



## **SCARBOROUGH BOROUGH COUNCIL**

### **Statement of Licensing Policy Gambling Act 2005**

**2019-2022**

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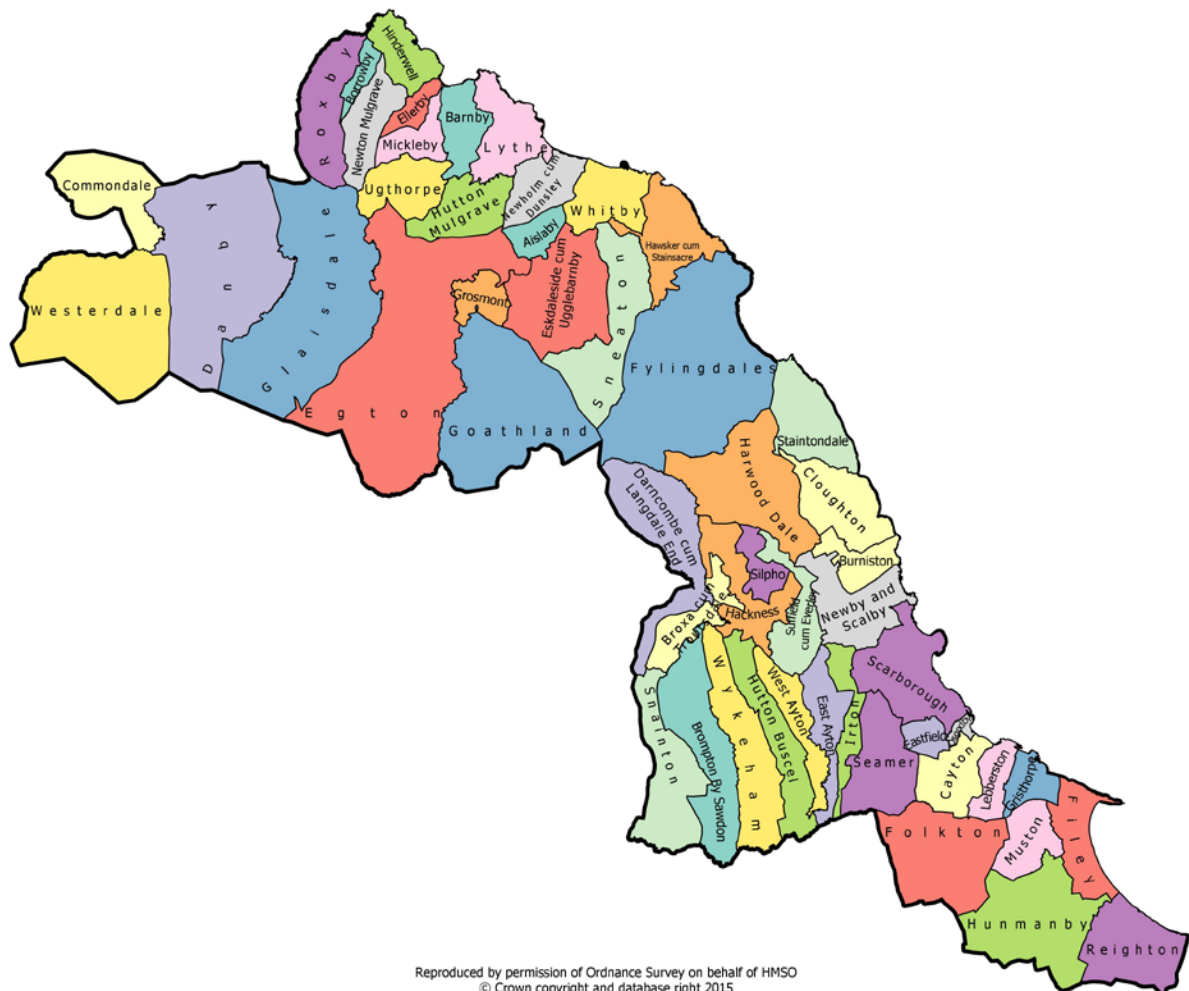
# Part 1

## Introduction

- 1.1 This Statement of Licensing Policy (the Policy) sets out the principles we will apply in exercising our licensing functions under the Gambling Act 2005 (the 2005 Act). It replaces the previous Policy published 11 February 2016 and covers the period from 2019 to 2022.
- 1.2 The Policy is formally reviewed every 3 years, however during this period the Policy will be kept under review so that amendments can be made as necessary.
- 1.3 To avoid duplication this Policy should be read in conjunction with the 2005 Act, its regulations and the latest edition of the Gambling Commission's Guidance to Local Authorities.

### Geographical area covered by the Policy

- 1.4 This Policy applies to the whole of the Borough of Scarborough which covers an area of 81,654 hectares and has a population of approximately 108,000 with 60% of residents living in the three major urban areas of Scarborough, Whitby and Filey. The map below shows the geographical area to which this Policy applies:



## **Consultation on this Policy**

- 1.5 When changes are made to the Policy we are required by the 2005 Act to consult the following groups of people:
- a) The Chief Officer of Police for North Yorkshire
  - b) People and bodies representing the interests of persons in gambling businesses in the area
  - c) People and bodies who represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act.
- 1.6 In addition to the groups that we are required to consult, the scope of the consultation has been extended to include the following:
- a) Residents groups
  - b) Community associations
  - c) Faith groups
  - d) Trader's associations
  - e) Neighbouring licensing authorities
  - f) Relevant Council Departments
  - g) Responsible Authorities
  - h) Ward Councillors
  - i) Parish Councils
- 1.7 In preparing this Policy, a public consultation was carried out between 1 May 2018 and 31 July 2018 which included the groups listed in paragraphs 1.5 and 1.6 above. Comments received during that consultation were then considered before making the changes included in this Policy.
- 1.8 The full list of people and groups consulted is included at Appendix A.

## **Summary of matters in this Policy**

- 1.9 This Statement sets out the broad principles applied when exercising our licensing functions under the 2005 Act in respect of:
- a) The licensing objectives
  - b) Premises licences
  - c) Permits and other notices
  - d) Our decision making process when granting or refusing premises licences
  - e) Inspection, compliance and enforcement at licensed premises
  - f) Applications for premises licences, permits and notices
  - g) Making representations and consultation arrangements
  - h) Licensing Sub-Committee Hearings
- 1.10 The extent of our functions is limited to the following types of premises licences, permits, notices and registrations:
- a) Casino premises
  - b) Bingo premises
  - c) Betting premises, including tracks and premises used by betting intermediaries
  - d) Adult gaming centre (AGC) premises (for category B3, B4, C and D machines)
  - e) Family entertainment centre (FEC) premises (for category C and D machines)

- f) Unlicensed family entertainment centre permit (UFEC) (for category D machines only)
- g) Gaming machine permit
- h) Prize Gaming Permit
- i) Club gaming and Club machine permit
- j) Travelling fairs
- k) Temporary use notice
- l) Occasional use notice
- m) Small society lottery registrations

## **Policy Statement**

- 1.11 The potential impact of gambling on the community within the Borough is recognised. In adopting this Policy, we seek to address the needs of residents to ensure a safe and healthy environment in which to live and work, together with safe and well-run entertainment premises that will benefit the local economy.
- 1.12 This Policy has been written with regard to the three licensing objectives set out in the 2005 Act, which are:
- a) Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
  - b) Ensuring that gambling is conducted in a fair and open way; and
  - c) Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 1.13 Please see Part 2 for more information about the three licensing objectives.
- 1.14 In exercising our functions under the 2005 Act, we will aim to permit the use of premises for gambling on condition that the premises operates:
- a) In accordance with any relevant Code of Practice issued by the Gambling Commission
  - b) In accordance with any relevant guidance issued by the Gambling Commission
  - c) Reasonably consistently with the Licensing Objectives; and
  - d) In accordance with the Council's Statement of Licensing Policy.
- 1.15 This means that where possible we will aim to moderate the impact of gambling on the Borough for example by attaching conditions to licences, rather than aiming to prevent it all together. However, we retain the discretion not to grant a premises licence if we think that the application does not accord with the matters listed above.
- 1.16 This Policy has been prepared with the view that no statement will override the right of any person to make an application under this Act and will not undermine the right of any person to make representations on an application or to seek a review of that Licence.

## **Fees**

- 1.17 Fees are calculated and collected from gambling operators to meet the costs of carrying out our licensing functions under the 2005 Act. The intention of the government is that fees will cover our costs for administration (including hearings and appeals), inspection and enforcement of the licensing regime. Current fees are available on our website.

- 1.18 Any non-payment of annual licence and permit fees may be reported to the Gambling Commission.

### **General Principles**

- 1.19 It is acknowledged that the responsibility for an individual's gambling is his or her own. However, site operators must also exercise a duty of care in terms of social responsibility.
- 1.20 When considering applications for premises licences we will not take into account whether or not there is an unfulfilled demand for gambling facilities within the Borough of Scarborough. Every application will be considered on its own merits and will be treated fairly and objectively in accordance with the licensing objectives.
- 1.21 When determining the location of proposed gambling facilities, consideration will be given to the proximity of premises to:
- a) Local schools
  - b) Centres for those with gambling problems
  - c) Centres for, or used by, vulnerable and young persons
  - d) Residential areas where there is a high concentration of children and young people or where high levels of deprivation exist
  - e) Places of worship, particularly where Sunday Schools are in operation
  - f) Areas of known high criminal activity.
- 1.22 Moral representations to gambling will not be considered, as these do not relate to the licensing objectives and are not a valid reason for rejection. However, each application will be determined on its own merit and consideration given to the type of gambling proposed.
- 1.23 Consideration will be given to the Gambling Commission's Guidance to Local Authorities and the Council's Gambling Licensing Policy when determining applications.

### **Vessels and vehicles**

- 1.24 Certain licences may be granted for passenger vessels, however vehicles may not be the subject of a licence and therefore all forms of commercial betting and gaming are unlawful in a vehicle.

### **Travelling fairs**

- 1.25 Travelling fairs do not require any permit to provide category D gaming machines or equal chance prize gaming provided that the facilities for gambling are ancillary amusement at the fair and not its main purpose.
- 1.26 We will also consider whether the applicant falls within the statutory definition of a travelling fair in that it must not be on a site that has been used for fairs on more than 27 days per calendar year.
- 1.27 The 27-day statutory maximum for the land being used as a fair is per calendar year, and that this 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. We will work



with neighbouring authorities to ensure that land that crosses district/borough boundaries is monitored so that the statutory limits are not exceeded.

## **Gaming machines**

- 1.28 Gaming machines are commonly referred to as ‘fruit machines’ or ‘one arm bandits’ but can also include ‘pushers’ and ‘cranes’. Machines fall into categories depending on the stake required to play them and the value of the maximum prize available:
- a) Category A machines have no limits on prizes or stakes, but would only be permitted at a regional casino.
  - b) Category B machines can be provided in casinos, betting premises, bingo premises, adult gaming centres and private members clubs. These machines can give a much higher prize and there is a restriction on the number of machines allowed in those premises.
  - c) Category C machines are the type most commonly found in pubs and have a maximum prize value that is significantly lower than category B.
  - d) Category D machines are the type commonly found in amusement arcades and have lower value prizes and stakes.
- 1.29 Where it is unclear whether or not a machine is a gaming machine, advice will be sought from the Gambling Commission.
- 1.30 Permit or premises licence holders are expected to comply with the Codes of Practice issued by the Commission on the location of, and access to, such machines by children and young persons and their separation from category C and B machines where those are also located in the same building.
- 1.31 We support the Gambling Commission’s view that an operator should provide the primary activity specifically authorised by its premises licence in order to limit the number of gaming machines available for use on the premises. As such, applicants are expected to comply with the Gambling Commission’s Guidance on primary activity.

## **Part 2**

### **Licensing Objectives**

- 2.1 The three licensing objectives guide the way that we perform our functions under the 2005 Act. We expect operators to implement measures to mitigate risks to the licensing objectives and to consider and address the measures contained in this section when preparing their risk assessments.

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

- 2.2 It is the responsibility of the Gambling Commission when issuing operating licences to ensure the operator is a suitable applicant. If during the course of considering a premises licence application or at any other time, information is received which brings into question the suitability of the applicant, those concerns will be brought to the immediate attention of the Gambling Commission.

- 2.3 The location of a premises will be carefully considered, particularly in areas where there is known to be organised crime. In certain circumstances, it may be appropriate to attach additional conditions to the licence to ensure the premises itself does not become a source of crime.
- 2.4 It is recognised that disorder may occur on premises and therefore applicants are expected to demonstrate an understanding of possible crime and disorder and to take such controls as are necessary to prevent such disorder. Examples may include thought given to the way that gambling is conducted on the premises, company policy on prevention of crime and disorder and the siting of large pay out machines.
- 2.5 Where there is evidence of disorder, concerns regarding an operator may be referred to the Gambling Commission. In addition we will strive to have a good working relationship with the Police in accordance with any protocol that is currently in place.
- 2.6 It is appreciated that disorder is intended to mean activity that is more serious and disruptive than mere nuisance and consideration may be given as to whether police assistance was required and how threatening the behaviour was. In determining this issue each circumstance will be considered individually.

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

- 2.7 All gambling should be fair in the way it is played with transparent rules such that players know what to expect. Examples may include easily understandable information being made available on the rules and probability of winning/losing, ensuring the rules are fair and that advertising is not misleading. Further recommendations would be to ensure that the results of competitions/events are made public.
- 2.8 Generally, it is for the Gambling Commission to ensure this licensing objective is complied with, however, with regard to race tracks; the role of the licensing authority is more significant. In certain circumstances we may seek to impose conditions to ensure that the environment in which betting takes place is suitable. It may be necessary to know the nature of the venue, have sight of a plan of the track which would include access to the place where gambling is to take place, where the operators will conduct on course betting and whether or not there are any off course betting operators.

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

- 2.9 As children and young persons are prohibited from the majority of gambling premises they must be prevented from entering adult only gaming environments. This licensing objective intends to prevent children and young persons from taking part in, or being in close proximity to, gambling. Restrictions are therefore necessary when advertising gambling products that are aimed at children or advertised in such a way that makes them attractive to children. Consideration will be given as to whether specific measures are needed to protect children at particular premises. Such measures may include staff training, company policies for protecting children and vulnerable persons, careful consideration of the siting of cash machines, additional requirements to provide supervision at entrances, steps taken to segregate gambling from non-gambling areas frequented by children and the supervision of gaming machines in non adult gambling specific premises in order to prevent children or vulnerable young persons from being harmed or exploited by gambling. These

measures will be particularly relevant on mixed use premises and on tracks where children have freedom of movement in betting areas on race days. Other such measures may include appropriate signage, location of machines and numbers of staff on duty.

- 2.10 The Gambling Commission has defined ‘vulnerable persons’ within its Statement of principles for licensing and regulation. Whilst the 2005 Act does not prohibit vulnerable groups in the same manner as children and young persons, with regard to vulnerable people, we will consider whether or not any measures have been taken to protect such a group. Any such considerations will be balanced against our aim to permit the use of premises for gambling and each application will be treated on its own merit.
- 2.11 With this licensing objective in mind, we will take particular care when considering applications for more than one licence for a building and those relating to a discrete part of a building used for other non-gambling purposes, such as shopping centres.
- 2.12 It is recommended that measures are taken to ensure entrances and exits from parts of a building covered by one or more licences are separate and identifiable so that people do not drift into a gambling area in error. Such measures could include appropriate signage, physically separating family entertainment centres and adult gaming centres, and supervision of entrances. In addition, 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.
- 2.13 It is expected that all staff be suitably trained and aware of the relevant laws, social responsibility and statutory requirements related to age restrictions on gaming machines.

## **Part 3**

### **Principles**

#### **Information Exchange**

- 3.1 We are required to set out the principles we will apply when exchanging information with the Gambling Commission and other persons.
- 3.2 The Commission can require us to provide specific information if it forms part of our licensing register or we hold it in connection with our licensing functions under the 2005 Act. Currently, the Commission requires us to submit a return at the end of each financial year, which is subsequently included in the Department for Communities and Local Government Single Data List.
- 3.3 We acknowledge that the Commission may change its requirements during the period of this Policy and we will therefore provide any other requested information if we hold the information and we are required to provide it.
- 3.4 When we exchange information with the Commission and other persons or bodies, we will act in accordance with the provisions of the 2005 Act and the Data Protection Act 1998. We will also have regard to any guidance issued by the Commission or Information Commissioner, in addition to any relevant regulations issued by the Secretary of State under powers provided in the 2005 Act.

- 3.5 We may also exchange information with other persons or bodies listed below for use in the exercise of functions under the 2005 Act:
- a) a constable or police force
  - b) an enforcement officer
  - c) a licensing authority
  - d) HMRC
  - e) the First Tier Tribunal
  - f) the Secretary of State

### **Responsible Authorities**

- 3.6 We will notify all responsible authorities of applications and these bodies will be entitled to make representations in relation to applications for, and in relation to, premises licences.
- 3.7 The responsible authorities are as listed in the glossary. However, with regard to the responsible authority in relation to vulnerable adults, the Secretary of State shall specify a particular body as being the responsible authority.
- 3.8 The contact details of all Responsible Authorities under the Gambling Act 2005 are available via the Council's web-site at [www.scarborough.gov.uk](http://www.scarborough.gov.uk)

### **Body representing Children from Harm**

- 3.9 The following body has been designated as competent to advise on the protection of children from harm:

Director of Children and Young People's Service  
North Yorkshire County Council  
Room 122 County Hall  
Racecourse Lane  
Northallerton  
DL7 8AE

- 3.10 The reasons for this designation are as follows:
- a) That this body is answerable to democratically elected persons and is not answerable to a particular vested interest group.
  - b) That this body is responsible for the area covered by the licensing authority and this Policy;
  - c) That this body is experienced in dealing with the protection of children.

### **Interested Parties**

- 3.11 Interested parties can make representations about licence applications, or apply for a review of an existing licence. For the purposes of the 2005 Act, interested parties will include persons who:
- a) Live sufficiently close to premises to be likely to be affected by the authorised activities;
  - b) Have business interests that might be affected by the authorised activities; or
  - c) Represent persons in either of the above two groups.

## **Principles of deciding on interested parties**

- 3.12 We are required by regulations to state the principles that we will apply in exercising our powers under the 2005 Act to determine whether a person is an interested party. With regard to specific premises, we will consider whether a person is an interested party on a case-by-case basis, judging each on its own merit.
- 3.13 Interested parties can be persons who are democratically elected such as councillors and MPs. No specific evidence of being asked to represent an interested person will be required as long as the councillor/MP represents the ward likely to be affected. Likewise, parish/town councils likely to be affected will be considered to be interested parties. Other than these we will generally require written evidence that a person/body (e.g. an advocate/relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons confirming their wish to be represented will be sufficient.
- 3.14 The principles to be applied when deciding whether or not a person is an interested party are:
- a) The size of the premises where larger premises may be considered to affect people over a broader geographical area compared to smaller premises offering similar facilities;
  - b) The nature of the activities being conducted on the premises.

## **Persons living sufficiently close to the premises**

- 3.15 The following factors will be taken into account when interpreting 'sufficiently close':
- a) Size of the premises
  - b) Nature of the premises
  - c) Distance of the premises from the location of the person making the representation
  - d) Potential impact of the premises, i.e. number of customers, routes likely to be taken by those visiting the establishment; and
  - e) Circumstances of the complainant, i.e. interests of the complainant that may be relevant to the distance from the premises.
- 3.16 It is recognised 'sufficiently close to be likely to be affected' could have a different meaning for, for instance, a private resident, a residential school for children with behavioural or other problems and a residential hostel for vulnerable adults and will therefore deal with each representation on its own merit.

## **Persons with business interests that could be affected**

- 3.17 We will firstly determine whether or not a person is an interested party and secondly whether or not their representation is relevant. Representations by such persons that do not relate to the licensing objectives but focus on demand and competition will not be considered as relevant.

- 3.18 Representations put forward by a rival operator, anywhere in the country, simply because they are in competition within the same gambling sector will not be taken into account. The following factors will therefore be relevant:
- a) Size of the premises.
  - b) The 'catchment' area of the premises (i.e. how far people travel to visit).
  - c) Whether the person making the representation has business interests in that catchment area that might be affected.
  - d) Whether or not the representation is purely based on 'competition' as this is not considered to be a relevant representation.
- 3.19 Representations from those persons with business interests will be decided on an individual basis.

### **Persons representing persons living sufficiently close and/or having business interests that may be affected**

- 3.20 With regard to persons representing persons living sufficiently close and/or persons having business interests that may be affected, we will take into account trade associations, trade unions, residents and tenants' associations. We will not, however, generally view these bodies as interested parties unless the organisation can demonstrate that they have a member who can be classed as an interested person under the terms of the 2005 Act, i.e. lives sufficiently close to the premises to be likely to be affected by the activities being applied for.
- 3.21 Where individuals wish to approach councillors to represent their views, then care will be taken that the councillors are not part of the licensing committee dealing with the licence application. Where a councillor represents an interested party, in order to avoid conflict of interests, that councillor shall not be part of the Licensing Committee dealing with the licence application. If there are any doubts, Councillors will be advised to contact the Council's Legal & Support Services to gain further advice.

### **Representations**

- 3.22 Only responsible authorities and interested parties may make representations. Advice on how to make a representation is available on the Council's website. Where there are representations, we will encourage negotiation between the objector and the applicant as to the possible use of conditions on the licence.
- 3.23 Where there are representations we will determine whether or not they are admissible, and will consider carefully whether the representations are relevant. Relevant representations must relate to the three licensing objectives, raise issues under the Licensing Policy, raise issues under the Gambling Commission Guidance or raise issues under the Gambling Commission's Codes of Practice.
- 3.24 Representations are not relevant where they can be addressed by other legislation, such as matters relating to planning or noise (these are examples and the list is not exhaustive). Each case will be decided upon the facts.
- 3.25 Representations will not be considered as relevant where they relate to demand, competition or where they are based on moral grounds.

- 3.26 Representations are not relevant where they are vexatious or frivolous and before a decision is made as to whether it is relevant or not, the licensing authority will consider:
- a) Who is making the representation and whether there is a history of making representations that are not relevant
  - b) Whether or not it raises a relevant issue, or
  - c) Whether it raises issues specifically to do with premises that are the subject of the application
- 3.27 We strongly recommend that representations are submitted at the earliest opportunity prior to the end of the prescribed consultation period to allow the maximum time to negotiate an appropriate solution.

### **Conditions**

- 3.28 It is acknowledged that certain categories of premises are already subject to Mandatory and Default conditions and it is therefore unlikely that additional conditions will need to be imposed in relation to these matters. Where the licensing authority is minded to impose conditions due to regulatory concerns of an exceptional nature, such additional conditions must be proportionate, relate to the licensing objectives and be:
- a) Relevant to the need to make the proposed building suitable as a gambling facility
  - b) Directly related to the premises and the type of licence applied for
  - c) Fairly and reasonably related to the scale and type of premises; and
  - d) Reasonable in all other respects.
- 3.29 Decisions upon individual conditions will be made on a case-by-case basis. The applicant is expected to offer his/her own suggestions as to the way in which the licensing objectives can be achieved. We may, however, exclude a condition and substitute it with one that is either more or less restrictive. In this instance we will give clear and regulatory reasons for so doing.
- 3.30 Where an operator breaches the licence conditions, a warning is likely to be given to correct the breaches. If following such warning or warnings, a breach or breaches occur, formal action may be taken.

### **Door supervisors**

- 3.31 If there are concerns that premises are likely to attract disorder or be subject to unauthorised access by children and young persons, we may require that Door Supervisors control entrances to the premises. It is recognised that each premises application shall be treated on its own merit. In addition we shall take into account the previous trading history of the type of premises proposed and that any decision shall be necessary and proportionate.

## **Part 4**

### **Local area profile**

- 4.1 A local area profile is an assessment of the local environment which identifies the key characteristics of the area. The intention of the profile is to provide operators, the

public and us, with a better understanding and awareness of the gambling-related risks within the Borough. In this context, risk includes actual and potential risk and takes into account any future or emerging risks.

- 4.2 The creation of a profile is dependent on information and knowledge of the local area gathered by partner agencies and other relevant organisations that have the expertise and knowledge of the impact gambling may have. Where evidence is submitted which identifies the areas of concern it is intended to produce a local area profile.
- 4.3 It is acknowledged that the local environment can change and we must therefore retain the ability to amend and adapt any local area profile produced to ensure it reflects current and emerging risks. For this reason it is not intended to include the local area profile within the body of this Policy, but to publish it as a separate document.
- 4.4 We expect operators to update their local risk assessments to take account of any local area profile produced. To assist, we will inform all operators when we publish or make any changes to our local area profile.

## **Local risk assessments**

- 4.5 The Gambling Commission's Licence Conditions and Codes of Practice (LCCP) formalise the need for operators to consider local risks.
- 4.6 Premises licence holders are required to assess the 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 undertaking their risk assessments, they must take into account relevant matters identified in this Policy and any published local area profile. Although not required to do so, permit holders are also encouraged to undertake local risk assessments.
- 4.7 Licensees are required to undertake a local risk assessment when applying for a new premises licence. Their risk assessment must also be updated:
  - a) when applying for a variation of a premises licence
  - b) to take account of significant changes in local circumstances, including those identified in a licensing authority's statement of policy
  - c) when there are significant changes at a licensee's premises that may affect their mitigation of local risks.
- 4.8 Licence holders are also required to provide us with a copy of their risk assessment when applying for a premises licence or applying for a variation to an existing premises licence. We can also request a copy of the risk assessment at any other time, for example, when we are inspecting premises.
- 4.9 Where concerns exist or new risks emerge we may ask a licence holder to provide a copy of their risk assessment, setting out the measures they have in place to address specific concerns. Licence holders may wish to consider the benefit of making their risk assessment available to responsible authorities and interested parties.



## **Part 5**

### **Premises licences**

- 5.1 Where an individual or company uses premises, or causes or permits premises to be used to offer gambling, they will need to apply for a premises licence. We can grant premises licences with or without conditions and we can review or revoke existing premises licences.
- 5.2 A premises licence can authorise the provision of facilities for the following types of premises:
- a) Casinos
  - b) Bingo
  - c) Betting, including race tracks used by betting intermediaries
  - d) Adult gaming centres (AGCs)
  - e) Licensed family entertainment centres (FECs)
- 5.3 Except in the case of tracks (where the occupier may not be the person offering gambling), premises licences will only be granted to those issued with an Operating Licence issued by the Gambling Commission.
- 5.4 It is expected that in relevant premises licence holders will have suitable measures in place to ensure that children do not have access to adult only gaming facilities. Such measures may include:
- a) Proof of Age schemes
  - b) CCTV
  - c) Door supervisors
  - d) Supervision of entrances/exits/machine areas
  - e) Physical separation of areas
  - f) Notices / signage
  - g) Specific Opening Hours
  - h) Location of entry and of gaming machines

This list is neither mandatory, nor exhaustive and is merely indicative of example measures.

### **Buildings with multiple licences**

- 5.5 Only one premises licence can be issued to any one premises. A premises is defined as any place, and therefore there is no reason why a single building could not be subject to more than one premises licence, providing they are for different parts of the building.
- 5.6 Different configurations may be appropriate under different circumstances, but the main consideration is whether the proposed premises within the building are genuinely separate premises that merit their own licence.
- 5.7 Following a consultation meeting with Operators in February 2012 and the Licensing Committee meeting of 19 March 2012, it was determined to include in this Policy the current Scarborough Borough Council criteria which sets out the principles with regard to access to and separation between AGCs and FECs/UFECs, as follows:

- a) To ensure that advice given to applicants regarding the division between AGCs and LFECs or UFECs in amusement arcades is consistent, the following standard shall be adopted:
- All partitions shall be permanently fixed;
  - Partitions shall be opaque;
  - No part of any partition shall be formed from any part of an AWP (amusement with prize) or gaming machine or any other type of machine;
  - Partitions shall be a minimum height of 1.75 metres (5 foot 9 inches);
  - Partitions shall be a maximum height of 0.15 metres (6 inches) from the floor;
  - Access for customers between licensed areas can be by way of an artificially formed unlicensed area, e.g. a lobby.
- b) The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises.
- c) In determining each application regard will be given to this Policy and in particular the licensing objective: protection of children and vulnerable persons from being harmed or exploited by gambling.

## **Casinos**

- 5.8 It is recognised that applicants may either apply for a full casino premises licence or alternatively a provisional statement. Applicants for full premises licences however must fulfil certain criteria in that they must:
- (a) hold or have applied for an operating licence; or
  - (b) have the right to occupy.
- 5.9 In making any decision in respect of an application, we shall not take into account whether or not an applicant has planning permission or building regulation approval and any decision shall not constrain any later decision by the Authority under the law relating to planning or building. It is however strongly recommended that planning permission is sought prior to submitting an application in order to avoid disappointment.
- 5.10 Unmet demand will not be considered when determining applications for casino premises licences and each application will be taken on its own merit.
- 5.11 In determining the principles we intend to apply in making any determination for a casino premises licence, specific regard will be paid to:
- a) Any provision that is made for the protection of children and other vulnerable people from harm or exploitation arising from gambling, whether in the proposed casino or the wider community. The licensing authority does however recognise that persons who gamble beyond their means do not necessarily emanate from casinos and could come from other gambling premises and therefore this matter is not entirely the responsibility of casinos.

- b) Any provision that is made for preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
- c) Any provision that is made for ensuring that gambling is conducted in a fair and open way.
- d) The likely effects of an application on employment and regeneration;
- e) The design and location of the proposed development;
- f) The range and nature of non gambling facilities to be offered as part of the proposed development; and
- g) Any financial and other contributions

and these considerations shall be taken into account in evaluating competing applications

5.12 We shall ensure that any pre-existing contract, arrangements or other relationship with a company or individual does not affect the procedure for assessing applications so as to make it unfair or perceived to be unfair to any applicant. We shall therefore disregard any such contract, arrangement or other relationship.

5.13 Our decision will not be prejudged and where advice is sought this will be impartial advice.

### **Bingo premises**

5.14 A bingo premises licence allows the primary activity of bingo and the following allocation of gaming machines:

#### **If the licence was granted after 13 July 2011:**

- a) A maximum of 20% of the total number of gaming machines which are available for use on the premises may be category B3 or B4 (but not B3A) machines.
- b) Any number of category C or D machines.

#### **If the licence was granted before 13 July 2011:**

- a) Eight category B3 or B4 (but not B3A) machines, or 20% of the total number of gaming machines which are available for use on the premises, whichever is greater.
- b) Any number of category C or D machines.

5.15 It is important that if children are allowed to enter bingo premises they do not participate in gambling other than on category D machines. Therefore applications for bingo licences within arcades or other venues frequented by families and children will be carefully considered.

5.16 Where bingo is permitted in alcohol licensed premises, this must be low turnover bingo only and applicants are expected to comply with any Codes of Practice and advice issued by the Gambling Commission. High turnover bingo will require a bingo operating licence. Definitions of low and high turnover bingo are stated in the glossary at the back of this Policy.

5.17 With regard to turnover, where it is suspected that a licensee or club exceeds the turnover in the required 7-day period the Gambling Commission shall be notified.

## **Betting premises**

5.18 A betting premises licence allows the primary activity of betting and the following allocation of gaming machines:

- a) Maximum of four category B2 to D (except B3A) machines.

## **Betting machines in betting premises**

5.19 The holders of a betting premises licence are permitted (at our discretion) to have betting machines. A betting machine is different from a gaming machine as it is designed or adapted to allow betting on real events. For example, some premises may have betting machines that accept bets on live events, such as horse racing as a substitute for placing a bet in person over the counter.

5.20 Licensing Authorities have powers to restrict the number of betting machines in certain premises. In determining the number of betting machines, we will consider the nature of the machine and the circumstances by which they are made available. This may include:

- a) The size of the premises;
- b) The number of counter positions available for person to person transactions; and
- c) The ability of staff to monitor the use of the machines by children and young or vulnerable persons.

## **Tracks**

5.21 It is recognised that tracks are different from other premises in that there may be more than one premises licence in effect. As children and young persons will be permitted to enter track areas where facilities for betting are provided e.g. horse racing, it is expected that suitable measures are in place to ensure that children do not have access to adult only gaming facilities.

5.22 Applications for venues such as athletics tracks or sports stadium for track betting licences to cover the whole track will be considered on their own merits.

5.23 When making an application additional information may be required such as:

- a) A detailed plan of the grounds indicating where the betting is to take place and the location of the race track;
- b) In the case of dog tracks and horse racecourses, indicate the location of any fixed and mobile pool betting facilities operated by the Tote or track operator as well as any other proposed gambling facilities;
- c) Evidence measures taken to ensure the third Licensing Objective will be complied with;
- d) Indicate what arrangements are being proposed for the administration of the betting; the Gambling Commission and licensing authority recommend that betting takes place in areas reserved for, and identified as being for, that purpose.
- e) Define the areas of the track that will be used by on course operators visiting the track on race days.
- f) Define any temporary structures erected on the track for providing facilities for betting.
- g) Define the location of any gaming machines (if any).

- 5.24 Plans should make clear what is being sought for authorisation under the track betting premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence.
- 5.25 It is also recommended that an applicant consults with the Gambling Commission and the Licensing Section prior to submitting their application.

### **Self-contained betting offices on tracks**

- 5.26 In general, the rules that apply to betting premises away from tracks will apply to self contained betting premises on tracks. It is expected that such premises should be delineated, both to make it clear to the public that they are entering a 'betting office' and to prevent the entry of children and young persons. Applicants are recommended to consider the Gambling Commission's view that it would be preferable for all self-contained premises operated by off course betting operators on track to be the subjects of separate premises licences. This would thus ensure that there was clarity between the respective responsibilities of the track operator and the off course-betting operator running a self-contained unit on the premises.
- 5.27 On advice from the Gambling Commission, a condition may be attached to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race card or made available in leaflet form from the track office.

### **Adult gaming centre (AGC)**

- 5.28 An AGC premises licence allows the following allocation of gaming machines:

#### **If the licence was granted after 13 July 2011:**

- a) A maximum of 20% of the total number of gaming machines which are available for use on the premises may be category B3 or B4 (but not B3A) machines.
- b) Any number of category C or D machines.

#### **If the licence was granted before 13 July 2011:**

- a) Eight category B3 or B4 (but not B3A) machines, or 20% of the total number of gaming machines which are available for use on the premises, whichever is greater.
- b) Any number of category C or D machines.

- 5.29 As no one under the age of 18 is permitted to enter an AGC, it is expected that measures to protect children and vulnerable persons from harm or being exploited by gambling will be in place.

### **Family entertainment centre (FEC)**

- 5.30 An FEC allows any number of category C or D machines. Children and young persons may enter FECs, but are not permitted to play category C machines which must be separated by a barrier with prominently displayed notices at the entrance stating that under-18s are not allowed in that area.

## **Part 6**

### **Permits & Notices**

- 6.1 A permit or notice is required when premises provide a gambling facility, but either the stakes and prizes are very low, or gambling is not the main function of the premises.
- 6.2 Applications for a permit can only be granted or rejected and conditions cannot be imposed or attached. There are different considerations to be taken into account when considering the different types of permit applications.

#### **Unlicensed family entertainment centre gaming machine permit (UFEC)**

- 6.3 An UFEC authorises the lowest stake gaming machines (category D) and is likely to cater to families, including unaccompanied children and young persons. The applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.
- 6.4 An application for a permit can only be granted if we are satisfied that the premises will be used as an UFEC, and if we have consulted the Chief Officer of North Yorkshire Police on the application.

#### **Prize gaming permits**

- 6.5 Prize gaming takes place when the number of people playing does not determine the nature and size of the prize, or the amount paid for or raised by the gaming.
- 6.6 Where a premises licence is in force a prize gaming permit cannot be obtained in addition. By virtue of the casino premises licence, casinos are able to offer prize gaming and betting. Large casinos, as determined by the Government are able to offer bingo in addition.

#### **Statement of Principles for unlicensed family entertainment centres & prize gaming permits**

- 6.7 As these premises will particularly appeal to families, children and young persons, we have prepared a Statement of Principles to apply in exercising our functions under the 2005 Act. These principles specify matters that will be considered in determining the suitability of an applicant.
- 6.8 When determining a permit, we will have regard to the Gambling Commission's Guidance and although not required to, will have regard to the three licensing objectives.
- 6.9 As these premises particularly appeal to children and young persons we may consider an applicant's previous experience of running similar premises. In addition applicants will be required to produce the following additional information with applications:
- a) A clear and legible plan showing the boundary of the permitted area and in terms of UFECs, the space around gaming machines

- b) A criminal record disclosure check from a recognised body dated within one calendar month of the date of the application being submitted.
  - c) Evidence that policies and procedures are in place to protect children from harm. Harm in this case 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 such as training, covering how staff would deal with unsupervised very young children being on the premises or children causing perceived problems on or around the premises or suspected truant school children on the premises.
- 6.10 Where an applicant provides evidence that he has an operating licence and as a result undergone rigorous checks by the Gambling Commission, then a criminal record disclosure check will not be required.
- 6.11 Where an applicant is a company or organisation and does not hold an operating licence, then the proposed manager responsible for the day to day running of the premises will be required to produce a criminal record disclosure check dated within one calendar month of the date of the application being submitted.
- 6.12 When a permit holder appoints a new manager responsible for the day to day running of the premises, that person will be required to produce a criminal record disclosure check dated within one calendar month of the appointment date.
- 6.13 These statement of principles apply to initial applications only and not to renewals. With regard to renewals, we may refuse an application for renewal of a permit only on the grounds that an authorised local authority officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with the pursuit of the licensing objectives.
- 6.14 Where an applicant fails to comply with the above requirements an application may be refused. In such cases the applicant will be notified of the decision and the reasons for the refusal.
- 6.15 Once issued the permit will then remain in effect for 10 years unless surrendered or lapsed.
- 6.16 A permit holder may request to vary the plan of the premises held by the licensing authority; however, any variation must be first approved in writing.

### **Alcohol licensed premises: Gaming machine notifications**

- 6.17 Any premises that holds a premises licence granted under the Licensing Act 2003 that permits the retail sale of alcohol, and has a bar at which alcohol is served for consumption on the premises, has an automatic entitlement to provide two category C or D gaming machines. Restaurants or similar premises are excluded from having gaming machines where they have a condition requiring alcohol to be sold as ancillary to food.
- 6.18 To benefit from the automatic entitlement, the holder of the alcohol licence must give us written notification together with the prescribed fee. The notification is not transferable, and should the alcohol licence be transferred, the new alcohol licence holder must give a new notification.

- 6.19 We cannot consider or refuse the notification, however, we may make an order under section 284 of the 2005 Act to remove an automatic entitlement if:
- a) Provision of the machines is not reasonably consistent with the pursuit of the licensing objectives
  - b) Gaming has taken place on the premises that breaches a condition of section 282 for example, the gaming machines have been made available in a way that does not comply with requirements on the location and operation of gaming machines.
  - c) The premises are mainly used for gaming.
  - d) An offence under the 2005 Act has been committed on the premises.

In this situation, we will give the permit holder the opportunity to make oral or written representations (or both) to us and may request a hearing before we make a final determination.

### **Alcohol licensed premises: Permit for more than two machines**

- 6.20 If an alcohol licensed premises wishes to exceed the automatic entitlement of two machines, they must apply to us for a permit for more than two machines. This permit replaces the automatic entitlement to two machines and is not an addition to it. In some cases applications may be referred to the Licensing Sub-Committee for determination, however all decisions will consider the licensing objectives, the Guidance and any other relevant matters.
- 6.21 The applicant must also comply with any Code of Practice issued by the Gambling Commission and consider such measures to ensure that under 18s do not have access to adult only gaming machines. Suggested measures include:
- a) Siting gaming machines close to the bar
  - b) Siting gaming machines where staff can monitor them
  - c) Appropriate notices and signage;
  - d) Provision of information leaflets/help line numbers

### **Gaming in alcohol licensed premises**

- 6.22 Low level equal chance gaming may take place in alcohol licensed premises however such gaming must be ancillary to the purposes of the premises. This gaming is subject to statutory stakes and prize limits determined by the Secretary of State and should be supervised by a nominated gaming supervisor, i.e. the designated premises supervisor.
- 6.23 As there is likely to be limited regulatory scrutiny of gaming provided in these premises, the applicant must be aware of and adopt the Gambling Commission's Code of practice on equal chance gaming in clubs and premises with an alcohol licence, to ensure that all gaming in such premises is suitably managed.

### **Gaming in commercial clubs**

- 6.24 A commercial club is a club that is established as a commercial enterprise and differs from a members' club that is conducted for the benefit of its members. Commercial clubs may only apply for club machine permits, not club gaming permits. It is expected that commercial club licence holders comply with the Gambling



Commission's Codes of Practice and the Secretary of State's statutory stakes and prizes limits.

### **Club gaming permit**

- 6.25 Only members clubs and miners' welfare institutes may apply for a club gaming permit. Commercial clubs such as snooker clubs may not apply.
- 6.26 Miners' welfare clubs are associations established for recreational or social purposes. They are managed by representatives of miners or use premises regulated by a charitable trust, which has received funds from one or a number of mining organisations.

A members club must:

- a) have at least 25 members
  - b) be established for, and conducted wholly or mainly for, purposes other than gaming (unless gaming is permitted by separate regulations)
  - c) be permanent in nature
  - d) not established to make a profit; and
  - e) controlled by its members equally.
- 6.27 A club gaming permit allows a total maximum number of three gaming machines of categories B4, C or D. It also permits the playing of games of chance and equal chance, such as Pontoon. Please refer to the Gambling Commission's website for a detailed and up to date list of permissions, prizes and stakes.
- 6.28 A club gaming permit lasts for ten years unless it ceases to have effect because it is surrendered, cancelled or forfeited where the bona fide use of the premises as a club is called into question. We can only grant or refuse a club gaming permit and cannot add conditions.

### **Club machine permit**

- 6.29 Members clubs and miners' welfare institutes may choose to apply for the club machine permit if they do not want to have the full gaming provided by a club gaming permit. In addition, commercial clubs may also apply for a club machine permit.
- 6.30 A club machine permit allows a total maximum number of three gaming machines of categories B3A, B4, C or D to but only one B3A machine can be sited as part of this entitlement. Please refer to the Gambling Commission's website for a detailed and up to date list of permissions, prizes and stakes.
- 6.31 A club machine permit lasts for ten years unless it ceases to have effect because it is surrendered, cancelled or forfeited where the bona fide use of the premises as a club is called into question. We can only grant or refuse a club gaming permit and cannot add conditions.

### **Temporary use notices (TUN)**

- 6.32 Temporary Use Notices (TUNs) 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 TUN could include hotels, conference centres and sporting venues. TUNs can only

be granted to a person or company holding a relevant operating licence issued by the Commission.

- 6.33 The Secretary of State has the power to determine what form of gambling can be authorised by a TUN, and we will always have regard to the relevant regulations. Currently TUNs can only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single winner. We recognise that TUNs will usually be (but not always) used to run poker tournaments.
- 6.34 The 2005 Act refers to a set of premises and provides that a set of premises is the subject of a TUN if 'any part' of the premises is the subject of a notice. In considering whether a place falls within the definition of "a set of premises", we will have regard to the Guidance and consider the individual facts on their merits but, amongst other things, we will have particular regard to the ownership, occupation and control of the premises.
- 6.35 We expect 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 Guidance.

### **Occasional use notices (OUN)**

- 6.36 An occasional use notice permits betting on a sporting event or race at a track on eight days or fewer in a calendar year without the need for a full premises licence. It therefore allows temporary and infrequent events such as point-to-point racing to take place and for bets to be taken on the outcome.
- 6.37 We have little discretion in relation to occasional use notices apart from ensuring that the statutory limit of eight days in a calendar year starting on 1 January is not exceeded. However, we will consider whether the applicant is licensed as a betting operator and has appropriate permission from the Gambling Commission to use tracks for conducting betting.
- 6.38 We will also decide what constitutes a track, sporting event or race on a case-by-case basis. In doing so we will follow the Gambling Commission's guidance in relation to tracks.

## Part 7

### Small Society Lotteries

- 7.1 A Small Society Lottery is a prize draw or raffle promoted on behalf of a non-commercial society for the purposes of fund raising. It is known as an "exempt lottery", which means that it does not need a licence from the Gambling Commission.
- 7.2 Exempt lotteries include:
- a) Small Society Lotteries
  - b) Incidental Non-Commercial Lotteries
  - c) Private Lotteries:
    - Private Society Lottery
    - Work Lottery
    - Residents' Lottery
  - d) Customer Lotteries
- 7.3 A society is non-commercial if it is established and conducted:
- a) for charitable purposes
  - b) for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity: or
  - c) for any other non-commercial purpose other than a private gain
- 7.4 A lottery is small if the total value of tickets put on sale in a single lottery is £20,000 or less and the total value of the tickets put on sale in a calendar year is £250,000 or less. Where tickets for a single lottery exceed £20,000 or the total value of tickets in a year exceeds £250,000 a lottery is a Large Society Lottery and a licence will be required from the Gambling Commission.
- 7.5 In exercising our functions with regard to small society and exempt lotteries, we will have due regard to the Gambling Commission's Guidance.
- 7.6 Applicants for lottery registrations must apply to the licensing authority in the area where their principal office is located. Where we believe that the Society's principal office is situated in another area we will inform the Society as soon as possible and where possible, will inform the other licensing authority.
- 7.7 Applicants will be required to set out the purposes for which the Society is established and to declare that they represent a bona fide non-commercial society and have no relevant convictions. Where required further information from the Society may be requested.
- 7.8 We will keep a public register of all applications and will provide information to the Gambling Commission on all registered lotteries. In addition the financial statements/returns submitted by Societies in the preceding 18 months will be made available for public inspection and be monitored to ensure the annual monetary limit is not exceeded.
- 7.9 We may refuse an application for registration if in our opinion:
- a) The applicant is not a non-commercial society;
  - b) A person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence; or

- c) Information provided in or with the application for registration is false or misleading.
  - d) if in the previous five years, either an operating licence held by the applicant for registration has been revoked, or an application for an operating licence made by the applicant for registration has been refused
- 7.10 Where applications are refused the society will be informed of the reasons for refusal and given the opportunity to make representations.
- 7.11 We may also revoke the registered status of a society if we believe it would have been necessary to refuse an application for registration if it were being made at that time. However, no revocations will take place unless the Society has been informed of the reasons for revocation and given the opportunity to make representations.

## **Part 8**

### **Delegated Powers**

- 8.1 Decisions on all licensing matters will be taken in accordance with the approved scheme of delegation attached at Appendix B. This is aimed at underlining the principles of timely, efficient and effective decision-making.

## **Part 9**

### **Inspection and Enforcement**

- 9.1 This section outlines in general terms, our approach to monitoring the operation of gambling premises to check compliance with licence conditions and the law, and our approach to enforcement for non-compliance.
- 9.2 The primary aim of enforcement is to achieve compliance. Enforcement means the formal approach, but also includes advice and support to business, to achieve compliance.
- 9.3 We may achieve compliance through encouraging a sense of community, improved communication, and proactive work with licensees and businesses. Such proactive work may include training, giving advice and information, and initiatives that educate, inform and encourage partners and stakeholders to work together efficiently and effectively. Our principal objective in taking a holistic approach to managing gambling premises is to prevent problems from occurring before they begin.
- 9.4 However, we recognise that we cannot always achieve such aims, and that active enforcement of the law may be the only effective means of securing compliance. To this end the following enforcement options are available to us:
- a) verbal or written advice
  - b) verbal warning
  - c) written warning
  - d) mediation between licensees and residents
  - e) simple caution
  - f) prosecution
  - g) review

These actions are not mutually exclusive and it may be that one course of action follows another, depending on the individual circumstances.

- 9.5 We operate a partnership approach to dealing with enforcement matters concerning gambling premises. This may include working with the police, other Council colleagues or outside agencies such as the Gambling Commission.
- 9.6 To assist in ensuring compliance we will undertake regular programmed inspections, based on risk assessment in the categories High, Medium and Low. High-risk premises are those premises that have a history of complaints and require greater attention with low risk premises needing only a lighter touch so that resources are effectively concentrated.
- 9.7 Any decision to instigate legal proceedings will take into account our Enforcement Policy, which incorporates the Department for Business Enterprise and Regulatory Reform Regulators Compliance Code. In addition we shall adopt a positive and proactive approach towards ensuring compliance by:
- a) Helping and encouraging licence/permit holders understand and meet their regulatory requirements more easily; and
  - b) Responding proportionately to regulatory breaches.

### **Statement of Principles – Inspection and Enforcement**

- 9.8 We shall aim to protect and enhance the safety of people who live in, work in, or visit the Borough of Scarborough through the application and enforcement of licensing legislation and the promotion of the licensing objectives.
- 9.9 All regulatory functions will follow the Statutory Code of Practice for Regulators. Below are the principles to be applied in exercising our functions with regard to the inspection of premises and enforcement:
- a) Proportionate: regulators only intervening when necessary.
  - b) Accountable: regulators to justify its decisions
  - c) Consistent: standards and rules to be joined up and implemented fairly
  - d) Transparent: regulations to be simple and user friendly
  - e) Targeted: focused on the problem
- 9.10 We will endeavour to avoid duplication with other regulatory regimes so far as possible, whilst also keeping informed of developments as regards the work of the Statutory Code of Practice for Regulators.

## **Part 10**

### **Licensing Committee**

- 10.1 The Licensing Committee will consist of a maximum of 15 Members; Licensing Sub-committees generally consist of 3 Committee Members who hear any relevant representations from responsible authorities and interested parties. Any of these individuals or groups may specifically request a representative to make representations on the applicant's behalf. This could be a legal representative, a friend, an MP or a Ward Councillor. Legal representatives and friends will be expected to provide confirmation from the interested party that they have been instructed to act on their behalf.
- 10.2 The Licensing Committee will not place themselves in situations where their honesty or integrity may be questioned, will make decisions on their merit and will reach their

own conclusions on the issues laid before them. The Licensing Committee will act in accordance with those conclusions taking into account the views of others as necessary.

- 10.3 The decision determined by the Sub-Committee will be accompanied with clear, cogent reasons for that decision, having had due regard to the Human Rights Act 1998 and all other legislation. A summary of the decision will be posted on the Council's website as soon as is reasonably possible after the decision has been confirmed which will form part of the statutory licensing register.
- 10.4 Where a Sub-Committee hearing is convened, we strongly recommend all applicants and objectors attend the hearing to allow the Sub-Committee to ask any relevant questions pertinent to the application.

## **Reviews**

- 10.5 We may review a premises licence or an interested party or responsible authority may apply to review a premises licence. When determining whether to initiate a review, we shall have regard to our gambling and enforcement policies.
- 10.6 Whether we carry out a review or not is a matter for us to decide. In making this decision we will consider whether the grounds for review:
- a) Are in accordance with any relevant code of practice or guidance issued by the Gambling Commission
  - b) Are reasonably consistent with the licensing objectives or
  - c) Are in accordance with this Policy
  - d) Are frivolous, vexatious or repetitious.

## **Appeals**

- 10.7 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 at the Magistrates' Court within a period of 21 days from the day on which the applicant was notified of the decision and must be accompanied by the fee payable to the court.
- 10.8 In accordance with good practice we will give clear and comprehensive reasons in relation to all decisions we make. These reasons will address the extent to which the decision has been made with regard to the Licensing Policy and the Gambling Commission's Guidance and the reasons will be submitted to all parties concerned.

## **Complaints**

- 10.9 All complaints in the first instance should be addressed to Licensing Services, Scarborough Borough Council, Town Hall, Scarborough, YO11 2HG.
- 10.10 All complaints will be investigated. Complainants will initially be encouraged to raise the complaint directly with the permit/licence holder.

## Appendix A - Consultees

The Gambling Act requires that the following parties be consulted on the Licensing Policy:

- 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.

The list of those consulted is as follows:

Churches Together

Clinical Commissioning Group for Scarborough and Ryedale

Clinical Commissioning Group for Hambleton, Richmondshire and Whitby

Coast and Vale Community Action

Dransfields (suppliers of Gaming and Amusement Machines)

East Riding of Yorkshire and Ryedale District Councils

Federation of Small Businesses

Gambling Act Premises Licence and Permit Holders

GamCare

Government Organisations:

- Local Government Association Forum

Local Strategic Partnership

Mecca Bingo Club

North East Council on Addictions

North Yorkshire County Council

North Yorkshire Safeguarding Children's Board

Rank Group Plc

Redcar & Cleveland Council

Responsible Authorities i.e.

- The licensing authority in whose area the premises is partly or wholly situated
- The Gambling Commission
- The Chief Officer of Police in whose area the premises is partly or wholly situated
- North Yorkshire Fire & Rescue Service
- Planning Authority – Scarborough Borough Council
- Planning Authority – North Yorkshire Moors National Parks Authority
- Environmental Health (related to pollution and harm to human health)
- Body competent to advise on protection of children from harm, i.e. Children and Young People's Service (NYCC)
- HM Revenue & Customs
- Vessels only – Navigation Authority whose statutory functions are in relation to waters where the vessel is usually moored or berthed, i.e.
  - Environment Agency
  - British Waterways Board
  - Maritime & Coastguard Agency

Regeneration Services (Town Centre Team)

Responsible Gambling Solutions Ltd

Scarborough Borough Council Employees

South Bay Traders

Voluntary, Vulnerable and Community Groups

Disability Groups

Parish Councils

## Appendix B – Scheme of delegation

Matter to be dealt with	Full Council	Sub-Committee or Licensing Committee	Officers
3-Year Licensing Policy	✓		
Policy not to permit Casino	✓		
Fee Setting (when appropriate)	✓		
Applications for Premises Licences		Where representations have been received and not withdrawn	Where no representations have been received / representations have been withdrawn
Application for a variation to a Licence		Where representations have been received and not withdrawn	Where no representations have been received from the Gambling Commission/ representations have been withdrawn
Application for a transfer to a Licence		Where representations have been received from the Gambling Commission and not withdrawn	Where no representations have been received / representations have been withdrawn
Application for a Provisional Statement		Where representations have been received and not withdrawn	Where no representations have been received / representations have been withdrawn
Review of a Premises Licence		✓	
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		✓	
Applications for other permits			✓
Cancellation of licensed premises Gaming Machine Permits			✓
Consideration of Temporary Use Notice			✓
Decision to give a counter notice to a Temporary Use Notice		✓	
Removal of automatic entitlement of 2 gaming machines in alcohol licensed premises.		✓	
More than two gaming machines in alcohol licensed premises		Where a referral is made by Officers	✓



## Appendix C - Glossary

<b>Admissible Representations</b>	Representations submitted by a Responsible Authority or interested party
<b>Authorised Local Authority Officer</b>	A licensing authority officer who is an authorised person for a purpose relating to premises in that authority's area.
<b>Authorised Person</b>	A Licensing Officer and an officer of an authority other than a licensing authority, both of whom have been authorised for a purpose relating to premises in that authority's area. The following are considered authorised persons: <ul style="list-style-type: none"> <li>• Inspectors appointed under the Fire Precautions Act 1971;</li> <li>• Inspectors appointed under the Health and Safety at Work, etc. Act 1974</li> <li>• Inspectors or Surveyors of ships appointed under the Merchant Shipping Act 1995;</li> <li>• A person in a class prescribed in regulations by the Secretary of State.</li> </ul>
<b>Automated Roulette Equipment</b>	2 types: <ol style="list-style-type: none"> <li>a) Linked to a live game of chance, e.g. Roulette</li> <li>b) Plays live automated game, i.e. operates without human intervention</li> </ol>
<b>Automatic Conditions</b>	Conditions attached automatically to premises licences or authorisations. The licensing authority has no discretion not to include or modify them.
<b>AWP machines</b>	Amusement with Prizes Machines
<b>BACTA</b>	British Amusement Catering Trade Association
<b>Betting Intermediary</b>	Offers services via remote communication, such as the internet.
<b>Betting Machines</b>	A machine designed or adapted for use to bet on future real events (not a Gaming Machine).
<b>Bingo High and Low Turnover Bingo</b>	A game of equal chance. Occurs when aggregate stakes or prizes in any 7-day period exceed £2,000. If this occurs then play at that level in the ensuing year would require an Operating Licence. Anything below this level is deemed to be low turnover bingo normally held in pubs, clubs and community centres, etc.
<b>Casino</b>	An arrangement whereby people are given an opportunity to participate in one or more casino games.
<b>Casino Games</b>	Games of chance that are not equal chance gaming.
<b>Casino Premises Licence Categories</b>	<ol style="list-style-type: none"> <li>a) Regional Casino Premises Licence</li> <li>b) Large Casino Premises Licence</li> <li>c) Small Casino Premises Licence</li> <li>d) Casinos permitted under transitional arrangements</li> </ol>
<b>Casino Resolution</b>	Resolution not to issue Casino Premises Licences
<b>Child</b>	Individual who is less than 16 years old
<b>Club Gaming Machine Permit</b>	Permit to enable the premises to provide gaming machines
<b>Club Gaming Permit</b>	Permit to enable the premises to provide gaming machines, equal chance gaming and games of chance.
<b>Complex Lottery</b>	An arrangement where: <ul style="list-style-type: none"> <li>• Persons are required to pay to participate in the arrangement;</li> <li>• In the course of the arrangement, one or more prizes are allocated to one or more members of a class;</li> <li>• The prizes are allocated by a series of processes; and</li> <li>• The first of those processes relies wholly on chance.</li> </ul>
<b>Conditions</b>	Conditions to be attached to licences by way of: <ul style="list-style-type: none"> <li>• Automatic provision</li> </ul>

	<ul style="list-style-type: none"> <li>• Regulations provided by Sec. Of State</li> <li>• Conditions provided by Gambling Commission</li> <li>• Conditions provided by licensing authority</li> </ul> <p>Conditions may be general in nature (either attached to all licences or all licences of a particular nature) or may be specific to a particular licence.</p>
<b>Customer Lotteries</b>	Lotteries run by the occupiers of business premises who sell tickets only to customers present on their premises. These lotteries may <u>not</u> be conducted on vessels.
<b>Default Conditions</b>	Conditions that will apply unless the licensing authority decide to exclude them. This may apply to all Premises Licences, to a class of Premises Licence or Licences for specified circumstances.
<b>Delegated Powers</b>	Decisions delegated either to a Licensing Committee, Sub-Committee or Licensing Officers.
<b>Disorder</b>	No set interpretation, however, likely to be connected to the way gambling is being conducted. In the case of gambling premises licences, disorder is intended to mean activity that is more serious and disruptive than mere nuisance.
<b>Equal Chance Gaming</b>	Games that do not involve playing or staking against a bank and where the chances are equally favourable to all participants.
<b>Exempt Gaming</b>	Equal chance gaming generally permissible in any club or alcohol-licensed premises. Such gaming to be ancillary to the purposes of the premises.
<b>Exempt Lotteries</b>	<p>Lotteries specified in the Gambling Act as permitted to be run without a licence from the Gambling Commission. There are 4 types:</p> <ul style="list-style-type: none"> <li>• Small Society Lottery (required to register with Licensing Authorities.</li> <li>• Incidental Non Commercial Lotteries</li> <li>• Private Lotteries</li> <li>• Customer Lotteries</li> </ul>
<b>External Lottery Manager</b>	An individual, firm or company appointed by the Small Lottery Society to manage a lottery on their behalf. They are consultants who generally take their fees from the expenses of the lottery.
<b>Fixed Odds Betting Gaming</b>	General betting on tracks.
<b>Gaming Machine</b>	Prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before the play commences.
<b>Gaming Machine</b>	As defined by the Gambling Act 2005, a machine that is designed or adapted for use by individuals to gamble (whether or not it can also be used for other purposes). Stakes and prizes available on Gambling Commission's website.
<b>Guidance to Licensing Authorities</b>	Guidance issued by the Gambling Commission. The document that Licensing Authorities should refer to when discharging their functions under the Gambling Act 2005.
<b>Incidental Non Commercial Lottery</b>	A lottery promoted wholly for purposes other than private gain, and which are incidental to non-commercial events (commonly charity fund raising events, lottery held at a school fete or at a social event such as a dinner dance).
<b>Interested Party</b>	<p>A person who:</p> <ul style="list-style-type: none"> <li>• Lives sufficiently close to the premises to be likely affected by the authorised activities</li> <li>• Has business interests that might be affected by the authorised activities</li> <li>• Represents persons in either of the above groups</li> </ul>
<b>Large Lottery</b>	Where the total value of tickets in any <u>one</u> lottery <u>exceeds</u> £20,000 OR tickets in separate lotteries in one calendar year <u>exceeds</u> £250,000. This

	requires an Operating Licence.
<b>Licensed Lottery</b>	Large society lotteries and lotteries run for the benefit of local authorities which will be regulated by the Gambling Commission. Operating Licences will be required.
<b>Licensing Objectives (Gambling Act 2005)</b>	<ol style="list-style-type: none"> <li>1. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime;</li> <li>2. Ensuring that gambling is conducted in a fair and open way; and</li> <li>3. Protecting children and other vulnerable persons from being harmed or exploited by gambling.</li> </ol>
<b>Lottery</b>	An arrangement which satisfies the statutory description of either a simple lottery or a complex lottery in Section 14 of the Act.
<b>Lottery Tickets</b>	<p>Tickets that must:</p> <ul style="list-style-type: none"> <li>• Identify the promoting society</li> <li>• State the price of the ticket, which must be the same for all tickets</li> <li>• State the name and address of the member of the Society who is designated as having responsibility at the Society for the promotion of the lottery, or, if there is one, the external lottery manager; and</li> <li>• State the date of the draw, or enable the date of the draw to be determined.</li> </ul>
<b>Mandatory Conditions</b>	Conditions that must be attached to a licence. This may apply to all Premises Licences, to a class of Premises Licence or licences for specified circumstances.
<b>Members Club</b>	<p>A club that must</p> <ul style="list-style-type: none"> <li>• have at least 25 members</li> <li>• be established and conducted 'wholly or mainly' for purposes other than gaming</li> <li>• be permanent in nature</li> <li>• not established to make commercial profit</li> <li>• controlled by its members equally.</li> </ul>
<b>Non Commercial Society</b>	<p>A society established and conducted:</p> <ul style="list-style-type: none"> <li>• for charitable purposes</li> <li>• for the purpose of enabling participation in, or of supporting, sport athletics or a cultural activity; or</li> <li>• for any other non-commercial purpose other than that of private gain.</li> </ul>
<b>Occasional Use Notice</b>	Betting may be permitted on a 'track' without the need for a full Premises Licence.
<b>Off Course Betting</b>	Betting that takes place other than at a track, i.e. at a licensed betting shop.
<b>Off Course Betting – Tracks</b>	Betting that takes place in self contained betting premises within the track premises providing facilities for off course betting, i.e. on other events, not just those taking place on the track. Normally operate only on race days.
<b>On Course Betting - Tracks</b>	Betting that takes place on a track while races are taking place
<b>Operating Licences</b>	Licence to permit individuals and companies to provide facilities for certain types of gambling. They may authorise remote or non-remote gambling.
<b>Permits</b>	Authorisation to provide a gambling facility where the stakes and prizes are very low or gambling is not the main function of the premises.
<b>Personal Licence</b>	Formal authorisation to individuals who control facilities for gambling or are able to influence the outcome of gambling. These cannot be held by companies.
<b>Pool Betting – Tracks</b>	Betting offered at a horse racecourse by the Tote and at a dog track by the holder of the premises licence for the track
<b>Premises</b>	Defined as including 'any place'. It is for the licensing authority to decide whether different parts of a building can be properly regarded as being

	separate premises.
<b>Premises Licence</b>	Licence to authorise the provision of gaming facilities on casino premises, bingo premises, betting premises, including tracks, adult gaming centres and family entertainment centres
<b>Private Lotteries</b>	3 Types of Private Lotteries: <ul style="list-style-type: none"> <li>• Private Society Lotteries – tickets may only be sold to members of the Society or persons who are on the premises of the Society</li> <li>• Work Lotteries – the promoters and purchasers of tickets must all work on a single set of work premises</li> <li>• Residents' Lotteries – promoted by, and tickets may only be sold to, people who live at the same set of premises;</li> </ul>
<b>Prize Gaming</b>	Where the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before play commences.
<b>Prize Gaming Permit</b>	A permit to authorise the provision of facilities for gaming with prizes on specific premises.
<b>Provisional Statement</b>	Where an applicant can make an application to the licensing authority in respect of premises that he: <ul style="list-style-type: none"> <li>• Expects to be constructed</li> <li>• Expects to be altered</li> <li>• Expects to acquire a right to occupy.</li> </ul>
<b>Relevant Representations</b>	Representations that relate to the Licensing Objectives, or that raise issues under the Licensing Policy Statement or the Gambling Commission's Guidance or Codes of Practice.
<b>Responsible Authorities</b>	Public bodies that must be notified of all applications and who are entitled to make representations in relation to Premises Licences, as follows: <ul style="list-style-type: none"> <li>• The licensing authority in whose area the premises is partly or wholly situated</li> <li>• The Gambling Commission</li> <li>• The Chief Officer of Police in whose area the premises is partly or wholly situated</li> <li>• North Yorkshire Fire &amp; Rescue Service</li> <li>• Planning Authority – Scarborough Borough Council; or</li> <li>• Planning Authority – North Yorkshire Moors National Parks Authority</li> <li>• Environmental Health (related to pollution and harm to human health)</li> <li>• Body competent to advise on protection of children from harm, i.e. Children &amp; Young Peoples' Service</li> <li>• HM Revenue &amp; Customs</li> <li>• Authority in relation to vulnerable adults (yet to be decided by Sec. of State??)</li> <li>• Vessels only – Navigation Authority whose statutory functions are in relation to waters where the vessel is usually moored or berthed, i.e. <ul style="list-style-type: none"> <li>▪ Environment Agency</li> <li>▪ British Waterways Board</li> <li>▪ Maritime &amp; Coastguard Agency</li> </ul> </li> </ul>
<b>SIA</b>	Security Industry Authority
<b>Simple Lottery</b>	An arrangement where: <ul style="list-style-type: none"> <li>• Persons are required to pay to participate in the arrangement</li> <li>• In the course of the arrangement, one or more prizes are allocated to one or more members of a class; and</li> <li>• The prizes are allocated by a process which relies wholly on chance.</li> </ul>
<b>Skills with Prizes</b>	A machine on which the winning of a prize is determined only by the player's skill and there is no element of chance, e.g. trivia game machine, Formula 1 simulators, shooting game. Skills Machines are unregulated.

<b>Small Lottery</b>	Where the total value of tickets in a single lottery is £20,000 or less and the aggregate value of the tickets in a calendar year is £250,000 or less.
<b>Small Society Lottery</b>	A lottery promoted on behalf of a non-commercial society, i.e. lotteries intended to raise funds for good causes.
<b>Society</b>	The society or any separate branch of such a society, on whose behalf a lottery is to be promoted.
<b>Statement of Principles</b>	Matters taken into account when considering an applicant's suitability for applications for FEC Permits.
<b>Temporary Use Notice</b>	To 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.
<b>Totalisator or Tote</b>	Pool betting on tracks.
<b>Track</b>	Sites where races or other sporting events take place e.g. horse racing, dog racing or any other premises on any part of which a race or other sporting event takes place or is intended to take place.
<b>Travelling Fair</b>	A fair that 'wholly or principally' provides amusements and must be on a site used for fairs for no more than 27 days per calendar year.
<b>Vehicles</b>	Defined trains, aircraft, seaplanes and amphibious vehicles other than hovercraft. No form of commercial betting and gaming is permitted
<b>Vessel</b>	Anything (other than a seaplane or amphibious vehicle) designed or adapted for use on water; a hovercraft; or anything, or part of any place, situated on or in water.
<b>Vessel and relevant licensing authority</b>	The licensing authority for the area in which the vessel is usually moored or berthed.
<b>Vulnerable Persons</b>	No set definition but likely to mean group to include people who gamble more than they want to, people who gamble beyond their means; people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.
<b>Young Person</b>	An individual who is not a child but who is less than 18 years old.