



Gambling Act 2005

Statement of Principles

DRAFT

Approved by Cabinet on: _____ 2015
Approved by Full Council on: _____ 2015
Effective from: 31st January 2016

Borough Council of King's Lynn & West Norfolk

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PART A

1.0 The Licensing Objectives

1.1 In exercising their functions under the Gambling Act 2005, (hereafter referred to as the 'Act') the Borough Council of King's Lynn & West Norfolk (hereafter referred to as the 'Borough Council') must have regard to the licensing objectives as set out in section 1 of the Act. These licensing objectives are:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- Ensuring that gambling is conducted in a fair and open way
- Protecting children and other vulnerable persons from being harmed or exploited by gambling

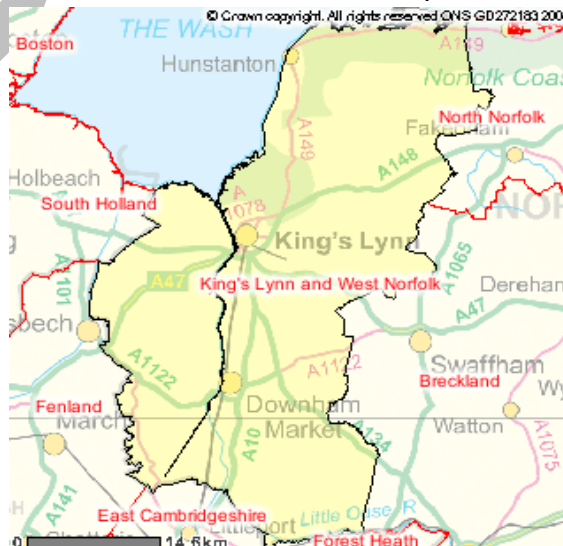
1.2 It should be noted that the requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling.

1.3 The Borough Council is aware that, in accordance with Section 153 of the Act, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it is:

- in accordance with any relevant code of practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives and
- in accordance with the Borough Council's Statement of Principles.

2.0 Introduction

2.1 The Borough Council is situated in the County of Norfolk and has a population of 147,451 (2011 Census). In terms of area it is the largest, covering 1428.76 square kilometres (551 square miles). The area is mainly rural with urban areas of King's Lynn, Downham Market and Hunstanton. These areas are shown in the map below:



- 2.2 The Borough Council is required by the Act to publish a statement of the principles (policy) which they propose to apply when exercising their functions. This statement must be published at least every three years. The statement may also be reviewed from “time to time” and then any amended parts re-consulted upon. The statement must be then re-published.
- 2.3 The Borough Council will consult widely upon this statement of principles before finalising and publishing. A list of the persons who have been consulted is provided at Annex A.
- 2.4 The Act requires that the following parties must be consulted:
- 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; and
 - 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 Act.
- 2.5 Our consultation took place between the 2015 and the 2015 and followed HM Government Consultation Principles (published July 2012), which is available at:
<https://www.gov.uk/government/publications/consultation-principles-guidance>
- 2.6 The full list of any comments made and the consideration by the Borough Council of those comments will be available by request to the Licensing Manager at the Borough Council.
- 2.7 The policy was approved at a meeting of the Full Council on the and was published via the Borough Council’s website on the.
- 2.8 Should you have any comments as regards this statement of principles please send them via e-mail or letter to:
The Licensing Manager
Environmental Health - Licensing
Borough Council of King’s Lynn & West Norfolk
King’s Court
Chapel Street
King’s Lynn
Norfolk
PE30 1EX
E-mail: ehlicensing@west-norfolk.gov.uk
- 2.9 It should be noted that this statement of 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 Act.

3.0 Declaration

3.1 In producing the final statement, the Borough Council declares that it has had regard to the licensing objectives of the Act, the Guidance to Local Authorities issued by the Gambling Commission, and any responses from those consulted on the statement.

4.0 Responsible Authorities

4.1 The Borough Council is required to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:

- the need for the body to be responsible for an area covering the whole of the licensing authority's area; and
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

4.2 The Borough Council designates the Norfolk Safeguarding Children Board for this purpose (<http://www.norfolkscb.org/>)

4.3 The contact details of all the Responsible Authorities under the Act are attached to this Statement of Principles at Annex B.

5.0 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 Section 158 of the Act as follows:

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

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

5.2 In determining whether a person is an interested party, the Borough Council will apply the following principles. The first principle is that each case will be decided upon its own merits. The Borough Council will not apply a rigid rule to its decision making and will consider the examples of considerations provided in the Gambling Commission's Guidance for local authorities. "Business interests" is given the widest possible interpretation and includes partnerships, charities, faith groups and medical practices.

5.3 Interested parties can be persons who are democratically elected such as councillors and members of parliament. 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

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.

- 5.4 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 Sub-Committee dealing with the licence application. If there are any doubts then please contact the licensing team.

6.0 Exchange of Information

- 6.1 The Borough Council is required to include in our statement the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

- 6.2 The principle that the Borough Council will apply is that we will act in accordance with the provisions of the Act in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The Borough Council will also have regard to any Guidance issued by the Gambling Commission to local authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Act.

7.0 Inspections & Criminal Proceedings

- 7.1 Licensing authorities are required by regulation under the Act 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 The Borough Council's principles are that it will be guided by the Gambling Commission's Guidance for local authorities and its own enforcement police and will endeavour to be:

- Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
- Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
- Consistent: rules and standards must be joined up and implemented fairly;
- Transparent: regulators should be open, and keep regulations simple and user friendly; and
- Targeted: regulation should be focused on the problem, and minimise side effects.

- 7.3 The Borough Council will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 7.4 The Borough Council inspection programme will be risk-based and take into account;
- The licensing objectives;
 - Relevant codes of practice;
 - Guidance issued by the Gambling Commission, in particular at Part 36;
 - This statement of principles.
- 7.5 The main enforcement and compliance role for the Borough Council in terms of the Act 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 Borough Council but should be notified to the Gambling Commission.

8.0 Licensing Authority Functions

- 8.1 The Borough Council, as the Licensing Authority is 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 local licensing authorities are not involved in the licensing of remote gambling, which is regulated by the Gambling Commission via operating licences.

PART B
PREMISES LICENCES: CONSIDERATION OF APPLICATIONS

9.0 General Principles

9.1 Premises licences are subject to the requirements set-out in the Act and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

10.0 Decision Making

10.1 The Borough Council is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission ;
- reasonably consistent with the licensing objectives; and
- in accordance with the authority's statement of principles.

10.2 It is appreciated that as per the Gambling Commission's Guidance for local authorities "moral and ethical objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos at paragraph 21) and also that demand is not a criterion for a licensing authority.

11.0 Definition of "premises"

11.1 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. However, the Borough Council shall pay particular attention if there are issues about subdivisions of a single building or plot and shall ensure that mandatory conditions relating to access between premises are observed.

11.2 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.”

11.3 The Borough Council takes 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:

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

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

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

11.5 The Borough Council will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

12.0 The Gambling Commission’s relevant access provisions for each premises type are reproduced below:

12.1 Casinos

- The principal access entrance to the premises must be from a street;
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons;
- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence.

12.2 Adult Gaming Centre

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

12.3 Betting Shops

- Access must be from a street or from another premises with a betting premises licence;
- 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.

12.4 Tracks

- No customer should be able to access the premises directly from:
 - a casino
 - an adult gaming centre

12.5 Bingo Premises

- No customer must be able to access the premise directly from:
 - a casino;
 - an adult gaming centre; or
 - a betting premises, other than a track.

12.6 Family Entertainment Centres

- No customer must be able to access the premises directly from:
 - a casino;
 - an adult gaming centre; or
 - a betting premises, other than a track.

12.7 The Gambling Commission's Guidance contains further advice on this issue, which the Borough Council will also take into account in its decision-making.

13.0 Premises "Ready for Gambling"

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

13.2 If the construction of a premises is not yet 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.

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

- First, whether the premises ought to be permitted to be used for gambling;

- 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.

14.0 Location

14.1 The Borough Council 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. This authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

15.0 Local Area Profiling

15.1 The Social responsibility Code (10.1.1), which comes into effect on the 6th April 2016 requires licensees to assess the local risks to the licensing objectives posed by their gambling operations at each of their premises, and have policies, procedures and control measures to mitigate those risks. Additionally, applicants will have to undertake a local assessment when applying for a new or variation of a premises licence, to take account of significant changes in the local circumstances or when there are significant changes at the licensee's premises.

15.2 The Borough Council is aware that there is no mandatory requirement to have a local area profile but recognises that that one may offer a number of benefits. Should evidence be obtained to identify local risk areas then these will be reflected in a separate document and made available from Environmental Health – Licensing and on the Borough Council's website.

15.3 Enquiries with relevant organisations have not revealed any data to suggest that there are any areas with the Borough that could be identified as a risk. *[However, should the consultation reveal such data then this paragraph will be updated].*

16.0 Planning Permission & Building Regulations

16.1 In determining applications, the Borough Council will not take into consideration matters that are not related to gambling and the licensing objectives. One example would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.

16.2 The Borough Council is aware that a premises licence, once it comes into effect, authorises premises to be used for gambling. Accordingly, a licence to use premises for gambling should only be issued in relation to premises

that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use. (Equally, licences should only be issued where they are expected to be used for the gambling activity named on the licence).

17.0 Duplication with other Regulatory Regimes

17.1 The Borough Council will aim 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.

18.0 Licensing Objectives

18.1 Premises licences granted must be reasonably consistent with the licensing objectives. With regard to this the Borough Council has considered the Gambling Commission's Guidance to local authorities and some comments are made below.

18.2 **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.** The Borough Council 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. The Borough Council 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.

18.3 **Ensuring that gambling is conducted in a fair and open way.** The Borough Council 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. The only exception to this is for tracks which is covered in paragraph 24 below.

18.4 **Protecting children and other vulnerable persons from being harmed or exploited by gambling.** The Borough Council has noted the Gambling Commission's Guidance for local authorities states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The Borough Council 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.

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 gambling 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.

19.0 Conditions

- 19.1 Any conditions attached to licences will be proportionate and will be:
- relevant to the need to make the proposed building suitable as a gambling facility;
 - directly related to the premises and the type of licence applied for;
 - fairly and reasonably related to the scale and type of premises; and
 - reasonable in all other respects.

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

19.3 The Borough Council 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.

- 19.4 It is noted that the Borough Council cannot attach conditions to premises licences which:
- makes it impossible to comply with an operating licence condition;
 - relate to gaming machine categories, numbers, or method of operation;
 - provide that membership of a club or body be required (the Act specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated); and
 - relate to stakes, fees, winnings or prizes.

19.5 Door Supervisors

If the Borough Council 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.

20.0 Adult Gaming Centres

20.1 The Borough Council will 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 children and young persons do not have access to the premises.

20.3 The Borough Council may consider measures to meet the licensing objectives such as:

- Proof of age schemes;
- CCTV;
- Supervision of entrances / machine areas;
- Physical separation of areas;
- Location of entry;
- Notices / signage;
- Specific opening hours;
- Self-exclusion schemes; and
- 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.

21.0 (Licensed) Family Entertainment Centres (FEC):

21.1 The Borough Council 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 children and young persons do not have access to the adult only gaming machine areas.

21.2 The Borough Council may consider measures to meet the licensing objectives such as:

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

22.0 Casinos

22.1 There are currently no casinos operating within the borough.

22.2 The Borough Council has not passed a 'no casino' resolution under Section 166 of the Act, but is aware that it has the power to do so. Should

the Borough Council decide in the future to pass such a resolution, it will update this statement of principles with details of that resolution.

23.0 Bingo premises

23.1 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.

24.0 Betting premises

24.1 Betting machines – A 'betting machine' is not a gaming machine and the Borough Council is aware that it can attach a condition to restrict the number of betting machines. The Borough Council will 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 these machines when considering the number/nature/circumstances of betting machines an operator wants to offer.

25.0 Tracks

25.1 The Borough Council 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.

25.2 The Borough Council expects a 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.

25.3 The Borough Council may consider measures to meet the licensing objectives such as:

- Proof of age schemes;
- CCTV;
- Supervision of entrances / machine areas;
- Physical separation of areas;
- Location of entry;
- Notices / signage;
- Specific opening hours;
- Self-exclusion schemes; and
- 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.

25.4 *Gaming machines* - Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas

from which children are excluded.

- 25.5 *Betting machines* - 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.

26.0 Applications and plans

- 26.1 Section 51 of the Act 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.
- 26.2 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.
- 26.3 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.
- 26.4 In 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.
- 26.5 The Borough Council 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.

27.0 Travelling Fairs

- 27.1 The Borough Council 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.
- 27.2 The Borough Council will also consider whether the applicant falls within

the statutory definition of a travelling fair.

27.3 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. The Borough Council will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

28.0 Provisional Statements

28.1 Developers may wish to apply 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.

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

- expects to be constructed;
- expects to be altered; or
- expects to acquire a right to occupy.

28.3 The process for considering an application for a provisional statement is the same as that for a premises licence application in that 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.

28.4 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.

28.5 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:

- they concern matters which could not have been addressed at the provisional statement stage, or
- they reflect a change in the applicant's circumstances.

28.6 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:

- which could not have been raised by objectors at the provisional statement stage;

- which in the authority's opinion reflect a change in the operator's circumstances; or
- 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.

29.0 Reviews:

29.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the Borough Council to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below;

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the authority's statement of principles.

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

29.3 The Borough Council, as the licensing authority can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.

29.4 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 consultation period. This period begins 7 days after the application was received by the Borough Council, who will publish notice of the application within 7 days of receipt.

29.5 The Borough Council must carry out the review as soon as possible after the 28 day period for making representations has passed.

29.6 The purpose of the review will be to determine whether the Borough Council should take any action in relation to the licence. If action is justified, the options open to the Licensing Sub-Committee are:-

- add, remove or amend a licence condition imposed by the licensing authority;
- exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
- suspend the premises licence for a period not exceeding three months; and
- revoke the premises licence.

29.7 In determining what action, if any, should be taken following a review, the

Borough Council must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

- 29.8 In particular, the Borough Council, acting as 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.
- 29.9 Once the review has been completed, the licensing authority must, as soon as possible, notify its decision to:
- the licence holder;
 - the applicant for review (if any);
 - the Commission;
 - any person who made representations;
 - the chief officer of police or chief constable; and
 - Her Majesty's Commissioners for Revenue and Customs.

PART C PERMITS / TEMPORARY & OCCASIONAL USE NOTICE

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

- 30.1 Where a premise does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for a Family Entertainment Centre 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).
- 30.2 The Act 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.
- 30.3 The Borough Council is aware that it cannot add conditions to this type of permit.
- 30.4 The Borough Council has adopted the following Statement of Principles, in respect of unlicensed FECs:
- 30.5 The Borough Council will expect the applicant to show that there are policies and procedures in place to protect children from harm. Such policies/procedures will be considered on their merits; however, they may include appropriate measures on staff training on how to deal with suspected truancy, how to deal with unsupervised very young children being on the premises and children causing problems around the premises.
- 30.6 The Borough Council will also expect the applicant to demonstrate a full

understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs and that staff are trained to have a full understanding of the maximum stakes and prizes.

30.7 The Borough Council will require the following to be submitted in addition to the application form and fee:

- (1) Proof of the applicant's identity and age;
- (2) Proof of the applicant's right to occupy the premises for which the permit is sought;
- (3) (Where the applicant is an individual) a 'basic' Disclosure & Barring Service (BDS) disclosure dated no earlier than one calendar month on the day the application is received by the Borough Council. Holders of operating licences issued by the Gambling Commission are exempt this requirement.
- (4) An insurance certificate (or certified copy) confirming the availability of public liability insurance covering the proposed activity.
- (5) A plan scale 1:100 of the premises showing:
 - a. The boundary of the premises including any internal and external walls, entrances, exits, doorways and windows, and indicating the points of access available to the public.
 - b. The location of any fixed or temporary structures.
 - c. The location of any counters, booths, offices or other locations from which staff may monitor the activities of persons on the premises.
 - d. The location of any public toilets within the boundary of the premises.
 - e. The location of CCTV cameras.
 - f. The location of any ATM or other cash/change machines.
 - g. The proposed location of the Category 'D' machines.
 - h. Details of non category 'D' machines (e.g. skill with prizes machines).

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

31.1 Automatic entitlement: 2 machines

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.

31.2 The Borough Council can remove the automatic authorisation in respect of any particular premises if:

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

31.3 Permit: 3 or more machines

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

31.4 The Borough Council 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 harmed or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines (category ‘C’ 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.

31.5 It should be noted that the Borough Council can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

31.6 It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission

32.0 Prize Gaming Permits

32.1 The Act 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”.

32.2 The Borough Council 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:

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

32.3 The Borough Council shall also require (where the applicant is an individual) a ‘basic’ Disclosure & Barring Service (BDS) disclosure dated no earlier than one calendar month on the day the application is received by the Borough Council. Holders of operating licences issued by the Gambling Commission are exempt this requirement.

32.4 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))

32.5 It should be noted that there are conditions in the Act which the permit holder must comply, but that the Borough Council cannot attach conditions. The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

33.0 Club Gaming and Club Machines Permits

33.1 Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Club Machines Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in regulations. A Club Machine Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).

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

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

33.3 There is 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). "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. Grounds on which an application under this process may be refused are:

- that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
- that in addition to the prescribed gaming, the applicant provides

facilities for other gaming; or

- that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."

33.4 There are statutory conditions on club gaming permits that no child or young person 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.

34.0 Temporary Use Notices

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

34.2 The Borough Council is aware that it 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.

35.0 Occasional Use Notices:

35.1 The Borough Council has little discretion as regards occasional use notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded.

36.0 Small Society Lotteries

36.1 The Borough Council will register and administer smaller non-commercial lotteries and applicants for lottery licences must apply to the licensing authority in the area where their principal office is located.

36.2 The Borough Council must be satisfied that the 'society' is established and conducted:

- for charitable purposes (as defined in S2 of the Charities Act 2006);
- for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural nature activity; or
- for any other non-commercial purpose other than private gain.

In determining whether the Society is non-commercial the Borough Council may require applicants to provide copies of the society's constitution or terms of reference.

36.3 For new applications or change of promoter, the Borough Council shall require the promoter of the lottery to produce a statement declaring that they have no relevant convictions that would prevent them from running a lottery. A list of 'relevant' offences is listed at Schedule 7 of the Act.

36.4 The Borough Council may refuse an application for registration if in their opinion:

- The applicant is not a non-commercial society;
- A person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence; or
- Information provided in or with the application for registration is false or misleading.

36.5 Where the Borough Council 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. It will also supply evidence on which it has reached that preliminary conclusion.

36.6 The Borough Council may revoke the registered status of a society if it thinks that they would have had to, or would be entitled 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 given the opportunity to make representations. The Borough Council will inform the society of the reasons why it is minded to revoke the registration and will provide an outline of the evidence on which it has reached that preliminary conclusion.

PART D COMMITTEE, OFFICER DELEGATION AND CONTACTS

37.0 Committee Decisions & Scheme of Delegation

37.1 The Borough Council is involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them.

37.2 Licensing Sub-Committees made up of three Councillors from the main Licensing Committee will sit to hear applications where representations have been received from interested parties and responsible authorities. Ward Councillors will not sit on a Sub-Committee involving an application within their ward.

37.3 Where a Councillor who is a member of the Licensing Committee is making or has made representations regarding a licence on behalf of an interested party, in the interests of good governance they will disqualify themselves from any involvement in the decision making process affecting the licence in question.

37.4 The Borough Council's Licensing Officers will deal with all other licensing applications where either no representation have been received, or where representations have been received and it is agreed by the parties that a hearing is not necessary.

37.5 Decisions as to whether representations are irrelevant, frivolous or vexatious will be made by Borough Council Officers, who will make the decisions on whether representations or applications for licence reviews should be referred to the Licensing Committee or Sub-Committee. Where representations are rejected, the person making that representation will be given written reason as to why that is the case. There is no right of appeal

against a determination that representations are not admissible.

- 37.6 The table shown at Annex C sets out the agreed delegation of decisions and functions to Licensing Committee, Sub-Committee and Officers.
- 37.7 This form of delegation is without prejudice to Officers referring an application to a Sub-Committee or Full Committee if considered appropriate in the circumstances of any particular case.

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38.0 Contacts

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

Environmental Health – Licensing
Borough Council of King's Lynn & West Norfolk
King's Court
Chapel Street
King's Lynn
Norfolk
PE30 1EX

Tel: 01553 616200
Fax: 01553 691663
E-mail: ehicensing@west-norfolk.gov.uk
www: www.west-norfolk.gov.uk

38.2 Information is also available from:-

Gambling Commission
4th floor
Victoria Square House
Birmingham
B2 4BP

Tel: 01212 331096
Website: www.gamblingcommission.gov.uk

List of Persons Consulted

Borough Council of King's Lynn & West Norfolk

Gambling Commission

Norfolk Constabulary

Norfolk Fire Service

Norfolk Safeguarding Children Board

Norfolk County Council

HM Revenue & Customs

Norfolk Trading Standards

Association of British Bookmakers

Gamcare

British Amusement Catering Trade Association (BACTA)

NORCAS

Housing Associations:

- ◆ Broadland Housing Association
- ◆ Co-Op Homes
- ◆ Cotman Housing Association
- ◆ Freebridge House
- ◆ Guinness Trust
- ◆ Hastoe Housing Association
- ◆ Housing 21
- ◆ Longhurst Housing Association Limited
- ◆ Minster General Housing Association Limited
- ◆ Orbit Housing Association
- ◆ Peddars Way Housing Association
- ◆ Sanctuary Housing Association
- ◆ Wherry Housing Association

Parish Clerks

All holders of Gambling Act 2005 Premises Licences issued by the BCKLWN

All holders of Gambling Act 2005 permits issued by the BCKLWN

All promoters of Small Society Lottery Registrations issued by the BCKLWN

Annex B to the
Borough Council of King's Lynn & West Norfolk
Gambling Act 2005 - Statement of Principles
Dated

Responsible Authorities	
<p>The Licensing Authority:</p> <p>Environmental Health - Licensing Borough Council of King's Lynn & West Norfolk King's Court Chapel Street King's Lynn PE30 1EX</p> <p>Tel: 01553 616200 E-mail: EHLicensing@west-norfolk.gov.uk</p>	<p>The Gambling Commission:</p> <p>4th floor Victoria Square House Birmingham B2 4BP</p> <p>Telephone: 01212 306576 Fax: 01212 331096</p>
<p>The Chief Officer of Police:</p> <p>Norfolk Constabulary Licensing Team Bethel Street Norwich Norfolk NR2 1NN</p> <p>Tel: 01603 275729 Email: licensingteam@norfolk.pnn.police.uk</p>	<p>The Fire Authority:</p> <p>Fire Safety Office Norfolk Fire Service – Western Area Kilhams Way King's Lynn PE30 2HY</p> <p>Tel: 01603 812261</p>
<p>Planning Authority:</p> <p>Development Services Borough Council of King's Lynn & West Norfolk King's Court Chapel Street King's Lynn PE30 1EX</p> <p>Tel: 01553 616200</p>	<p>Environmental Health:</p> <p>Environmental Health Borough Council of King's Lynn & West Norfolk King's Court Chapel Street King's Lynn PE30 1EX</p> <p>Tel: 01553 616200</p>
<p>Norfolk Safeguarding Children Board:</p> <p>Room 60 Lower Ground Floor County Hall Martineau Lane Norwich NR1 2UG</p>	<p>HM Revenue and Customs:</p> <p>National Registration Unit Portcullis House 21 India House Glasgow G2 4PZ</p>

Annex C to the
Borough Council of King's Lynn & West Norfolk
Gambling Act 2005 - Statement of Principles
Dated

Table of Delegations of Licensing Functions

Matter to be dealt with	Full Council	Licensing Committee/ Sub-Committee	Officers
Final approval of Statement of Principles	X		
Policy to permit casino	X		
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the 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		X	
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		X	
Applications for other permits			X
Cancellation of licensed premise gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	