numbers for organisations such as GamCare.

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

### **3.10 FAMILY ENTERTAINMENT CENTRE**

The Act creates two classes of family entertainment centre (FEC). Licensed FECs, which 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.

Children and young persons will be permitted to enter an FEC and may play on the category D machines. They will not be permitted to play on category C machines, and it will be a requirement that there must be clear segregation between the two types of machine, so that children do not have access to category C machines.

### **3.11 TRAVELLING FAIRS**

It will fall to this licensing authority to decide whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

It has been noted that the 27-day statutory maximum for the land being used as a fair, is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

### **3.12 PROVISIONAL STATEMENTS**

This licensing authority notes the Guidance which states that "It is a question of fact and degree whether premises are finished to a degree that they can be

considered for a premises licence” and that “Requiring the building to be complete ensures that the authority could, if necessary, inspect it fully”.

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 is in the authority’s opinion reflect a change in the operator’s circumstances.

This authority has noted the Gambling Commission’s Guidance that “A licensing authority should not take into account irrelevant matters.... One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal.”

### 3.13 REVIEWS

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. A licensing authority may reject a review application if they feel the ground on which the review is sought is not;

- ) Relevant;
- ) Are frivolous or vexatious;
- ) ‘Will certainly not’ cause the licensing authority to revoke or suspend a licence, or to remove, amend or attach conditions on the premises licence;
- ) Are substantially the same as the grounds cited in a previous application relating to the same premises;
- ) Are substantially the same as representations made at the time the application for a premises licence was first considered.

See Appendix B Terms of reference for list of responsible authorities and interested parties.

## 4.0 PERMITS / TEMPORARY & OCCASIONAL USE NOTICE

### 4.1 UNLICENSED FAMILY ENTERTAINMENT CENTRES

Family entertainment centres (FECs) will perhaps be most commonly located at seaside resorts, in airports and at motorway service centres, and will cater

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for families, including unaccompanied children and young persons. Unlicensed FECs will be able to offer only category D machines in reliance on a gaming machine permit.

Any number of category D machines can be made available with such a permit (subject to other considerations, such as fire regulations and health and safety, which will not be issues for the Authority under the Gambling Act). Permits cannot be issued to vessels or vehicles

## 4.2 ALCOHOL LICENSED PREMISES

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority. The licensing authority can remove the automatic authorisation in respect of any particular premises if:

- ) provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- ) gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
- ) the premises are mainly used for gaming; or
- ) an offence under the Gambling Act has been committed on the premises.

If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “such matters as we think relevant.”

This licensing authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from being harmed or 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 machines.

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

It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.

It should be noted that the licensing authority can 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 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.

The Authority will be unable to issue premises licences to authorise gaming machines in certain types of premises. These generally will be premises to which children and vulnerable people will have unrestricted access and would include take-away premises, taxi offices and supermarkets.

#### **4.3 CLUB GAMING PERMITS**

The Authority may grant members clubs and miners welfare institutes (but not commercial clubs) club gaming permits which authorise the establishments to provide gaming machines, equal chance gaming and games of chance as prescribed in regulations.

The Authority only refuses 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.

Club gaming permits allow the provision of no more than three gaming machines. These may be from categories B, C or D. The club is permitted to choose the combination of machines on its premises. The Authority may grant or refuse a permit, but it may not attach any conditions to a permit.

#### **4.4 CLUB MACHINE PERMITS**

If a members' club or a miners' welfare institute does not wish to have the full range of facilities permitted by a club gaming permit, they may apply to the licensing authority for a club machine permit under s.273 of the Act. This

authorises the holder to have up to three gaming machines of categories B3A, B4, C and D.

Commercial clubs are not permitted to provide non-machine gaming other than exempt gaming under s.269 of the Act, so they should apply for a club machine permit (although such a permit does not allow the siting of category B3A gaming machines).

In England and Wales, premises which operate membership-based social clubs (often work premises) are able to apply for a club machine permit. Before granting the permit 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 years of age. The permit will allow up to three machines of category B3A, B4, C or D. If under-18s use the club, for example there are apprentices, they may play the category D, but not the B4 or C, machines.

#### **4.5 PRIZE GAMING & PRIZE GAMING PERMITS**

Gaming is defined as prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before play commences.

A prize gaming permit is a permit issued by the Authority to authorise the provision of facilities for gaming with prizes on specified premises.

An application for a permit can only be made by a person who occupies or plans to occupy the relevant premises and if the applicant is an individual, he must be aged 18 or over. An application for a permit cannot be made if a premises licence or club gaming permit is in effect for the same premises. The application must be made to the Authority in whose area the premises are wholly or partly situated.

#### **4.6 TEMPORARY USE NOTICES**

The Act sets out the position in relation to temporary use notices. These allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a temporary use notice would include hotels, conference centres, and sporting venues.

A temporary use notice may only be granted to a person or company holding a relevant operating licence. For example, the holder of a betting operating licence could apply to provide betting facilities at a snooker tournament.

The Secretary of State will prescribe in regulations the gambling activities that may be specified in a temporary use notice as well as combinations of

activities that may not be specified, and activities that may not be combined with any other.

#### **4.7 OCCASIONAL USE NOTICES**

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. This licensing authority will consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

#### **4.8 REGISTRATION OF SMALL SOCIETY LOTTERIES**

In carrying out its functions in relation to Lotteries, the Authority will have regard to the Act, the guidance issued by the Gambling Commission from time to time and any Regulations issued by the Secretary of State.

#### **5.0 THE LICENSING OBJECTIVES**

Premises licences granted 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 and comments below.

##### **5.1 PREVENTING GAMBLING FROM BEING A SOURCE OF CRIME AND DISORDER (being associated with crime and disorder or being used to support crime)**

The Gambling Commission will play a leading role in preventing gambling from being a source of crime and will maintain rigorous licensing procedures that aim to prevent criminals from providing facilities for gambling.

The Authority has a 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.

Anyone applying to the Authority for a premises licence will have to hold an operating licence from the Commission before a licence can be issued so the Authority will not be concerned with the suitability of an applicant. Where concerns about a person's suitability arise the Authority will bring those concerns to the attention of the Commission.

As far as disorder is concerned, there are already powers in existing anti-social behaviour and licensing legislation to deal with measures designed to prevent nuisance, whether it arises as a result of noise from a building or from general disturbance once people have left a building. The Authority does not therefore intend to use the Act to deal with general nuisance issues, for example, parking problems, which can easily be dealt with using alternative powers.

The Authority will only seek to address issues of disorder under the Act if the disorder amounts to activity which 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

The Authority will, when determining applications, consider whether the grant of a Premises Licence will result in an increase in crime and disorder.

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

In considering licence applications, the Authority will particularly take into account the following:-

1. The design and layout of the premises; including access and egress;
2. The training given to staff in crime prevention measures appropriate to those premises;
3. 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;
4. Where premises are subject to age restrictions, the procedures in place to conduct age verification checks;
5. The likelihood of any violence, public order or policing problem if the licence is granted.

There is no evidence that the operation of betting offices has required door supervisors for the protection of the public. The authority will make a door supervision requirement only if there is clear evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.

## **5.2 ENSURING GAMBLING IS CONDUCTED IN A FAIR AND OPEN WAY**

Generally, the Gambling Commission would not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way, as this will be a matter for either the management of the gambling business (and therefore relevant to the Operating Licence), or will be in relation to the suitability and actions of an individual (and therefore relevant to the Personal Licence). Both of these options fall under the scope of the Gambling Commission.



Because betting track operators do not need an operating licence from the Gambling Commission the Authority may, in certain circumstances, require conditions of licence to ensure that the environment in which betting takes place is suitable.

## **5.3 PROTECTING CHILDREN AND OTHER VULNERABLE PERSONS FROM BEING HARMED OR EXPLOITED BY GAMBLING**

### **5.3.1 Access to Licensed Premises**

With limited exceptions, the access of children and young persons to those gambling premises which are adult only environments will not be permitted.

The Authority will consult with Leicestershire Constabulary and the Local Safeguarding Children Board or Safeguarding Adults Board, [www.lrsb.org.uk](http://www.lrsb.org.uk) ([Leicestershire and Rutland Safeguarding Boards](#)) on any application that indicates there may be concerns over access for children or vulnerable persons. Licensees may wish to consult the Local Safeguarding Boards Procedures for advice if risk assessments identify a particular risk relating to safeguarding.

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

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

### **5.3.2 Vulnerable Persons**

The Act does not define the term 'vulnerable persons'. In seeking to protect vulnerable people the Authority will normally class as 'vulnerable' those 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 mental impairment, alcohol or drugs.

## **6.0 COMPLAINTS AGAINST PREMISES LICENSED UNDER THE ACT**

The 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.

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.

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. Due consideration will be given to all relevant representations.

### FURTHER INFORMATION

Further information about the Gambling Act 2005, this Statement of Principles or the application process can be obtained from:-

Licensing Section  
Charnwood Borough Council  
Council Offices  
Southfield Road  
Loughborough  
Leicestershire  
LE11 2TX

Tel: 01509 634562  
E-mail: [licensing@charnwood.gov.uk](mailto:licensing@charnwood.gov.uk)  
Website: [www.charnwood.gov.uk](http://www.charnwood.gov.uk)

Information is also available from:-

[Gambling Commission](#)  
[4<sup>th</sup> Floor](#)  
[Victoria Square House](#)  
[Victoria Square](#)  
[Birmingham](#)  
[B2 4BP](#)

Tel: [0121 230 6666](tel:01212306666) Website: [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

Deleted: Gambling Commission  
Berkshire House  
168-173 High Holborn  
London  
WC1V 7AA

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## APPENDIX A - CONSULTEES

The Authority has consulted the following on the content of this Statement of Principles:-

- ) Association of British Bookmakers
- ) British Amusement Catering Association
- ) British Casino Association
- ) Bingo Association
- ) British Greyhound Racing Board
- ) Chief Officer of Police
- ) Club & Institute Union
- ) Gamcare
- ) Gamblers Anonymous
- ) Help The Aged
- ) Existing Holders offences, permits and registrations who will be affected by the provisions of the Act.
- ) Lotteries Council
- ) Responsible Authorities - HM Revenue and Customs, Gambling Commission, Police, The Fire Authority, Planning Department, Environment Health Department (Environmental protection), Occupational Health and Welfare Department.
- ) Responsibility in Gambling Trust
- ) Leicestershire County Council – Trading Standards, Education and Public Health
- ) Public Health England
- ) ~~East Midlands Chamber (Leicestershire Office)~~ Federation of Small Business

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) [Loughborough Chamber of Trade and Commerce.](#)

## APPENDIX B - TERMS OF REFERENCE

Licensing Objectives:	As defined in section 1
Authority	Charnwood Borough Council
Borough:	The area administered by Charnwood Borough Council (Map appended at Appendix C)
Licences:	As defined in section 1.6
Applications:	Applications for licences and permits as defined in section 1.6
Notifications:	Means notification of temporary and occasional use notices
Act:	The Gambling Act 2005
Regulations:	Regulations made under the Gambling Act 2005
Premises:	Any place, including a vehicle, vessel or moveable structure
Code of Practice:	Means any relevant code of practice under section 24 of the Gambling Act 2005
Mandatory Condition:	Set by the Secretary of State (some set out in the Act) and some to be prescribed by regulations.
Default Condition:	To be prescribed in Regulations made by the Secretary of State to be attached to all classes of premises licence, unless excluded by the Authority (Charnwood Borough Council)
Specific	Conditions that can be attached to an individual premises by the Authority. (However these conditions cannot prevent compliance operating licence conditions.)

Responsible Authority:	<p>For the purposes of this Act, the following are responsible authorities in relation to premises:</p> <ol style="list-style-type: none"> <li>1. The Authority in whose area the premises are wholly or mainly situated ("Charnwood Borough Council");</li> <li>2. The Gambling Commission;</li> <li>3. The Chief Officer of Police;</li> <li>4. Leicestershire Fire and Rescue Service;</li> <li>5. The Local Planning Authority;</li> <li>6. An Authority with functions in relation to pollution of the environment or harm to human health;</li> <li>7. A designated body to advise on the protection of children;</li> <li>8. HM Customs and Excise.</li> </ol>
Interested Party:	<p>For the purposes of this Act, a person is an interested party in relation to a premises licence if, in the opinion of the Authority which issues the licence or to which the application is made, the person:-</p> <ol style="list-style-type: none"> <li>a) Lives sufficiently close to the premises to be likely to be affected by the authorised activities;</li> <li>b) Has business interests that might be affected by the authorised activities;</li> <li>c) Represents persons who satisfy a) or b) above.</li> </ol>

## APPENDIX C – MAP OF THE BOROUGH

