

## LICENSING COMMITTEE

**Wednesday, 21 November  
2018**

**5.30 pm**

**Committee Room 1, City Hall**

Membership: Councillors Kathleen Brothwell (Chair), Loraine Woolley (Vice-Chair), Biff Bean, Bill Bilton, Gill Clayton-Hewson, Ronald Hills, Andy Kerry, Adrianna McNulty, Fay Smith, Ralph Toofany, Pat Vaughan and Keith Weaver

Substitute member(s): Councillors Bob Bushell, Gary Hewson and Jackie Kirk

Officers attending: Ian Cullen, Democratic Services and Legal Services

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## A G E N D A

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2. Declarations of Interest	
Please note that, in accordance with the Members' Code of Conduct, when declaring interests members must disclose the existence and nature of the interest, and whether it is a disclosable pecuniary interest (DPI) or personal and/or pecuniary.	
3. Hackney Carriage and Private Hire Minutes of Previous Meetings	
(a) 6 September 2018	<b>7 - 8</b>
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**Present:** Councillor Kathleen Brothwell (*in the Chair*),  
Councillor Loraine Woolley, Councillor Alan Briggs,  
Councillor Fay Smith, Councillor Ralph Toofany,  
Councillor Pat Vaughan and Councillor Andy Kerry

**Apologies for Absence:** Councillor Biff Bean, Councillor Ronald Hills, Councillor  
Adrianna McNulty, Councillor Keith Weaver, Councillor  
Gill Clayton-Hewson and Councillor Bill Bilton

**43. Confirmation of Minutes - 19 April 2018**

RESOLVED that the minutes of the meeting held on 19 April 2018 be confirmed.

**44. Hackney Carriage and Private Hire Minutes of Previous Meeting: 22 March 2018**

RESOLVED that the minutes of the meeting of Hackney Carriage and Private Hire Licensing Committee held on 22 March 2018 be confirmed.

**45. Declarations of Interest**

No declarations of interest were received.

**46. Introduction of 'The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018'**

The Public Protection, Anti-Social Behaviour (PPASB) and Licensing Service Manager:

- a. presented a report which outlined the requirements of the Animal Welfare (licensing of activities involving animals) (England) Regulations 2018 which came into force on 1 October 2018
- b. reported that the Regulations would be the primary legislation for the licensing of the following animal activities;
  - Animal boarding (catteries and kennels)
  - Home boarding of dogs
  - Dog day care
  - Dog breeding
  - Riding establishments
  - Sales of animals (formerly pet shops)
  - Performing animals (formerly a registration administered by LCC)
- c. reported that all animal activities would be subject to the same regime which would bring them all into alignment, conditions were nationally set for each defined activity as contained within the Regulations
- d. outlined that the Regulations introduced a star rating system to allow customers to see how businesses performed against the Regulation

Standards, this star rating would have to be on display alongside the licence at the premises

- e. stated that a scoring matrix would be in force to ensure consistency for scoring the star rating scheme, there was an internal appeal process for this process
- f. reported that the inspections would be carried out by the Council's Animals Warden and there would also be a vet check
- g. reported that the fees and charges were to be locally set based upon full cost recovery, as set out in the regulations and the proposed fees and charges outlined in section 4.4 of the report as follows:
  - The proposed fee for all licensable animal activities: **£250 + vets fees**
  - The fee of **£250 + vets fees:** proposed for all licences whether issued for 1, 2 or 3-year periods

*(It was reported that this was due to the officer work remaining the same albeit over a variable period. This should also be viewed as an incentive for businesses to be compliant in order for them to be eligible for a longer licence term.)*

- h. advised that the proposed charges above, as detailed within the report would be amended to state that the performing animals licence should be £220 not £250 due to there being no risk score attached to that licence fee
- i. advised in addition to the report that the members could decide to offer a reduction in fees for registered charity for catteries, kennels, and performing animals
- j. reported that delegation of powers would be proposed as set out below:
  - Granting of a licence – delegated to officers.
  - Refusal of a licence – delegated to officers, appeal heard by full Licensing Committee. Appeal of council decision to be heard by a First Tier Tribunal.
  - Suspension of a licence – delegated to officers to be authorised by Team Leader or above. (to be heard by full Licensing Committee within 28 days)
  - The guidance issued by DEFRA 'The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 Procedural guidance notes for local authorities' Page 9, clearly set out the grounds for suspension of a licence and the mechanism for suspension dependent upon the offence as well as grounds for reinstatement.
  - Revocation of a licence – full Licensing Committee.
- k. advised on the recommendation in the report at section 11 of the report to consider the proposed fees prior to referral to Executive and then Council.
- l. invited members questions and comments.

Cllr Smith sought clarification regarding the position with the dog breeders.

Cllr Kerry raised concerns about the enforcement against, for example, dog breeders and how this would be dealt with. The PPASB and Licensing Manager advised that the team would act upon any information received. If an individual

wanted to advertise on media outlets, they would need to provide a registration number in order to try to capture those smaller breeders. The Licensing Officer stated that it was difficult to predict what the enforcement levels would be at this stage.

Cllr Vaughan sought clarification regarding a right to appeal which was confirmed to end with the PPASB and Licensing Manager and the Assistant Director for Communities and Environment. Cllr Vaughan asking whether the council would choose the vet for this work.

The PPASB and Licensing Manager confirmed that a procurement process for authorised vet(s) to undertake this work would be commenced.

Cllr Vaughan sought clarification on enforcement procedures in relation to other performing animals other than owls.

The PPASB and Licensing Manager stated that the regulations included ferrets/bird demonstrations, however, would not include circus performing animals which were not permitted under other legislation.

Cllr Briggs sought clarification regarding the cost of breeding a dog, registering it, feeding/taking care of it and the profit relating to this.

The PPASB and Licensing Manager stated that if the applicant could prove the overall cost of vaccinations, microchipping, registering and raising the puppy up to point of sale etc. this amount would be considered in relation to the definition of dog breeders/permitted profit margins.

The Assistant Director for Communities and Environment reassured members that resources were in place to administer the legislative changes to the licensing of animal activities. The standards of the council were high and the legislation was welcomed by the team to consolidate the framework for this regime. It was suggested that a progress report back to the Committee be provided in 6 months' time.

### **The Decision**

That the following recommendations be referred to Executive and Council:

- 1 To approve the fees for all licensable activities under 'The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 of:
  - £250 plus Vet's fees
  - The revised figure for the performing animals licence of £220
  - A 10% reduction in fee for licences charged for registered charities.
- 2 That a further progress report be provided to Licensing Committee 6 months after the commencement of the operation of the new regulations.

### **Reasons for the Decision**

A unanimous decision was reached by members of the Licensing Committee. Members fully supported the decision and members agreed with the proposals

and were pleased to see the various regimes being brought together and were grateful for the work of the team.

Dated:                      Signed                      .....

Designation: Licensing Officer

Please address any communications to:

The Licensing Team  
City of Lincoln Council  
City Hall  
Lincoln  
LN1 1DB

**Present:** Councillor Pat Vaughan (*in the Chair*),  
Councillor Loraine Woolley, Councillor  
Kathleen Brothwell, Councillor Adrianna McNulty and  
Councillor Alan Briggs

**Apologies for Absence:** Councillor Andy Kerry

**1. Confirmation of Minutes - 22 March 2018**

The minutes of the meeting held on 22 March 2018 were confirmed.

**2. Declarations of Interest**

No declarations of interest were received.

**3. Exclusion of Press and Public**

RESOLVED that the press and public be excluded from the meeting during consideration of the following item(s) of business because it is likely that if members of the public were present there would be a disclosure to them of 'exempt information' as defined by Section 100I and Schedule 12A to the Local Government Act 1972.

**4. To Interview an Existing Driver who has 9 Current Penalty Points [05/2018]**

The Licensing Officer:

- a. presented the report which detailed that the license holder has held a private hire drivers licence since September 2012 and it is on a 1 year licence basis.
- b. confirmed that the licence holder disclosed when he applied for a re-licence on 30<sup>th</sup> July 2018 that he had received 3 points for having a defective tyre
- c. confirmed that it came to the licensing team's attention on receipt of the driving licence check showing that the licence holder had received 9 penalty points and they are currently on the licence holder's licence and the team were not aware of this
- d. made reference to the Council's standard conditions and the Hackney Carriage and Private Hire Licensing Policy as outlined in the report

The decision was made as follows:

To approve the application with a warning letter to be sent from the Licensing Officer regarding this matter.

Reasons for the decision:-

- The Sub-Committee noted the letter from Handsome Cabs dated 6 September 2018
- Licence Holder's statement that he said that a member of the public noticed that the tyre was defective and called the police. He said that a month before, the tyre was passed however the police assessed the tyre as defective and this was therefore a surprise and this was accepted by the members.
- With regard to the statement in the report that the Licence Holder did not disclose the points, he said it was an honest mistake that he forgot about the speeding points and that he was not sure about the question as he was asked about recent points. This was noted by the members.
- The Licence Holder wanted the committee to consider the gravity of the speeding offence, in that the first offence was speeding at 38mph in a 30 mph limit at 2am with very little traffic on the road, there was no customer(s) in the vehicle at that time. The second offence, the Licence Holder said it was bad luck as he was driving his daughter to the airport, at 4am, there was limited traffic on the road and it was 60mph in a 40mph limit. This was noted by the members.
- The members felt that the Licence Holder should have been aware of the procedure to report any penalty points having signed the application form and then re-licence forms and is then provided with the standard conditions.
- The members noted that 3 points will come off the licence in November and this is the first concerns that have been raised during the course of him holding a licence.
- The Sub-Committee were content that the Licence Holder should be sent a warning letter from the members reminding him about the importance of abiding by the relevant conditions and policy and no further action needs to be taken.



**Present:** Councillors Loraine Woolley (*in the Chair*),  
Alan Briggs, Kathleen Brothwell and Adrianna McNulty

**Apologies for Absence:** Councillor Pat Vaughan, Councillor Andy Kerry

**Also in Attendance:** Will Allen and Becky Scott

**5. Confirmation of Minutes - 6 September 2018**

The minutes from the previous meeting were agreed.

**6. Declarations of Interest**

No declarations of interest were received.

**7. Exclusion of Press and Public**

RESOLVED that the press and public be excluded from the meeting during consideration of the following item(s) of business because it is likely that if members of the public were present there would be a disclosure to them of 'exempt information' as defined by Section 100I and Schedule 12A to the Local Government Act 1972.

**8. To Interview an Applicant for a Private Hire Driver's Licence Who Has Given Cause for Concern in Relation to Being Fit and Proper [06/2018]**

The Licensing Officer:

- a) presented the report which detailed that the applicant had held a full UK driving licence since November 2015
- b) explained that the applicant came into City Hall for an appointment to apply for a new Hackney Carriage Drivers Licence
- c) highlighted that the applicant passed the knowledge test on his first attempt as well as achieving a low risk on the Driver Improvement Programme
- d) stated that when the applicant came into City Hall to collect his Private Hire licence he queried that he had applied for a Hackney Carriage licence
- e) advised that the Licensing Officer that was dealt with the applicant explained that there were only 30 hackney carriage vehicles licensed by the Authority and he would need to purchase one from an existing owner in order to put his own vehicle on the circuit
- f) highlighted that the applicant said he may have wish to go elsewhere to work, specifically mentioning Bradford or Leicester

- g) reported that the Licensing officer made the applicant aware that if he was to work outside of the city boundary he would be committing an offence
- h) stated that the Licensing Officer said that it was not possible for him to do this and explained the reasons why
- i) highlighted that the applicant then asked for a private hire licence instead and stated that he would go and find an operator to work for.

The Licensing Officer explained his concerns about the applicant and stated that some of the documents he provided were from a Bradford address.

Members asked the applicant relevant questions in relation to his application.

### **Decision**

That the Private Hire drivers licence be granted.

### **Reasons for the decision**

- The applicant provided clear clarification on the points that were of concern to the Licensing Officer
- The Sub Committee appreciated that the applicant had passed the knowledge test and achieved a low risk on the Driver Improvement Programme and felt he had a good knowledge of the city.
- The Sub Committee believed that the applicant was a fit and proper person to hold a Private Hire Drivers Licence.

## **9. To Interview an Existing Driver who has Admitted to an Offence Following a Complaint [07/2018]**

The Licensing Officer:

- a) presented the report which detailed that the licensee had held a private hire drivers licence since June 2008
- b) explained that a complaint had been made to the operator about the licence holder
- c) further explained that a couple of weeks later a second complaint was received about the licence holder from a member of the public as detailed in Appendix A of the report
- d) highlighted that further to the complaints that had been made the incident that was alleged to have occurred was already being dealt with by the Police
- e) stated that the Police contacted the Licensing Team to discuss their findings and the outcome of the case which was outlined in Appendix B of the report

Members asked the applicant relevant questions in relation to the alleged offence.

The applicant answered the relevant questions and was given the opportunity to ask the Licensing Committee questions, of which he did.

The chair asked the applicant if he had any further information to add with regards to the case.

The applicant admitted to the Committee that he had made a mistake and that his behaviour was unacceptable. He also asked for clarification on a couple of things that were detailed in the report.

Members of the Licensing committee asked the applicant and the Licensing Officers further questions for clarification.

The Legal and Democratic Services Manager asked the applicant if he felt he had received a fair hearing and whether he was given a fair opportunity to speak.

The applicant confirmed that he was happy with what had been explained to him.

### **Decision**

That the licence holder's private hire licence be suspended for a period of three months. During this time he would be expected to complete an anger management course which would be approved by a Licensing Officer of the council upon completion. The course would be completed at the licence holder's expense. Once the Licensing Officer was satisfied that the licence holder had completed the course, the suspension would expire and a licence could be re-issued to the licence holder. If the course was not completed, the matter would be brought back before the committee for further consideration.

### **Reasons for the decision**

- 1) The serious nature of the complaint from the member of the public
- 2) The licence holder admitted the offence
- 3) The fact that the incident took place when the licence holder was working as a private hire driver
- 4) The action taken by the police in respect of a criminal investigation
- 5) The outcome of those proceedings, whilst noting that restorative justice is a low level offence and would not appear as a criminal record however it was a finding of guilt.

### **10. To Interview an Applicant whose Licence has 9 Penalty Points - Which Included a Non-Disclosure, Complaints and Alleged Offences [08/2018]**

The Licensing Officer:

- a) presented the report which detailed that the licence holder had held a hackney carriage drivers licence since September 2009
- b) explained that the licence holder had 9 penalty points on his driving licence and had failed to disclose 3 points

- c) confirmed that it came to the Licensing Teams attention on receipt of the driving licence check which showed the licence holder had 9 penalty points and the Licensing team were not aware of this
- d) highlighted that there had been complaints made against the licence holder and it was also alleged that other offences had been committed as detailed in the officers report
- e) presented and played video footage to the Licensing Committee in relation to the alleged offences committed by licence holder.

Members of the committee asked the licence holder relevant questions regarding the alleged offences and responses were given.

The Licensing Officer then provided further paperwork to the committee relating to the case.

The chair asked the committee if they should adjourn the hearing for a short period of time to allow members to read the relevant paperwork.

The committee confirmed that they were happy for the hearing to proceed without the need to adjourn.

The chair gave the Licensing Officer the opportunity to speak in further detail about the application.

The Licensing Officer confirmed he had nothing else to add

The chair then gave the applicants representative the opportunity to also add any further information to the case.

The representative summed up his case on behalf of the applicant.

Further to the information that had been presented, the Legal and Democratic Services manager asked the applicant for clarification on whether he had understood the requirements of being a Hackney Carriage driver and whether the Licensing Team had conversed with him sufficiently.

The applicant confirmed that he understood the requirements and thanked the Licensing Team for their patience when dealing with him and explained that he understood all the information given to him.

## **Decision**

That the applicant's application for a Hackney Carriage licence be revoked and a further application would not be considered by the council within 2 years of the date of this decision notice.

## **Reason for the Decision:**

- 1) The applicant has been a driver for a number of years and there were a list of concerns relating to his licence

- 2) The applicant was dishonest on the basis that he would have known about the need to declare the 3 penalty points to the Licensing Officer with regards to the totting up process
- 3) The applicant clearly stated that the Licensing team members had been thorough in their explanations to him.
- 4) The witness statements were quite compelling as to the offences
- 5) There was certainly one offence of touting for hire which had been admitted
- 6) The licensing policy stated that for a licensing offence, which had been admitted by the applicant, an individual should not be able to reapply for a licence within 3 years of a conviction for a plying for hire offence.
- 7) The members felt there was good reason to take this element of the policy of the council into account, however they felt that a 2 year bar on applying would be sufficient in the circumstances.
- 8) Members felt that the applicant had a good command of the English language and understood the requirements laid out by the council for hackney carriage drivers and in any event should know being a member of the taxi community.
- 9) By plying for hire through beckoning an individual, and most likely two individuals outside a private hire company where they had booked a vehicle for a journey, it showed that it was a deliberate act by the applicant to take customers away from the private hire rank.
- 10) The overriding duty was the protection of the public and it was felt by the members that the applicant had not demonstrated that he was a fit and proper person to hold a licence.

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<b>SUBJECT:</b>	<b>GAMBLING ACT 2005 TRIENNIAL REVIEW OF STATEMENT OF LICENSING POLICY</b>
<b>DIRECTORATE:</b>	<b>COMMUNITIES &amp; ENVIRONMENT</b>
<b>REPORT AUTHOR:</b>	<b>IAN CULLEN, LICENSING TEAM LEADER</b>

## **1. Purpose of Report**

- 1.1 To update Licensing Committee on the result of the consultation of the Statement of Licensing Policy (the Policy) under the Gambling Act 2005 ('the Act').

## **2. Executive Summary**

- 2.1 An updated Statement of Licensing Policy under the Gambling Act 2005 has been out for consultation.
- 2.2 Following feedback from various stakeholders, approval is sought to forward the amended Policy to Full Council for adoption.

## **3. Background**

- 3.1 The Act requires that the Licensing Authority publish its Statement of Licensing Policy at least every three years. The date for publishing is on or before the 31 January 2019.
- 3.2 Core to the Gambling Act are the licensing objectives. These 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 manner;
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 3.3 The draft Policy was forwarded to a total of 51 persons/organisations and to every member of the Licensing Committee. The Policy was also placed on the Councils website. A copy of the revised Policy can be seen at Appendix A
- 3.4 The list of persons consulted when reviewing the gambling policy was deliberately wide. This enables the licensing authority to undertake a comprehensive consultation exercise with anyone who may be affected by or otherwise have an interest in the policy.
- 3.5 The consultation period commenced on 21<sup>st</sup> August 2018 and ended on the 2<sup>nd</sup> October 2018. A total of 5 responses were received.

### 3.6 The Gambling Commission Guidance to licensing authorities states:

In determining its statement of policy, the licensing authority must give appropriate weight to the views of those it has consulted. In deciding what weight to give, the factors to be taken into account include:

- who is making the representations, the nature of their interest and their expertise
- relevance of the factors to the licensing objectives
- how many other people have expressed the same or similar views
- how far the representations relate to matters that the licensing authority should be including in its policy statement.

## 4. Consultation Results

- 4.1 The first response received was on behalf of the Racecourse Association, they thanked us for inclusion in the consultation, however would not be responding due to there being no venues in the district to which they have an interest. (Appendix B)
- 4.2 The second response was on behalf of Gambleaware. They were thankful of inclusion in the consultation and rather than comment directly about the policy they offered guidance, recommending two recent documents published by the Local Government Association. (Appendix C)
- 4.3 The comments from Gambleaware were appreciated and acknowledged, however it was felt that the documents did not need incorporating into the policy but would serve as a valuable tool alongside the policy when performing functions under the Act.
- 4.4 The third response was from Gamcare who again thanked us for their inclusion in the consultation. They weren't able to comment directly about the document but instead offered general advice. Again their comments were appreciated however it was felt many of the considerations were already addressed in the policy statement. (Appendix D)
- 4.5 The fourth response was from the City of Lincoln Council Policy team. Their comments referred to the Council operating a 'Local Authority Lottery' and questioned the references in the document to remote gambling. It was explained that the Council's Community Lottery is regulated by the Gambling Commission and therefore it is not a consideration for the local authority acting as the 'Licensing Authority'. Consequently no amendment was necessary to section 8.2 of the Policy. (Appendix E)
- 4.6 The final response received was a letter from Gosschalks Solicitors on behalf of the Association of British Bookmakers (ABB). Their response gives an overview of the work of the ABB and also makes some specific comments on the draft policy. (Appendix F)
- 4.7 Contact was made with the author of the letter and the points raised were discussed as presented below.



- 4.8 The comments regarding the final bullet points in paragraph 1.7 of the policy document were discussed and agreement was reached that individuals fulfilling these demographics were not being pre-determined as automatically vulnerable, however sufficient research and statistical evidence does exist to show they are at higher risk and therefore it was decided that the points should remain.
- 4.9 The suggestion for the removal of the penultimate sentence of paragraph 1.18 was taken on board, however because the sentence refers to potential future amendments to the legislation it was felt unnecessary to exclude it from the document. Furthermore were there to be an amendment to the legislation then this policy document would likely be re-examined.
- 4.10 The references to a proof of age scheme throughout the document have been amended to ensure there is consistency within the policy.
- 4.11 A further point raised in the response from Gosschalks refers to paragraphs 1.28 to 1.34 of Part B of the Policy document. Clarity was sought on the imposition of conditions on premises licences. It was felt that paragraphs 1.1 to 1.9 of Part B addressed the points raised in the letter and give sufficient guidance on how the Authority would approach each application.
- 4.12 The comments regarding paragraph 6.1 of the policy document were noted and the paragraph has been reworded to provide clarity.
- 4.13 No other responses were received during the consultation period.

## **5. Strategic Priorities**

### **5.1 Let's drive economic growth**

By keeping the statement of policy up to date it will ensure that there is clear guidance for local businesses.

### **5.2 Let's reduce inequality**

Protecting vulnerable people is a key objective of the Act. This Statement of Licensing Policy should ensure that the licensing objectives are promoted and the most vulnerable are protected.

### **5.3 Let's deliver quality housing**

N/A

### **5.4 Let's enhance our remarkable place**

N/A

### **5.5 High performing services**

N/A

## **6. Organisational Impacts**

### **6.1 Finance (including whole life costs where applicable)**

Cost of consultation and printing of Policy can be contained within the current licensing budget.

### **6.2 Legal Implications including Procurement Rules Gambling Act 2005 section 349.**

A licensing authority shall before each successive period of three years –

- a) prepare a statement of the principles that they propose to apply in exercising their functions under this Act during that period, and
- b) publish the statement.

If the Council fails to introduce its reviewed Policy by the 31 January 2019, it cannot function as the Licensing Authority under the Gambling Act 2005.

Additionally, the Licensing Authority must ensure that its decisions and policies can withstand scrutiny by reference to the principle of proportionality, i.e. is the decision / action proportionate to what it wishes to achieve?

### **6.3 Equality, Diversity and Human Rights**

The Public Sector Equality Duty means that the Council must consider all individuals when carrying out their day-to-day work, in shaping policy, delivering services and in relation to their own employees.

It requires that public bodies have due regard to the need to:

- Eliminate discrimination
- Advance equality of opportunity
- Foster good relations between different people when carrying out their activities

The statement of policy shall ensure that the licensing function is conducted in a fair and transparent way.

The licensing policy provides transparency for everyone, including local residents and applicants for premises licences, who will be able to refer to the statement when making representations or when preparing their applications. There is therefore not a need to complete an Equality Impact Assessment as there are no specific impacts on anyone who has a protected characteristic

## **7. Risk Implications**

### **7.1 (i) Options Explored**

### **7.2 (ii) Key risks associated with the preferred approach**

## **8. Recommendation**

8.1 The Committee is asked to:

- approve the draft policy; and
- recommend it to Full Council for adoption

**Is this a key decision?** No

**Do the exempt information categories apply?** No

**Does Rule 15 of the Scrutiny Procedure Rules (call-in and urgency) apply?** No

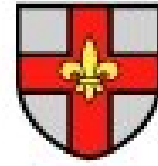
**How many appendices does the report contain?** 6

**List of Background Papers:**

- Appendix A – Draft Policy document
- Appendix B – Response Racecourse Association
- Appendix C – Response Gambleaware
- Appendix D – Response Gamcare
- Appendix E – Response City of Lincoln Council Policy
- Appendix F – Response Gosschalks

**Lead Officer:** Ian Cullen, Licensing Team Leader  
Telephone (01522) 873714

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CITY OF  
*Lincoln*  
COUNCIL

Gambling Act 2005

Statement of Policy

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

# CITY OF LINCOLN STATEMENT OF POLICY GAMBLING ACT 2005

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*This Statement of Licensing Policy was approved by the City of Lincoln Council on 04/12/2018*

*All references to the Guidance refer to the Gambling Commission's Guidance to Licensing Authorities, 5th Edition, published September 2015 – part revised September 2016*

## **PART A**

### **1. The Licensing Objectives**

- 1.1 In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. 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 It should be noted that the Gambling Commission has stated: “The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”.
- 1.3 This Licensing Authority is aware that, as per Section 153, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it 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
  - reasonably consistent with the licensing objectives and
  - in accordance with the authority’s statement of policy
- 1.4 **The Gambling Commission issues two types of code of practice. Social responsibility (SR) codes and ordinary codes (OC). A social responsibility code must be adhered to by all licence holders in the same manner as a licence condition. An ordinary code is not mandatory but operators are expected to take account of them. Both sets of codes can be found in the Commission’s Licence Conditions and Codes of Practices (LCCP).**

### **2. Introduction**

- 2.1 The City of Lincoln Council is the Licensing Authority for the City of Lincoln for the purpose of the Gambling Act 2005 and any subsequent legislation and guidance.
- 2.2 The City of Lincoln Council is situated in the County of Lincolnshire, which contains 7 District Councils in total. The Council area has a population of 98,438 making it the fourth largest in the County in terms of population. In terms of area it is the smallest covering 3569 hectares. The Council’s area is mainly urban.
- 2.3 Licensing authorities are required by the Gambling Act 2005 to publish a statement of the policy, which they proposed to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from “time to time” and any amended parts re-consulted upon. The statement must be then re-published.

- 2.4 The City of Lincoln Council has worked in partnership with the other District Councils in the County in preparing this statement of policy. It is based in part on
- guidance from the Commission's "Guidance to Licensing Authorities" (the Guidance)
- 2.5 The Gambling 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 Gambling Act 2005.
- 2.6 The City of Lincoln Council consulted widely upon this statement before finalising and publishing. A list of those persons consulted is provided below (appendix B).
- 2.7 Our consultation took place between 21<sup>st</sup> August 2018 and 2<sup>nd</sup> October 2018
- 2.8 The City of Lincoln Council recognises its duties to consider the impact of all its functions and decisions on crime and disorder under the requirements of Section 17 of the Crime and Disorder Act 1998 in adopting this statement of policy. The City of Lincoln Council acknowledges the benefits to the community of properly regulating gambling in the district.
- 2.9 The statement of policy was approved at a meeting of the Full Council on 4<sup>th</sup> December 2018 and was published via our website on December 2018. Copies were placed in the public libraries of the area as well as being available at City Hall. The statement, once approved, will be effective from 31<sup>st</sup> January 2019
- 2.10 It should be noted that this statement of policy will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.
- 2.11 The Licensing Authority recommends that applicants and interested persons study the [Lincoln City Profile](#). (this is a link to the 'live' document, updated by City of Lincoln Council.)**

### **3. Declaration**

- 3.1 In producing the final statement, this Licensing Authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission, and any responses from those consulted on the statement.



#### **4. Responsible Authorities**

- 4.1 The Licensing Authority is required by regulations to state the policy it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the Authority about the protection of children from harm. The policy is:
- 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; and
  - that this body is experienced in dealing with the protection of children.
- 4.2 In accordance with the suggestion in the Gambling Commission's Guidance for licensing authorities, this authority designates the Lincolnshire Safeguarding Children Board for this purpose.
- 4.3 The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the City of Lincoln Council's website at: [www.lincoln.gov.uk](http://www.lincoln.gov.uk)

#### **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 in the Gambling Act 2005 as follows:
- "For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the Licensing Authority which issues the licence or to which the applications is made, the person-
- 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)" e.g. ward councillors or member of parliament.
- 5.2 The Licensing Authority is required by regulations to state the policy it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. The policy is:
- 5.3 Each case will be decided upon its merits. This 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 for licensing authorities at 8.12 and 8.15. It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.
- 5.4 The Gambling Commission has recommended that the Licensing Authority state whom it considers represent interested parties. These include, but are not confined to, democratically elected representatives such as local councillors and Members of Parliament (no specific evidence of being asked to represent an interested person will be required as long as the councillor or Member represents the ward

likely to be affected) and bodies such as trade associations and trade unions, and residents' and tenants' associations. This Authority will not however generally view these bodies as interested parties unless they have a member who can be classed as an interested person under the terms of the Gambling Act 2005 i.e. lives sufficiently close to the premises to be likely to be affected by, or has business interests that might be affected by the authorised activities being applied for. A letter from one of these persons requesting representation shall be sufficient.

- 5.5 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 the licensing department on 01522 873564 or [licensing@lincoln.gov.uk](mailto:licensing@lincoln.gov.uk) .

## **6. Exchange of Information**

- 6.1 In accordance with Section 350 and Schedule 6 of the Gambling Act 2005, in exercise of its duty the Licensing Authority may exchange information with the following persons and statutory bodies:**

- **A constable or police force;**
- **An enforcement officer;**
- **A licensing authority;**
- **Her Majesty's Revenues and Customs;**
- **The First-tier Tribunal;**
- **The Secretary of State;**
- **Scottish Ministers; and**
- **Any other person or body designated by the Secretary of State in accordance with the Act.**

**The Council may also exchange information provided by applicants with law enforcement agencies for purposes connected with the prevention and detection of crime, but we will only share any personal details for this purpose if required to do so by law.**

- 6.2 The Licensing Authority will act in accordance with the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened.
- 6.3 The Licensing Authority will also have regard to any Guidance issued by the Gambling Commission to Licensing Authorities as well as any relevant regulations issued by the Secretary of State under powers provided in the Gambling Act 2005.
- 6.4 The Licensing Authority will inform the Gambling Commission without delay if:
- Information that causes the Licensing Authority to question the suitability of a person or business holding or applying to hold an operating licence is received.
  - There are persistent or serious disorder problems that an operator could or should do more to prevent, so that the Commission may consider the continuing suitability

of the operator to hold an Operating Licence.

- If it comes to the Licensing Authority's attention that alcohol-licensed premises, clubs or institutes are playing bingo during the course of a week which involves significant stakes and prizes that make it possible that £2,000 in seven days is being exceeded.
- Any other reasonable and relevant information that the Licensing Authority is of the opinion the Gambling Commission should be made aware of.

**6.5 The council is a signatory to a joint protocol on information sharing under the provisions of Section 115 of the Crime and Disorder Act 1998 with the [Safer Lincolnshire Partnership](#). The council will use this protocol as appropriate.**

6.6 Should any further protocols be established as regards information exchange with other bodies then they will be made available on the City of Lincoln Council's website at [www.lincoln.gov.uk](http://www.lincoln.gov.uk)

## **7. Enforcement and Inspection**

7.1 Licensing Authorities are required by regulation under the Gambling Act 2005 to state the policy to be applied by the Authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

7.2 This Licensing Authority's policy is that:  
It will be guided by the Gambling Commission's Guidance for Licensing Authorities and 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.

7.3 As per the Gambling Commission's Guidance for Licensing Authorities this Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

7.4 This Licensing Authority will implement a risk-based inspection programme on a multi-agency basis, based on;

- The licensing objectives
- Relevant codes of practice
- Guidance issued by the Gambling Commission, in particular at Part 36

- The principles set out in this statement of policy
- 7.5 The main enforcement and compliance role for this Licensing Authority in terms of the Gambling Act 2005 will be to ensure compliance with the premises licences and other permissions, which it authorises. The Gambling Commission will be the enforcement body for the operating and personal licences. It is also worth noting that 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.
- 7.6 This 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
- 7.7 Bearing in mind the principle of transparency, this Licensing Authority's enforcement/compliance policies/protocols/written agreements will be available upon request to the licensing department.
- 7.8 The Authority recognises that certain gambling premises operators 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 who the Authority will contact first should any compliance queries or issues arise.
- 7.9 In considering enforcement action, the Licensing Authority will bear in mind the Human Rights Act, in particular:
- Article 1, Protocol 1 – Peaceful enjoyment of possessions
  - Article 6 – right to a fair hearing
  - Article 8 – respect for private and family life
  - Article 10 – right to freedom of expression

## **8. Licensing Authority functions**

- 8.1 Licensing Authorities are required under the Act 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) 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 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 above on 'information exchange')
- Maintain registers of the permits and licences that are issued under these functions

8.2 It should be noted that local licensing authorities will not be involved in licensing remote gambling at all. This will fall to the Gambling Commission via operating licences.

## **PART B PREMISES LICENCES**

### **1. General Policy**

- 1.1 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 are detailed in regulations issued by the Secretary of State. Licensing Authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.
- 1.2 This 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:
- 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 licensing policy.
- 1.3 It is appreciated that as per the Gambling Commission's Guidance for Licensing 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 – page 15) and also that unmet demand is not a criterion for a Licensing Authority.
- 1.4 Premises Licences authorise the provision of gambling facilities on the following:
- Casino premises
  - Bingo Premises
  - Betting Premises (including race tracks used by betting intermediaries)
  - Adult Gaming Centres (AGCs)
  - Family Entertainment Centres (FECs)
- 1.5 **Local Risk Assessments – It is a requirement of the Commission's Licence Conditions and Codes of Practices (LCCP), specifically an SR code requirement that licensees assess local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in this policy.**
- 1.6 **Licensees must review (and update as necessary) their local risk assessments:**
- **to take account of significant changes in local circumstances, including those identified in a licensing authority's statement of licensing policy;**
  - **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.

**1.7 The Licensing Authority expects the local risk assessment to consider as a minimum:**

- whether the premises are in an area subject to high levels of crime and/or disorder;
- the location of any nearby sensitive premises, such as hostels and other facilities used by vulnerable persons e.g. drug and alcohol addictions;
- the location of services for children such as schools, playgrounds, toy shops, leisure/community centres and other areas where children will gather;
- the demographics of the area in relation to vulnerable groups
- how vulnerable people, including people with gambling dependencies are protected.
- whether there is a prevalence of street drinking in the area, which may increase the risk of vulnerable persons using the premises;
- any indication in the area of young people attempting to access adult gambling facilities of the type offered in the area.
- High unemployment area
- The area has a high number of rough sleepers/homeless people.

The risk assessment should take into account the risks presented by the local landscape. The Council publishes a range of information about the district in the [Lincoln City Profile](#) which will be of use to applicants in the preparation of local risk assessments.

**1.8 This policy does not preclude any application being made and every application will be decided on its individual merits, with the opportunity given for the applicant to show how potential concerns can be overcome.**

**1.9 The Authority acknowledges the Commission's guidance that "moral or ethical objections to gambling are not a valid reason to reject applications for premises licences" and also that unmet demand is not a criterion for a licensing authority.**

**1.10 Definition of "premises" - Premises is defined in the Act as "any place". Different premises licences cannot apply in respect of a single premises at different times. However, it is possible for a single building to be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. Whether different parts of a building can properly be regarded as being separate premises will always be a question of fact in the circumstances. However, the Gambling Commission does not consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.**

- 1.11 This Licensing Authority takes particular note of the Gambling Commission's Guidance for Licensing Authorities which states that:  
Licensing Authorities should take particular care in considering applications for multiple premises licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:
- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to, or closely observe gambling where they are prohibited from participating.
  - Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not 'drift' into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
  - Customers should be able to participate in the activity named on the premises licence.
- 1.12 The Guidance also gives a list of factors which the Licensing Authority should be aware of, which may include:
- Is a separate registration for business rates in place for the premises?
  - Is the premises' neighbouring premises owned by the same person or someone else?
  - Can each of the premises be accessed from the street or a public passageway?
  - Can a premises only be accessed from any other gambling premises?
- 1.13 **Premises "ready for gambling"** - It should be noted that following the case of *The Queen (on the application of) Betting Shop Services Limited v Southend-on-Sea Borough Council*, an applicant can obtain a full premises licence for premises in which it is proposed to offer gambling but the facilities have still to be constructed or altered. Licensing Authorities are required to determine such applications on their merits.
- 1.14 This Authority shall consider such applications in a two-stage process;
- First, whether the premises should be permitted to be used for gambling in accordance with section 153 of the Act.
  - Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.
- 1.15 If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have the right to occupy them, then an application for a provisional statement can be made instead.
- 1.16 Applicants should note that this Authority is entitled to decide that it is appropriate



- to grant such a licence subject to conditions, but it is not obliged to grant such a licence.
- 1.17 More detailed examples of circumstances in which such a licence may be granted can be found at paragraphs 7.60-7.65 of the Gambling Commissions Guidance.
- 1.18 **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 are relevant to its decision-making. 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. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement 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 potential concerns can be overcome.
- 1.19 **Duplication with other regulatory regimes** - This Licensing Authority will seek to avoid any duplication with other statutory / regulatory systems where possible, including planning. This Licensing Authority will not consider any planning or building regulations issues in relation to the premises, in its consideration of the licence application. It will though, 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.
- 1.20 **Furthermore, the Authority notes the following excerpt from the Commission's Guidance:**
- When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have to comply with the necessary planning or building consents. Nor should fire or health and safety risks be taken into account. Those matters should be dealt with under relevant planning control, building and other regulations, and must not form part of the consideration for the premises licence. S.210 of the Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally, the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.**
- 1.21 **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 some comments are made below.
- 1.22 **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** - This Licensing Authority is aware that the Gambling Commission will be taking a leading

role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. This Licensing Authority is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction. Issues of nuisance cannot be addressed via the Gambling Act provisions.

- 1.23 **Ensuring that gambling is conducted in a fair and open way** - This Licensing Authority has noted that the Gambling Commission has stated that it would generally not expect Licensing Authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section below.
- 1.24 **Protecting children and other vulnerable persons from being harmed or exploited by gambling** - This Licensing Authority has noted the Gambling Commission's Guidance for Licensing Authorities states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The Licensing Authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective.
- 1.25 **To prevent children and young people accessing adult gambling activities, safeguarding measures should be in place. The Licensing Authority will therefore consider whether or not specific measures are needed to protect children at particular premises. Such measures may include:**
  - **Proof of age scheme e.g. the Think 21 scheme and only recognised proof of age accepted (for example photo driving licence, passport and PASS cards)**
  - **All points of entry monitored by staff/CCTV**
  - **Signage prominently displayed at all points of entry regarding the prohibition of under 18's**
  - **Signage displayed on machines highlighting age restrictions**
  - **Supervision of gaming machines in non-adult gambling specific premises.**
  - **All staff being trained to be vigilant and respond if a child gains illegal access to premises.**
  - **Third party test purchasing**
  - **Maintain refusal registers**
- 1.26 This Licensing Authority will also make itself aware of the Codes of Practice which the Gambling Commission issues as regards this licensing objective, in relation to specific premises such as casinos.

- 1.27 As regards the term “vulnerable persons” it is noted that the Gambling Commission does not seek to define ‘vulnerable persons’ but it does, for regulatory purposes, assume 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 due to, for example, mental health, a learning disability or substance misuse relating to alcohol or drugs. Information and sources of help regarding problem gambling can be found on the Gamcare and Gambleaware websites. The Licensing Authority will consider this licensing objective on a case-by-case basis. Further specific information on the Authority’s recommendations and expectations, in relation to the protection of children and other vulnerable persons can be found at Appendix D and E of this policy document.
- 1.28 **Conditions** - 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; and
  - reasonable in all other respects.
- 1.29 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this Licensing Authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This Licensing Authority will also expect the licence applicant to offer his/her own suggestions as to ways in which the licensing objectives can be met effectively.
- 1.30 This Licensing Authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission’s Guidance.
- 1.31 This authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:
- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
  - only adults are admitted to the area where these machines are located;
  - access to the area where the machines are located is supervised;
  - the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
  - at the entrance to and inside any such areas there are prominently displayed

notices indicating that access to the area is prohibited to persons under 18.

- 1.32 These considerations will apply to premises including buildings where multiple premises licences are applicable.
- 1.33 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 consider the impact upon the third licensing objective 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.
- 1.34 It is noted that there are conditions which the Licensing Authority cannot attach to premises licences which 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 Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated; and
  - conditions in relation to stakes, fees, winning or prizes.
- 1.35 **Door Supervisors** - If there are concerns that premises may attract disorder or be subject to unauthorised access by children and young persons, then the Licensing Authority may require that Door Supervisors control entrances to the premises. The Licensing Authority recognises that each premises application shall be treated on its own merit. In addition, the Licensing Authority shall take into account the previous trading history of the type of premises proposed and that any decision shall be necessary and proportionate.
- 1.36 Where door supervisors are imposed as a condition on a Premises Licence (except casino or bingo premises), Section 178 of the 2005 Act requires that any person employed in that capacity will hold a relevant licence issued by the Security Industry Authority (SIA).

## **2. Adult Gaming Centres (AGCs)**

- 2.1 This Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the Authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.
- 2.2 This Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures / licence conditions may cover issues such as:
- Proof of age schemes
  - CCTV

- Supervision of entrances / machine areas (e.g. use of door supervisors)
- Physical separation of areas
- Location of entry
- Notices / signage (including the statutory requirement for GamCare stickers)
- Specific opening hours
- Self-exclusion 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.

**2.3 The Licensing Authority will expect applicants to adopt an approved proof of age scheme (such as Think 21), for staff to be suitably trained and aware of the gambling laws, social responsibility and statutory requirements relating to age restrictions.**

**3. (Licensed) Family Entertainment Centres (FECs)**

3.1 This Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas. Children and young persons are permitted to enter an FEC and may play on Category D machines. They are not permitted to play on Category C machines, and it is a requirement that there is clear segregation between the two types of machine, to prevent access by children and young persons to Category C machines.

**3.2 Therefore, all Category C machines must be 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.**

3.3 This Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures / licence conditions may cover issues such as:

- CCTV
- Supervision of entrances / machine areas (e.g. use of door supervisors)
- Physical separation of areas
- Location of entrance
- Notices / signage (including the statutory requirement for GamCare stickers)
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.
- Measures / training for staff on how to deal with suspected truant school children on the premises

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

- 3.4 This Licensing Authority will, as per the Gambling Commission's guidance, refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. This Licensing Authority will also make itself aware of any mandatory or default conditions on these premises licences.
- 3.5 **The Licensing Authority acknowledges that only premises that are wholly or mainly used for making gaming machines available may hold a Family Entertainment Centre (uFEC) gaming machine permit or a Family Entertainment Centre (FEC) premises licence. Both a licensed FEC and uFEC are classified as 'premises'. The Licensing Authority considers that, generally, premises such as an entire shopping centre, motorway service station, bowling alley or similar would not be suitable for licensing or to hold a permit. Further the Authority believes that the machines should be in a designated, enclosed area, they should not be in walkways or corridors forming part of a larger building**

#### 4. Casinos

- 4.1 **No Casinos resolution** - This Licensing Authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should this Licensing Authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution. The Full Council will make any such decision.

#### 5. Bingo premises

- 5.1 **This Licensing Authority notes that the Gambling Commission's Guidance states at paragraph 18.5:**

**Licensing authorities need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. An operator may choose to vary their licence to exclude a previously licensed area of that premises, and then apply for a new premises licence, or multiple new premises licences, with the aim of creating separate premises in that area. Essentially providing multiple licensed premises within a single building or site. Before issuing additional bingo premises licences, licensing authorities need to consider whether bingo can be played at each of those new premises.**

- 5.2 **The authority also notes the Guidance regarding the provision of gaming machines in premises subject to a bingo premises licence.**

**5.3 The Guidance also states:**

**Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed. Social Responsibility (SR) code 3.2.5(3) states that ‘licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises’ in order to prevent underage gambling.**

**5.4 Where category C or above machines are available in premises to which children are admitted this authority shall seek to 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.

**5.5 Where Bingo is provided in alcohol-licensed premises and reaches a certain threshold, it will no longer be authorised as equal chance gaming and a Bingo Operating Licence will need to be obtained from the Gambling Commission. The aim of this provision is to prevent bingo becoming a predominant commercial activity on such non-gambling premises.**

**5.6 The threshold is reached if the bingo played during any seven-day period exceeds £2,000 (either in money taken or prizes awarded) once in a year, referred to as ‘high turnover bingo’.**

**5.7 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 shall inform the Commission accordingly.**

**6. Betting premises**

**6.1 The Licensing Authority is responsible for issuing and monitoring Premises Licences for all betting premises. Children and young persons are not permitted entry to a premises which has a Betting Premises Licence. They may, however, be permitted entry to tracks and special rules will apply. The Licensing Authority recommends that an applicant for betting premises considers carefully the location of gaming and betting machines to ensure that they are not in sight of the entrance of the premises.**

- 6.2 Betting machines - This Licensing Authority notes that Section 181 of the Act contains a power for licensing authorities to restrict the number of Self-Service Betting Terminals (SSBTs), their nature and the circumstances in which they are made available, by attaching a licence condition to a betting premises licence. When considering whether to impose a condition to restrict the number of SSBTs, the licensing authority, amongst other things, will take into account the ability of employees to monitor the use of the machines by children and young persons or by vulnerable people.**
- 6.3 While the Authority has discretion as to the number, nature and circumstances of the use of betting machines, currently there is no evidence that such machines give rise to regulatory concerns. Therefore, this Authority will consider limiting the number of 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 of staff to monitor the use of such machines from the counter.
- 6.4 This Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures / licence conditions may cover issues such as:**
- **Proof of age schemes**
  - **CCTV**
  - **Supervision of entrances / machine areas (e.g. use of door supervisors)**
  - **Physical separation of areas**
  - **Location of entry**
  - **Notices / signage (including the statutory requirement for GamCare stickers)**
  - **Specific opening hours**
  - **Self-exclusion 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**

## **7. Tracks**

- 7.1 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.



- 7.2 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.
- 7.3 This Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures / licence conditions may cover issues such as:

- **Proof of age schemes**
- **CCTV**
- **Supervision of entrances / machine areas (e.g. use of door supervisors)**
- **Physical separation of areas**
- **Location of entry**
- **Notices / signage (including the statutory requirement for GamCare stickers)**
- **Specific opening hours**
- **Self-exclusion 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.

- 7.4 **Gaming machines** – Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.
- 7.5 **Betting machines - Licensed operators may install Self-Service Betting Terminals (SSBTs) on tracks. There is no restriction on the number of SSBTs that may be in use but operators must, by virtue of their operating licence conditions, supervise such terminals to prevent them being used by those under 18 years of age.**
- 7.6 **Applications and plans** – The Gambling Act (s151) requires applicants to submit plans of the premises with their application, in order to ensure that the Licensing Authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the Licensing Authority to plan future premises inspection activity. (See the Guidance to Licensing Authorities, para 20.43)
- 7.7 Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations. (See Guidance to Licensing Authorities, para 20.44)

- 7.8 This Authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information so that this Authority can satisfy itself that the plan indicates the main areas where betting might take place.

## **8. Travelling Fairs**

- 8.1 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.
- 8.2 The Licensing Authority will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 8.3 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 Licensing Authority will work with its neighbouring authorities to ensure that land that crosses our boundaries is monitored so that the statutory limits are not exceeded.

## **9. Provisional Statements**

- 9.1 Developers may wish to apply to this authority for a Provisional Statement before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.
- 9.2 Section 204 of the Gambling Act provides for a person to make an application to the Licensing Authority for a provisional statement in respect of premises that he or she:
- Expects to be constructed;
  - Expects to be altered; or
  - Expects to acquire a right to occupy.
- 9.3 The process for considering an application for a Provisional Statement is the same as that for a Premises Licence application. The applicant is obliged to give notice of the application in the same way as when applying for a Premises Licence. Responsible Authorities and Interested Parties may make representations and there are rights of appeal.
- 9.4 In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises

in respect of which their provisional application is made.

9.5 In terms of representations about premises licence applications, following the grant of a provisional statement, no further representations from responsible 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 way of representations at the provisional licence stage
- b) which, in the Authority's opinion, reflect change in the operator's circumstances.
- c) Where the premises has not been constructed in accordance with the plan and information submitted with the provisional statement application. This must be a substantial change to the plan and Licensing Authorities should discuss any concerns they have with the applicant before making a decision.

## **10. Reviews:**

10.1 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:

- 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 licensing policy.

10.2 The request for the review will also be subject to the consideration by the Authority as to whether the request is frivolous, vexatious or whether it will certainly not cause this Authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review

10.3 The Licensing Authority can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks appropriate.

10.4 Once a valid application for review has been received by the Licensing Authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the Licensing Authority, who will publish notice of the application within 7 days of receipt.

- 10.5 The Licensing Authority must carry out the review as soon as possible after the 28 day period for making representations has passed.
- 10.6 The purpose of the review will be to determine whether the Licensing Authority should take any action in relation to the licence. If action is justified, the options open to the Licensing Authority are:
- Add, remove or amend a licence condition imposed by the Licensing Authority;
  - Exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such a condition;
  - Suspend the premises licence for a period not exceeding three months; and
  - Revoke the licence.

In determining what action, if any, should be taken following a review, the Licensing Authority must have regard to the principles set out in Section 153 of the Act, as well as any relevant representation.

- 10.7 In particular, the Licensing Authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.
- 10.8 Once the review has been completed, the Licensing Authority must, as soon as possible, notify its decision to:
- The licence holder
  - The applicant for review (if any)
  - The Gambling Commission
  - Any person who made a representation
  - The Chief Officer of Police or Chief Constable
  - Her Majesty's Commissioners for Revenue and Customs.
- 10.9 **Appeals** – There is a right of appeal both for applicants and those who have made relevant representations or applied for a review. This appeal must be lodged within a period of 21 days from the day on which the applicant was notified by the Licensing Authority of the decision and must be made to Lincoln Magistrates Court.

**PART C**  
**Permits / Temporary & Occasional Use Notices / Lotteries**

1. **Unlicensed Family Entertainment Centre (FEC) gaming machine permits (Statement of Policy on Permits - Schedule 10 paragraph 7)**
  - 1.1 Where a premises does not hold a premises licence but wishes to provide category D gaming machines, it may apply to the Licensing Authority for this 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).
  - 1.2 The Gambling Act 2005 states that a Licensing Authority may prepare a statement of policy that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25. The Gambling Commission's Guidance for Licensing Authorities also states: "In its Licensing Authority Statement of Policy, a Licensing Authority may include a statement of principles that it proposes to apply in exercising its function in considering applications for permits...., Licensing Authorities may want to give weight to matters relating to protection of children from being harmed or exploited by gambling and to ensure that staff supervision adequately reflects the level of risk to this group. ." (24.8)
  - 1.3 Guidance also states: "...An application for a permit may be granted only if the Licensing Authority 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. ...Licensing Authorities might wish to consider asking applications to demonstrate:
    - 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. " (24.9)
  - 1.4 It should be noted that a Licensing Authority cannot attach conditions to this type of permit.
  - 1.5 This Licensing Authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include:
    - appropriate measures / training for staff as regards suspected truant school children on the premises,
    - measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises.

This Licensing Authority will also expect, as per Gambling Commission Guidance, that applicants demonstrate 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 staff are trained to have a full understanding of the maximum stakes and prizes.

- 1.6 The Licensing Authority acknowledges that only premises that are wholly or mainly used for making gaming machines available may hold a Family Entertainment Centre (uFEC) gaming machine permit or a Family Entertainment Centre (FEC) premises licence. Both a licensed FEC and uFEC are classified as ‘premises’. The Licensing Authority considers that, generally, premises such as an entire shopping centre, motorway service station, bowling alley or similar would not be suitable for licensing or to hold a permit. Further the Authority believes that the machines should be in a designated, enclosed area, they should not be in walkways or corridors forming part of a larger building.**
- 1.7 The Authority expects that a plan of the uFEC shall be supplied as part of the application.**
- 1.8 N.B. Applicants and permit holders are reminded that there is no provision within the Gambling Act 2005 and associated regulations which enables the transfer of a permit from one person to another, therefore a new operator will need to apply for their own permit.**
- 2. (Alcohol) Licensed premises gaming machine permits - (Schedule 13 paragraph 4(1))**
  - 2.1 Notifications of 2 or less machines** There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, from a bar, without a requirement that alcohol is served only with food to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the Licensing Authority and pay the relevant fee. 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.
  - 2.2 Permits for 3 or more machines** 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 they 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 harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming 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 who will monitor that the machines are not being used by those under 18. Notices and signage may also 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.
- 2.3 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.
- 2.4 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.
- 2.5 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.
- 3. Prize Gaming Permits - (Statement of Policy on Permits - Schedule 14 paragraph 8 (3))**
- 3.1 The Gambling Act 2005 states that a Licensing Authority may “prepare a statement of policy that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the Licensing Authority propose to consider in determining the suitability of the applicant for a permit”.
- 3.2 This Licensing Authority’s Statement of Policy is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:
- that they understand the limits to stakes and prizes that are set out in Regulations;
  - and that the gaming offered is within the law.
  - clear policies that outline steps to be taken to protect children from harm.
- 3.3 In making its decision on an application for this 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.
- 3.4 It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but that the Licensing Authority cannot attach conditions. The conditions in the Act are:
- the limits on participation fees, as set out in regulations, must be complied with;
  - all chances to participate in the gaming must be allocated on the premises on

which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;

- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

#### **4. Club Gaming and Club Machine Permits**

- 4.1 Members Clubs and Miners' welfare institutes may apply for a Club Gaming Permit (but not Commercial Clubs) or if a club does not wish to have the full facilities permitted under a Club Gaming Permit or is a commercial club, then they can apply for a Club Machine Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B3A, B4, C or D – but only 1 B3A can be sited as part of this entitlement), equal chance gaming and games of chance as set out in regulations. A Club Machine Permit will enable the premises to provide gaming machines (3 machines of categories B3A, B4, C or D – but only 1 B3A can be sited as part of this entitlement) if a Members Club or Miners' welfare institute but not category B3A in Commercial Clubs.
- 4.2 Gambling Commission Guidance states: "Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulation and these cover bridge and whist clubs, which replicates the position under the Gambling Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations."
- 4.3 The Commission Guidance also notes that "Licensing Authorities may only refuse an application on the grounds that:
- a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
  - b) the applicant's premises are used wholly or mainly by children and/or young persons;
  - c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
  - d) a permit held by the applicant has been cancelled in the previous ten years; or
  - e) an objection has been lodged by the Commission or the police.
- 4.4 There is also a 'fast-track' procedure available under the Act for premises that hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). As the Gambling Commission's Guidance for Licensing Authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an Authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:



- a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
  - b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
  - c) (that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."
- 4.5 There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

## **5. Temporary Use Notices**

- 5.1 Temporary Use Notices 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, according to the Gambling Commission, would include hotels, conference centres and sporting venues.
- 5.2 The Licensing Authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence i.e. a non-remote casino operating licence.
- 5.3 The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this statement the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.
- 5.4 There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling Commission's Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place". In considering whether a place falls within the definition of a "set of premises" the Licensing Authority needs to look at, amongst other things, the ownership/occupation and control of the premises.
- 5.5 The Licensing Authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commissions Guidance to Local Authorities.

## **6. Occasional Use Notices:**

- 6.1 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 though consider the definition of a 'track' and whether

the applicant is permitted to avail him/herself of the notice.

## **7. Lotteries:**

7.1 The promotion or facilitating of lotteries falls within 2 categories:

- Licensed Lotteries (these require an Operating Licence from the Gambling Commission); and
- Exempt Lotteries

7.2 One such exemption is 'Small Society Lotteries', these are non-commercial and have been established and conducted for one of the following purposes:

- for charitable purposes;
- for the purpose of enabling participation in, or of supporting, sports, athletic or a cultural activity; or
- for any other non-commercial purpose other than for private gain

7.3 Those societies wishing to operate small society lotteries must first register with the Licensing Authority in the area where their principle office is located. Where the Licensing Authority believes the Society's principal office is situated in another area it will inform the Society as soon as possible.

7.4 The Licensing Authority will keep a Public Register of all applications and will provide information to the Gambling Commission on all lotteries registered by the Licensing Authority. As soon as the entry on the Register is completed, the Licensing Authority will notify the applicant of registration.

7.5 Where the Licensing Authority intends to refuse registration of a Society, it will give the Society an opportunity to make representations and will inform the Society of the reasons why it is minded to refuse registration and supply evidence on which it has reached that preliminary conclusion.

## **8. Review**

8.1 This statement of policy will remain in force for a period of three years and will be subject to review and further consultation before January 2022. However, following consultation, the Licensing Authority may make revisions to it as deemed necessary.

## **9. Glossary**

9.1 A glossary of terms is attached at Appendix C.

## Appendix A

<b>Summary of Licensing Authority delegations permitted under the Gambling Act.</b>			
<b>MATTER TO BE DEALT WITH</b>	<b>FULL COUNCIL</b>	<b>SUB-COMMITTEE OF LICENSING COMMITTEE</b>	<b>OFFICERS</b>
Final approval of three year licensing statement of principles	✓		
Statement of principles not to permit casinos	✓		
Fee setting (when appropriate)	✓		
Application for premises licences (including applications for re-instatement under S195)		<p>Where representations have been received and not withdrawn</p> <p>Representation made and not withdrawn (S154 (4)(a))and/or Where the Licensing Authority considers that a condition should be added to the licence under S169(1)(a) or a default condition should be excluded under section 169(1)(b) unless the applicant and any persons making representations agree to this course of action and that a hearing is unnecessary</p>	<p>Where no representations received/representations have been withdrawn</p> <p>The only representations received are vexatious, frivolous, or certainly will not influence the Authority's determination of the application.</p>
Application for a variation to a licence		<p>Where representations have been received and not withdrawn</p> <p>Where the Licensing</p>	<p>Where no representations received/representations have been withdrawn</p> <p>The only representations received are vexatious,</p>

		<p>Authority considers that a condition should be added to the licence under S169(1)(a) or a default condition should be excluded under section 169(1)(b) unless the applicant and any persons making representations agree to this course of action and that a hearing is unnecessary (S187(3))</p> <p>If the application for variation is to remove a default condition and there are no representations and there are no proposals by the Authority to otherwise alter the conditions this could be dealt with at officer level without a hearing</p>	frivolous, or certainly will not influence the Authority's determination of the application
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission/ representations have been withdrawn
Application for a provisional statement		<p>Where representations have been received and not withdrawn</p> <p>Where the Licensing Authority considers that a condition should be added to the licence under S169(1)(a) or a default condition should be excluded under section 169(1)(b)</p>	Where no objections made/objections have been withdrawn

Revocation of a premises licence due to non-payment of annual fee.			✓
Review of a premises licence		✓	
Application for a club gaming/club machine permit		Where objections have been received and not withdrawn	Where no representations received/representations have been withdrawn
Cancellation of club gaming/club machine permits		✓	
Application for other permits			✓
Cancellation of licensed premises gaming machine permits Sch 13 paragraph 16		✓	
Cancellation of licensed premises gaming machine permits for non-payment of fee			✓
Cancellation Club Gaming Permits/Club Machine Permits for non-payment of fee			✓
Consideration of temporary use notice		<p>All cases where an objection notice has been received unless each person who would be entitled to make representations agrees that a hearing is unnecessary.</p> <p>All cases where a counter notice may be required (S232(3))</p>	All other cases
Decision to give a counter notice to a temporary use notice		All Cases except where time limits for temporary events are exceeded pursuant to Section	All Cases where time limits for temporary events are exceeded pursuant to Section 218(3) and Section 218(5)

		218(3) and Section 218(5)	
Registration of small society lotteries		Where officers believe there is reason to refuse the application for registration	✓
Cancellation of a small society lottery due to non-payment of annual fee.			✓

## **Appendix B**

### **Consultees**

Addaction  
Age UK  
Association of British Bookmakers Ltd  
BACTA  
BALPPA (The British Association of Leisure Parks, Piers & Attractions Limited)  
BII  
British Beer & Pub Association  
Businesses in Sport and Leisure  
Chamber of Commerce  
Citizens Advice Bureau  
City of Lincoln Council  
Civic Voice  
Public Health Directorate  
Done Brothers  
Federation of Small Businesses  
Framework  
Gala Coral Group  
Gamble Aware  
Gamblers Anonymous  
Gambling Commission  
GamCare  
H.M. Revenue & Customs  
Head of Community Services, Leisure and Sport  
Health & Safety Executive  
Institute of Directors  
Ladbrokes Betting and Gaming Ltd  
Licensing Committee City of Lincoln Council  
Lincoln Business Improvement Group  
Lincoln Magistrates Court  
Lincolnshire County Council  
Lincolnshire County Council Chief Executive  
Lincolnshire County Council Director for Communities  
Lincolnshire County Council Director of Adult Services  
Lincolnshire Fire & Rescue  
Lincolnshire Police  
Lincolnshire Safeguarding Children Board  
Local MP  
Lotteries Council  
Megabet UK  
Mencap  
Mental Health Trust  
MIND  
NSPCC  
Relate  
Responsible Gambling Trust  
RTB Investments Limited  
The Bingo Association  
The Racecourse Association  
Trading Standards Service  
William Clark Ltd  
William Hill Organization Ltd

## **Appendix C**

### **GLOSSARY OF TERMS UNDER THE GAMBLING ACT 2005**

Council:	City of Lincoln Council
Applications:	Applications for licences and permits as stated in the Statement of Policy
Notifications:	Notifications 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
Premises Licence	Issued by the Licensing Authority to authorise premises to be used for the activities as defined by Section 150 of the Gambling Act
Operator Licence	Issued by the Gambling Commission to organisations and individuals who are providing facilities for gambling as defined by Section 65 of the Gambling Act
Personal Licence	Issued by the Gambling Commission to certain categories of people working in the gambling industry as defined by Section 127 of the Gambling Act
Family Entertainment Centre	The Act creates two classes of Family Entertainment Centres – Licensed: which provide category C and D gaming machines and require a premises licence Unlicensed: which provide category D gaming machines in reliance on a Gaming machine Permit
Adult Gaming Centre	Premises which provide category B, C and D gaming machines and require an operating licence and a premises licence
Gaming Machine	A machine which is designed or adapted for use by individuals to gamble as defined by Section 235 of the Gambling Act
Money Prize Machine	A machine in respect of which every prize which



can be won as a result of using the machine is a money prize as defined in regulation 3(7) of the Categories of Gaming Machine (Amendment) Regulations 2009.

Non- Money Prize Machine

A machine in respect of which every prize which can be won as a result of using the machine is a non-money prize as defined in regulation 3(7) of the Categories of Gaming Machine (Amendment) Regulations 2009. For non-money prize machines in general, the maximum stake (charge for use) must be no more than 30 pence, and the maximum prize value must be no more than £8.

Crane Grab Machine

A crane grab machine is defined as a non-money prize machine in respect of which two conditions are satisfied. The first is that every prize which can be won as a result of using the machine consists of an individual physical object (such as a stuffed toy). The second is that whether or not a person using the machine wins a prize is determined by the person's success or failure in manipulating a device forming part of the machine so as to separate and keep separate one or more physical objects from a group of such objects. The maximum stake may be anything up to and including £1, and the maximum prize value may be anything up to and including £50

Coin Pusher or Penny Fall Machine

These machines are commonly found in seaside arcades and are defined in regulation 2(3) of the Categories of Gaming Machine Regulations 2007 with the additional requirement that the machine be neither a money-prize nor a non-money prize machine. The maximum stake may be anything up to and including 20 pence, and the maximum prize value may be anything up to and including £20 (of which no more than £10 may be a money prize).

***The Gambling Commission's web site contains up to date [information about gaming machine categories, stakes and prizes](#)***

Code of Practice:

Means any relevant code of practice under section 24 of the Gambling Act 2005

Responsible Authority:

For the purposes of this Act, the following are

responsible authorities in relation to premises:

1. The Licensing Authority in whose area the premises are wholly or mainly situated (City of Lincoln Council);
2. The Gambling Commission;
3. Lincolnshire Police;
4. Lincolnshire Fire and Rescue;
5. Planning Department, City of Lincoln Council;
6. Environmental Health (Pollution Section) City of Lincoln Council
7. Lincolnshire Safe Guarding Children's Board, Lincolnshire County Council;
8. HM Revenue and Customs.

Interested Party:

For the purposes of this Act, a person is an interested party in relation to a premises licence if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, the person:-

- 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;
- c) Represents persons who satisfy a) or b) above.

## **Appendix D**

### **Safeguarding of Children**

**What are the risks to children?**

The risks will vary, depending on the type of gambling activities taking place at the premises. For example, at Adult Gaming Centres, Off-Course (High Street) Betting Premises or Casinos, safeguarding systems should be in place to prevent young people gaining access to the premises.

If children are permitted access to adult gambling activities, they may be at risk of being:

- exposed to information or advertisements encouraging them to gamble
- allowed, or invited to, gamble or bet in a commercial setting
- allowed to purchase and consume alcohol (casino premises)
- financially exploited.

They may also witness, or be involved in, other dangerous or threatening behaviour.

#### **Managing the risks**

To prevent children and young people accessing adult gambling activities, stringent safeguarding measures should be in place, examples of such measures could include:

- the Think 21 scheme operated by all door and bar staff and only recognised proof of age accepted (for example photo driving licence or passport; PASS cards)
- all points of entry monitored by security staff/CCTV
- signage prominently displayed at all points of entry regarding the prohibition of under 18's
- signage displayed on machines highlighting age restrictions
- signage prominently displayed in bar areas regarding the law and the sale of alcohol
- operating a membership scheme
- all staff being trained to be vigilant and respond if a child gains illegal access to premises.

If a premises offers a range of gambling activities (for example, a licensed Family Entertainment Centre or Bingo Premises) premises must operate systems to ensure that under 18's are prevented from accessing areas where adult activities (such as betting or high stakes gambling) take place; or where adult gaming machines are located.

The measures set out above should be used to help the public clearly identify from which areas children are prohibited.

If a premise offers a variety of activities, it may be necessary to operate the following systems:

- designated family-friendly areas using physical barriers/cordons to segregate these from restricted areas
- points of access/egress located for easy supervision by staff and regularly monitored
- signage displayed to indicate access rules
- signage to remind parents/adults of their responsibilities
- use of screens
- use of the Think 21 scheme
- assigning at least one member of staff as a 'Children's Safeguarding Lead'

Premises should ensure that the environment to which they allow children access is safe and suitable.

Action should be taken if adults demonstrate irresponsible behaviour, such as showing signs of intoxication, using strong or offensive language, threatening behaviour, or violence towards others or towards machinery.

Adults accompanying children should be encouraged to supervise them, to minimise the risk of children being exposed to inappropriate or dangerous behaviour or gaining access to prohibited areas of the premises.

#### **The employment of children and young people**

The Gambling Act 2005 does not prohibit the employment of children and young people at some premises.

However, it does restrict the type of tasks and areas to which children and young people may have access and it is important that premises comply with these restrictions, as failure to do so may result in committing an offence; for example, it is an offence to employ children and young people to provide facilities for gambling, or to perform a function in relation to a gaming machine, at any time. Children should not be exposed to gambling as they carry out their employment functions.

## **Appendix E**

### **Safeguarding of Vulnerable persons**

The Gambling Commission puts a high priority on the social responsibilities operators have to protect vulnerable persons from the harm associated with gambling; and policies must be in place to support the protection of vulnerable persons.

#### **Who is a vulnerable person?**

Persons may be vulnerable if, for example, they are taking certain types of prescribed medication which may impair their judgement or prevent them making informed, balanced decisions about gambling; or if they are intoxicated from misusing drugs or alcohol.

If a person has mental health issues, a mental impairment or problems with addiction, they may also be vulnerable as they may have difficulty controlling their activities or behaviour, or understanding the players' guides to games.

#### **What are the risks to vulnerable persons?**

If a vulnerable person are not supported within the gambling environment they may be at risk of:

- gambling beyond their financial means
- problems with addiction
- financial exploitation
- causing, or being a victim of dangerous, abusive or threatening behaviour
- physical, emotional or accidental harm.

These difficulties may have a serious impact upon the person's relationships, home life or employment.

#### **Managing the risks and being socially responsible**

Premises should consider the following steps:

- Designate a member of staff to lead on problem gambling issues.
- Train staff on how to recognise and respond to indicators of concern.
- Staff should be trained to recognise the signs of persons becoming aggressive and how to deal with such situations whilst maintaining their own safety.
- Information should be made readily/discreetly available to customers on how to gamble responsibly and seek help in respect of problem gambling.
- Offer a self-exclusion, or self-limit scheme, enabling individuals to restrict the amount of time or money they spend.
- When offering membership schemes, the details of a contactable person should be required in the event of an emergency.

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**Cullen, Ian (City of Lincoln Council)**

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**From:** Matthew Taylor [REDACTED]  
**Sent:** 21 August 2018 16:52  
**To:** Cullen, Ian (City of Lincoln Council)  
**Subject:** RE: Gambling Act 2005 Policy Consultation - City of Lincoln Council

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Dear Mr. Cullen,

**Revision of Statement of Gambling Licensing Policy - Consultation**

Thank you for your email on 21/08/2018 regarding the Draft Statement of Gambling Principles for City of Lincoln Council.

We would advise you that we have no venues in your area, and therefore will not be responding to your document.

Kind Regards

Matthew  
**Matthew Taylor**  
Racecourse Services Assistant



[REDACTED]  
[REDACTED]  
Winkfield Road, Ascot, Berkshire SL5 7HX  
[www.racecourseassociation.co.uk](http://www.racecourseassociation.co.uk)

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**Cullen, Ian (City of Lincoln Council)**

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**From:** [REDACTED]  
**Sent:** 22 August 2018 11:45  
**To:** Cullen, Ian (City of Lincoln Council)  
**Subject:** RE: Gambling Act 2005 Policy Consultation - City of Lincoln Council

Hi Ian,

Thank you for consulting us on your draft Statement of Principles under the Gambling Act 2005. GambleAware is an independent charity tasked to fund research, education and treatment services to help to reduce gambling-related harms in Great Britain. We work in partnership with the Gambling Commission and its independent advisors, the Responsible Gambling Strategy Board, to deliver many aspects of the National Responsible Gambling Strategy.

Due to the resource constraints on a small charity, we are not able to offer specific feedback on your policy. However, we do strongly commend two recent publications by the Local Government Association which set out the range of options available to local authorities to deal with gambling-related harms using existing powers.

<https://www.local.gov.uk/tackling-gambling-related-harm-whole-council-approach>  
<https://www.local.gov.uk/gambling-regulation-councillor-handbook-england-and-wales>

We fully support local authorities which conduct an analysis to identify areas with increased levels of risk for any reason, but particularly where there are higher than average resident or visiting populations from groups we know to be vulnerable to gambling related harm – children, the unemployed, the homeless, certain ethnic-minorities, lower socio-economic groups, those attending mental health (including gambling disorders) or substance addiction treatment services – and include additional licence requirements to mitigate this increased level of risk.

Yours faithfully,  
Iain Corby

**Deputy Chief Executive  
GambleAware**

GambleAware processes personal information for certain legitimate business interests and records sensitive personal information when necessary to meet its duty of care. To learn more about these interests, when we may process your information in this way, and your rights please [click here](#).

---

**From:** Cullen, Ian (City of Lincoln Council)  
**Sent:** 21 August 2018 16:43  
**Subject:** Gambling Act 2005 Policy Consultation - City of Lincoln Council

Dear all,

**GAMBLING ACT 2005 – STATEMENT OF LICENSING POLICY**

The Gambling Act 2005 requires all licensing authorities to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act during the three-year period to which the policy applies.

The list of persons to be consulted is deliberately wide and thus enables us to undertake a comprehensive consultation exercise with anyone who may be affected by or otherwise have an interest in the licensing statement and give appropriate weight to the views of those it has consulted before publishing the statement.

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## Cullen, Ian (City of Lincoln Council)

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**From:** [REDACTED]  
**Sent:** 23 August 2018 12:20  
**To:** Cullen, Ian (City of Lincoln Council)  
**Subject:** RE: Gambling Act 2005 Policy Consultation - City of Lincoln Council  
**Attachments:** GamCare Local Authorities Brochure 2018 (web-version).pdf; GamCare Training Brochure 2017.pdf

Hello,

Thank you for your email, we appreciate your interest in our work.

While we do not have the resources available to allow us to personally respond to each Local Authority which contacts us regarding their refreshed Statement of Principles, we have compiled a list of the issues or factors which we think it would be helpful to consider below, more information is available via the [Gambling Commission](#).

The function of the Statement is to reflect locally specific gambling concerns and to reflect the Council's wider strategic objectives. The active use of the Statement is one means by which you can make clear your expectations of gambling operators who have premises in your area. This allows operators to respond to locally specific requirements and adjust their own policies and procedures as required.

- A helpful first step is to develop a risk map of your local area so that you are aware of both potential and actual risks around gambling venues. A useful explanation of area-based risk-mapping has been developed with Westminster and Manchester City Councils, which gives some guidance on those who may be most vulnerable or at-risk of gambling-related harm. For more information please see [www.geofutures.com/research-2/gambling-related-harm-how-local-space-shapes-our-understanding-of-risk/](http://www.geofutures.com/research-2/gambling-related-harm-how-local-space-shapes-our-understanding-of-risk/)
- Consider that proposals for new gambling premises which are near hostels or other accommodation or centres catering for vulnerable people, including those with learning difficulties, and those with gambling / alcohol / drug abuse problems, as likely to adversely affect the licensing objectives set out by the Gambling Commission. This is also relevant regarding the proximity to schools, colleges and universities.
- A detailed local risk assessment at each gambling venue – pertinent to the environment immediately surrounding the premises as well as the wider local area – is a good way to gauge whether the operator and staff teams are fully aware of the challenges present in the local area and can help reassure the Local Licensing Authority that appropriate mitigations are in place.
- Does the operator have a specific training programme for staff to ensure that they are able to identify children and other vulnerable people, and take appropriate action to ensure they are not able to access the premises or are supported appropriately?
- Does the operator ensure that there is an adequate number of staff and managers are on the premises at key points throughout the day? This may be particularly relevant for premises situated nearby schools / colleges / universities, and/or pubs, bars and clubs.
- Consider whether the layout, lighting and fitting out of the premises have been designed so as not to attract children and other vulnerable persons who might be harmed or exploited by gambling.
- Consider whether any promotional material associated with the premises could encourage the use of the premises by children or young people if they are not legally allowed to do so.

We would suggest that the Local Licensing Authority primarily consider applications from [GamCare Certified operators](#). GamCare Certification is a voluntary process comprising an independent audit assessment of an operator's player protection measures and social responsibility standards, policy and practice. Standards are

measured in accordance with the GamCare Player Protection Code of Practice. If you would like more information on how our audit can support Local Licensing Authorities, please contact [REDACTED]

For more information on GamCare training and other services available to local authorities, as well as recommended training for gambling operators, please see the attached brochures.

If there is anything else we can assist with please do let us know.

Kind regards,  
Catherine

Catherine Sweet  
Head of Marketing and Communications  
[REDACTED]  
[REDACTED]



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---

**From:** Info  
**Sent:** 23 August 2018 10:53  
**To:** Catherine Sweet  
**Subject:** FW: Gambling Act 2005 Policy Consultation - City of Lincoln Council

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**From:** Cullen, Ian (City of Lincoln Council) <[Ian.Cullen@lincoln.gov.uk](mailto:Ian.Cullen@lincoln.gov.uk)>  
**Sent:** 21 August 2018 16:43  
**Subject:** Gambling Act 2005 Policy Consultation - City of Lincoln Council

**This Message originated outside your organization.**

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Dear all,

## **GAMBLING ACT 2005 – STATEMENT OF LICENSING POLICY**

The Gambling Act 2005 requires all licensing authorities to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act during the three-year period to which the policy applies.

The list of persons to be consulted is deliberately wide and thus enables us to undertake a comprehensive consultation exercise with anyone who may be affected by or otherwise have an interest in the licensing statement and give appropriate weight to the views of those it has consulted before publishing the statement.

Therefore, if you have an interest in the functions of the Council in respect of the Gambling Act you are invited to comment on the draft policy. If I have directed the draft policy to the wrong person within your organisation, please accept my apologies and I would request that you either let me know the correct contact or pass it directly to that person.

The consultation period ends on **2<sup>nd</sup> October 2018** and any response(s) you have would need to be received before that date. You can respond by contacting me at the below addresses either by email or in writing.

**From:** Jukes, Pat (City of Lincoln Council)  
**Sent:** 09 September 2018 20:30  
**To:** Cullen, Ian (City of Lincoln Council)  
**Cc:** Rose, Graham (City of Lincoln Council)  
**Subject:** RE: Gambling Act 2005 Policy Consultation - City of Lincoln Council

Ian,

Thanks for the attached. I have assumed that you contacted Policy in relation to the new Community Lottery and am responding in that light,

I note that section A- 8.2 says that "local licensing authorities will not be involved in licensing remote gambling at all. This will fall to the Gambling Commission via operating licences." Clearly this section applies to the Lincoln Community Lottery as we are a remote lottery and indeed do have an operating licence. However, just in case – I did read all of the rest, but found nothing else that I can relate to our lottery.

So – thank you for including us, and we have no concerns or queries on the policy

Kind regards  
Pat

**Pat Jukes**  
Business Manager - Corporate Policy



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**City of Lincoln Council**

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BY EMAIL ONLY  
Licensing Department  
Lincoln City Council

Please ask for: Richard Taylor  
Direct Tel:  
Email:  
Our ref: RJT / MJM / 097505.00005  
#GS2191700  
Your ref:  
Date: 28th September 2018

**Appendix F**

Dear Sir/Madam,

**Re: Gambling Act 2005 Policy Statement Consultation**

We act for the Association of British Bookmakers (ABB) and have received instructions to respond on behalf of our client to the current consultation on the Council's review of its gambling policy statement.

The Association of British Bookmakers (ABB) represents over 80% of the high street betting market. Its members include large national operators such as William Hill, Ladbrokes Coral and Paddy Power, as well as almost 100 smaller independent bookmakers.

Please see below for the ABB's response to the Council's current consultation on the draft gambling policy statement.

This response starts by setting out the ABB's approach in areas relevant to the local authority's regulation of betting shop premises, and its commitment to working with local authorities in partnership. The response finishes by highlighting matters within the policy statement which the ABB feels may need to be addressed.

Betting shops have been part of the British high street for over 50 years and ensuring a dialogue with the communities they serve is vital.

The ABB recognises the importance of the gambling policy statement in focusing on the local environment and welcomes the informed approach this will enable operators to take for example, with regard, to the new requirements for local area risk assessments and ensuring the right structures are in place in shops that are appropriate for that area.

Whilst it is important that the gambling policy statement fully reflects the local area, the ABB is also keen to ensure that the statutory requirements placed on operators and local authorities under the Gambling Act 2005 remain clear; this includes mandatory conditions (for instance, relating to Think 21 policies) and the aim to permit structure. Any duplication or obscuring of these within new processes would be detrimental to the gambling licensing regime. The ABB also believes it is

important that the key protections already offered for communities, and clear process (including putting the public on notice) for objections to premises licence applications, continue to be recognised under the new regime.

Any consideration of gambling licensing at the local level should also be considered within the wider context.

- the overall number of betting shops is in decline. The latest Gambling Commission industry statistics show that numbers as of March 2017 were 8,788 - a decline of 349 since March 2014, when there were 9,137 recorded.
- planning law changes introduced in April 2015 have increased the ability of licensing authorities to review applications for new premises, as all new betting shops must now apply for planning permission.
- successive prevalence surveys and health surveys tells us that problem gambling rates in the UK are stable (0.6%) and possibly falling.

### **Working in partnership with local authorities**

The ABB is fully committed to ensuring constructive working relationships exist between betting operators and licensing authorities, and that where problems may arise that they can be dealt with in partnership. The exchange of clear information between councils and betting operators is a key part of this and the opportunity to respond to this consultation is welcomed.

### **LGA – ABB Betting Partnership Framework**

In January 2015 the ABB signed a partnership agreement with the Local Government Association (LGA), developed over a period of months by a specially formed Betting Commission consisting of councillors and betting shop firms, which established a framework designed to encourage more joint working between councils and the industry.

Launching the document Cllr Tony Page, LGA Licensing spokesman, said it demonstrated the "*desire on both sides to increase joint-working in order to try and use existing powers to tackle local concerns, whatever they might be.*"

The framework builds on earlier examples of joint working between councils and the industry, for example the Medway Responsible Gambling Partnership which was launched by Medway Council and the ABB in December 2014. The first of its kind in Britain, the voluntary agreement led the way in trialing multi-operator self-exclusion. Lessons learned from this trial paved the way for the national multi-operator self-exclusion scheme now in place across the country. By phoning a free phone number (0800 294 2060) a customer who is concerned they are developing a problem with their gambling can exclude themselves from betting shops close to where they live, work and



socialise. The ABB is working with local authorities to help raise awareness of the scheme, which is widely promoted within betting shops.

The national scheme was first trialed in Glasgow in partnership with Glasgow City Council. Cllr Paul Rooney, Glasgow's City Treasurer and Chairman of a cross-party Sounding Board on gambling, described the project as *"breaking new ground in terms of the industry sharing information, both between operators and, crucially, with their regulator."*

### **Primary Authority Partnerships in place between the ABB and local authorities**

All major operators, and the ABB on behalf of independent members, have also established Primary Authority Partnerships with local authorities. These partnerships help provide a consistent approach to regulation by local authorities, within the areas covered by the partnership; such as age-verification or health and safety. We believe this level of consistency is beneficial both for local authorities and for operators.

For instance, Primary Authority Partnerships between Milton Keynes Council and Reading Council and their respective partners, Ladbrokes and Paddy Power, led to the first Primary Authority inspection plans for gambling coming into effect in January 2015. By creating largely uniform plans, and requiring enforcing officers to inform the relevant Primary Authority before conducting a proactive test-purchase, and provide feedback afterwards, the plans have been able to bring consistency to proactive test-purchasing whilst allowing the Primary Authorities to help the businesses prevent underage gambling on their premises.

### **Local area risk assessments**

Since April 2016, under new Gambling Commission LCCP provisions, operators have been required to complete local area risk assessments identifying any risks posed to the licensing objectives and how these would be mitigated. Licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy, and any local area profile, in their risk assessment. These must be reviewed where there are significant local changes or changes to the premises, or when applying for a variation to or for a new premises licence.

The ABB fully supports the implementation of risk assessments which will take into account risks presented in the local area, such as exposure to vulnerable groups and crime. The new requirements build on measures the industry has already introduced through the ABB Responsible Gambling Code to better identify problem gamblers and to encourage all customers to gamble responsibly.

This includes training for shop staff on how to intervene and direct problem gamblers to support services, as well as new rules on advertising including banning gaming machine advertising in shop windows, and the introduction of Player Awareness Systems which use technology to track account based gaming machine customers' player history data to allow earlier intervention with any customers whose data displays known 'markers of harm'.

## Best practice

The ABB is committed to working pro-actively with local authorities to help drive the development of best practice with regard to local area risk assessments, both through responses to consultations such as this and directly with local authorities. Both the ABB and its members are open and willing to engage with any local authority with questions or concerns relating to the risk assessment process, and would encourage them to make contact.

Westminster Council is one local authority which entered into early dialogue with the industry, leading to the development of and consultation on draft guidance on the risk assessment process, which the ABB and our members contributed to. Most recently one operator, Coral, has been working closely with the Council ahead of it issuing its final version of the guidance, which we welcome.

The final guidance includes a recommended template for the local area risk assessment which we would point to as a good example of what should be expected to be covered in an operator's risk assessment. It is not feasible for national operators to submit bespoke risk assessments to each of the c.350 local authorities they each deal with, and all operators have been working to ensure that their templates can meet the requirements set out by all individual local authorities.

The ABB would be concerned should any local authority seek to prescribe the form of an operator's risk assessment. This would not be in line with better regulation principles. Operators must remain free to shape their risk assessment in whichever way best meets their operational processes.

The ABB has also shared recommendations of best practice with its smaller independent members, who although they deal with fewer different local authorities, have less resource to devote to developing their approach to the new assessments. In this way we hope to encourage a consistent application of the new rules by operators which will benefit both them and local authorities.

## Concerns around increases in the regulatory burden on operators

The ABB is concerned to ensure that any changes in the licensing regime at a local level are implemented in a proportionate manner. This would include if any local authority were to set out overly onerous requirements on operators to review their local risk assessments with unnecessary frequency, as this could be damaging. As set out in the LCCP a review should only be required in response to significant local or premises change. In the ABB's view this should be where evidence can be provided to demonstrate that the change could impact the premises' ability to operate consistently with the three licensing objectives.

Any increase in the regulatory burden would severely impact ABB members at a time when overall shop numbers are in decline, and operators are continuing to absorb the impacts of significant recent regulatory change. This includes the increase to 25% of Machine Games Duty, limits to staking over

£50 on gaming machines, and planning use class changes which require all new betting shops in England to apply for planning permission.

### **Employing additional licence conditions**

It should continue to be the case that additional conditions are only imposed in exceptional circumstances where there are clear reasons for doing so. There are already mandatory and default conditions attached to any premises licence which will ensure operation that is consistent with the licensing objectives. In the vast majority of cases, these will not need to be supplemented by additional conditions.

The LCCP require that premises operate an age verification policy. The industry operates a policy called “Think 21”. This policy is successful in preventing under-age gambling. Independent test purchasing carried out by operators and the ABB, and submitted to the Gambling Commission, shows that ID challenge rates are consistently around 85%. The ABB has seen statements of principles requiring the operation of Challenge 25. Unless there is clear evidence of a need to deviate from the industry standard then conditions requiring an alternative age verification policy should not be imposed.

The ABB is concerned that the imposition of additional licensing conditions could become commonplace if there are no clear requirements in the revised licensing policy statement as to the need for evidence. If additional licence conditions are more commonly applied this would increase variation across licensing authorities and create uncertainty amongst operators as to licensing requirements, over complicating the licensing process both for operators and local authorities

### **Other concerns**

Where a local area profile is produced by the licensing authority, this be made clearly available within the body of the licensing policy statement, where it will be easily accessible by the operator and also available for consultation whenever the policy statement is reviewed.

### **Considerations specific to the Draft Gambling Act 2005 Statement of Policy**

Paragraph 1.7 of Part B contains a list of bullet points explaining the Licensing Authority’s minimum expectations with regard to risk assessments. This list of bullet points should be re-drafted as it refers to matters that are not relevant for an assessment of any risk to the licensing objectives.

The purpose of the local risk assessment is correctly identified in paragraph 1.5 as a requirement to assess local risk to the licensing objectives posed by the provision of gambling facilities and to have policies, procedures and control measures to mitigate those risks.

The final two bullet points in paragraph 1.7 are “*high unemployment area*” and “*the area has a high number of rough sleepers/homeless people.*” An individual’s employment status cannot be relevant

to an assessment of risk to the licensing objectives unless the Licensing Authority has pre-determined that persons who are unemployed or who are in an area of high unemployment are automatically vulnerable or are more likely to commit crime as a result of gambling. We are certain that this pre-determination has not taken place. Similarly, the prevalence of rough sleepers/homeless people in an area is not relevant to an assessment of risk to the licensing objectives unless the Licensing Authority has pre-determined that such people are automatically vulnerable.

Paragraph 1.18 of Part B (Location) should be re-drafted to remove the penultimate sentence. This refers to the potential for a policy with regards to areas where gambling premises should not be located. All references to such a policy should be deleted as any such policy is likely to be unlawful and is certainly contrary to the overriding principle contained within s153 Gambling Act 2005 that the Licensing Authority must aim to permit the use of premises for gambling. As the subsequent sentence then indicates that any such policy would not preclude an application being made, references to the policy are obsolete in any event.

On a number of occasions through the draft policy, there are references to proof of age schemes and specifically, "Challenge 25". This is a scheme operated in respect of premise licences under Licensing Act 2003. Gambling operators operate similar schemes known as Think 21/25. Accordingly the references to "Challenge 25" should be amended to reflect this.

Paragraphs 1.28 to 1.34 explain the Licensing Authority's approach to the imposition of conditions on premises licences. These sections would be assisted by a clear explanation that all Gambling Act 2005 premises licences are subject to mandatory and default conditions which are usually sufficient to ensure operation that is reasonably consistent with the licensing objectives.

These sections should be clear that additional conditions will only be imposed where there is clear evidence of a risk to the licensing objectives in the circumstances of a particular case that requires that the mandatory and default conditions be supplemented.

Paragraph 6.1 should be re-drafted as this refers to "*an applicant for gaming machines in betting premises*". By virtue of S172 (8) Gambling Act 2005 the holder of a betting premises licence may make available for use up to four gaming machines of categories B, C or D. In the circumstances, there is no application for gaming machines in betting premises.

## Conclusion

The ABB and its members are committed to working closely with both the Gambling Commission and local authorities to continually drive up standards in regulatory compliance in support of the

three licensing objectives: to keep crime out of gambling, ensure that gambling is conducted in a fair and open way, and to protect the vulnerable.

Indeed, as set out, the ABB and its members already do this successfully in partnership with local authorities now. This includes through the ABB Responsible Gambling Code, which is mandatory for all members, and the Safe Bet Alliance (SBA), which sets voluntary standards across the industry to make shops safer for customers and staff.

We would encourage local authorities to engage with us as we continue to develop both these codes of practice, which are in direct support of the licensing objectives, as well as our processes around local area risk assessments.

Yours faithfully,

**GOSSCHALKS**

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