



DERBY CITY COUNCIL

## GENERAL LICENSING COMMITTEE 26 JULY 2006

Report of the Director of Environmental Services

### **GAMBLING ACT 2005**

#### **RECOMMENDATION**

- 1.1 To note the draft Gambling Act Statement of Principles and consultation timetable.
- 1.2 To approve the designation of Derby's Safeguarding Children Board to act as a responsible authority on matters relating to the protection of children from harm.
- 1.3 To establish a cross party working group to consider comments received from the consultation exercise and make recommendations to General Licensing Committee at its meeting in October 2006.

#### **SUPPORTING INFORMATION**

- 2.1 The Gambling Act 2005 introduces a new system to regulate the provision of all gambling activities in the United Kingdom with the exception of the National Lottery (regulated by the National Lottery Commission) and spread betting (regulated by the Financial Services Authority). Gambling activities include Gaming, Betting and/or Lotteries.
- 2.2 The Council will issue premises licences for Casinos, Betting Offices, Race Tracks, Bingo Clubs, Adult Gaming Centres and Family Entertainment Centres, as well as permits for gaming machines in Members Clubs, Alcohol Licensed Premises and Unlicensed Family Entertainment Centres. The Council will also endorse Notices for Temporary and Occasional Use.
- 2.3 Businesses and individuals will have to obtain an operating licence and a personal licence from the Gambling Commission before applying to the Council for their premises licence. Existing licence holders will have 'conversion' rights and can transfer their old licence to the new licensing system.
- 2.4 Decisions by both the Council and the Gambling Commission must be made in accordance with the three licensing objectives:
  - Preventing gambling from being a source of crime and disorder, being associated with crime and disorder or being used to support crime
  - Ensuring that gambling is conducted in a fair and open way, and
  - Protecting children and other vulnerable adults from being harmed or exploited by gambling.

- 2.5 The Council, as the licensing authority, must publish a Statement of Principles before the legislation comes into force. The statement should outline how the Council will deal with and process applications, and how it will make its decisions.
- 2.6 The Council will take over responsibility for issuing premises licences for gambling activities from 1 September 2007. Applications can be received from 31 January 2007.
- 2.7 The draft Statement of Principles has been produced using the statutory guidance issued by the Gambling Commission and is attached at Appendix 2.
- 2.8 The consultation timetable is provided at Appendix 3.
- 2.9 As part of its consultation process, the Council will consult with the Police, Derby's Safeguarding Children Board, other Council departments, trade associations, existing licence holders and members of the public.
- 2.10 Following the consultation period, any comments received will need to be considered. As this may be a lengthy process, it is proposed that a small cross-party working group is formed to consider the consultee's comments and the views of licensing officers. The working group will then make recommendations for consideration by the General Licensing Committee in October 2006.
- 2.11 A requirement of the new licensing system is that the Council, as the licensing authority, must specifically designate a competent body to act as a responsible authority on matters relating to the protection of children from harm. It is proposed that Derby's Safeguarding Children Board is designated to undertake this role.

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<b>Background papers:</b>	None
<b>List of appendices:</b>	Appendix 1 – Implications Appendix 2 – Draft Statement of Principles Appendix 3 – Gambling Act Consultation Timetable

<b>IMPLICATIONS</b>
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**Financial**

- 1.1 No additional funding has been provided for implementing the new legislation and final details about the fee structure have not been released. A further report will be made when more detail is known.

**Legal**

- 2.1 The Gambling Act 2005 requires the Council to prepare and publish a statement of principles every three years. The statement must be published before the Council carries out any function in respect of any applications made under the terms of the Act.
- 2.2 Before determining its statement for any three-year period, the Council must carry out a statutory consultation process.

**Personnel**

- 3.1 None directly arising from this report.

**Equalities impact**

- 4.1 The draft statement promotes the principles of openness, fairness and equality throughout. The consultation process will aim to ensure that as many different groups as possible are able to see and comment on the draft statement.

**Corporate priorities**

- 5.1 The new licensing proposals further the Council's priorities of **improving the quality of life in Derby's neighbourhoods and delivering excellent services, performance and value for money.**

## DRAFT STATEMENT OF PRINCIPLES

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## **PART A**

### **1. LICENSING OBJECTIVES**

- 1.1 The Gambling Act 2005 requires licensing authorities to carry out their various licensing functions with a view to promoting three licensing objectives:
- 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

### **2. INTRODUCTION**

- 2.1 Derby City Council (the Council) will become the licensing authority under the Gambling Act 2005 (the Act). Licensing authorities are required to publish a statement of principles which they propose to apply when exercising their functions under the Act.
- 2.2 Derby City Council is situated in the County of Derbyshire, which contains 9 Councils in total. The Council area has a population of 233,000. Derby is situated in the heart of England and forms part of the East Midlands. The city is home to international manufacturers, such as Rolls Royce and Royal Crown Derby. The Council's administrative area covers 7803 square hectares, which is shown in a map at Appendix A.
- 2.3 The Act provides for three categories of licence:
- Operating licences
  - Personal licences
  - Premises licences
- 2.4 The Gambling Commission will be responsible for issuing personal licences and operating licences. The Council will be responsible for issuing premises licences.

The Gambling Commission can be contacted at:

Victoria Square House

Victoria Square

Birmingham B2 4BP

Tel: 0121 230 6500

Fax: 0121 237 2236

Website: [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

- 2.5 The Council, when carrying out its licensing function, will permit the use of premises for gambling as long as it is considered to be:
- in accordance with any relevant Codes of Practice issued by the Gambling Commission
  - in accordance with any relevant Guidance issued by the Gambling Commission

- reasonably consistent with the licensing objectives, and
- in accordance with the Council's Statement of Principles

2.6 This Statement of Principles (the statement) comes into effect on 1 September 2007 and must be reviewed at least every three years and re-published. Before publication the statement will be subject to a full consultation process.

2.7 In the preparation and publication of this statement the Council will consult with:

- the Chief Officer of Derbyshire Constabulary
- Derbyshire Fire & Rescue Service
- Relevant Council Departments, such as Planning, Environmental Health, Safeguarding Children's Board
- HM Revenue & Customs
- The Gambling Commission
- Existing licence holders of gambling establishments in the city
- Representatives or trade associations of existing licence holders
- Other relevant bodies i.e. those involved with reduction in crime & disorder, child and vulnerable adult protection, voluntary and community organisations
- Members of the public.

2.8 The views of the consultees will be given appropriate weight when the statement of principles is determined.

### **3. DECLARATION**

3.1 In producing its final Statement of Principles, the Council confirms it has had regard to the licensing objectives of the Gambling Act 2005, the Guidance issued by the Gambling Commission and any responses received throughout the consultation process.

### **4. RESPONSIBLE AUTHORITIES**

4.1 Responsible authorities are public bodies that must be notified of all applications and are entitled to make representations to the Council. They also have the power to apply for a review of the premises licence. All representations made by responsible authorities must relate to the 3 licensing objectives.

The Act defines the responsible authorities, which for the purposes of applications made to Derby City Council will be:

- The Chief Officer of Derbyshire Constabulary
- Derbyshire Fire & Rescue
- Derby City Council's Planning Team
- Regulatory bodies who have functions in relation to pollution to the environment or harm to human health
- Derby Safeguarding Children's Board
- HM Revenue & Customs
- A licensing authority in whose area the premises is situated, and

- Any other person prescribed by regulations by the Secretary of State.

4.2 The Council is required to designate, in writing, a body that is competent to advise the Council about the protection of children from harm. The principles for designation are:

- the body must be responsible for the area covering the Council's area, and
- the body must be answerable to democratically elected people.

In line with the Guidance from the Gambling Commission the Council designates Derby Safeguarding Children's Board as being the competent body for this purpose.

4.3 All contact details of all the responsible authorities under the Gambling Act 2005 are available from the Licensing Team on Derby 716338, or on the Council's website at [www.derby.gov.uk](http://www.derby.gov.uk)

## **5. INTERESTED PARTIES**

5.1 Interested parties can make representations about premises licence applications, or apply for a review of an existing licence. These parties are defined in the Act as those who:

- live sufficiently close to the premises to be likely to be affected by the authorised activities
- have business interests that might be affected by the authorised activities, or
- represent persons who satisfy either of the above.

5.2 The Council will determine whether a person is an interested party on a case by case basis, each case being decided on its own merits. The Council will have regard to the Guidance issued by the Gambling Commission when making its decisions.

5.3 In particular, the Council may take into account for example, the size of the premises and the nature of the activities taking place. Larger premises may be considered to affect people over a broader geographical area compared to smaller premises offering similar facilities.

5.4 In relation to representatives, the Council will require written evidence that a person 'represents' someone who lives sufficiently close to, or has business interests that might be affected by the authorised activities. A letter from one of these persons would be sufficient.

## **6. EXCHANGE OF INFORMATION**

6.1 Subject to the provisions of the Data Protection Act 1998, the Council will share the information it receives in accordance with the provisions of the Gambling Act 2005.

6.2 Information exchange will be carried out having regard to the guidance issued by the Gambling Commission.

- 6.3 The Council will produce and maintain a public register of premises licences and permits in accordance with the Act.

## **7. ENFORCEMENT**

- 7.1 In order to ensure compliance with premises licences and other permissions granted by this Council, premises will be inspected using a risk-based approach. This will allow resources to be more effectively targeted on high-risk or problematic premises and prevent over burdensome enforcement on well managed premises. Any risk-based inspection will follow the guidance issued by the Gambling Commission. This may involve targeting high-risk or problem premises and operating a lighter touch in regard to low-risk premises.
- 7.2 Although the Gambling Commission will take the lead role in the investigation and potential enforcement of illegal gambling, the Council will work with the Commission, Derbyshire Constabulary and other enforcement agencies when carrying out their duties.
- 7.3 The Gambling Commission will be the enforcement body for operating licences and personal licences.
- 7.4 Appropriate enforcement action will be taken in accordance with the Council's Environmental Health & Trading Standards Enforcement Policy and Central Government's Regulatory Compliance Code and any other enforcement protocols agreed with the Gambling Commission and law-enforcement agencies.
- 7.5 In determining the most appropriate course of action the Council will be mindful of the primary legislation and regulatory power of other enforcement bodies, and will endeavour to avoid duplication with any other regulatory regimes wherever possible.
- 7.6 The key principles of enforcement will follow the Better Regulation and Hampton Principles. This means the Council should aim to be proportionate, accountable, consistent, transparent and targeted when carrying out its legal duties.

## **8. COUNCIL FUNCTIONS**

- 8.1 Activities requiring a premises licence or permit include most forms of gambling. Gambling is defined under the Act as either gaming, betting or taking part in a lottery. Therefore:
- gaming means playing a game of chance for a prize
  - betting means making or accepting a bet on the outcome of a race, competition or other event, or the likelihood of anything occurring or not, or whether anything is true or not.
  - a lottery is where persons are required to pay, in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process that relies wholly on chance



- 8.2 There are some exceptions though. The Council will not be involved in remote gambling, such as through the internet, telephone, television or radio. This will fall to the Gambling Commission to regulate through operating licences. The National Lottery is regulated by the National Lottery Commission, and spread betting by The Financial Services Authority.
- 8.3 The Council as licensing authority is required to:
- licence premises for gambling activities
  - issue provisional statements for premises
  - grant permits for gambling and gaming machines in clubs
  - grant permits for the use of certain lower stake gaming machines in family entertainment centres
  - receive notifications from alcohol licensed premises for the use of two or fewer gaming machines
  - issue permits for alcohol licensed premises where there are more than two machines
  - register small society lotteries
  - issue permits for prize gaming
  - receive and endorse temporary use notices
  - receive occasional use notices
  - provide information to the Gambling Commission regarding details of licences issued (see section on 'Information Exchange')
  - maintain public registers of the permits and licences that are issued.

## **PART B – PREMISES LICENCES**

### **9. GENERAL PRINCIPLES**

- 9.1 Premises licences will be subject to the requirements set-out in the Gambling Act 2005 and associated regulations. Specific mandatory conditions will be attached to a premises licence where regulated by the legislation.
- 9.2 Default conditions may be attached on some licences if the Council deems it appropriate. The Act allows the Council as the licensing authority to exclude default conditions and include others if it considers it more appropriate. Mandatory and default conditions will be detailed in the Regulations.
- 9.3 The Council will aim to grant premises licences for gambling activities, if it believes its decision is:
- acting in accordance with any relevant code of practice or guidance issued by the Gambling Commission
  - reasonably consistent with the licensing objectives, and
  - acting in accordance with the Council's Statement of Principles
- 9.4 Moral objections are not a valid reason to reject a premises licence application, neither is a claim of unmet demand a valid reason for granting a licence. The Gambling Act does not include the prevention of public nuisance or public safety as a specific licensing objective. These matters should be tackled under other relevant

laws and are not valid reasons to reject a premises licence application.

- 9.5 Other than for an application for a betting premises licence in respect of a track, the Council is not able to issue a premises licence unless the applicant holds a relevant operating licence issued by the Gambling Commission.
- 9.6 The definition of premises under the Act is 'any place'. A premises cannot be granted for several different premises licences, unless the applicant can show the application relates to a separate area or separate part of the building. Buildings that are artificially or temporarily separate will generally not be considered as different premises.
- 9.7 The Council will consider the guidance issued by the Gambling Commission when considering multiple licences for a building and those being used for a non-gambling purpose. Special attention will be made to entrances and exits being separate and identifiable to prevent people inadvertently 'drifting' into a gambling area. This point is particularly important and will be considered before granting a licence, especially if children can gain access to such areas.
- 9.8 A full premises licence will not be issued until the premises in which it is proposed gambling takes place is fully constructed and ready for use. This allows the Council as the licensing authority, and other bodies such as responsible authorities to inspect the premises prior to any gambling activities taking place. See Section 17 for details on provisional statements.
- 9.9 Demand issues cannot be considered with regard to the location of premises licences but consideration in terms of the licensing objectives can. The Council will pay particular attention to the protection of children and vulnerable persons from being harmed and exploited, as well as crime and disorder issues relating to gambling. The Council will consider very carefully whether applications for premises licences in respect of certain gambling premises located very close to a school, or a centre for gambling addicts should be granted in light of the third licensing objective.
- 9.10 Each application will be decided on its own merits with the onus on the applicant to show how any potential concerns can be overcome.
- 9.11 The Council as the licensing authority will seek to avoid any duplication with any other statutory or regulatory regimes, including planning. It will not consider whether the application is likely to receive planning permission or building regulation approval, however, it will consider concerns about conditions which are not able to be met by licence holders due to planning restrictions, should they arise.
- 9.12 Premises licences granted must be reasonably consistent with the 3 licensing objectives.

**1) Preventing gambling from being a source of crime and disorder, being associated with crime and disorder or being used to support crime.**

- 9.13 The Gambling Commission will play a leading role in preventing gambling from being a source of crime.

- 9.14 If an application is received regarding a premises located in an area noted for particular problems with organised crime, the Council will work in partnership with the Police and other relevant bodies to consider whether specific controls need to be applied to the licence to help prevent premises becoming a source of crime. Such measures could include a condition requiring suitable numbers of door supervisors at the premises.
- 9.15 The Council recognises the distinction between disorder and nuisance. Disorder is intended to mean activity that is more serious and disruptive than mere nuisance. Factors the Council will consider in determining whether a disturbance was serious enough to constitute disorder would include whether any police assistance was required and how threatening the behaviour was to those who could see and hear it. Issues concerning nuisance cannot be dealt with by the Gambling Act 2005, as there is other primary legislation in place to deal with such issues.

## **2) Ensuring gambling is conducted in a fair and open way**

- 9.16 The Council will not be directly concerned with ensuring gambling be conducted in a fair and open way, as this will be addressed by the Gambling Commission through the operating and personal licensing regime.
- 9.17 Track operators will not be required to hold an operators licence. The premises licence will contain requirements on the licence holder regarding his or her responsibilities to ensure gambling is conducted in a fair and open way within the betting areas.

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

- 9.18 With very limited exceptions the intention of the Act is that children and young persons should not be permitted to gamble and should be prevented from entering those gambling premises which are adult-only environments. This means preventing them from taking part in gambling and placing restrictions on advertising so that gambling products are not aimed at, or are attractive to children.
- 9.19 The Council will consider whether specific measures are required on certain premises to protect children. This may include:
- segregation of gambling from areas used by children
  - supervision of gaming machines in licensed family entertainment centres.

The list is not exhaustive. Particular care will be taken on tracks where children are permitted on race days.

- 9.20 Any Codes of Practice issued by the Gambling Commission (**due later 2006**) will be considered by the Council in relation to casinos and this licensing objective.
- 9.21 No specific definition of 'vulnerable person' has been identified within the Act. The Council will consider those people who gamble more than they want, people who gamble beyond their means, or people who cannot make informed or balanced decisions about gambling due to mental impairment, alcohol or drugs as vulnerable people.

9.22 The Council will consider this licensing objective on a case by case basis.

### **Conditions**

9.23 Mandatory conditions are issued by the Secretary of State and must be imposed on premises licences.

9.24 Default conditions may be imposed by the Council or it may choose to exclude them, if deemed to be more appropriate.

9.25 Any conditions imposed must be:

- relevant to the need to make the premises 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.

9.26 Decisions in relation to individual conditions will be made on a case by case basis. When making a decision about conditions, the Council should consider whether there is a perceived need to meet the licensing objectives. It will have regard to the legislation and the guidance or Codes of Practice issued by the Commission and the Council's Statement of Principles.

9.27 The applicant will also be expected to offer their own suggestions as to ways of meeting the licensing objectives.

9.28 There are conditions which the Council as 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 require membership of a club or body, and
- conditions in relation to stakes, fees, winnings or prizes.

### **Door Supervisors**

9.29 The Council may consider whether there is a need for door supervisors in regard of the licensing objectives of protection of children and vulnerable persons, or preventing premises becoming a source of crime.

9.29 Door supervisors working at casinos or bingo premises do not have to be licensed under the Private Security Industries Act 2001. The Council may require operators of casinos or bingo premises and other types of gambling premises, to ensure staff, who have door supervisory roles, have adequate training. Areas of training should cover all areas of work, including searching individuals and dealing with potentially aggressive persons, etc.

## **10. ADULT GAMING CENTRES**

10 When granting premises licences for adult gaming centres the Council will have regard to the licensing objectives. It expects applicants to offer their own measures to meet the objectives, in particular, the need to protect children and vulnerable persons from harm or being exploited by gambling. The applicant must satisfy the Council there will be sufficient measures to ensure that under 18 year olds are not permitted to enter the premises.

10.1 As a guide, appropriate measures/licence conditions may cover issues such as:

- proof of age schemes
- CCTV
- supervision of entrances / machine areas
- physical separation of areas
- notices / signage
- provision of information leaflets / helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive. It is an example of possible measures.

## **11. LICENSED FAMILY ENTERTAINMENT CENTRES**

11.1 When granting premises licences for licensed family entertainment centres, the Council will have regard to the licensing objectives. It expects applicants to offer their own measures to meet the objectives, in particular the need to protect children and vulnerable persons from harm or being exploited by gambling. The applicant must satisfy the Council there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

11.2 As a guide, appropriate measures/licence conditions may cover issues such as:

- CCTV
- supervision of entrances / machine areas
- physical separation of areas
- location of entry
- notices / signage
- specific opening hours
- self-barring schemes
- provision of information leaflets / helpline numbers for organisations such as GamCare.
- measures / training for staff on how to deal with suspected truant school children on the premises

This list is not mandatory, nor exhaustive. It is an example of possible measures.

11.3 This Council will have regard to the Gambling Commission's guidance and will be aware of any mandatory or default conditions. **(When they are published).**

## **12. CASINOS**

- 12.1 This Council 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 the Council decide in the future to pass such a resolution, consultation will be carried out. This Statement of Principles will be updated with details of that resolution. Any such decision will be made by Full Council and published on the Council's website at [www.derby.gov.uk](http://www.derby.gov.uk)
- 12.2 Guidance issued by the Gambling Commission regarding particular issues concerning casinos, such as suitability and layout, betting machines, monitoring use of machines by children and young persons, or number, nature and circumstances of betting machines will be considered by the Council when making decisions on casino applications.

## **13. BINGO PREMISES**

- 13.1 Following the Commission's guidance, if children are permitted to enter bingo premises where there are Category C gaming machines or above, the Council will 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.

Regard will also be given to the suitability and layout of bingo premises when making their decision.

## **14. BETTING PREMISES**

- 14.1 The Council will follow the Gambling Commission's Guidance and take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons or by vulnerable people, when considering the number, nature and circumstances of betting machines an operator wants to offer.

## **15. TRACKS**

- 15.1 Tracks may be subject to one or more premises licence, provided each licence relates to a specified area of the track. The Council will especially consider the impact upon the licensing objective concerning the protection of children and vulnerable persons 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.

- 15.2 This Council will expect the applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. 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 will still be prevented from entering areas where gaming machines, other than category D machines are provided.
- 15.3 As a guide, appropriate measures/licence conditions may cover issues such as:
- proof of age
  - CCTV
  - supervision of entrances/machine areas
  - physical separation of areas
  - location of entry
  - notices/signage
  - specific opening hours
  - self-barring schemes
  - provision of information leaflets/helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive. It is an example of possible measures.

- 15.4 The Council will consider the guidance issued by the Commission when licence applications for track premises licence are determined.
- 15.5 The Council will attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. Other measures may include printing the rules in the race-card or made available in leaflet form from the track office. This requirement is to satisfy the licensing objective ensuring gambling is conducted in a fair and open way, as a track operator is not required to hold an operating licence.
- 15.6 Every application for a track premises licence must be accompanied with a detailed plan of the race track, the area to be used for the 'on-course' betting facilities and in the case of dog tracks and horse racecourses fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities. The plans should clearly show what is being sought for authorisation under the licence and clearly show the areas, if any, that may be subject to a separate application for a different type of premises licence.
- 15.7 The Council follows the Commission's view that it would be preferable for all self-contained premises operated by off-course betting operators on track to be the subject of separate premises licences, to ensure that there is clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

## **16. TRAVELLING FAIRS**

- 16.1 A travelling fair is defined as one that ‘wholly or principally’ provides amusements. Fairs falling within this definition will be permitted unlimited numbers of category D gaming machines provided the facilities for gambling amount to no more than an ancillary amusement.
- 16.2 Sites used for travelling fairs are limited to a maximum of 27 days per calendar year. If sites being used for this purpose straddle local authority areas, the Council will work together with the relevant authority to maintain a central log to ensure the statutory 27-day limit is not exceeded.

## **17. PROVISIONAL STATEMENTS**

- 17.1 A person may apply for a provisional statement for premises they:
- expect to be constructed
  - expect to be altered, or
  - expect to acquire a right to occupy.
- 17.2 Once the premises have been completed the applicant can apply for a full premises licence. No further representations from relevant authorities or interested parties can be taken into account following a premises licence application 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.
- 17.3 In addition, the Council may refuse the premises licence, or grant it on terms different to those attached to the provisional statement only by reference to matters:
- which could not have been raised by objectors at the provisional licence stage; or
  - which is in the authority’s opinion reflect a change in the operator’s circumstances.
- 17.4 The application for a provisional statement must be accompanied by plans and other information as specified in the regulations made by the Secretary of State.
- 17.5 The process for considering an application for a provisional statement is the same as for a premises licence and therefore, responsible authorities and interested parties may make representations.
- 17.6 When determining whether to issue a provisional statement, the Council will have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with planning or building law.

## **18. REVIEWS**

- 18.1 A review of the premises licence may be made by the Council as licensing authority, or following an application for a review by interested parties or responsible authorities. However, it is for the Council to decide whether the review is to be carried-out.
- 18.2 An application for a review may be rejected if the Council thinks that



the grounds on which the review is sought:

(a) are not relevant to the principles that must be applied by the licensing authority in accordance with section 153. So, if the application raises issues that are not relevant to the Commission guidance/codes of practice, this Statement of Principles, or the licensing objectives, then the Council may reject it. Examples that are likely to be irrelevant include demand for gambling premises, issues relating to planning, public safety, and traffic congestion;

(b) are frivolous;

(c) are vexatious;

(d) “will certainly not” cause the authority to revoke or suspend a licence or to remove, amend or attach conditions on the premises licence;

(e) are substantially the same as the grounds cited in a previous application relating to the same premises. Here the Council will take into account how much time has passed since the earlier application in reaching a judgement about whether it is reasonable to rely on this as a reason not to review the licence; or

(f) are substantially the same as representations made at the time the application for a premises licence was considered. Again the Council will take into account the period of time that has passed since the representations were made, but the underlying requirement is that the Council should not review the licence on the basis of the same arguments considered on the grant of the premises licence.

18.3 The purpose of the review will be to determine whether the Council should take any action in relation to the licence.

## **PART C - PERMITS & TEMPORARY & OCCASIONAL USE NOTICES**

### **19. UNLICENSED FAMILY ENTERTAINMENT CENTRES (FEC)**

19.1 Where a premises does not hold a premises licence the operator may apply for a permit. The applicant must show the premises will be wholly or mainly used for the provision of gaming machines for use.

19.2 The Council shall have regard to the guidance issued by the Gambling Commission in respect of permits for unlicensed FECs.

19.3 Only category D machines are allowed to be available for use on a permit.

19.4 The Chief Officer of Police will be consulted on the receipt of an application for a permit.

19.5 Before being granted a permit the applicant will need to demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs
- that they have no relevant convictions as detailed in the Act

- staff are trained to have a full understanding of the maximum stakes and prizes, and
- how they will deal with child protection issues.

- 19.6 Given that the premises will particularly appeal to children and young persons, in considering applications, the Council will give weight to child protection issues.
- 19.7 Consideration regarding the suitability of applicants for this type of permit will follow the guidance issued by the Gambling Commission.
- 19.8 The Council cannot attach conditions to this type of permit.
- 19.9 Once granted the permit lasts for 10 years, unless it is surrendered or forfeited.
- 19.10 This Council has not currently adopted a statement of principles for the issue of this type of permit. Should it decide to do so the decision will be made by the Full Council and published on the Council's website at [www.derby.gov.uk](http://www.derby.gov.uk)

## **20. ALCOHOL LICENSED PREMISES GAMING MACHINE PERMITS**

- 20.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D.
- 20.2 These premises need to only notify the Council to obtain automatic authorisation. However, the Council may remove the authorisation 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
  - the premises are mainly used for gaming, or
  - an offence under the Gambling Act has been committed on the premises.
- 20.3 If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the Council must consider the application based on the licensing objectives and the Commission's guidance and any other matters which are relevant to the application. The Council will decide each application on a case by case basis.
- 20.4 The applicant will need to satisfy the Council they will have regard to the need to protect children and vulnerable persons from being harmed or exploited by gambling and have sufficient measures in place to ensure that under 18 year olds do not have access to the adult only gaming machines.
- 20.5 Other possible measures that could be offered by the applicant may include:
- the adult only 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
  - providing notices and signage

- providing of information leaflets or helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive. It is an example of possible measures.

- 20.6 If premises require a licence for their non-alcohol licensed area, they will need to apply for an Adult Gaming Centre premises licence.
- 20.7 The Council can grant the application with a smaller number of gaming machines than applied for, or those of a different category. The Council however, cannot attach any other types of conditions.
- 20.8 The holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the gaming machines.
- 20.9 The Council will cancel a permit if the holder fails to pay the annual fee, unless the failure is a result of an administrative error.

## **21. PRIZE GAMING PERMITS**

- 21.1 In making its decision on an application for this type of permit the Council does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance.
- 21.2 The Council can grant or refuse an application but cannot attach conditions to this type of permit, but the permit holder must comply with conditions stipulated within the Gambling Act 2005. The conditions 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.
- 21.3 Applicants should set out the types of gaming they intend to offer and the applicant should be able to demonstrate:
- that they understand the limits to stakes and prizes that are set out in the Regulations, and
  - that the gaming offered is within the law.

## **22. CLUB GAMING AND CLUB MACHINE PERMITS**

- 22.1 Members Clubs and Miners' Welfare Institutes may apply for a Club Gaming Permit

or a Club Gaming Machine Permit. A Club Gaming Permit will enable the premises to provide gaming machines, up to 3 machines of categories B4, C or D, equal chance gaming and games of chance. A Club Gaming Machine Permit will enable the premises to provide gaming machines, up to 3 machines of categories B4, C or D.

22.2 A commercial club not permitted to provide non-machine gaming may apply for a Club Gaming Machine Permit.

22.3 The Council may only refuse an application on the grounds that:

- the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied
- the applicant's premises are used wholly or mainly by children and/or young persons
- an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities
- a permit held by the applicant has been cancelled in the previous ten years, or
- an objection has been lodged by the Commission or the Police.

22.4 For those premises that hold a Club Premises Certificate under the Licensing Act 2003 there is a 'fast-track' procedure available. Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the Police, and the grounds upon which the Council can refuse a permit are reduced. The grounds on which an application may be refused are that:

- the club is established primarily for gaming, other than gaming prescribed under schedule 12 of the Act
- in addition to the prescribed gaming, the applicant provides facilities for other gaming, or
- a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

22.5 There are statutory conditions placed on club gaming permits that no child uses a category B or C machine that the holder complies with any relevant code of practice about the location and operation of gaming machines.

22.6 Once granted a permit lasts for 10 years, unless it is surrendered or forfeited.

22.7 A Members' club will have to satisfy the Council that it:

- has at least 25 members;
- is established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations;
- is permanent in nature;
- not established to make commercial profit, and
- controlled by its members equally.

- 23.1 The Council will accept applications of Temporary Use Notices for premises subject to the criteria stated in the legislation and guidance.
- 23.2 Premises are limited to a maximum 21 days of temporary gambling activities per 12 month period, taken as per calendar year, and may be made up of several notices up to the maximum.
- 23.3 The applicant must give the Council at least 3 months and 1 day notice of the activity taking place.
- 23.4 Copies of the notice must be sent by the applicant to :
- the Gambling Commission
  - the Chief Officer of Derbyshire Police
  - HM Revenue and Customs and, if applicable
  - any other licensing authority in whose area the premises are situated
- 23.5 The Council will keep a public register of Temporary Use Notices endorsed to ensure the limits are not being exceeded.

## **24. OCCASIONAL USE NOTICES**

- 24.1 The Council will accept applications of Occasional Use Notices subject to the criteria stated in the legislation and guidance. These notices are to be used for occasional betting activities on tracks.
- 24.2 Tracks are limited to a maximum 8 days of temporary activities per 12 month period, taken as per calendar year, and may be made up of several notices up to the maximum.
- 24.3 The Council will keep a public register of Occasional Use Notices endorsed to ensure the limits are not being exceeded.
- 24.4 The Council will give notice of objection if having regard to the licensing objectives it considers that the gambling should not take place, or can only take place with modifications.

## **PART D – DELEGATIONS**

### **25. DELEGATIONS**

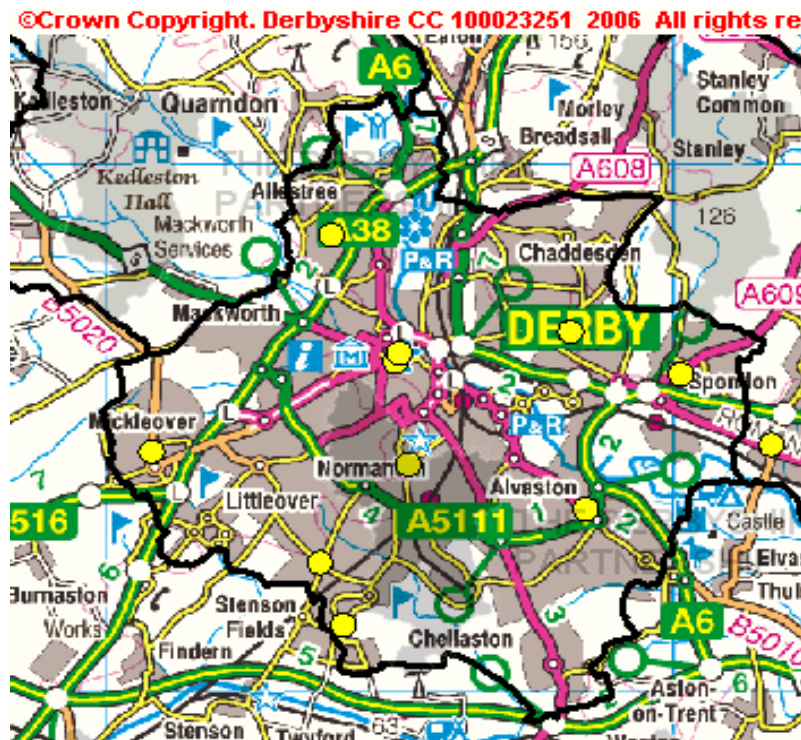
- 25.1 The Council recognises many of the decisions and functions under the Act are purely administrative in nature. In the interests of speed, efficiency and cost-effectiveness the Council will implement the suggested delegation of functions as outlined in the guidance. These are reproduced in Appendix B.
- 25.2 Where there are no representations being made to an application for the grant of a premises licence or no objections being made to a club gaming or club machine permit or to an activity taking place under a temporary use or occasional use

notice, these matters will be dealt with by the licensing officers. This is to ensure applications are dealt with speedily.

- 25.3 The points of contact for any licensing issues or enquiries is the Licensing Clerk, Environmental Health & Trading Standards, Derby City Council, Celtic House, Heritage Gate, Friary Street, Derby, DE1 1QX, or telephone Derby (01332) 716338, or e-mail at [licensing@derby.gov.uk](mailto:licensing@derby.gov.uk). A copy of this Statement of Principles is available at [www.derby.gov.uk](http://www.derby.gov.uk).

The Act and the guidance issued by the Gambling Commission is available at [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

## APPENDIX A



## APPENDIX B

### SUMMARY OF DELEGATIONS

MATTER TO BE DEALT WITH	GENERAL LICENSING COMMITTEE	GENERAL LICENSING SUB-COMMITTEE	OFFICERS
Final approval of three year statement of principles	X		
Policy not to permit casinos	X		
Fee setting (where appropriate)	X		
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Gambling Commission	Where no representations received from the Gambling Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence		X	
Application for club gaming / club machine permits		Where objections have been made and not withdrawn	Where no objections made/ objections have been withdrawn
Cancellation of club gaming/ club machine permits		X	
Application for all other permits			X
Cancellation of licensed premises gaming permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	



**GAMBLING ACT 2005  
STATEMENT OF PRINCIPLES CONSULTATION TIMETABLE**

The Statement of Principles must be published four weeks before premises licences applications are received by the Council. Applicants may begin to apply for licences from 31 January 2007.

The proposed timescale for consultation is:

26 July 2006	- Draft Statement to General Licensing Committee for information
10 July – 29 September 2006	- Draft Statement out for full consultation
Early October 2006	- Collating feedback from consultation & cross-part working group meeting
18 October 2006	- Consultation comments back to General Licensing Committee to agree final policy
22 November 2006	- Final Statement to be ratified by Full Council
December 2006	- Publish and publicise policy
From 31 January 2007	- Applications for premises licences received by the Council
1 September 2007	- Gambling Act transfers to the Council for the issue, administration and enforcement of premises licences.