

North Somerset Council

REPORT TO THE LICENSING COMMITTEE

DATE OF MEETING: 9TH AUGUST 2018

SUBJECT OF REPORT: REVISION OF THE STATEMENT OF PRINCIPLES UNDER THE GAMBLING ACT 2005

TOWN OR PARISH: ALL

OFFICER/MEMBER PRESENTING: DIRECTOR OF DEVELOPMENT AND ENVIRONMENT

KEY DECISION: YES

RECOMMENDATIONS

That the Committee considers the draft Gambling Statement of Principles and agrees a version for public consultation.

1. SUMMARY OF REPORT

- 1.1 Under the Gambling Act 2005 the Authority is required to adopt and publish a Statement of Principles that sets out how it will administer its functions under the gambling legislation. A Statement of Principles has to be reviewed every three years. The current Statement of Principles was agreed by this Committee and full Council in 2015. It became operative from the 31 January 2016 and is now in need of review and updating

2. POLICY

- 2.1 Licensing Authorities are required under the Gambling Act 2005 to discharge their functions in accordance with the following Licensing Objectives:
- 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.
- 2.2 Section 349 of the Gambling Act 2005 requires that a Licensing Authority in respect of each three-year period to:
- a) Prepare a statement of the principles that they propose to apply in exercising their functions under this Act during that period, and
 - b) Publish the statement.

- 2.3 The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 sets out the required content of and publication procedures for Statements of Principles under the Gambling Act 2005.
- 2.4 The Gambling Commission published revised Statutory Guidance to Licensing Authorities in September 2015, 5th edition (Parts 17, 18 & 19 updated September 2016) which contains advice on the development of statements of licensing policy under the Gambling Act 2005.

3. DETAILS

- 3.1 Since the implementation of the Gambling Act 2005 in September 2007 the Authority has been responsible for the issue and enforcement of a range of gambling licences and permissions.
- 3.2 The full Council on the 7 November 2006 adopted a Statement of Principles under the Gambling Act 2005. In 2009 the Statement of Principles was reviewed and updated following the required consultation process and consideration by the Licensing Committee on the 23 October 2009.
- 3.3 This Statement was again reviewed and updated in 2012 and 2015 and the current Statement was considered and agreed by the Licensing Committee on 27 November 2015.
- 3.4 The agreed Statement of Principles is required under the Gambling Act 2005 to be reviewed and published every three years. The current Statement of Principles therefore needs to undergo reconsideration and publication for the period 2019-2021.
- 3.5 Officers have undertaken a review of the current Statement of Principles and developed a draft Statement of Principles for consideration by the Committee. The draft Statement of Principles is shown at **Appendix 1**.
- 3.6 In relation to draft Statement of Principles the key changes made to the current agreed gambling policy document are shown at **Appendix 2**.

4. CONSULTATION

- 4.1 If the Committee concurs with the proposed draft, consultation will take place.

5. FINANCIAL IMPLICATIONS

- 5.1 There are no financial implications resulting from the proposals being made in this report.

6. LEGAL POWERS AND IMPLICATIONS

- 6.1 The Licensing Authority recognises that its licensing function is only one means of securing the delivery of the service. The Licensing Authority will therefore continue to work in partnership with other stakeholders, such as the Police, Gambling Commission and Local Operators towards the promotion of any licensing objectives.

- 6.2 In undertaking its licensing function, the Licensing Authority has regard to the following legislation:
- Town and Police Clauses Act 1847
 - Transport Act 1980 & 1985
 - Road Traffic Acts The Local Government (Miscellaneous Provisions) Act 1976, as amended
 - Environmental Protection Act 1990
 - Health Act 2006
 - The Smoke-free (Premises and Enforcement) Regulations
 - The Smoke-free (Vehicle Operators and Penalty Notices) Regulations 2007
 - The Equality Act 2010
 - The European Convention on Human Rights, which is applied by the Human Rights Act 1998
 - The Rehabilitation of Offenders Act 1974
 - Gambling Act 2005
- 6.3 The Licensing Authority also has regard to any other relevant legislation, strategies, policies and guidance in its decision-making.

7. RISK MANAGEMENT

- 7.1 Regularly reviewing licensing policies and practices and using a risk-rated approach to both proactive and reactive enforcement reduces the risk to the Authority. Ensuring MoU agreements are in place with external partner agencies will also help strengthen roles and responsibilities surrounding Licensing work.

8. EQUALITY IMPLICATIONS

- 8.1 An Equalities Impact Assessment has been undertaken and the key findings of the assessment are:
1. Social responsibility and protection of the public, especially children and the vulnerable is a top priority.
 2. Creating a regime, which has at its heart firm but fair regulation, allows people to enjoy gambling responsibly, encourages an important industry to thrive by behaving responsibly, and protects the vulnerable. A robust regime is good for players, providers and investors.
 3. Close, open and consultative working with all stakeholders, the industry; faith, belief and community groups, researchers and those dealing day to day with problem gamblers.

9. CORPORATE IMPLICATIONS

- 9.1 The Human Rights Act 1998 applies to the proposals being made particularly in relation to persons being entitled to a fair and independent public hearing and peaceful enjoyment of his or her possessions. The proposals within the draft licensing policy meet these objectives and the general requirements of the Act.

10. OPTIONS CONSIDERED

The Committee is requested to consider the draft Statement of Principles and to agree a final version for Public Consultation.

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BACKGROUND PAPERS

Gambling Commission Guidance to Local Authorities, 5th edition, September 2015.

North Somerset Statement of Principles for the period 2016 – 2019.

Gambling Act 2005 and associated legislation.

APPENDIX 1



GAMBLING ACT 2005

STATEMENT OF PRINCIPLES

2019 - 2021

PREFACE

Under the Gambling Act 2005, a new regime for regulating gambling and betting was introduced throughout the United Kingdom from 1 September 2007. Apart from the National Lottery and spread betting, gambling and betting is regulated by the Gambling Commission, whose duties include licensing the operators and individuals involved in providing gambling and betting facilities.

North Somerset Council has a duty under the Act to licence premises where gambling is to take place and to licence certain other activities (such as registering small society lotteries).

Licensing authorities are required to prepare a three yearly Statement of Principles setting out how they intend to discharge their responsibilities under the Gambling Act 2003. Statements of Principles have been previously agreed by North Somerset Council in 2006, 2009, 2012, and 2016.

This document is the fifth Statement of Principles to be prepared by the Council and is intended for consultation with all interested parties. The main changes made to the existing Statement of Principles are shown at **Appendix E**.

Where there are references to the Gambling Commissions Guidance to Local Authorities in this document they will be updated with any corrected references when any new guidance to local authorities is published.

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STATEMENT OF PRINCIPLES (2016-2019)

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PART A

1. Introduction

- 1.1 North Somerset is a unitary council in the West of England, bounded by the River Avon in the north, and the Mendip Hills to the south. It covers an area of approximately 145 square miles and has a population of around 210,000 people.
- 1.2 North Somerset is classified as 'urban with significant rural' with almost 40% of residents living in rural communities or 'rural hub towns.' The largest settlement is Weston-Super-Mare, which with a population of 76,000 is already the third largest settlement in the West of England. There are three other towns; Portishead, Clevedon and Nailsea and many villages of varied size and character.
- 1.3 North Somerset is strategically placed, close to the major cities of Bristol and Cardiff and with excellent transport links, including Bristol Airport, the M5 motorway, five railway stations on the main line to the South West and the Royal Portbury Dock, which has the largest entrance lock of any UK port.
- 1.4 A map of North Somerset is shown at **Appendix A**.
- 1.5 Section 349 of the Gambling Act requires the Council to publish a 'Statement of Principles' that sets out the policies the Council will generally apply to promote the licensing objectives when making decisions of applications made under the Act. This is commonly known as a Policy Statement.
- 1.6 This statement of Gambling Policy has, therefore, been prepared having regard to the provisions of the Gambling Act, guidance issued by the Gambling Commission and responses received in response to the consultation period. It is intended to be a discussion document leading to the adoption by North Somerset Council of a formal Statement of Licensing Policy after giving due regard to any responses from those consulted on the draft policy statement. The policy will come into effect on the date of adoption by the Council and will be reviewed as necessary and at least every three years from the date of adoption.
- 1.7 North Somerset Council has consulted widely upon this statement before finalising and publishing it. A list of those persons consulted is provided at **Appendix B**.
- 1.8 It should be noted that this statement of licensing principles will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

2. Declaration

- 2.1 In producing the final statement, this licensing authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the Guidance to Licensing Authorities and Codes of practice issued by the Gambling Commission, and any responses from those consulted on the statement.

3. The Licensing Objectives

- 3.1 The Gambling Act requires that the Council carry out its various licensing functions having regard to the following three licensing objectives:
- Preventing gambling from being a source of crime or 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 persons from being harmed or exploited by gambling.

4. Responsible Authorities

4.1 Advisory body for the Protection of Children from Harm

In accordance with the suggestion in the Gambling Commission's Guidance to Licensing Authorities, this authority designates the North Somerset Safeguarding Children's Board for this purpose. This Authority considers that North Somerset Safeguarding Children's Board is best able to fulfil the role of advising the Authority about the protection of children from harm for the purposes of Section 157(b) of the Act.

- 4.2 The contact details of all the Responsible Authorities under the Gambling Act 2005 are shown at **Appendix C**.

5. Interested parties

- 5.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:

"For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the application is made, the person:

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- b) has business interests that might be affected by the authorised activities, or represents persons who satisfy paragraph (a) or (b)"

- 5.2 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party.
- 5.3 Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance to Licensing Authorities. It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.
- 5.4 Interested parties can be persons who are democratically elected such as Councillors and MP's. 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, Town and Parish Councils likely to be affected will be considered to be interested parties. Other than these however, this authority 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 the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.
- 5.5 If individuals wish to approach Councillors to ask them to represent their views then care should be taken that the Councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the licensing team on 01934 426 800 or by email at licensing@n-somerset.gov.uk.

6. Exchange of Information

- 6.1 In fulfilling its functions and obligations under the Gambling Act 2005 the Council will exchange relevant information with other regulatory bodies and will establish protocols in this respect. In exchanging such information, the Council will conform to the requirements of the Gambling Act, data protection and freedom of information legislation in accordance with the Councils existing policies
- 6.2 Contact details of those persons making representations and details of the representations will generally be made available to applicants to allow for negotiation and, in the event of a hearing being held, will form part of a public document. Anyone making a representation or applying for a review of a premises licence who wishes their personal details to be restricted must make this clear when making their representation.

7. Enforcement

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

7.2 This licensing authority's principles are that It will be guided by the Gambling Commission's Guidance to Licensing Authorities and will endeavour to be:

Proportionate: Regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;

Accountable: Regulators must be able to justify decisions, and be subject to public scrutiny;

Consistent: Rules and standards must be joined up and implemented fairly;

Transparent: Regulators should be open, and keep regulations simple and user friendly;

Targeted: Regulation should be focused on the problem, and minimise side effects.

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

7.4 This licensing authority has adopted and implemented a risk-based inspection programme, based on:

- the licensing objectives;
- relevant codes of practice;
- Guidance issued by the Gambling Commission, in particular at Part 36; and
- the principles set out in this statement of licensing policy.

Taking into account: -

- the nature of the gambling activities carried out on the premises;
- the location if the premises in relation to schools etc.
- the procedures put in place by the management to meet the licensing objectives
- issues highlighted in the premises risk assessment.
- the identification of significant changes in the local area.

7.5 The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the licensing authority but should be notified to the Gambling Commission.

Additional random monitoring visits may be made, at the discretion of the licensing team, where it is considered necessary to meet the needs of the licensing objective or follow receipt of complaint. The District will be monitored for unlicensed premises.

The Council will seek to work actively with the police in enforcing licensing legislation. It encourages the police to share information about licensees and licensed premises under the relevant legislation.

7.6 This licensing authority will keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

8. Licensing authority functions

8.1 Licensing authorities are required under the Act to:

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

8.2 It should be noted that licensing authorities are not be involved in licensing remote gambling at all, which is regulated by the Gambling Commission via operating licences.

PART B

9. PREMISES LICENCES: CONSIDERATION OF APPLICATIONS

9.1 General Principles

Premises licences are subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others. These will only be imposed where there is evidence of a need to do so and not where it is simply believed to be appropriate.

9.2 Decision-making

i) This licensing authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it is:

1. In accordance with any relevant code of practice issued by the Gambling Commission;
2. In accordance with any relevant Guidance issued by the Gambling Commission;
3. Reasonably consistent with the licensing objectives; and
4. In accordance with the authority's statement of licensing policy.

ii) It is appreciated that as per the Gambling Commission's Guidance to Licensing Authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section 13 on Casinos) and also that unmet demand is not a criterion for a licensing authority. It should also be noted that issues such as nuisance and the likelihood of the grant of planning permission are not issues that can be taken into account when considering an application for a premises licence.

iii) This licensing authority also notes Gambling Commission Advice Note (Indicators of Betting as Primarily Gambling Activity – Oct 2013) where case law held that condition 16 (primary gambling activity) does not require a contest between over the counter betting and the use of machines. There must be sufficient facilities for betting (as described at para 9(iv) if gaming machines are to be utilised but the requirement is only that sufficient facilities be available. The actual use of those facilities is not an issue. Therefore, operators will not need to demonstrate that betting will continue to be the primary activity of the premise when seeking variations to licences. This Authority will simply need to be satisfied that sufficient facilities for betting are available.

iv) In making this determination, this licensing authority will have regard to the following six indicators of betting as a primary gambling activity:

1. The offer of established core products (including live event pictures and bet range);
2. The provision of information on products and events;
3. The promotion of gambling opportunities and products;
4. The actual use made of betting facilities;
5. The size of premises; and
6. The delivery of betting facilities.

9.3 Definition of “premises”

i) In the Act, “premises” is defined as including “any place”. Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place.

ii) However, the licensing authority will pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

iii) The Gambling Commission states in its Guidance to Licensing Authorities that: “In most cases the expectation is that a single building/plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. 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.”

iv) This licensing authority takes particular note of the Gambling Commission’s Guidance to Licensing Authorities which states that: licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

1. The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore, premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.
2. Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not “drift” into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
3. Customers should be able to participate in the activity named on the premises licence.

v) The Guidance also gives a list of factors which the licensing authority should be aware of, which may include:

1. Do the premises have a separate registration for business rates?
2. Is the premises’ neighbouring premises owned by the same person or someone else?
3. Can each of the premises be accessed from the street or a public passageway?
4. Can the premises only be accessed from any other gambling premises?

vi) This authority will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

vii) The Gambling Commission's relevant access provision for each premises type are reproduced below:

Casinos

1. The principal access entrance to the premises must be from a street (as defined in The Guidance);
2. No entrance to a casino must be from premises that are used wholly or mainly by children and/or young person's; and
3. No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence

Adult Gaming Centre

No customer must be able to access the premises directly from any other licensed gambling premises.

Betting Shops

1. Access must be from a street or from another premise with a betting licence;
2. No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.

Tracks

No customer should be able to access the premises directly from:

1. A casino; or
2. An adult gaming centre.

Bingo Premises

No customer must be able to access the premise directly from:

1. A casino;
2. An adult gaming centre; or
3. A betting premises, other than a track.

Family Entertainment Centre

No customer must be able to access the premises directly from:

1. A casino;
2. An adult gaming centre; or
3. A betting premises, other than a track.

viii) The Gambling Commission's Guidance to Licensing Authorities contains further guidance on this issue, which this authority will also take into account in its decision-making.

9.4 Premises "ready for gambling"

i) The Gambling Commission's Guidance states a licence to use premises for gambling will only be issued in relation to premises that the licensing authority can be satisfied are going to be ready for gambling in the reasonably near future, consistent with the scale of the building or alterations required before the premises are brought into use.

ii) If the construction of a premises is still not complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.

iii) In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process: -

1. First, whether the premises ought to be permitted to be used for gambling.
2. Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

iv) Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

v) More detailed examples of the circumstances in which such a licence may be granted can be found within the current Gambling Commission Guidance.

9.5 Location

i) This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. As per the Gambling Commission's Guidance to Licensing Authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.

ii) This Authority will assess each case on the individual merits of the application made when determining the grant of a premises licence.

9.6 Planning

i) The Gambling Commission Guidance to Licensing Authorities states:

"In determining applications, the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal."

ii) This authority will not take into account irrelevant matters as per the above guidance. In addition, this authority notes the following excerpt from the Guidance:

"When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have to comply with the necessary planning or building consents. Nor should fire or health & safety risks be taken into account. Those matters should be dealt with under relevant planning control, building and other regulations, and must not form part of the consideration for the premises licence. Section 210 of the Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally, the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building."

9.7 Duplication with other regulatory regimes

i) This licensing authority seeks to avoid any duplication with other statutory/regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

ii) When dealing with a premises licence application for finished buildings, this authority will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

iii) North Somerset Licensing Authority has duly noted the principles set out in the Regulators Code.

9.8 Licensing objectives

i) Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission's Guidance to Licensing Authorities and some comments are made below.

ii) Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime

This licensing authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction. Issues of nuisance cannot be addressed via the Gambling legislation.

iii) Ensuring that gambling is conducted in a fair and open way

This licensing authority has noted that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences.

iv) Protecting children and other vulnerable persons from being harmed or exploited by gambling

v) The Act contains the objective of "protecting children and other vulnerable persons from being harmed or exploited by gambling". Children (defined in the Act as under 16s) and young persons (16-17s) may take part in private and non-commercial betting and gaming but the Act contains a number of restrictions on the circumstances in which they may participate in gambling or be on premises where gambling is taking place. An adult is defined as 18 and over.

vi) This licensing authority has noted the Gambling Commission's Guidance that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

vii) This licensing authority is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.

viii) As regards the term "vulnerable persons" it is noted that the Gambling Commission does not seek to offer a definition but states that "it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs." This licensing authority will consider this licensing objective on a case by case basis.

ix) The Licensing Authority has noted the North Somerset Safeguarding Children Board stated principles:

- Protect children and young people from maltreatment.
- Prevent their impairment of health and development.
- Ensure that they grow up in circumstances consistent with the provision of safe and effective care.
- Enable them to have optimum life chances and enter adulthood successfully.

9.9 Conditions

i) This Authority will take as a starting point that a premises licence will be granted subject to the Mandatory and default conditions. Any additional conditions attached to the licence will be added after consideration of evidence of the need to do so.

ii) Any conditions attached to licences will be proportionate and will be:

1. Relevant to the need to make the proposed building suitable as a gambling facility;
2. Directly related to the premises and the type of licence applied for;
3. Fairly and reasonably related to the scale and type of premises; and
4. Reasonable in all other respects.

iii) Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures available this licensing authority will consider utilising them should there be evidence of need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This licensing authority will also expect the licence applicant to offer his/her own suggestions as to way in which the licensing objectives can be met effectively.

iv) This licensing authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.

v) This authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:

1. All such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
2. Only adults are admitted to the area where these machines are located;
3. Access to the area where the machines are located is supervised;
4. The area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
5. At the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

v) These considerations will apply to premises including buildings where multiple premises licences are applicable.

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

vii) It is noted that there are conditions which the licensing authority cannot attach to premises licences which are:

1. Any condition on the premises licence which makes it impossible to comply with an operating licence condition;
2. Conditions relating to gaming machine categories, numbers, or method of operation;
3. Conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated); and
4. Conditions in relation to stakes, fees, winning or prizes.

9.10 Door Supervisors

i) The Gambling Commission advises in its Guidance to Licensing Authorities that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a premises licence to this effect.

ii) Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether these need to be Security Industry Authority (or any successor regulatory body) licensed or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary (as per the Guidance).

iii) It should be noted that the above paragraphs relate to door supervisors only in relation to premises licences granted under the Gambling Act 2005. Where a premises licence has also been granted under the Licensing Act 2003 in relation to the same premises, there may also be conditions on that licence which relate to door supervisors. The premises licence holder should ensure compliance with those conditions.

9.11 Local Risk assessments

The current Licence Conditions and Codes of Practice (LCCP) published by the Gambling Commission specifies a social responsibility (SR) code. This code requires operators to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and to have policies, procedures and control measures in place to mitigate those risks. In undertaking their risk assessments, they must take into account relevant matters referred to in this policy document.

Operators are, therefore, required to undertake a local risk assessment on application for a new premises licence. Furthermore, all currently licensed premises based operators must also have a risk assessment in place. The risk assessments must also be updated:

- When a subsequent application for a variation of premises licence is made;
- To take account of significant changes in local circumstances (see below); and
- When there are significant changes at an operator's premises that may affect their mitigation of local risks (see below)

Significant changes in local circumstances: The following lists some examples of what the Council considers to be significant changes occurring in the local area. The list is not exhaustive and each premises will be considered on its own merits. Operators must consider whether or not any change in the locality of their premises is one that may be considered significant: -

- Any substantial building development or conversion of existing premises in the local area which may increase or decrease the number of visitors. For example; where new offices, supermarkets and hotels are either built nearby or developed from existing buildings.
- New pay day loan establishment or pawn broker shops.
- The building of new educational establishments or any significant changes to an existing facility such as, for example, the expansion of a local college.
- New gambling premises.
- New premises licensed to sell or supply alcohol.
- The building of new premises which will be used for delivering services to vulnerable groups. Examples will include: homeless hostels, mental health care facilities and addiction rehabilitation centres.
- The building of new premises/creation of areas that are likely to attract children. For example, youth centres, play areas, toy shops and cinemas.

Significant changes in at an operator's premises: The following lists some examples of what the Licensing Authority considers to be significant changes in local circumstances. As above, the list is not exhaustive and each premises will be considered on its own merits. Operators must consider whether or not any change at their premises is one that may be considered significant: -

- Any building work or refurbishment where gambling facilities are relocated within the premises.
- The premises licence has been transferred to a new operator whose policies and procedures differ from those of the previous licence holder.
- The entrance or entrances to the premises are changed. This will include changes in access from one area to another (e.g. from an Adult Gaming Centre to/from a Family Entertainment Centre (FEC) and/or unlicensed FEC).

- New gambling facilities are made available on the premises which were not provided previously. For example, handheld gaming devices for customers, Self-Service Betting Terminals, or the provision of a different category of gaming machine.
- The operator makes an application for a licence to undertake activities at that premises in accordance with other legislation. For example, this may include an application for the sale/supply of alcohol, the provision of regulated entertainment and/or the provision of late night refreshment (Licensing Act 2003)

The SR provision is supplemented by a further code that requires operators to share these risk assessments with Licensing Authorities on new applications, variations or otherwise at the request of the Licensing Authority.

In view of the above, the Council requires that both new applicants and existing operators (licensees) develop a good understanding of the area in which they operate, or propose to operate. A local risk assessment must include the location of all of the following in relation to the site of the premises: -

- School
- College
- Other educational establishment (if applicable)
- Play area
- Youth Centre
- Leisure Centre
- Bank
- Cash Machine/ATM
- Alcohol Licensed Premises
- Takeaway/Fast Food Establishment
- Other gambling licensed premises
- Pay Day loan/pawn shop
- Homeless hostel
- Rehabilitation Centre
- Hospital/Mental Health Services
- Place of Worship

The local risk assessment must show how the operator mitigates the risk of each of the above should one or more be in the vicinity of the premises. For example, the level of staffing required may vary according to the proximity of schools, colleges, alcohol licensed premises and their respective opening hours.

It is important that an operator not only identifies the risks within the immediate proximity of the premises but also takes into account the impact of risks identified for the wider area locally. Similarly, one-off events held on a regular basis within the area will need to be factored into the local risk assessment.

Operators will also be expected to include reference to: -

- Local statistics regarding crime and disorder, including anti-social behaviour;
- Whether or not the premises is situated within an area of deprivation;
- Any nearby residential areas occupied by a high concentration of families with children;

The Council requires a copy of the up to date local risk assessment to be kept on the premises and available for inspection on request by an Officer of the Licensing Authority.

Operators must also note that, a local risk assessment will apply to the whole premises/building if an unlicensed Family Entertainment centre (subject to a permit) is situated immediately adjacent to an area covered by a premises licence.

9.12 Local Area Profile

There is no mandatory requirement for a Licensing Authority to undertake a specific Local Area Profile and this authority has decided not to do so at the time of producing this policy statement.

This decision will, however, be reviewed should it be felt by the Council that potential or actual risks identified within the District deem its production necessary. Applicants and existing operators should, therefore take their own steps to identify risks by, for example, consulting with any relevant responsible authorities and liaising with other gambling operators in the area where necessary.

9.13 Cash Machines

- i) This Licensing Authority has noted that the Gambling Commission guidance states that "Section 177 does not prevent the licensee from permitting the installation of cash dispensers on the premises."
- ii) It will be expected that any automated telling machine made available for use on the premises shall be located in a place that requires any customer wishing to use it to leave any gaming machine or betting machine in order to do so.

10. Adult Gaming Centres

- 10.1** This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18-year olds do not have access to the premises.
- 10.2** This licensing authority may consider measures to meet the licensing objectives such as:
 - 1. Proof of age schemes;
 - 2. CCTV;
 - 3. Supervision of entrances/machine areas;
 - 4. Physical separation of areas;
 - 5. Location of entry;
 - 6. Notices/signage;
 - 7. Specific opening hours;
 - 8. Self-exclusion schemes; and
 - 9. Provision of information leaflets/helpline numbers for organisations such as GamCare.

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

11. (Licensed) Family Entertainment Centres:

- 11.1** This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18-year olds do not have access to the adult only gaming machine areas.
- 11.2** This licensing authority may consider measures to meet the licensing objectives such as:
1. CCTV;
 2. Supervision of entrances/machine areas;
 3. Physical separation of areas
 4. Location of entry;
 5. Notices/signage;
 6. Specific opening hours;
 7. Self-exclusion schemes
 8. Provision of information leaflets/helpline numbers for organisations such as GamCare;
 9. Measures/training for staff on how to deal with suspected truant school children on the premises.

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

- 11.3** This licensing authority will, as per the Gambling Commission's Guidance, refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

12. Casinos

- 12.1** This licensing authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should this licensing authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution. Any such decision will be made by the Full Council.
- 12.2** North Somerset Council has not applied to the Casino Advisory Panel to be chosen for the location of a new casino (regional, large or small). This licensing authority is aware that where a licensing authority area is chosen to grant a premises licence for a new style casino (i.e. the Secretary of State has made such regulations under Section 175 of the Gambling Act 2005) there are likely to be a number of operators which will want to run the casino. In such situations the local authority will run a 'competition' under Schedule 9 of the Gambling Act 2005. This licensing authority will run such a competition in line with any regulations/codes of practice issued under the Gambling Act 2005.

13. Bingo premises

13.1 This licensing authority notes that the Gambling Commission's Guidance states:

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

13.2 This authority also notes the Guidance regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate eight category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

13.3 The licensing authority also notes within the Guidance that children and young people are allowed into bingo premises; however, they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.

14. Betting premises

14.1 Betting machines

This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

15. Tracks

15.1 General

i) There are no licensed tracks in the North Somerset area but this licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

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

iii) This licensing authority may consider measures to meet the licensing objectives such as:

1. Proof of age schemes;
2. CCTV;
3. Supervision of entrances/machine areas;
4. Physical separation of areas;
5. Location of entry;
6. Notices/signage;
7. Specific opening hours;
8. Self-exclusion schemes; and
9. Provision of information leaflets/helpline numbers for organisations such as GamCare

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

15.2 Gaming machines

i) Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.

15.3 Betting machines

i) This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator proposes to offer.

15.4 Applications and plans

i) The Gambling Act (s51) requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity.

ii) Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations.

iii) Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises.

iv) On the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined.

v) This authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the "five times rule" (commonly known as betting rings) must be indicated on the plan.

16. Travelling Fairs

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

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

For the purposes of this Act –

- (a) "Fair" means a fair consisting wholly or principally of the provision of amusements,
- (b) a fair held on a day in a calendar year is a "travelling fair" if
 - (i) Wholly or principally by persons who travel from place to place for the purpose of providing fairs, and
 - (ii) at a place no part of which has been used for the provision of a fair on more than 27 days in that calendar year.

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

17. Provisional Statements

17.1 Developers may wish to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

17.2 Section 204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:

1. Expects to be constructed;
2. Expects to be altered; or
3. Expects to acquire a right to occupy.

- 17.3** The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.
- 17.4** In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.
- 17.5** The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:
1. They concern matters which could not have been addressed at the provisional statement stage, or
 2. They reflect a change in the applicant's circumstances.
- 17.6** In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:
1. Which could not have been raised by objectors at the provisional statement stage;
 2. Which in the authority's opinion reflect a change in the operator's circumstances; or
 3. Where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

PART C

Permits/Temporary & Occasional Use Notices

18. Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits - Schedule 10 paragraph 7)

- 18.1** Where a premise does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).
- 18.2** The Gambling Act 2005 states that a licensing authority may prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25. The Gambling Commission's Guidance to Licensing Authorities also states: "In their three-year licensing policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits, licensing authorities will want to give weight to child protection issues."
- 18.3** The Guidance also states: "...An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application." Licensing authorities might wish to consider asking applications to demonstrate:
1. A full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
 2. That the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and
 3. That staff are trained to have a full understanding of the maximum stakes and prizes.
- 18.4** It should be noted that a licensing authority cannot attach conditions to this type of permit.
- 18.5 Statement of Principles**
This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits; however, they may include appropriate measures/training for staff as regards suspected truant school children on the premises, measures/training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on/around the premises.

This licensing authority will also expect, as per Gambling Commission Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the Gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

19. (Alcohol) Licensed premises gaming machine permits – (Schedule 13 paragraph 4(1))

19.1 Automatic entitlement: 2 machines

i) There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority.

ii) The licensing authority can remove the automatic authorisation in respect of any particular premises if:

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

19.2 Permit: 3 or more machines

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

ii) This licensing authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from being harmed or exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18-year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

iii) This licensing authority recognises that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.

iv) The licensing authority may decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

v) The holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

20. Prize Gaming Permits

20.1 The Gambling Act 2005 states that a licensing authority may "prepare a statement of principles that they propose to apply in exercising their functions under this Schedule" which "may, in particular, specify matters that the licensing authority proposes to consider in determining the suitability of the applicant for a permit".

20.2 This licensing authority has prepared a **Statement of Principles** which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:

1. That they understand the limits to stakes and prizes that are set out in Regulations;
2. That the gaming offered is within the law; and
3. Clear policies that outline the steps to be taken to protect children from harm.

20.3 In making its decision on an application for this permit the licensing authority does not need to (but may) have regard to the licensing objectives but must have regard to any Gambling Commission Guidance. (Gambling Act 2005, Schedule 14 paragraph 8(3)).

20.4 It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but that the licensing authority cannot attach conditions. The conditions in the Act are:

1. The limits on participation fees, as set out in regulations, must be complied with;
2. 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;
3. 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
4. Participation in the gaming must not entitle the player to take part in any other gambling.

21. Club Gaming and Club Machines Permits

21.1 A club gaming permit is available to members' clubs or miners' welfare institutes, but not commercial clubs. It allows the club to offer:

- equal chance gaming such as poker and bingo
- games of chance (pontoon and chemin de fer only)
- up to three gaming machines in total of categories B3A, B4, C or D, but by agreement, only one machine can be of category B3A.

Restrictions on the gaming are:

- no limits on stakes and prizes, except bingo where there is a stakes and prizes limit of £2,000 in any seven-day period
- limit on participation fees per person per day - £20 for bridge and or whist (if played on a day on which no facilities of any kinds of gaming (other than bridge or whist) are provided by the relevant club on that day), £3 for other gaming (including poker) in any other circumstances

21.2 A club machine permit is available to members' clubs, miners' welfare institutes, and commercial clubs. It allows the club to offer:

- equal chance gaming such as poker and bingo
- up to three gaming machines in total of categories B3A, B4, C or D, but by agreement, only one machine can be of category B3A (B3A not permitted for commercial clubs).

Restrictions on the gaming are:

- limit on stakes and prizes for bingo is £2,000 in any seven-day period
- limit on stakes for poker - £10 per person per game, within a premises limit of £250 in stakes per day and £1,000 per week
- limit on prizes for poker - £250 per game
- limit on participation fees per person per day - £18 for bridge/whist (if played on a day on which no facilities of any kind of gaming (other than bridge or whist) are provided by the relevant club on that day), £1 for other gaming (including poker), £3 where it's a commercial club.

21.3 This licensing authority notes that the Gambling Commission' Guidance states:

"The licensing authority has to satisfy itself that the club meets the requirements of the Act to obtain a Club Gaming Permit. In doing so it will take account of a number of matters outlined in the Gambling Commission' Guidance These include the constitution of the club, the frequency of gaming, and ensuring that there are more than 25 members. A member's club must be permanent in nature, not established to make commercial profit, and controlled by its members equally Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations".

21.4 The club must be conducted wholly or mainly "for the purposes other than gaming", unless the gaming is permitted by separate regulations. The Secretary of State has made regulations and these cover bridge and whist clubs.

21.5 The Commission Guidance also notes that "licensing authorities may only refuse an application on the grounds that:

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

21.6 There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). As the Gambling Commission's Guidance to Licensing Authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:

- (a) That the club is established primarily for gaming, other than gaming prescribed under schedule 12;
- (b) That in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- (c) That a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."

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

22. Temporary Use Notices

22.1 Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Use Notice, according the Gambling Commission, would include hotels, conference centres and sporting venues.

22.2 The licensing authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.

22.3 The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this Statement the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.

22.4 There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in the Gambling Commission Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place". In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.

22.5 This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

23. Occasional Use Notices:

23.1 The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

24. Small Society Lotteries

24.1 The licensing authority will register and administer smaller non-commercial lotteries. Promoting or facilitating a lottery falls within two categories:

1. Licensed Lotteries (requiring an Operating Licence from the Gambling Commission; and
2. Exempt Lotteries (registered by the licensing authority)

24.2 Exempt Lotteries are lotteries permitted to be conducted without a licence from the Gambling Commission and these are:

1. Small Society Lotteries;
2. Incidental Non-Commercial Lotteries;
3. Private Lotteries;
4. Private Society Lottery;
5. Work Lottery; or
6. Residents' Lottery

24.3 Applicants for lottery registrations must apply to the licensing authority in the area their principal office is located. Where the Licensing Authority believes that the Society's principal office is situated in another area it will inform the Society as soon as possible and where possible, will inform the other Licensing Authority.

- 24.4** The Licensing Authority will refuse applications for registration 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. Where the licensing authority is uncertain as to whether or not an application has been refused, it will contact the Gambling Commission to seek advice.
- 24.5** The Licensing Authority may refuse an application for registration if in their opinion:
1. The applicant is not a non-commercial lottery;
 2. A person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence; or
 3. Information provided in or with the application for registration is false or misleading.
- 24.6** The licensing authority will ask applicants to set out the purposes for which the Society is established and will ask the Society to declare that they represent a bona fide non-commercial society and have no relevant convictions. The Licensing Authority may, however, seek further information from the Society.
- 24.7** Where the Licensing Authority intends to refuse registration of a Society, it will give the Society an opportunity to make representations and will inform the Society of the reasons why it is minded to refuse registration and supply details on which has reached that preliminary conclusion.
- 24.8** The licensing authority will adopt a risk based approach towards its enforcement responsibilities for small society lotteries. It considers that the following list, although not exclusive, could affect a registration granted:
1. Submission of late returns (returns must be submitted no later than 3 months after the date on which the lottery draw was held);
 2. Submission of incomplete or incorrect returns; or
 3. Breaches of the limits for small society lotteries.

Part D

Decision Making, Complaints and Reviews

25. Decision Making

- 25.1** The licensing authority will be involved in a wide range of licensing decisions and functions which will be administered by the Licensing Committee and Sub-Committee thereof.
- 25.2** Many of the decisions and functions will be purely administrative in nature and the grant of non-contentious applications, including for example, those licences and permits where no representations have been made, will be delegated to Council Officers.
- 25.3** The Table shown at **Appendix D** sets out the agreed delegation of decisions and functions to Licensing Committee, Sub-Committee and Officers. This form of delegation is without prejudice to Officers referring an application to a Sub-Committee, or a Sub-Committee to Full Committee, or Committee to Full Council, if considered appropriate in the circumstances of any particular case.
- 25.4** The Committee's terms of reference will be set out in the Council's constitution and will be guided by Regulations issued under the Act.

26. Complaints against licensed premises.

- 26.1** The Council will investigate complaints against licensed premises in matters relating to the Licensing objectives for which it has responsibility. Complainants will be encouraged in the first instance to raise their concerns with the licence holder or business operator to seek a local resolution.
- 26.2** When dealing with a complaint about a licensed premises this Licensing Authority will have regard to the Council's Enforcement Procedure.

27. Reviews

- 27.1** Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the licensing authority to decide whether the review is to be carried-out.

The Council will carry out a review of a premises licence where it has received a formal application for review in accordance with the Act that is relevant to one or more of the Licensing Objectives. Representations may be that activities, including the following, are taking place:

- Use of licensed premises for the sale and distribution of Class A drugs and the laundering of the proceeds of drug crimes;

- Use of licensed premises for the sale and distribution of illegal firearms;
- Use of licensed premises for prostitution or the sale of unlawful pornography;
- Use of licensed premises as a base for organised criminal activity;
- Use of licensed premises for the organisation of racist, homophobic or sexual abuse or attacks;
- Use of licensed premises for the sale of smuggled or counterfeit tobacco or goods;
- The use of licensed premises for the sale of stolen goods;
- Children or vulnerable persons are put at risk;
- Operation of a licensed premises not in accordance with the licensing objectives and/or licence conditions.

Due consideration will be given to all relevant representations unless they fit the following:

- The grounds are frivolous;
- The grounds are vexatious;
- The grounds are irrelevant;
- The grounds will not cause the Licensing Authority to revoke or suspend a licence or to remove, amend or attach conditions on the Premises Licence;
- The grounds are substantially the same as the grounds cited in a previous application relating to the same premises; or
- The grounds are substantially the same as representations made at the time the application for a Premises Licence was considered.

A Premises Licence may also be reviewed by the Licensing Authority on its own violation.

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

27.3 The licensing authority must carry out the review as soon as possible after the 28-day period for making representations has passed.

27.4 The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are: -

- (a) Add, remove or amend a licence condition imposed by the licensing authority;
- (b) Exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
- (c) Suspend the premises licence for a period not exceeding three months; and
- (d) Revoke the premises licence.

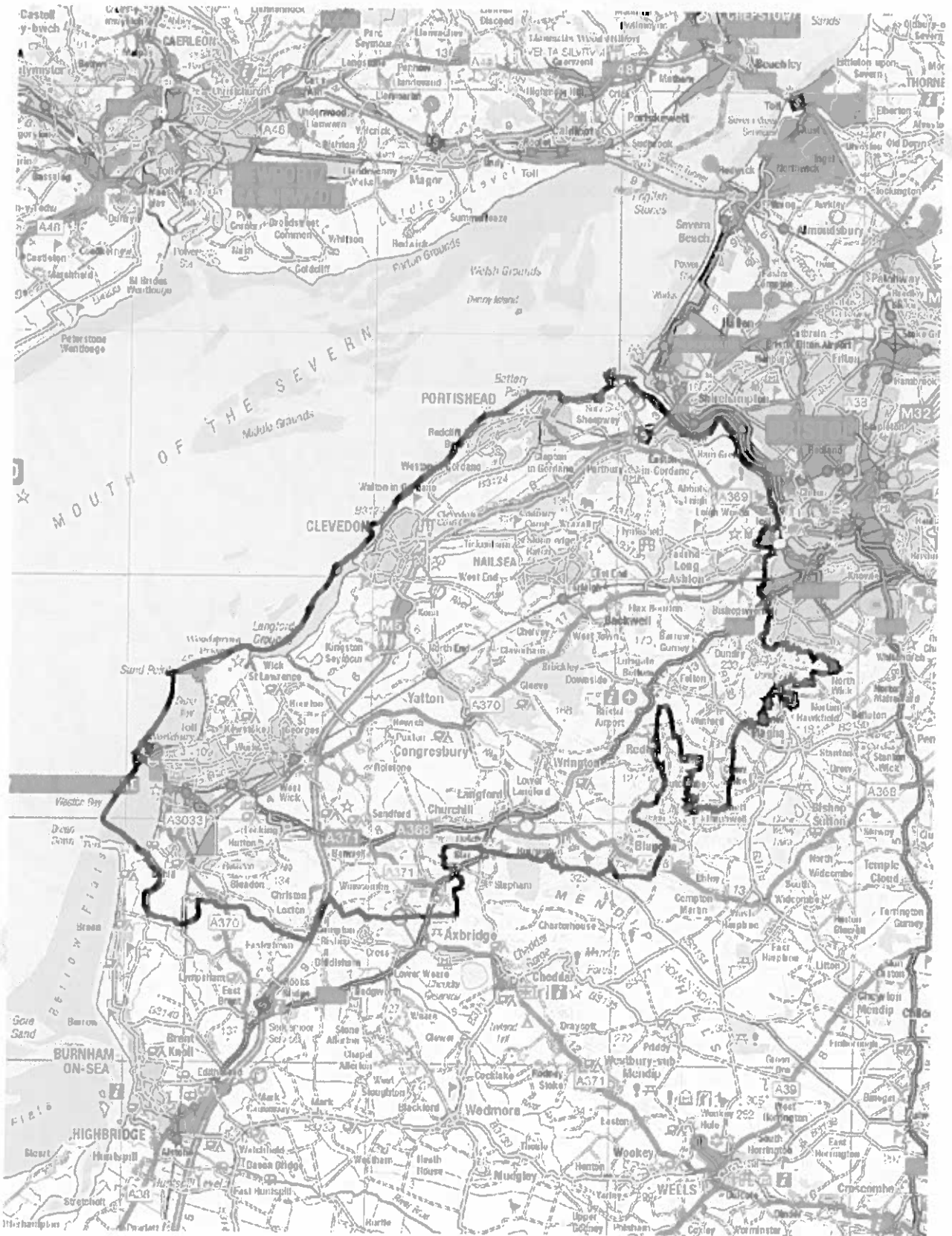
27.5 In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

27.6 In particular, the licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

27.7 Once the review has been completed, the licensing authority must, as soon as possible, notify its decision to:

1. The licence holder;
2. The applicant for review (if any);
3. The Gambling Commission;
4. Any person who made representations;
5. The Chief Officer of Police or Chief Constable; and
6. Her Majesty's Commissioners for Revenue and Customs.

Appendix A – Map of North Somerset



APPENDIX B – LIST OF CONSULTEES

The following list is not intended to be exclusive. Comments and observations will be welcome from anyone who will be affected by this policy.

North Somerset Council has consulted with:

- Businesses, organisations and persons who hold licences and permits issued by North Somerset Council under the Gambling Act 2005
- Elected Members, North Somerset Council
- North Somerset Town and Parish Councils
- Gambling Commission
- Avon and Somerset Constabulary
- Avon Fire and Rescue Service
- North Somerset Council Environmental Protection Team
- North Somerset Local Children Safeguarding Board
- Development Control Manager, North Somerset Council
- North Somerset Community Safety Partnership
- HM Revenues and Customs
- Association of British Bookmakers
- Bingo Association
- British Amusement Catering Trade Association (BACTA)
- British Association of Leisure Parks, Piers and Attractions
- Gamblers Anonymous
- Gamcare
- Cab
- Mencap

APPENDIX C - CONTACT DETAILS FOR RESPONSIBLE AUTHORITIES

RESPONSIBLE AUTHORITY	ADDRESS	TELEPHONE NUMBER
North Somerset Council in the capacity of the Licensing Authority	Licensing Team North Somerset Council Town Hall, Walliscote Grove Road, Weston- super-Mare BS23 1UJ	01934 426 800
Avon and Somerset Constabulary	Liquor Licensing Bureau c/o North Somerset Council Town Hall, Walliscote Grove Road, Weston-super-Mare, BS23 1UJ	01934 638 211
Avon Fire and Rescue	Community Safety Milton Avenue Weston Super Mare BS23 2UL	01179 262 061 Ext 560
North Somerset Council (Noise Team)	Environmental Protection Team North Somerset Council Town Hall, Walliscote Grove Road, Weston-super-Mare BS23 1UJ	01934 884 882
Local Children Safeguarding Board	North Somerset Council Children & Young Peoples Service Town Hall Weston Super Mare BS23 1ZZ	01934 888 266
North Somerset Council (Planning Department)	Development Control North Somerset Council Town Hall, Walliscote Grove Road, Weston-super-Mare BS23 1UJ	01934 888 811
Gambling Commission	Victoria Square House Victoria Square Birmingham, B2 4BP	0121 230 6500
HM Customs and Excise	Portcullis House National Registration Unit, Portcullis House, 21 India Street, Glasgow, G2 4PZ	0141 555 3495

APPENDIX D - TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

MATTER TO BE DEALT WITH	FULL COUNCIL	LICENSING COMMITTEE/SUB-COMMITTEE	OFFICERS
Three year licensing policy	Yes		
Policy not to permit casinos	Yes		
Fee Setting – when appropriate			Yes (to be approved by the Executive Committee)
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for variation to a licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Review of a premises licence		Yes	
Application for club gaming/club machine permits		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Cancellation of club gaming/club machine permits		Yes	
Application for other permits			Yes

MATTER TO BE DEALT WITH	FULL COUNCIL	LICENSING COMMITTEE/SUB-COMMITTEE	OFFICERS
Cancellation of licensed premises gaming machine permits			Yes
Consideration of temporary use notice			Yes
Decision to give a counter notice to a temporary use notice		Yes	
Determination as to whether a person is an Interested Party			Yes
Determination as to whether representations are relevant			Yes
Determination as to whether a representation is frivolous, vexatious or repetitive			Yes
Removal of automatic entitlement of 2 gaming machines in alcohol licensed premises		Yes	
Determination of a contested application for more than two gaming machines in alcohol licensed premises		Yes	

APPENDIX 2

APPENDIX E – SUMMARY OF THE MAIN CHANGES MADE TO THE EXISTING STATEMENT OF PRINCIPLES

Amendment	Paragraph/Location
PREFACE	
Updating of local statistical data	2.2 – 2.3
PART A	
Update to Introduction	1.1 – 1.3
Simplification to Licensing Objectives	3
Simplification of Advisory body paragraph	4
Simplification and update of exchange of information paragraph	6
Simplification and correction of numbering	Whole
Re-ordering of paragraphs	1-3
Updating of local statistical data	2.1 – 2.2
Removal of Policy consultation arrangements	2.10
Additional enforcement information added	7
PART B	
Simplification and correction of numbering	Whole
Re-ordering of paragraphs	9
New section – local risk assessments	9.11
New section – local area profile	9.12
Addition of Safeguarding principles	10.8
PART C	
Removal of Gambling Commission Guidance paragraph references	Whole
Simplification and correction of numbering	Whole
Update of information on club gaming/machine permits	21.1 - 21.2
PART D	
Additional information added to Reviews	27
Re-ordering of paragraphs	Whole
APPENDICES	
New map inserted	Appendix A
Consultation list amended	Appendix B
Contacts list updated	Appendix C