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Date: Thursday, 15 November 2018

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Dear Member

**LICENSING COMMITTEE - THURSDAY, 22 NOVEMBER 2018**

I am now able to enclose, for consideration at the Thursday, 22 November 2018 meeting of the Licensing Committee, the following reports that were unavailable when the agenda was printed.

<b>Agenda No</b>	<b>Item</b>	<b>Page</b>
5.	<b>Gambling Act 2005 'Statement of Principles 2019' (Gambling Policy)</b>	(Pages 16 - 63)

Yours sincerely

Lisa Antrobus  
Clerk



Public Agenda Item: **Yes**

Title: **Gambling Act 2005**  
**'Statement of Principles 2019', (Gambling Policy)**

Wards  
Affected: **All**

To: **Licensing Committee** On: **22 November 2018**

Key Decision: **No**

Change to Budget: **No** Change to Policy Framework: **Yes**

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## 1. What we are trying to achieve

- 1.1 To inform Members of representations received relating to the draft 'Gambling Policy', (*hereinafter referred to as the 'Statement of Principles 2019'*), which Torbay Council is required to review and publish every three years.
- 1.2 To seek Members approval that the Statement of Principles 2019 be referred to Full Council on 5<sup>th</sup> December 2018, to be recommended for adoption with effect from 30<sup>th</sup> January 2019.

## 2. Recommendation(s) for decision

- 2.1 That the Licensing Committee supports the proposed Statement of Principles 2019 as set out in in Appendix 1 to the submitted report.
- 2.2 That Council be recommended to:
  - i) approve the Statement of Principles 2019 (Gambling Policy),
  - ii) that the Statement of Principles 2019 take effect from 30 January 2019.

### **3. Key points and reasons for recommendations**

- 3.1 Section 349 (1) of the Gambling Act 2005 (hereinafter referred to as 'the Act') requires that a Licensing Authority must prepare and publish a Statement of Principles that they propose to apply in exercising their functions under the Act. It further requires that it should be reviewed and re-published every three years.
- 3.2 The draft revised Policy for 2019, was agreed in principle by Licensing Committee on 19<sup>th</sup> July 2018. There followed a statutory consultation, which took place between 21<sup>st</sup> August 2018 and 16<sup>th</sup> October 2018.
- 3.3 Following consultation, one representation was received, which was a partial response, answering three questions where they related to Unlicensed Family Entertainment Centres (UFEC's). With regard to the questions answered, the response was in full support of the changes made.
- 3.4 Given that there are no representations against the proposed Statement of Principles 2019, there are no changes recommended to the draft that was agreed for consultation by Licensing Committee in July of this year. The proposed statement of Principles for 2019 is attached at **Appendix 1**.
- 3.5 Torbay Council has a statutory responsibility under the Act to complete this process of review of the Policy by 3rd January 2019 and for implementation of the final document on or before 30th January 2019, that being the date specified by the Secretary of State, as the 'relevant appointed date' under the Act.

**For more detailed information on this proposal please refer to Annex 1.**

**Steve Cox**  
**Environmental Health Manager (Commercial)**

## **Annex 1 – Supporting information to Report**

### **A1. Introduction and history**

- A1.1 Section 349 (1) of the Act requires that a Licensing Authority must prepare and publish a Statement of Principles that they propose to apply in exercising their functions under the Act. It further requires that it should be reviewed and re-published every three years.
- A1.2 The last 'Statement of Principles' was published to take effect by the 30<sup>th</sup> January 2016; that being the date specified by the Secretary of State as the 'relevant appointed date' under the Act.
- A1.3 The draft revised Policy for 2019, was agreed in principle by Licensing Committee on 19<sup>th</sup> July 2018. There followed a statutory consultation, which took place between 21<sup>st</sup> August 2018 and 16<sup>th</sup> October 2018.
- A1.4 Following consultation, there was one response received. This was despite promoting the consultation on social media as well as direct contact with key consultees. Whilst the response answered only three of the consultation questions, where these related to UFEC's it was in strong agreement with the revisions made to the Policy.
- A1.5 Additionally, whilst they did not submit an official consultation response, the review of the Statement of Principles was conducted in consultation with the Gambling Commission. The Gambling Commission provided guidance and support during the review of the document with a view to legal compliance and best practice and were in full support of the draft proposals prior to consultation. For this reason they made no official response.
- A1.6 The Gambling Commission have, in particular picked out paragraphs 19 and 20 as examples of a pragmatic and clear approach to dealing with division of and access between various premises.
- A1.7 In view of the positive feedback from the Gambling Commission, the strong support for the amendments in the one consultation response received and the lack of any other comments, the draft document is proposed to remain unaltered from that which was agreed in principle by Members of the Licensing Committee in July of this year.
- A1.7 Approval of the finalised 'Statement of Principles 2019' is a Full Council decision and a report on the draft 'Statement of Principles 2019' will be presented to Full Council for consideration on 5<sup>th</sup> December 2018.
- A1.8 Torbay Council has a statutory responsibility under the Act to complete this process of review of the Policy by 3<sup>rd</sup> January 2019 and for implementation of the final document on or before 30<sup>th</sup> January 2019, that being the date specified by the Secretary of State, as the 'relevant appointed date' under the Act.

## **A2. Risk assessment of preferred option**

### **A2.1 Outline of significant key risks**

The risks are more associated with any failure to review and re-publish this Statement of Principles in time as the effect would be that the Council would have no Policy in place, which effectively would prevent lawful discharge of functions under the Act, which may lead to legal challenge against the Council and financial penalties being incurred.

The risks associated with agreeing the Statement of Principles are minimum as it has been reviewed in line with regulatory requirements, which included full consultation and no negative comments have been received.

## **A3. Options**

A3.1 There is no viable option other than for the Statement of Principles 2019 to be recommended to full Council for adoption in its current form. The document remains unchanged from that agreed by this Committee in July this year and no response has been received that is in conflict with any aspect of the proposed alterations.

Whilst Members are at liberty to make alterations to the Policy, these would need to be justified in the absence of representations against the Policy. The absence of a reasonable justification, may result in a Judicial Review.

## **A4. Summary of resource implications**

A4.1 There are no significant additional resource implications that will derive from the Council discharging its statutory obligations, under the Act. The publication of this revised Statement of Principles does not alter this in any way.

## **A5. What impact will there be on equalities, environmental sustainability and crime and disorder?**

A5.1 There are no equalities or environmental sustainability implications. These matters were all considered in the Impact Assessment conducted by Central Government prior to enacting the Primary Legislation in January 2007.

Two of the Licensing Objectives under the Act are “Preventing Gambling being a source of Crime and Disorder” and “Protecting Children and Vulnerable Adults”, therefore, the work conducted under this Policy should have a positive impact in this regard, for example, the amendments relating to UFEC’s will assist the child protection objective.

## **A6. Consultation and Customer Focus**

A6.1 A full consultation took place between 21<sup>st</sup> August 2018 and 16<sup>th</sup> October 2018.

Section 349 (3) of the Act specifies those persons and authorities that must be consulted. These are:

- i) The Chief Officer of Police

- ii) Gambling business operators and persons representing the interests of such operators
- iii) Persons who appear to represent the interests of those likely to be affected by gambling

This Policy will affect every operator of, or applicant in respect of a gambling business. It lays out their roles and responsibilities under the Act and identifies how the Licensing Authority will carry out its own functions in this regard. Therefore, all business operators and any representatives of such operators were consulted.

Gambling premises are frequented by members of the public and it is essential that their interests are considered. Targeted consultation therefore took place with key gambling support groups and charities as well as being published on the Council website in order to enable general comment. In support of the full public aspect of the consultation, messages were placed on social media to advise the public of the consultation, affording opportunity for them to comment.

The Police and other Responsible Authorities were also consulted.

#### **A7. Are there any implications for other Business Units?**

A7.1 There are no significant implications for other business units relating to this report.

### **Appendices**

Appendix 1 Draft 'Statement of Principles 2019'

**Documents available in members' rooms:** None

#### **Background Papers:**

The following resources and documents were used to compile this report:

- 1 Gambling Act 2005.
- 2 Gambling Commission Guidance to Licensing Authorities 5th Edition issued September 2015 (Parts 17, 18 and 19 updated September 2016)
- 3 Licence Conditions and Codes of Practice, issued January 2018.
- 4 Torbay Council Gambling Policy 2016.

**STATEMENT OF PRINCIPLES 2019-2021  
GAMBLING ACT 2005**

**FORWORD**

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This 'Statement of Principles 2019-2021' was approved and adopted by Torbay Council on 5<sup>th</sup> December 2018



## **PART A ~ OVERVIEW**

### **1 THE LICENSING OBJECTIVES**

1.1 In exercising its functions under the Gambling Act 2005 (hereinafter referred to as 'the Act'), the Licensing Authority will have regard to the Licensing Objectives as set out in Section 1 of the Act. The Licensing Objectives are:

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

Ensuring that gambling is conducted in a fair and open way.

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

*[The Act defines a 'Child' as an individual aged 15 years or under; and defines a 'Young Person' as an individual aged 16 to 17 years].*

1.2 In making decisions in relation to premises licences the Licensing Authority will aim to permit the use of premises for gambling in so far as it thinks that use will be:

In accordance with any relevant code of practice issued by the Gambling Commission.

In accordance with any relevant guidance issued by the Gambling Commission.

Consistent with the Licensing Objectives (subject to the above).

In accordance with Torbay Council's 'Statement of Principles', issued under the Act (subject to the above).

### **2 INTRODUCTION**

2.1 Torbay is situated on the South Devon coast, on the south west peninsular of England and comprises the three towns of Torquay, Paignton and Brixham. Torbay is an outstanding coastal destination, including 22 miles of coastline, which was recognised as a Global Geopark in 2007. The Council area is mainly urban, comprising the three bay towns of Torquay, Paignton, and Brixham; please refer to a map of the Torbay area in the Local Area Profile.

2.2 Under the Act, The Licensing Authority must publish a statement of the principles which it intends to apply when exercising its functions under the Act, and that statement must be published at least every three years.

2.3 The Licensing Authority has consulted widely upon a 'Draft Statement of Principles 2019-2021', before approving and publishing the finalised 'Statement of Principles 2019-2021'.

The draft version of this 'Statement of Principles 2019-2021' was published for a statutory consultation from 21<sup>st</sup> August 2018 to 16<sup>th</sup> October 2018 via the Torbay Council website and copies of the document were also made available for public inspection during that time, at the public libraries located in Torquay, Paignton and Brixham. A consultation document was also published on the Council website.

A list of those persons consulted is provided in Appendix 1 to this 'Statement of Principles 2019-2021'

- 2.4 This 'Statement of Principles 2019-2021' was approved at a meeting of the Full Council on the 5<sup>th</sup> December 2018 and was published via the Torbay Council website thereafter.
- 2.5 It should be noted that this 'Statement of Principles 2019-2021' 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 application will be considered on its own merits and in accordance with the statutory requirements of the Act.

### **3 DECLARATION**

- 3.1 In producing this 'Statement of Principles 2019-2021', The Licensing Authority declares that it has had regard to the Licensing Objectives of the Act, the current version of the 'Guidance to Licensing Authorities' issued by the Gambling Commission, any responses received from those who were consulted on the 'Draft Statement of Principles 2019-2021' and any representations submitted by any interested party, person, body or organisation in response to the publication of the 'Draft Statement of Principles 2019-2021'.

### **4 INTERESTED PARTIES**

- 4.1 'Interested Parties' can make representations to the Licensing Authority, in respect of an application for a 'Premises Licence', or in respect of an application for a 'Provisional Statement', submitted to the Licensing Authority by an applicant, under the Act.
- 4.2 Interested parties can also initiate, (or make representation in respect of), a review of a Premises Licence, the detail of which is outlined at Section 28 of this 'Statement of Principles' on Page 28, under the heading of 'Reviews'.
- 4.3 The Act states that a person is an 'Interested Party', if in the opinion of the Licensing Authority, that person:
- Lives sufficiently close to the premises to be likely to be affected by the authorised activities;
  - Has business interests that might be affected by the authorised activities, or
  - Represents persons who satisfy the criteria at paragraph a) or b).
- These persons include trade associations, trade unions, and residents' and tenants' associations. However, the Licensing Authority will not generally view these bodies as interested parties, unless they have a member who satisfies the criteria in paragraphs a) or b) above; and they have written Authority of representation.
- 4.4 'Interested Parties' can also be persons who are democratically elected, such as Councillors, (including Town Councillors), and Members of Parliament. In such

circumstances, no specific evidence of being 'asked' to represent an interested person will be required, provided the relevant Elected Member represents the ward or town likely to be affected.

- 4.5 In respect of any application for the grant of a small casino premises licence the Act provides that at Stage 1 of the consideration procedure, each competing applicant is an '*Interested Party*' in relation to each of the other competing applications.
- 4.6 The Licensing Authority will apply the following principles in determining whether a person or body is an interested party for the purposes of the Act:  
Each case will be decided upon its own merits subject to the Licensing Objectives and to any requirements imposed by the Act.  
The Licensing Authority will not apply a rigid rule to its decision making.  
The Licensing Authority will have regard to any guidance issued by the Gambling Commission with regard to the status and interpretation of 'Interested Parties'.
- 4.7 In respect of any representation made by an interested party, the Licensing Authority will make a determination as to whether or not the representation is relevant.  
The following are examples of grounds which may be considered by the Licensing Authority, to be irrelevant, (*this list is indicative only and is not exhaustive*):
- Representations which are inconsistent with Section 153 of the Act.
  - Representations that are inconsistent with any guidance or codes of practice issued by the Gambling Commission, or with this 'Statement of Principles'.
  - Representations which relate to the objection to gambling activity generally; for instance on moral or ethical grounds.
  - Representations in relation to the demand or unmet demand for gambling premises.
  - Representations in relation to planning matters.
  - Public Safety issues.
  - Traffic congestion issues.
  - Public Nuisance.
- 4.8 The Licensing Authority may disregard a representation which it considers to be:  
Frivolous  
Vexatious  
Insignificant; to such an extent, that it would be wholly unreasonable for the Licensing Authority to refuse the grant of the licence, or remove/attach conditions to the licence, on the basis of such representation or will certainly not influence the Licensing Authority's determination of the application.
- 5 EXCHANGE OF INFORMATION**
- 5.1 The Licensing Authority will act in accordance with the provisions of Section 350 of the Act in its exchange of information with the Gambling Commission; this includes a provision that the General Data Protection Regulations will not be contravened.

The Licensing Authority will also have regard to 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.

## **6 ENFORCEMENT**

- 6.1 The main enforcement and compliance role for the Licensing Authority in terms of the Act is to ensure compliance with the Premises Licences and other permissions which it authorises.
- 6.2 The Gambling Commission is the enforcement body for operating and personal licences, they also deal with concerns about manufacture, supply and repair of gaming machines and are responsible for all remote 'on-line' gambling.
- 6.3 This Authority adopts a graduated approach to enforcement and when seeking to resolve or address issues the general expectation of the Authority is that operators promptly work alongside the Licensing Authority in taking remedial action. However where a serious issue is identified, it is likely that the Authority will immediately initiate some form of enforcement action.
- 6.4 In discharging its responsibilities under the Act with regard to inspection and enforcement regimes, the Licensing Authority will have regard to any guidance issued by the Gambling Commission and Torbay Council's 'Enforcement and Prosecution Policy' and will endeavour to be:
- Proportionate: the Licensing Authority will only intervene when it is deemed necessary and remedies will be appropriate to the risk posed; costs will be identified and minimised.
- Accountable: the Licensing Authority will ensure that it can justify decisions and will provide facilities for the public scrutiny of decisions taken.
- Consistent: the Licensing Authority will ensure that rules and standards are 'joined up' and implemented fairly.
- Transparent: the Licensing Authority will be open and will endeavour to keep regulations simple and user friendly.
- Targeted: the Licensing Authority will endeavour to focus on the problem, minimise side effects and avoid duplication with other regulatory regimes.
- 6.5 The Licensing Authority has adopted and implemented a risk-based/intelligence led inspection programme, based on;
- The Licensing Objectives.
- Relevant codes of practice.
- Guidance issued by the Gambling Commission.
- The principles set out in this 'Statement of Principles 2018-2021'.
- Regulators Code.
- Departmental and Partner Agency intelligence.

## **7 LICENSING AUTHORITY FUNCTIONS**

- 7.1 The Licensing Authority has a duty under the Act to:
- Issue '*Premises Licences*' where gambling activities are to take place.
  - Issue '*Provisional Statements*' where gambling activities may take place.
  - Regulate '*Members Clubs*' that wish to undertake certain regulated gaming activities via issuing '*Club Gaming Permits*' 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 premises licensed under the Licensing Act 2003, (for the sale and consumption of alcohol on the premises), for the use of up to two gaming machines on the premises.
  - Grant '*Licensed Premises Gaming Machine Permits*' for premises licensed under the Licensing Act 2003, (for the sale and consumption of alcohol on the premises), where there are more than two machines on the premises.
  - 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.
  - Maintain registers of the permits and licences issued.

## **PART B ~ PREMISES LICENCES**

### **8 GENERAL PRINCIPLES**

- 8.1 In exercising its functions under the Act in relation to premises licences, the Licensing Authority will have regard to the provisions of the Act, Regulations drafted under the Act, the mandatory and default conditions and any guidance or codes of practice issued by the Gambling Commission.
- 8.2 The Licensing Authority may:
- Exclude default conditions from the premises licence if it does not adversely affect the Licensing Objectives.
  - Attach additional licence conditions, if it is deemed necessary to do so to promote the Licensing Objectives.

### **9 GUIDING PRINCIPLES**

- 9.1 The Licensing Authority will treat each Licensing objective with equal importance.
- 9.2 The Licensing Authority will have regard to its responsibilities under Section 17 of the Crime and Disorder Act 1998 and within the strategic aims of the Community

Safety Partnership Strategic Assessment 2017-2020, to do all that is reasonable to prevent crime and disorder in Torbay.

- 9.3 The Licensing Authority will have regard to its responsibilities under the European Convention on Human Rights, set out by the Human Rights Act 1998, and its statutory role as a Local Authority to fulfil the duties and responsibilities vested in it.
- 9.4 The Licensing Authority will have regard to its responsibilities under the Equalities Act 2010.
- 9.5 Torbay Council's Constitution states that the Licensing Committee shall be comprised of 15 Elected Members of the Council; with a quorum of 5, and the Licensing Sub Committee shall be comprised of 3 Elected Members of the Council; with a quorum of 3.
- 9.6 The Chair of Torbay Council's Licensing Committee will be elected at the annual meeting of the Council.
- 9.7 Torbay Council will ensure that Members and Officers are appropriately trained to carry out their duties under the Act and in accordance with Torbay Council's constitution. No Member of Torbay Council shall sit upon the Licensing Committee or Sub-Committee unless they have received appropriate training.
- 9.8 The Licensing Authority considers that effective Licensing can only be achieved by recognising the value of all contributors and will work in partnership with the Police and other statutory services, local businesses, local people, professionals involved in child protection and all others who can contribute positively, to the successful promotion of the three Licensing Objectives.
- 9.9 Torbay Council considers that the decisions of the Licensing Authority can be a key factor of the Council effectively discharging its duties under the Section 17 of the Crime and Disorder Act 1998. Whilst the Licensing Authority will not use Licensing conditions to control anti-social behaviour by patrons once they are away from licensed premises, licensees will be expected to demonstrate that they have taken appropriate action to minimise the potential impact of that behaviour, within the general vicinity of the licensed premises.
- 9.10 The Licensing Authority will ensure that any conditions attached to a licence will relate to matters within:
- The control of the licensee, or,
  - The control of other persons who may have relevant licences or authorisations, in respect of the subject premises, or adjacent premises.
  - In determining any such conditions the Licensing Authority will have regard to the Act, any guidance or codes of practice issued by the Gambling Commission and this 'Statement of Principles'.
- 9.11 Torbay Council will ensure that decisions made in relation to planning and building control legislation will be made independently of those made in respect of the Act. The Licensing Authority will not have regard to the likelihood of obtaining consents under planning or building legislation in considering any application for a premises licence, made under the Act.

- 9.12 The Licensing Committee will receive reports, compiled six-monthly, on decisions made by Officers under the provisions of the scheme of delegation.
- 9.13 The Licensing Authority will, where relevant to its functions under the Act, have regard to and promote Torbay Council's Economic Strategy 2017-2022, which forms part of the Council's Policy Framework.
- 9.14 Section 156 of the Act requires Licensing authorities to maintain a register of the premises licences that it has issued. The register must be made available, at any reasonable time, to the public who may request copies of the entries. The Licensing Authority achieves this requirement through the use of an online register which is accessible via the Council's website.

## **10 DECISION MAKING PROCESS**

- 10.1 In making decisions about premises licences the Licensing Authority will 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.
  - Consistent with the Licensing Objectives (subject to the above).
  - In accordance with the Licensing Authority's 'Statement of Principles 2019-2021' (subject to the above).
- 10.2 In determining a premises licence application, the Licensing Authority shall not have regard to any objections which are deemed to be raised on moral or ethical grounds, nor will it be concerned with matters of sufficiency of, or unmet demand for, gambling facilities.

## **11 DEFINITION OF PREMISES**

- 11.1 In deciding if parts of a given building constitute premises in their own right, the Licensing Authority will have due regard to the definition of 'premises' within the Act, any guidance issued by the Gambling Commission and any decisions handed down by the Courts.
- 11.2 The Act allows for a single building to be subject to more than one premises licence, provided those premises licences are for different parts of the building, and the different parts of the building can reasonably be regarded as being 'different premises'. This provision exists to allow large multiple unit premises, such as a pleasure park, pier, track or shopping mall, to obtain separate premises licences. However, this does not mean that a premises cannot be the subject of a separate licence for example the basement and ground floor, if they are configured to a standard approved by the Licensing Authority. The Licensing Authority 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 Licensing Authority will pay particular attention to premises licence applications and applications for permits, such as UFEC's, where access to the proposed licensed premises, can only be made by passing through other premises; being other premises which may or may not have the benefit of licences in their own right.
- 11.4 The Licensing Authority will also take particular care in considering applications for multiple licences for a building and/or those relating to a separate part of a building used for other (non-gambling) purposes. In particular, entrances and exits from parts of a building covered by one or more licences should be separate and identifiable, so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area.
- 11.5 Where access to the proposed licensed premises or an area covered by a permit such as a UFEC, cannot be made directly from the public highway the Licensing Authority will consider specific issues before granting such applications, for example:
- The general access arrangements of the premises.
  - The structural integrity and nature of any premises separation.
  - Whether persons under 18 years of age can gain access to or have sightlines into the premises.
  - The compatibility of adjacent establishments.
  - Supervision and monitoring systems.
  - The nature and legitimacy of any unlicensed areas providing separation of licensed premises.
  - The overall ability to comply with the requirements of the Act, specifically but not exhaustively, the mandatory and default Licensing conditions

## **12 PROVISIONAL STATEMENTS ~ PREMISES NOT YET READY FOR GAMBLING**

- 12.1 Where there is an intention on the part of an applicant, to provide gambling facilities at premises:
- which they expect to be constructed, or
  - which they expect to be altered, or
  - for which they do not yet have the right to occupy the premises,
  - then an application may be made to the Licensing Authority for a 'Provisional Statement'.
- 12.2 The Licensing Authority will issue 'Provisional Statements' in accordance with the provisions of the Act, any guidance or codes of practice issued by the Gambling Commission and the principles contained within this 'Statement of Principles'.
- 12.3 'Interested Parties' and 'Responsible Authorities' can make representations to the Licensing Authority, in respect of an application for a 'Provisional Statement' in accordance with the procedures outlined at Section 4 of this 'Statement of Principles'. Following the grant of a 'Provisional Statement', no further representations from Relevant Authorities or Interested Parties can be taken into account unless:
- The representations concern matters which could not have been addressed at the 'Provisional Statement' stage.



The representations reflect a change in the applicant's circumstances.

- 12.4 The Licensing Authority may refuse the grant of a Premises Licence, or grant the licence on terms different to those which may have been attached to the 'Provisional Statement', only by reference to matters which:
- Could not have been raised by objectors at the 'Provisional Statement' stage
  - In the Licensing Authority's considered opinion, reflect a material change in the operator's circumstances

### **13 PREMISES LOCATION**

- 13.1 The Licensing Authority must be satisfied that the potential location of a premises intended for gambling is suitable for the purposes of the required gambling activity. In considering matters of location the Licensing Authority will have particular regard to the Licensing Objectives, Local Area Profile and the Local area Risk assessments. It may also consider matters outside of direct gambling legislation, where there may be an adverse impact on gambling activities, such as for example, if the premises is situated in a cumulative impact zone as implemented under the Licensing Act 2003.

### **14 DUPLICATION WITH OTHER REGULATORY REGIMES**

- 14.1 The Licensing Authority will endeavour to avoid any duplication with other statutory and regulatory regimes in discharging its functions under the Act, unless the Licensing Authority believes such duplication is necessary for the promotion of, and compliance with, the Licensing Objectives.
- 14.2 In considering an application for a premises licence the Licensing Authority will not take into account matters which lie beyond the remit of the Licensing Objectives. Although this is not an exhaustive list, this would include issues such as:
- Whether the premises which is the subject of the licence application, is likely to be awarded planning permission or building consent.
- Whether the premises is safe for the intended use, (e.g. the structure, the means of escape, fire precaution provisions, etc).
- Whether the use of the premises under the licence may cause any public nuisance (e.g. to residents within the vicinity).
- The above matters will be addressed by other regulatory regimes.

### **15 LICENSING OBJECTIVES**

- 15.1 The Licensing Authority will endeavour to ensure that any premises licences granted will be consistent with the Licensing Objectives.
- The Licensing Objectives are:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.

Ensuring that gambling is conducted in a fair and open way.

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

15.2 Licensing Objective a): *Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.*

The Gambling Commission will take a lead role in preventing gambling from becoming a source of crime. However, the Licensing Authority will endeavour to promote this objective in the delivery of its responsibilities. For instance, in considering applications for premises licences the Licensing Authority will have particular regard to the following:

- Where an area has known high levels of organised crime the Licensing Authority will consider carefully whether gambling premises should be located in the proximity of that area.
- Whether additional licence conditions may be appropriate, such as the provision of Security Industry Authority (SIA), registered door supervisors.
- Whether additional security measures should be installed at the premises, such as monitored CCTV.
- The likelihood of any violence or public order issues if the licence is granted.
- The design and layout of the premises.
- The training given to staff in crime prevention measures appropriate to those premises, for example, the detection and prevention of money laundering.
- Physical security features installed in the premises. This may include matters such as the positioning of cash registers and the standard of any CCTV system.
- If premises are to be subject to age restrictions; the procedures in place to conduct age verification checks.
- The premises local risk assessment.

15.3 Licensing Objective b): *Ensuring that gambling is conducted in a fair and open way.*

The Licensing Authority will not generally be concerned with ensuring that gambling is conducted in a fair and open way, (as that is the remit of the Gambling Commission), unless the gambling facilities are being provided at a Track; see Section Page 25 –‘However, the fair and open principle will be considered as an integral part of any inspection carried out by this Authority’

15.4 Licensing Objective c): *Protecting children and other vulnerable persons from being harmed or exploited by gambling.*

This objective is concerned with protecting children from gambling, as well as restrictions upon advertising, to ensure that the commercial promotion of gambling is not targeted towards children, or portrayed as attractive to children. It is also concerned with protecting vulnerable people from being harmed or exploited by gambling. The Licensing Authority will therefore consider the local risk assessment and whether specific measures are required at particular premises, with regard to this Licensing objective, which may include the supervision of entrances, the supervision of machines and the appropriate segregation of high risk areas, the provision of a ‘chill out’ room or area free from gambling and alcohol facilities. For more information regarding Local Area Risk Assessments please see section 16.

- 15.5 In discharging its responsibilities with respect to this particular Licensing objective, the Licensing Authority will have regard to the current 'Gambling Commission Codes of Practice', insofar as they may apply to specific premises.
- 15.6 The Act does not offer a definition with regard to the term, '*vulnerable persons*', however the Gambling Commission states the following.
- For regulatory purposes the Commission will assume that this group includes:
  - People who gamble more than they want to.
  - People who gamble beyond their means.
  - People who may not be able to make informed or balanced decisions about gambling, due to a mental impairment, alcohol, other relevant disability or drugs.
- 15.7 The Torbay & Southern Devon Health & Care NHS Trust, (*Safeguarding Adults Section*), refers to a vulnerable adult as an Adult at Risk. The Care Act 2014 defines an adult at risk as someone who:-
- Has needs for care and support (whether or not the local Authority is meeting any of those needs) and;
  - Is experiencing, or at risk of abuse or neglect; and
  - As a result of those care needs is unable to protect themselves from the risk of, or the experience of abuse or neglect.
- 15.8 Torbay Council defines a vulnerable person (or Adults at Risk) in the following terms:
- Persons aged 18 years and over who may be unable to independently care for themselves; speak out for themselves and/or protect themselves against abuse or exploitation, and may depend on other people or a service to support or care for them.
- 15.9 The Licensing Authority will have regard to the definitions of an Adult at Risk as provided by the Gambling Commission, by the Torbay Care Trust and Torbay Council, in discharging its responsibilities under the Act.
- Problem gambling, particularly with the young, can sometimes be an indication of other issues that are of concern to the Licensing Authority, such as anti-social behaviour problems. When the Licensing Authority is made aware of issues associated with problem gambling and vulnerable people, the Licensing Authority will seek to work closely with the gambling premises operator, the Gambling Commission and other relevant sections of the Council, including the Children, Schools and Family Directorate and the Housing and Adult Social Care Directorate.
- 15.10 This Authority places social responsibility as a high priority. As such, it will when exercising its statutory powers, have due regard, where relevant to its statutory functions, to the need to:
- Prevent gambling related problems in individuals and groups at risk of gambling addiction;
  - Promote informed and balanced attitudes, behaviours and policies towards gambling and gamblers by both individuals and by communities; and
  - Protect vulnerable groups from gambling related harm.

The Licensing Authority will work with operators and other public agencies to encourage a commitment to social responsibility including responsible design, delivery, promotion and use of product. The end goal will be to reduce the incidence of high-risk and problem gambling. The Licensing Authority will consider, in relation to any particular premises whether any special considerations apply to the protection of vulnerable persons. Such considerations need to be balanced by the Authority's objective to aim to permit the use of premises for gambling.

## **16 Local Area Risk Assessments**

- 16.1 With effect from 6 April 2016, the Gambling Commission's Social Responsibility Code (Licence Conditions and Codes of Practice (LCCP) 10.1.1) requires licensees to assess the local risks to the Licensing Objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In undertaking their risk assessments, licensees should take into account any relevant matters identified in this Policy statement.
- 16.2 Licensees will be are required to undertake local risk assessment when applying for a new premises licence. Their risk assessment will also need to be updated:
- When applying for a variation of a premises licence.
  - To take account of significant changes in local circumstances, including those identified in this Policy.
  - When there are significant changes at a licensee's premise that may affect the level of risk or the mitigation of those risks. This includes any changes to the interior layout of the premises. Significant changes will require a variation to the premises licence.
- 16.3 The Social Responsibility Code provision is supplemented by the LCCP: Ordinary code 10.1.2 and requires licensees to share their risk assessments with the Licensing Authority when applying for a premises licence or applying for a variation to existing licensed premises or otherwise on request of the Licensing Authority.
- 16.4 Whilst there are no plans to request that licensed premises share their risk assessments on a periodic basis, where concerns do exist, perhaps prompted by new or existing risks, the Licensing Authority is likely to request that a licensee share a copy of its risk assessment. The risk assessment will set out the measures the licensee has put in place to address specific concerns, thereby potentially reducing the occasions on which a premises review and the imposition of licence conditions is required.
- 16.5 In some circumstances, it may be appropriate for the Licensing Authority to offer a licensee the opportunity to volunteer specific conditions that could be attached to the premises licence. Where this is appropriate, the Licensing Authority will liaise with the licensee directly.
- 16.6 The Code Social Responsibility Code (LCCP 10.1.1) requires the Licensing Authority to set out in its Statement of Policy matters which they expect an operator to take in to account when considering their own risk assessment. As such, an operator shall take the following matters in to account :-

- Information held by the licensee regarding self-exclusions and incidences of underage gambling,
- Arrangement for localised exchange of information regarding self-exclusions and gaming trends.
- Gaming trends that may mirror days for financial payments, such as pay days or benefit payments
- Proximity to schools, commercial environment or other factors affecting footfall
- Range of facilities in proximity to the licensed premises, such as other gambling outlets, banks, post offices, refreshment and entertainment type facilities
- Known problems in the area such as problems arising from street drinkers, youths participating in anti-social behaviour, drug dealing activities, etc.
- Potential for money laundering

16.7 Matters relating to vulnerable adults, including;

- Information held by the licensee regarding self-exclusions
- Gaming trends that may mirror days for financial payments such as pay days or benefit payments
- Arrangement for localised exchange of information regarding self-exclusions and gaming trends.
- Proximity of premises which may be frequented by vulnerable people, such as hospitals, residential care homes, medical facilities, doctor's surgeries, Council housing offices, addiction clinics or help centres, places where alcohol or drug dependant people may congregate, etc.
- Other issues that may be considered could include:
- Proximity of premises which may be frequented by large numbers of people including sports stadiums, leisure centres, places of worship.
- Staffing levels at different times of the year (e.g. the peak summer school holidays).
- This list is not exhaustive and other factors not in this list that are identified must be taken into consideration. The Risk Assessment must be kept on the premises to which it relates and available for inspection by an authorised officer of the Licensing Authority or Gambling Commission.

16.8 Significant changes in local circumstances:

The following lists set out some examples of what the Licensing Authority considers to be significant changes in local circumstances. The list is not exhaustive and each premise will be considered on its own merits. Operators must consider whether any change in the locality of their premises is one that may be considered significant

The local area is classified or declassified by the Licensing Authority as being an area of heightened risk within its Local Area Profile

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 premises are converted to a local supermarket or a new office building is constructed nearby

Any new pay day loan establishment or pawn brokers open in the local area

Relevant changes are made to the provision, location and/or timings of public transport in the local area, such as a bus stop which is used by children to attend school is moved to a location in proximity to gambling premises

Educational facilities increase in the local area. This may occur as a result of the construction of a new school/college or where a significant change is made to an existing establishment

The local area is identified as a crime hotspot by the police and/or Licensing Authority

Any vulnerable group is identified by the Licensing Authority or venues relating to those vulnerable groups are opened in proximity to gambling premises e.g. additional homeless hostels or gambling or mental health care/support facilities in the local area

A new gambling premises opens in the local area

Operators must consider what is happening within their premises and it is their responsibility to identify significant changes which may require a review and possible amendment to their risk assessment. A significant change can be temporary and any temporary changes should be considered and adjustments made to the risk assessment if necessary.

16.9 Unlicensed Family Entertainment Centres (UFEC) are not required to undertake a Local Area Risk Assessment unless the UFEC is situated adjacent to an Adult Gaming Centre and therefore the Licensing Authority will expect the UFEC activities to be taken into account.

16.10 The Authority will expect applicants to have regard to the Local Area Profile (LAP) which will assist in identification of local gambling risks.  
Hyperlink to be added to the document when available.

## **17 Local Area Profile (LAP)**

17.1 The Licensing Authority will produce a profile of the areas within the Authority which will assess the local environment and identify local concerns and risks. This will be available from January 2019.

17.2 The profile will take account of a wide range of factors, data and information held by the Licensing Authority and its partners. Responsible authorities and other relevant organisations will be invited to take part in the preparation of the profile. The profile will enable operators to clearly identify the risks and concerns in the community when completing their risk assessment.

17.3 The Local Area Profile is a separate document to this Policy and will be made publically available. It will be reviewed and amended as and when required taking into account changes in the local area.

## **18 LICENCE CONDITIONS**

- 18.1 Any additional conditions attached to licences will only be imposed where there is evidence of a risk to the Licensing Objectives and will be:
- Relevant to the need to make the proposed building suitable as a gambling facility.
  - Directly related to the premises (including the locality and any identified local risks) and the type of licence applied for.
  - Fair and proportionate, related to the scale and type of premises.
  - Reasonable in all other respects.
- 18.2 Decisions upon individual conditions will be made on a case by case basis, although there are a number of control measures that the Licensing Authority can utilise, such as the use of supervisors or the use of appropriate signage for adult only areas. The Licensing Authority will also expect the applicant to identify local risks and control measures ensuring the Licensing Objectives can be met effectively and promoted. For example, local issues associated with a high crime rate may put a premises at risk of not being consistent with the Licensing Objectives, and specific conditions may be necessary to address the risk.
- 18.3 The Licensing Authority may require additional control measures in respect of buildings which are the subject of multiple premises licence applications, in order to ensure the promotion of the Licensing Objectives.
- Such requirements may relate to the supervision of entrances, the segregation of gambling areas from non-gambling areas which may be frequented by children and the supervision of gaming machines in non-adult gambling specific premises.
- The Licensing Authority will have regard to any guidance issued by the Gambling Commission in determining any such additional measures.
- 18.4 Where there are risks associated with a specific premises or class of premises, the Licensing Authority may consider it necessary to attach specific conditions to the licence to address those risks, taking account of the local circumstances.
- 18.5 The Licensing Authority will ensure that, where category A to C machines are made available on premises to which children have access that:
- All such machines are located in an area of the premises that is separated from the remainder of the premises by a physical barrier and which is effective to prevent access, other than through a designated entrance.
- Only adults have access to the area where these machines are located.
- Access to the area where the machines are located is adequately supervised.
- The area where these machines are located is arranged so that it can be observed by the staff or the licence holder.
- At the entrance to and inside any such areas notices are prominently displayed, indicating that access to the area is prohibited to persons under 18 years of age.
- 18.6 Tracks may be subject to one or more premises licences, provided each licence relates to a specified area of the track. In discharging its functions in relation to tracks, the Licensing Authority will consider the impact upon the Licensing objective that refers to the 'protection of children'. The Licensing Authority will specifically

require that the entrances to each part of a premises are distinct and that children are effectively excluded from gambling areas to which entry is not permitted.

## **19 Buildings divided into more than one premises.**

19.1 Part 7, paragraph 7.5 of the Gambling Commissions Guidance states that “there is no reason in principle why a single building could not 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”. Examples are given of multiple unit premises, such as pleasure parks, tracks, or shopping malls. It is also possible for licensed premises to be located next to each other, as long as there are no restrictions regarding direct access between these premises imposed on that category of gambling premises from its mandatory conditions. The Licensing Authority will follow this guidance.

It will be for the Licensing Authority to determine whether premises are genuinely separate, and not artificially created from that which is readily identifiable as a single premises. Prior to making an application, Applicants are encouraged to discuss with the Licensing Authority their premises layout and intended applications.

19.2 In considering whether different areas of a building are genuinely separate premises, the Licensing Authority will take into account factors which may include: whether there are separate registrations for business rates in place for the premises, whether the premises are owned or operated by the same person, and whether the premises are operated independently of each other.

## **20 Access to premises**

20.1 The Gambling Act 2005 (Mandatory and Default Conditions) Regulations 2007 restrict access to different types of licensed gambling premises. In considering proposals to divide a building into different premises, the Licensing Authority will have to be satisfied that proposals to divide buildings are compatible with the mandatory conditions which relate to access between premises.

20.2 The Commission Guidance at paragraph 7.22 states “There is no definition of ‘direct access’ in the Act or Regulations, but Licensing authorities may consider that there should be an area separating the premises concerned, for example a street or café, which the public go to for purposes other than gambling, for there to be no direct access.”

20.3 In particular, where premises are not accessed from the street, the Licensing Authority has sought to define the nature of the area which must separate licensed premises and through which the premises are accessed, so as to prevent direct access between premises in order to comply with the provisions of the Act and Regulations.



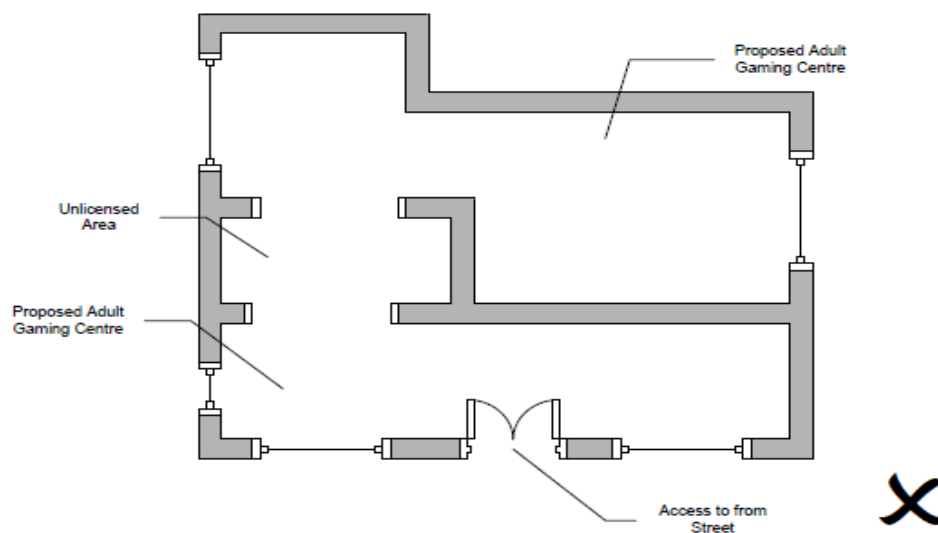
20.4 The Licensing Authority does not consider that provisions which prohibit direct access between licensed premises are satisfied where licensed premises are separated by an area created artificially within a building principally for members of the public attending the licensed premises, irrespective of whether this area is unlicensed or provides non-gambling facilities, for example refreshments or ATMs.

20.5 Where the Licensing Authority is satisfied that a building can be divided into separate premises and properly satisfy the statutory provisions, the Licensing Authority will expect applicants to ensure that:

- Premises are configured so that children are not invited to participate in, have accidental access to, or closely observe gambling to which they are prohibited from taking part,
- 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 be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers must be able to participate in the activity named on the premises licence.
- This is not an exhaustive list and the Licensing Authority will consider other aspects based on the merits of the application.

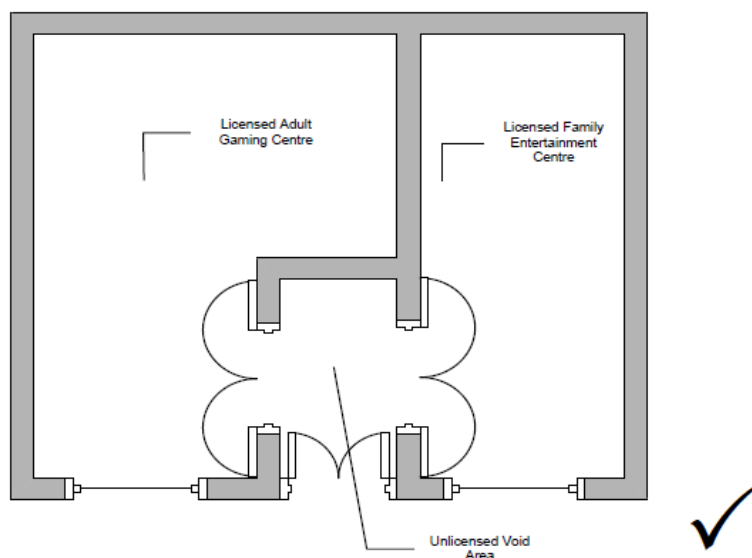
20.6 Applications to place two licensed premises in one premises with an unlicensed area separating them, (see figure 1) will not meet this Policy because of the artificial nature of the premises, access, and likely use issues which will arise.

Figure 1



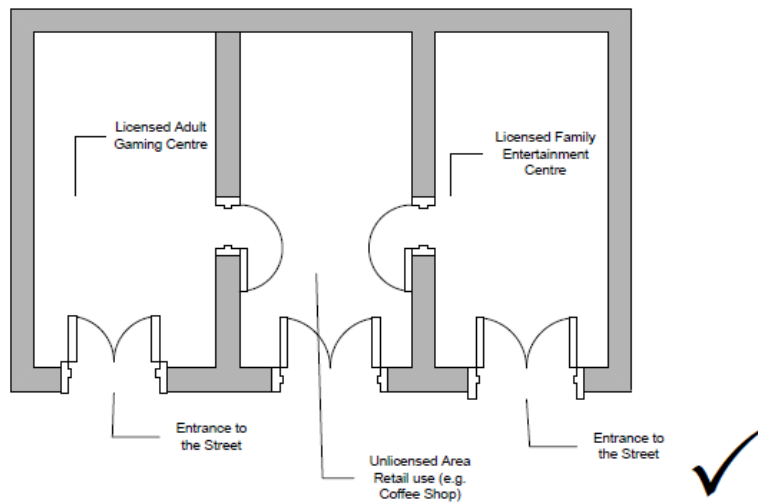
- 20.7 It is possible to have an unlicensed foyer area which separates one licensed premises from another if the foyer is accessed from the street. See Figure 2. The Licensing Authority would expect as a minimum that the area should be used for non-gaming purposes such as an information point, a coffee shop or similar but must not contain any gambling information or literature promoting gambling activities. The size of the unlicensed area is matter for each application but the Licensing Authority will not consider this configuration if the foyer is not of sufficient size to be a useable space.

Figure 2



- 20.8 It may also be acceptable if a premises is separated by another non-licensed premises that has access to both licensed premises from it. An example of this could be in the form of a coffee shop which has a main entrance to the street. The coffee shop may have access to an Adult Gaming Centre on one side and an entrance Family Entertainment Centre on the other side, see figure 3. Where a member of the public not using the gambling premises is likely to use the coffee shop it may be considered that there is no direct access between the two licensed premises.

Figure 3



20.9 The provisions of this revised statement of Principles 2019 come into force on 30<sup>th</sup> January 2019. From this date any new application for any type of Gambling Premises Licence, will be expected to fully comply with the terms and conditions as set out above. Existing licensed premises may continue to operate under the terms that have been granted by virtue of the licence that they currently hold, provided that the Licensing Objectives continue to be fully promoted at all times. Any application to vary however, will be subject to the full terms as outlined above.

## 21 Material amendments to the premises

21.1 The Authority will have regard to the principles as set out in s.153 of the Act in determining variation applications. However applications will be careful scrutinised to ensure the Licensing Objectives are not undermined.

21.2 Facilities for gambling must only be offered in a manner which provides for appropriate supervision of those facilities by staff at all times and any *typical* gaming machines arrangements will be considered a material change regardless of the category of machine. For example 'the installation of any screening would require a variation application including an updated local risk assessment to evidence that any risks presented have been recognised and mitigated.

## 22 ADULT GAMING CENTRES`

22.1 In respect of adult gaming centres the Licensing Authority will have specific regard to the Licensing objective which seeks to protect children and vulnerable persons from being harmed or exploited by gambling. The applicant will be expected to satisfy the Licensing Authority that there will be sufficient measures and procedures in place, to ensure that persons under 18 years of age do not have access to the premises.

22.2 The Licensing Authority will expect applicants to offer their own measures and must be included in the local risk assessment to meet the Licensing Objectives;

however appropriate measures and/or licence conditions may cover issues such as: *(this list is indicative only and is not exhaustive)*

- Proof of age schemes.
- Closed Circuit Television Systems, (CCTV).
- Supervision of entrances and machine areas.
- Physical separation of areas.
- Location of entry.
- Appropriate notices and signage.
- Specific opening hours.
- Self-exclusion schemes and the display of information regarding self-exclusion schemes.
- Provision of information leaflets and helpline numbers for organisations such as 'Gamcare'
- Identify local risks, such as proximity to schools or in an area with a high crime rate, as identified in section 13.4 above.

## **23 (LICENSED) FAMILY ENTERTAINMENT CENTRES**

23.1 In respect of (Licensed) Family Entertainment Centres, (FEC's), the Licensing Authority will have specific regard to the Licensing objective which seeks to protect children and vulnerable persons from being harmed or exploited by gambling. The applicant will be expected to satisfy the Licensing Authority that there will be sufficient measures and procedures in place, to ensure that persons under 18 years of age do not have access to the 'adult only' gaming machine areas on the premises.

23.2 The Licensing Authority will expect applicants to offer their own measures and must be included in the local risk assessment to meet the Licensing Objectives; however appropriate measures and/or licence conditions may cover issues such as: *(this list is indicative only and is not exhaustive)*

- Proof of age schemes.
- Closed Circuit Television Systems, (CCTV).
- Supervision of entrances and machine areas.
- Physical separation of areas.
- Location of entry.
- Appropriate notices and signage.
- Specific opening hours.
- Self-exclusion schemes.
- Measures/training for staff on how to deal with suspected truant school children on the premises
- Provision of information leaflets and helpline numbers for organisations such as Gamcare.
- Identify local risks, such as proximity to schools or in an area with a high crime rate, as identified in section.

23.3 In determining an application for a licensed family entertainment centre, the Licensing Authority will have regard to any guidance issued by the Gambling Commission and any mandatory or default conditions deemed to have a positive effect. The Licensing Authority will have particular regard to any guidance or direction on how the separation and/or delineation of the 'adult only' machine areas

of the premises should be achieved. Please refer to section 19 for more information regarding separation of premises.

## **24 SMALL CASINO PREMISES LICENCE OVERVIEW**

- 24.1 On 15 May 2008 the Categories of Casino Regulations 2008 and the Gambling (Geographical Distribution of Large and Small Casino Premises Licences) Order 2008 were approved. This specified which Licensing Authorities could issue Large and Small Casino Licences. Torbay Council was one of the authorities authorised to issue a Small Casino Premises Licence.
- 24.2 Section 166(1) of the Act states that a Licensing Authority may resolve not to issue a premises licence. A decision to pass such a resolution will be taken by the Authority as a whole and will not be delegated to the Licensing Committee (a resolution not to issue casino premises licences will only affect new casinos). In passing such a resolution the Authority may take into account any principle or matter, not just the Licensing Objectives. The Authority may revoke the resolution by passing a counter resolution.
- 24.3 At the time a counter resolution is passed the principles in Appendix 2 will be applied.

## **25 BINGO PREMISES LICENCE**

- 25.1 The Licensing Authority considers that if persons under 18 years of age are allowed to enter premises licensed for bingo, it is important that they do not participate in gambling, other than on category D machines. Where category C or above machines are available on premises to which persons under 18 years of age have access, the Licensing Authority will require that:
- All such machines are located in an area of the premises separated from the remainder of the premises by a physical barrier, which is effective to prevent access other than through a designated entrance.
  - Only adults are admitted to the area where the machines are located.
  - Access to the area where the machines are located is adequately supervised.
  - The area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder.
  - At the entrance to and inside any such area there are notices prominently displayed, indicating that access to the area is prohibited to persons under 18.
  - No under 18s may play bingo on this premises' must be displayed at each entrance to the bingo premises.
- 25.2 The Licensing Authority will expect applicants to offer their own measures and must be included in the local risk assessment to meet the Licensing Objectives; however appropriate measures and/or licence conditions may cover issues such as: *(this list is indicative only and is not exhaustive)*
- Proof of age schemes.
  - Closed Circuit Television Systems, (CCTV).

- Supervision of entrances and machine areas.
- Physical separation of areas.
- Location of entry.
- Appropriate notices and signage.
- Specific opening hours.
- Self-exclusion schemes.
- Measures/training for staff on how to deal with suspected truant school children on the premises.
- Provision of information leaflets and helpline numbers for organisations such as Gamcare
- Identify local risks, such as proximity to schools or in an area high crime rate as identified in section above.

25.3 In determining any application for a Bingo Premises Licence, the Licensing Authority will have regard to any guidance issued by the Gambling Commission with regard to the suitability and general layout of Bingo Premises.

## 26 BETTING PREMISES LICENCE

26.1 The Licensing Authority is responsible for the issue of premises licences for all betting establishments, including casinos, bookmaker's offices and tracks. It is illegal for persons under 18 years of age to enter upon licensed betting premises and bet, but they may gain entry to tracks.

26.2 A betting premises licence gives the holder the entitlement to up to 4 Cat B2 machines. S169 of the Act gives the LA the power to apply conditions in specific circumstances, in such cases the Licensing Authority will have regard to the following:

- The size of the premises.
- The number of counter positions available for person-to-person transactions.
- The ability of staff to monitor the use of the machines by persons under 18 years of age or vulnerable persons.

26.3 The Licensing Authority expects applicants to offer their own measures and must be included in the local risk assessment to meet the Licensing Objectives; however appropriate measures and/or licence conditions may cover issues such as: *(this list is indicative only and is not exhaustive)*

- Proof of age schemes.
- Closed Circuit Television Systems, (CCTV).
- Supervision of entrances and machine areas
- Physical separation of areas.
- Location of entry.
- Appropriate notices and signage.
- Specific opening hours.
- Self-exclusion schemes.
- Measures / training for staff on how to deal with suspected truant school children on the premises
- Provision of information leaflets and helpline numbers for organisations such as Gamcare.

- Identify local risks, such as proximity to schools or in an area with a high crime rate.

26.4 In determining any application for a Betting Premises Licence, the Licensing Authority will have regard to any guidance or codes of practice issued by the Gambling Commission concerning primary gambling activity, as well as any subsequent case law.

26.5 The Authority will require a full premises licence variation application when premises are intending to apply screening and/or a booth to any category of gaming machines.

## **27 TRACK PREMISES LICENCE**

27.1 General:

Tracks are sites, (including horse racecourses and dog tracks), where races or other sporting events take place. Betting is a primary gambling activity on tracks, both in the form of pool betting, (often known as the 'Totalisator' or 'Tote'), and also general betting, often known as 'Fixed-Odds' betting. In discharging its functions with regard to Track Betting Licences the Licensing Authority will have regard to any guidance issued by the Gambling Commission in that respect.

27.2 There is no special class of betting premises licence for a track, but the Act does contain rules which apply specifically to a 'Premises Licence' granted in respect of a track.

27.3 Applicants for a Premises Licence made in relation to a track, will not be required to hold an Operating Licence issued by the Gambling Commission, unless the applicant intends to offer pool betting or general betting facilities himself; in which case an Operating Licence will be required.

The betting that is provided upon the track will not generally be provided by the applicant, but will be provided by other operators who attend the track to provide betting facilities. These 'On-Course Operators' will require the necessary operating licences, therefore the Act allows the track operator to obtain a Premises Licence without the requirement to hold an Operating Licence. This 'Track Premises Licence' then authorises anyone upon the premises to offer betting facilities, provided they already hold a valid Operator's Licence.

27.4 The Licensing Authority is aware that tracks are different from other premises in that there may be more than one premises licence in effect, each covering a specified area of the track. The Licensing Authority will especially consider the impact of the Licensing objective of the protection of children and vulnerable persons with regard to this category of licence. specific considerations in this respect may include:

The need to ensure entrances to each type of premises are distinct.

That children are excluded from gambling or betting areas that they are not permitted to enter.

- 27.5 The Licensing Authority will expect the premises licence applicant(s) to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities.
- 27.6 Children are legally permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, although they are still prevented from entering areas where gaming machines, (other than category D machines), are provided.
- 27.7 Appropriate measures and / or licence conditions which may be applied to a track premises licence by the Licensing Authority, in order to promote the Licensing Objectives, (particularly the objective with regard to children and vulnerable persons), may include:
- (This list is indicative; it is not mandatory or exhaustive)*
- Proof of age schemes.
  - CCTV.
  - Door supervisors.
  - Supervision of entrances/machine areas.
  - Physical separation of areas.
  - Location of entry.
  - Notices / signage.
  - Specific opening hours.
  - Self-barring schemes.
  - Provision of information leaflets / helpline numbers for organisations such as Gamcare.
- Identify local risks, such as proximity to schools or in an area with a high crime rate.
- 27.8 **Gaming Machines at Tracks**
- Applicants for Track Premises Licences will need to demonstrate within their applications, that where the applicant holds a 'Pool Betting Operating Licence' and is going to use his entitlement to four gaming machines, these machines are located in areas from which children are excluded and that such areas are suitably operated.
- 27.9 **Betting Machines at Tracks**
- The Licensing Authority has an express power under the Act, to restrict the number of betting machines, their nature and the circumstances in which they are made available, by attaching licence conditions to a betting premises licence.
- 27.10 The potential space available for betting machines at a track may be considerable, bringing with it significant problems in relation to:
- The proliferation of such machines.
  - The ability of track staff to supervise the machines if they are dispersed around the track.
  - The ability of the track operator to comply with the law and prevent children betting on the machines.



- 27.11 In considering whether or not it is appropriate to restrict the number of betting machines made available at a track, by way of licence condition, the Licensing Authority will have regard to the following:
- The size of the premises.
  - The ability of staff to monitor the use of the machines by children or by vulnerable people.
  - The number, nature, location and circumstances of the betting machines that an operator intends to make available for use.
- 27.12 **Conditions on Rules being Displayed at Tracks**
- The Licensing Authority will attach a condition to Track Premises Licence requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or made available to the public by some other means, such as being included in the race-card or issued as a leaflet.
- 27.13 **Applications and Plans for Tracks**
- The following information should be submitted with the application:
- Detailed plans for the track and the area that will be used for temporary “on-course” betting facilities (often known as the “Betting Ring”).
  - In the case of dog tracks, horse racecourses, fixed and mobile pool betting facilities, (whether operated by the tote or the track operator), and any other proposed gambling facilities; the plans should make clear what is being sought for authorisation under the Track Betting Premises Licence.
  - Details of any other areas of the track, which may be the subject of a separate application, for a different type of premises licence.
- 27.14 **Self-Contained Premises on Tracks**
- The Licensing Authority will generally require that all ‘self-contained premises’ operated by off-course betting operators on track, be the subject of a separate Premises Licence. This will ensure that there is clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the track premises.
- 28 TRAVELLING FAIRS**
- 28.1 Travelling fairs do not require any permit to provide gaming machines, but must comply with the legal requirements as to the way the machines operate. They may provide an unlimited number of Category D gaming machines and/or equal chance prize gaming machines, provided that the facilities for gambling amount to no more than an ancillary amusement at the fair.
- 28.2 A given area of land may, by statute, only be used on 27 days per calendar year for the purposes of accommodating a fair. The statutory maximum of 27 days calendar use, applies to the land on which the fairs are held and that use is cumulative, regardless of whether it is the same fair or a procession of different travelling fairs.
- 28.3 The Licensing Authority will monitor fairs, (whether travelling or otherwise), which provide category D gaming machines or equal chance prize gaming machines within Torbay, to ensure that the provision of gambling is ancillary to the

amusement provided at the fair and to ensure that the statutory limits upon the annual use of the land, are not exceeded.

- 28.4 The Licensing Authority will work with its neighbouring Licensing Authorities to ensure that any inter-authority sites which may be used for the provision of fairs, are appropriately monitored to ensure due compliance with statutory requirements.

## 29 REVIEWS

- 29.1 An 'Interested Party' or a 'Responsible Authority' can make an application to the Licensing Authority at any time, requesting that the Licensing Authority review a licence that it has granted; the Licensing Authority may also initiate a review of a licence itself.

The list of Responsible Authorities can be viewed at [www.torbay.gov.uk](http://www.torbay.gov.uk)

Interested Parties are defined at Section 4 of this 'Statement of Principles'.

- 29.2 Should the Licensing Authority receive an application requesting the review of a licence, the Licensing Authority will make a determination as to whether or not the review is to be carried out. In making this determination the Licensing Authority will consider 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.
- Consistent with the Licensing Objectives.
- In accordance with Torbay Council's 'Statement of Principles'.

- 29.3 The Licensing Authority will also make a determination as to whether or not the application for the licence review is made on relevant grounds; the following are examples of grounds which may be considered by the Licensing Authority, to be irrelevant, (*this list is indicative and is not exhaustive*):

- Representations which are inconsistent with Section 153 of the Act.
- Representations that are inconsistent with any guidance or codes of practice issued by the Gambling Commission, or with this 'Statement of Principles'.
- Representations which relate to an objection to gambling activity generally; for instance on moral grounds.
- Representations in relation to the demand or unmet demand for Gambling Premises.
- Representations in relation to planning matters.
- Public Safety Issues.
- Traffic Congestion issues.

- 29.4 The Licensing Authority will not initiate a licence review if it considers that the grounds upon which the review is being sought are:

Frivolous

Vexatious

Substantially the same as representations made at the time that the application for a premises licence was considered; the Licensing Authority will not normally review a licence to re-visit issues which were considered at the time of the grant.

Substantially the same as the grounds cited in a previous application for review, relating to the same premises, and a sufficient or reasonable period of time has not elapsed since that previous application was made.

Insignificant; to such an extent, that it would be wholly unreasonable for the Licensing Authority to revoke or suspend the licence; or to remove, amend or attach conditions to the licence, on the basis of such representation.

- 29.5 Should the Licensing Authority determine that an application for a licence review, (which has been duly submitted by an 'Interested Party' or a 'Responsible Authority'), is valid or should the Licensing Authority decide to initiate a licence review of its own volition; then that licence review will be undertaken and progressed to conclusion, in accordance with the requirements of the Act, any guidance or codes of practice issued by the Gambling Commission and this 'Statement of Principles'.

## **PART C - PERMITS / TEMPORARY AND OCCASIONAL USE NOTICES**

### **30 UNLICENSED FAMILY ENTERTAINMENT CENTRE, (UFEC)**

- 30.1 Unlicensed Family Entertainment Centres (UFEC's), are premises commonly located at seaside resorts, on piers, at airports or at motorway service stations. These establishments cater for families, including unaccompanied children and young persons and, subject to the grant of a permit from the Licensing Authority, operators can provide an unlimited number of Category D gaming machines, upon the premises.
- 30.2 Where a premises does not have the benefit of a premises licence issued under the Act, but the applicant wishes to provide Category D gaming machines; an application may be made to the Licensing Authority for an unlicensed family entertainment centre permit. The applicant must satisfy the Licensing Authority that the premises will be 'wholly or mainly' used for making gaming machines available for use.
- 30.3 The Licensing Authority will require as part of the application form, a plan to scale, clearly defining the area covered by the UFEC and including the layout of machines. UFEC permits will only be granted for areas which complies with section 238 of the Gambling Act in that the area specified is wholly or mainly used for making gaming machines available for use. As such it is not permissible for permits to be granted to entire complexes such as leisure centres, shopping centres and motorway service areas or similar.
- 30.4 The Licensing Authority will issue permits for unlicensed family entertainment centres in accordance with the following principles:
- The Licensing Objectives.
  - Any relevant regulations or codes of practice.
  - Any guidance issued by the Gambling Commission.
  - The principles set out in this 'Statement of Principles'.

- 30.5 The Licensing Authority will only grant a permit if satisfied that the premises will be used as a UFEC and that the Devon and Cornwall Police have been consulted in relation to the application; applicants will also be required to demonstrate to the Licensing Authority:
- That the applicant has a full understanding of the maximum stakes and prizes of the gambling that is permissible in an unlicensed family entertainment centre.
- That staff are suitably trained and have a full understanding of the maximum stakes and prizes permissible in an unlicensed family entertainment centre.
- That the applicant has no convictions, which may have been identified as 'relevant convictions', for the purposes of the Act.
- 30.6 The Licensing Authority will expect the applicant to show that they have 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. Such measures may include:
- Enhanced criminal record checks for staff.
- Appropriate measures/training for staff as regards suspected truant school children on the premises.
- Appropriate measures/training for staff as regards unsupervised very young children being on the premises and children causing perceived problems on/or around the premises.
- 30.7 The Licensing Authority can grant or refuse an application for an unlicensed family entertainment centre permit; however it cannot attach conditions to a permit.
- 30.8 The Licensing Authority encourages applicants for UFEC Permits to consider adopting the British Amusement Catering Trade Association (BACTA) voluntary Code of Practice for Amusement with Prizes Machines in Family Entertainment Centres. This Code of Practice promotes awareness of social responsibility, and acknowledges that proactive specific and appropriate commitment will be given to educating children and young persons, thereby minimising the potential for harm.

## **31 ALCOHOL LICENSED PREMISES ~ GAMING MACHINE PERMITS**

- 31.1 There is an automatic entitlement to provide a maximum of 2 Category C and/or D gaming machines, on premises that are licensed under the Licensing Act 2003, for the sale and consumption of alcohol on the premises. Subject only to the proviso, that the premises licence holder must serve notice of intention upon the Licensing Authority in respect of those machines.
- 31.2 The Licensing Authority can remove the '*Licensing Act 2003 Automatic Entitlement*' in respect of any particular premises if:
- The provision of the machines is not reasonably consistent with the pursuit of the Licensing Objectives.
- The licensee has breached the requirements of the Act.
- An offence under the Act has been committed on the premises.

The premises are mainly used for gaming.

- 31.3 The premises must comply with the Code of Practice for gaming machines in clubs and premises with an alcohol licence issued by the Gambling Commission, which may be accessed through the following link.

<http://www.gamblingcommission.gov.uk/PDF/Code-of-practice-for-gaming-machines-in-clubs-and-premises-with-an-alcohol-licence.pdf>

All gaming machines situated on the premises must be located in a place within the premises so that their use can be supervised, either by staff whose duties include such supervision (including bar or floor staff) or by other means.

- 31.4 The provision of gaming machines, on premises licensed for the sale and consumption of alcohol, in excess of the automatic two machine entitlement, can only be authorised by way of a permit issued by the Licensing Authority.
- 31.5 In considering any application for a permit to authorise the provision of more than two machines, on premises licensed under the Licensing Act 2003, for the sale and consumption of alcohol; the Licensing Authority will have regard to the following:
- 1) The requirements of the Act.
  - 2) The Licensing Objectives.
  - 3) Any guidance issued by the Gambling Commission.
  - 4) Any Code of Practice issued by the Gambling Commission.
  - 5) The principles within this 'Statement of Principles'.
  - 6) Any other matters that the Licensing Authority considers relevant.

- 31.6 The matters that the Licensing Authority considers relevant in point (6) above, will include but are not exclusive to:

Any consultation it considers relevant by The Police and the Children's Safeguarding Board;

Any relevant policies e.g. child protection from the applicant;

The percentage of gross turnover the gaming machines contribute to total gross turnover of the premises and this should not be significant;

The confidence The Licensing Authority has in the management of the premises.

- 31.7 In granting a permit the Licensing Authority can prescribe a different number of machines to that which was applied for, and can prescribe the particular category of machine(s) that may be permitted; however the Licensing Authority cannot attach conditions to a permit.
- 31.8 Applications for permits under this section cannot be made in respect of unlicensed non-alcohol areas of, (*Licensing Act 2003*), licensed premises. Such areas would need to be considered under the provisions relating to 'Family Entertainment Centres' or 'Adult Gaming Centres'.

## **32 PRIZE GAMING PERMITS ~ STATEMENT OF PRINCIPLES ON PERMITS**

- 32.1 In considering any application for a prize gaming permit the Licensing Authority will have regard to the following:

- The type of gaming that the applicant is intending to provide.
- The requirements of the Act.
- The Licensing Objectives.
- Any guidance issued by the Gambling Commission.
- Any statutory and mandatory conditions.
- The principles within this 'Statement of Principles'.

32.2 The Licensing Authority will expect the applicant to demonstrate that they understand the limits applicable to 'stakes and prizes' that are set out in Regulations; and that they are able to understand and ensure that the gaming to be provided is within the law.

32.3 There are statutory and mandatory conditions in the Act which the permit holder must comply with and the Licensing Authority cannot impose any additional conditions to the grant of a permit. 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 monetary prize), or the prescribed value, (if non-monetary prize).

Participation in the gaming must not entitle the player to take part in any other gambling

### **33 CLUB GAMING PERMITS AND CLUB MACHINE PERMITS**

33.1 Members Clubs may apply for a 'Club Gaming Permit' or a 'Club Machine Permit'. Commercial Clubs may apply for a 'Club Machine Permit'.

33.2 The grant of a 'Club Gaming Permit' by the Licensing Authority will enable the premises to provide gaming machines (3 machines of categories B, C or D, but only 1 B3A machine), equal chance gaming and games of chance as set out in regulations.

33.3 The grant of a 'Club Machine Permit' by the Licensing Authority will enable the premises to provide up to a maximum of three gaming machines of categories B, C or D.

*NOTE: This maximum entitlement of three machines will include any machines provided by virtue of the Licensing Act 2003 entitlement; it is not in addition to that entitlement.*

33.4 Members clubs must have at least 25 members and be established and conducted wholly or mainly for purposes other than gaming; unless the gaming is permitted by separate regulations. This may cover bridge and whist clubs, which replicates the position under the Gaming Act 1968. A 'Members' Club' must be permanent in nature, not established to make commercial profit, and controlled by its members in equal part. Examples would include 'Working Men's Clubs', branches of the 'Royal British Legion' and clubs with political affiliations.

- 33.5 The Licensing Authority may only refuse an application for a 'Club Gaming Permit' or a 'Club Machine Permit' on the grounds that the applicant does not fulfil the statutory requirements for a members' club, a commercial club or a 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.
  - An objection to the grant of a permit has been lodged by the Gambling Commission or the Police.
- 33.6 The Licensing Authority is aware that there is a fast track procedure for the issue of a permit to premises which hold a club premises certificate granted under the Licensing Act 2003. Under this fast-track procedure there is no opportunity for objections to be made by the Gambling Commission or the Police.
- 33.7 The 'fast track' process afforded to an applicant under the Licensing Act 2003 does not provide any statutory right to the issue of a permit and the Licensing Authority may resolve to refuse the grant of a 'fast track' application on the following grounds:
- That the club is established primarily for gaming, other than gaming prescribed under Schedule 12 of the Act, *that section relating to 'Club Gaming Permits' and 'Club Machine Permits'*.
  - That in addition to the prescribed gaming to be provided under the permit, the applicant provides facilities for other gaming on the same premises.
  - That a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.
- 33.8 No child shall be permitted to use a Category B or C gaming machines on the premises and that the holder of the Premises Licence must comply with any code of practice relevant to the location and operation of gaming machines.

## **34 TEMPORARY USE NOTICES**

- 34.1 There are a number of statutory limits as regards temporary use notices. The limits are set out in the Act as:
- A set of premises may not be the subject of temporary use notification for more than 21 days in a period of 12 months.
- A set of premises may be the subject of more than one temporary use notice in a period of 12 months; provided that the aggregate of the periods for which the notices have effect does not exceed 21 days.
- 34.2 The purposes for which a temporary use notice may be used are restricted by regulations, to the provision of facilities for equal chance gaming only, which must be provided by means other than 'machine gaming'.

*'Equal Chance Gaming' is gaming where the participants are taking part in a gambling competition which is intended to produce a single, overall winner. An example of this would be a poker competition.*

- 34.3 In considering whether to object to a temporary use notice the Licensing Authority will have particular regard to this 'Statement of Principles', and any guidance issued by the Gambling Commission, with regard to the nature and definition of a 'premises' or a 'place'. Should the Licensing Authority consider that 'Temporary Use Notices' are being employed at premises, (or for discreet parts of premises), to the extent where 'regular gambling' is thereby being provided within a given building or at a given place; then the Licensing Authority may object to the notice(s).

## **35 OCCASIONAL USE NOTICES**

- 35.1 With regard to 'Occasional Use Notices' (OUN's) the Licensing Authority will ensure the following:
- That the statutory limit of 8 days in a calendar year is not exceeded.
  - That the subject premises can reasonable and effectively be defined as a 'track'
  - That the applicant is permitted to avail himself/herself of the notice.
- Further information on OUN's may be found on the Gambling Commission website:  
<http://www.gamblingcommission.gov.uk/for-gambling-businesses/Compliance/Sector-specific-compliance/Betting/Occasional-Use-Notices-OUNs.aspx>

## **APPENDICES**

### **Appendix 1 ~ Consultation**

- 1.1 The Act requires that the following parties are consulted by Torbay Council prior to publication of the finalised 'Statement of Principles':
- The Chief Officer of Police.
  - One or more persons who appear to the Licensing Authority to represent the interests of persons carrying on gambling businesses in the Authority's area.
  - One or more persons who appear to the Licensing Authority to represent the interests of persons who are likely to be affected by the exercise of the Council's functions under the Act.
- 1.2 The finalised 'Statement of Principles' will be made following consultations with the following:
- Residents and businesses of Torbay
  - Bodies representing existing gambling businesses in Torbay
  - The Chief Officer of Devon and Cornwall Police
  - The Chief Officer of Devon and Somerset Fire and Rescue Service
  - Torbay & Southern Devon Health & Care NHS Trust and Local Health Providers



Devon & Torbay Safeguarding Children Board  
Torbay Council : Planning, Community Safety and Highways Authorities  
Safer Communities Torbay  
Facilities in Torbay assisting vulnerable persons  
Faith groups; via Torbay Interfaith Forum and the Street Pastors  
Torbay Town Centres Company  
Brixham Town Council  
English Riviera Tourism Company  
Economic Development Agency

- 1.3 In determining the finalised 'Statement of Principles', The Licensing Authority will undertake to give appropriate weight to the views of those it has consulted. In determining what weight to give to a particular representation, the factors taken into account will include:
- Who is making the representation; (what is their expertise or interest?)
  - What was the motive for their representation?
  - How many other people have expressed the same or similar views?
  - How far the representations relate to matters that The Licensing Authority should be including in its 'Statement of Principles'.
- 1.4 Torbay Council has designated the Torbay Safeguarding Children Board (*TSCB*), as the 'Competent Body' to advise the Council, with regard to the Licensing objective that protects children from being harmed or exploited by gambling.

## Appendix 2 ~ Small Casino Licence

- 2.1 The Act provided for an increase in the number of casino premises permitted to operate in the United Kingdom and established that two new types of casino should be permitted; eight large and eight small casinos. The Secretary of State for Culture, Media and Sport was given the Authority under the Act to determine which Licensing authorities should be permitted to grant new casino premises licences.
- 2.2 The Secretary of State established a '*Casino Advisory Panel*' to recommend the most appropriate areas of the UK in which to site the 16 new casino premises and invited interested Local Authorities to submit proposals to the Panel; Torbay Council submitted a proposal to the panel in response to this invitation.
- 2.3 On 15<sup>th</sup> May 2008 the '*Categories of Casino Regulation 2008*' and the '*Gambling (Geographical Distribution of Large and Small Casino Premises Licences) Order 2008*' were approved. The Order specified which Licensing Authorities could issue premises licences for both large and small casinos; Torbay Council's Licensing Authority was included in the Order and was authorised to issue one small casino premises licence.
- 2.4 On 26<sup>th</sup> February 2008 the Secretary of State for Culture, Media and Sport issued the '*Code of Practice on Determinations Relating to Large and Small Casinos*' (herein referred to as the Code of Practice). The Licensing Authority must comply with the Code of Practice which states:
- The procedure to be followed in making any determinations required under Paragraphs 4 and 5 of Schedule 9 to the Act.
- Matters to which the Licensing Authority should have regard in making those determinations.
- 2.5 Schedule 9 paragraph 5 to the Act states the following:
- This paragraph applies if a Licensing Authority determine under Paragraph 4 that they would grant a number of competing applications greater than the number which they can grant as a result of section 175 and the Order under it.
- The Authority shall then determine which of those applications to grant under section 163(1)(a).
- For that purpose the Authority -
- shall determine which of the competing applications would, in the Authority's opinion, be likely if granted to result in the greatest benefit to the Authority's area,
- may enter into a written agreement with an applicant, whether as to the provision of services in respect of the Authority's area or otherwise,
- may determine to attach conditions under section 169 to any licence issued so as to give effect to an agreement entered into under paragraph (b), and
- may have regard to the effect of an agreement entered into under paragraph (b) in making the determination specified in paragraph (a).

- 2.6 Torbay Council, as the Licensing Authority, is aware that there may be a number of operators who may wish to apply for the small casino premises licence from Torbay Council.
- The Licensing Authority will therefore stage a statutory selection process, (*the 'small casino premises licence process'*), under Schedule 9 of the Act and will run the selection process in line with *'The Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008'* and the said Code of Practice, issued by the Secretary of State.
- 2.7 In accordance with the above Regulations, Torbay Council's Licensing Authority will publish an invitation calling for applications for the 'small casino premises licence'.
- 2.8 Should the Licensing Authority receive more than one application for a small casino premises licence at Stage 1 of the 'small casino premises licence process' and should the Licensing Authority determine that it would grant more than one small casino premises licence, then subject to any and all appeals which may have been lodged at Stage 1 of the process being concluded, the Licensing Authority will:
- Make a 'Provisional Decision to Grant' in respect of those applicants deemed appropriate for the grant of a small casino premises licence.
- Implement Stage 2 of the 'small casino premises licence process'.
- Invite those applicants issued with a 'Provisional Decision to Grant' at Stage 1 of the 'small casino licence process', to participate in Stage 2 of the 'small casino premises licence process'.
- 2.10 Any 'Provisional Decision to Grant' issued to an applicant at Stage 1 of the 'small casino premises licence process', shall have no effect and shall not be used for the provision of casino gaming facilities upon the premises to which it relates. The 'Provisional Decision to Grant' merely confirms the Licensing Authority's determination, that the applicant satisfies the statutory requirements for the grant of a small casino premises licence; and afford the applicant the right to participate in Stage 2 of the 'small casino premises licence process' for Torbay.
- 2.11 It may be the case that at Stage 1 of the process, only one application may be submitted to the Licensing Authority for a small casino premises licence, or it may be the case that after due consideration of all the applications at Stage 1, the Licensing Authority considers that only one applicant satisfies the statutory requirements, in respect of a premises licence. In that instance, the Licensing Authority will not implement Stage 2 of the 'small casino Licensing process' and will, (subject to any and all appeals being concluded), grant a small casino premises licence to the 'only suitable applicant' determined under Stage 1 of the process.
- 2.12 If the Licensing Authority does not receive any applications for a small casino premises licence at Stage 1 of the 'small casino premises licence process', or should the Licensing Authority resolve to refuse the grant of any applications so made under Stage 1, then subject to any and all appeals being concluded:
- Stage 2 of the 'small casino premises licence process' will not be implemented, and,

The Licensing Authority may re-publish an invitation calling for applications for a 'small casino premises licence'.

- 2.13 Section 166(1) of the Act states that a Licensing Authority may resolve not to issue a premises licence. A decision to pass such a resolution will be taken by the Authority as a whole and will not be delegated to the Licensing Committee (a resolution not to issue casino premises licences will only affect new casinos). In passing such a resolution the Authority may take into account any principle or matter, not just the Licensing Objectives. The Authority may revoke the resolution by passing a counter resolution.

## **SMALL CASINO PREMISES LICENCE ~ GENERAL PRINCIPLES**

- 2.14 The Licensing Authority recognises that applicants may either apply for a 'Casino Premises Licence' or alternatively a 'Provisional Statement' in respect of the small casino premises licence.
- 2.15 Unless otherwise specified, any reference to the application and procedures for a 'Small Casino Premises Licence' in the 'Small Casino Premises Licence' sections of this 'Statement of Principles' shall also include the application and procedures for a 'Provisional Statement' for a small casino premises licence.
- 2.16 In making any decision under Stage 1 or Stage 2 of the 'small casino premises licence process', the Licensing Authority will have due regard to this 'Statement of Principles', the Act and to any Codes of Practice, Regulations and Guidance which may be issued by:
- The Secretary of State.
  - The Department for Culture, Media and Sport, (*DCMS*).
  - The Gambling Commission.
- 2.17 In making any decision in respect of a small casino premises licence application, made under the 'small casino premises licence process':
- the Licensing Authority shall not take into account whether or not an applicant is likely to be granted planning permission or building regulations approval; and
  - any decision taken in relation to the small casino premises licence application, shall not constrain any later decision by The Council, under the law relating to planning or building control; and
  - any conditions or agreements attached to any planning consents will normally fall outside of the Licensing process and will normally be disregarded by the Licensing Authority, in determining which applicant will bring the greatest benefit to the area of Torbay.
- 2.18 The Licensing Authority cannot consider unmet demand when considering applications for a small casino premises licence.
- 2.19 Torbay Council does not have a preferred location for the new small casino. Applicants can submit plans for any site or location within Torbay and each which will be judged on its own individual merits. Applicants, however, should have regard to the proposed location of the premises, with regard to meeting that

Licensing objective which seeks to protect children and vulnerable persons from being harmed or exploited by gambling.

- 2.20 Where more than one 'Provisional Decision to Grant' is issued in accordance with Section 19.8 above, the Licensing Authority will implement Stage 2 of the 'small casino premises licence process'.
- 2.21 The Licensing Authority will ensure that any pre-existing contract, arrangements or other relationship it may have with a company or individual, does not affect the procedure so as to make it unfair (or appear unfair) to any applicant.

### **SMALL CASINO PREMISES LICENCE APPLICATION ~ STAGE 1**

- 2.22 The 'small casino premises licence process' will be started by the Licensing Authority publishing an invitation calling for applicants to submit an application for a small casino premises licence.
- 2.23 An application for a small casino premises licence may be made at any time, however the Licensing Authority will not consider any such application, until a formal invitation to apply has been published and the appointed closing date for the submission of applications has passed. The appointed closing date shall be the final day of the three month period, duly advertised for Stage 1 applications.
- 2.24 The Licensing Authority will provide an application pack that will include a statement of the procedure and process it proposes to follow, in assessing applications for a small casino premises licence.
- 2.25 All applications for a small casino premises licence will be received through Stage 1 of the 'small casino premises licence process'. Should the Licensing Authority receive more than one application, then each application will be considered separately and on its own merits, with no reference being made to the other applications received.
- 2.26 At Stage 1 of the 'small casino premises licence process' any additional information submitted by an applicant, above that required by the statutory process, will be disregarded and returned to the applicant in accordance with Act and its Regulations. Additional information may be submitted by an applicant participating in Stage 2 of the 'small casino premises licence process'.
- 2.27 The Licensing Authority recognises that, should there be more than one small casino premises licence applicant, then each applicant is an 'Interested Party' in relation to the other, and therefore may make a representation. The term 'Interested Party' is defined in Section 4 at Page 6, of this 'Statement of Principles' and all representations will be considered carefully to ensure they meet the requirements set out therein.
- 2.28 It is recognised that any decision taken by the Licensing Authority under Stage 1 of the 'small casino licence application process' may be the subject of an appeal. The Licensing Authority will not proceed to Stage 2 of the 'small casino premises licence process' until any and all appeals, which may have been lodged at Stage 1 of the process, have been concluded.

## SMALL CASINO PREMISES LICENCE APPLICATION ~ STAGE 2

- 2.29 Stage 2 of the 'small casino premises licence process' cannot commence until Stage 1 has been completed and all applications have been determined, including the conclusion of any and all appeals.
- 2.30 At Stage 2 of the 'small casino premises licence process', each of the second stage applicants will be required to state and demonstrate the greatest benefit they can bring to the local area of Torbay and how this will contribute to the wellbeing of the area.
- 2.31 Where more than one application is received for a small casino premises licence and where more than one application is the subject of a 'Provisional Decision to Grant', (in accordance with Section 19.8 at Page 18), the Licensing Authority will give due consideration to all applications and will grant the available licence, to the applicant that it considers will deliver the greatest benefit to the area of Torbay.
- 2.32 Any determination made under Stage 2 of the 'small casino premises licence process' will be judged on a wide range of criteria, which have been established by the Licensing Authority in consultation with the community of Torbay, under the terms of this 'Statement of Principles'.
- 2.33 The Licensing Authority may during Stage 2 of the 'small casino premises licence process' engage in discussions with each Stage 2 applicant, with a view to the application being refined, supplemented or otherwise altered so as to maximise the benefits to the area of Torbay.
- 2.34 The Licensing Authority will expect a Stage 2 applicant to sign a written agreement with Torbay Council relating to the benefits that the proposed development may bring to the area of Torbay. The Licensing Authority will take any such agreement into account, in determining which application would result in the greatest benefit to the area of Torbay. The Licensing Authority may attach conditions to the small casino premises licence to give effect to this agreement.
- 2.35 The following are the principles which will be used by the Licensing Authority to judge which proposal is likely to result in the greatest benefit to the area of Torbay and therefore, these are the matters to which applicants will be expected to address their Stage 2 application:
- How the proposals will directly assist with local economic benefit and regeneration, sustainable job creation, enhance existing tourism, training and youth unemployment; especially with regard to non-gambling related jobs.
  - How the proposal will deal with health and social responsibility, linking with local health care providers, including problem/fair gambling, protection of children and vulnerable persons; whether in the casino or in the wider community.
  - How the proposals will link with Torbay Council's Cumulative Impact Policy.

The provision that is made within the application for preventing gambling from becoming a source of crime or disorder, being associated with crime or disorder or being associated with crime or disorder.

The proposed location of the small casino premises development and other facilities, and how the selected site(s) along with the design and architecture, will regenerate the surrounding area as well as meeting the highest energy and environmental standards.

How the proposal will improve the environment with improved public realm, tackling poor buildings or the provision of new or repairing existing infrastructure, as well as enhancing the local environmental quality in the immediate vicinity of the development and on main routes to the venue.

The provision of a marketing Policy which explains how the development will promote Torbay, in line with Torbay Council's strategy to improve the quality and image of the area to increase visitor numbers and visitor spend.

Proposed contributions towards community schemes, such as improving the night-time economy, the local community, the voluntary sector and youth facilities.

Proposed contributions towards all year round arts and culture provision and recreational facilities for visitors and residents.

How the proposals will assess the social, economic and physical impact of the development and the commitment thereafter to mitigate any potential adverse effects.

Proposals regarding day/night access and travel arrangements to and from the small casino taking into consideration staff and customer travel requirements.

A financial contribution will accompany the application; what will be the purpose of the contribution and the form that this contribution will take.

2.36 At paragraph 22.7 above the Licensing Authority has set out matters which it will take into account in judging the competing applications at Stage 2 of the 'small casino premises licence process' and which are likely to receive the greatest weight in the evaluation process, but an operator is not debarred from putting forward other benefits which the Licensing Authority will take into consideration and weigh to the extent it considers them relevant.

2.37 The Stage 2 applicant will be expected to additionally submit the following:

A clear and detailed Business Plan.

*The Licensing Authority will evaluate the Business Plan, especially with regard to the viability of any submitted proposals.*

A signed 'Development Agreement' in a form that is acceptable to the Licensing Authority, committing the applicant, (in the event that they are granted a licence), to the entirety of the scheme they have put forward.

A timescale for implementation and completion of the proposed development works, (including any ancillary development), setting out the various stages of construction. This is to enable the Licensing Authority to be kept informed of when the project is likely to be completed and that the applicant is on target for final completion.

Evidence that there will be consultation with Statutory Bodies and Responsible Authorities, to ensure due compliance with any and all Statutory Regulations and

Legislation, during the construction of the development; (e.g. health and safety, highway approvals, etc).

2.38 In assessing applications made under the 'small casino premises licence process' the Licensing Authority will give consideration to the likelihood of a casino actually being developed and additional weight shall be given to its deliverability.

2.39 The 'small casino premises licence process' will follow the DCMS Code of Practice; however, the Code of Practice leaves individual authorities to determine the detail of their own procedure.

Therefore, (because it is recognised that the Licensing Authority does not necessarily have all the relevant expertise), the Licensing Authority might need to seek advice on an applicant's proposal from Officers in other relevant Council departments; for example Planning, Highways, Finance, Regeneration and Legal. The Licensing Authority may also need to solicit independent expertise and advice from sources outside of the Council.

For this purpose, the Licensing Authority intends to constitute a non-statutory panel to assist in the evaluation of the Stage 2 application process. This panel shall be called the 'Advisory Panel'.

2.40 It is accepted that only the Licensing Authority will make the final decision on the successful applicant. The function of the Advisory Panel will be to evaluate the applications for the benefit of the Licensing Committee or Sub-Committee. The Advisory Panel will not be a decision-making body and while the Licensing Committee or Sub-Committee will take the Advisory Panel's evaluations into account, with regard to the 'small casino premises licence process', it is not bound to follow them.

2.41 Members of the Advisory Panel will comprise of carefully selected, competent and suitably qualified individuals, who are not biased and whose personal interests would not compromise their independence. It will be for the Local Authority to determine the membership of the Advisory Panel.

2.42 A schedule detailing the Advisory Panel members and the Panel's terms of reference will be included in the application pack. The terms of reference will include further details of the functions of the Advisory Panel and the procedures of the evaluation process, in order to ensure fairness and transparency to all applicants.

2.43 To ensure that there is fairness and transparency; applicants will be asked if they wish to object to any Member of the Advisory Panel. Should an applicant wish to raise any objection to a Member of the Advisory Panel; then:

A formal objection must be served upon the Local Authority within 10 working days of the applicant requesting an application pack.

The objection must clearly indicate the grounds upon which the objection is being made.

It will be for the Local Authority to determine the validity of any objection and to determine if any member of the Advisory Panel should be replaced on the basis of the objection(s) raised.



The formal procedure to be followed in the event of any objection being raised will be detailed within the 'application pack'

*(The strict time constraints detailed at section a) above, are to ensure that in the event of an Advisory Panel Member being replaced as a result of an applicants' objection, all applicants can be given due notice and opportunity to object to any 'Replacement' Advisory Panel Member(s); and to prevent the potential frustration of the procedure in the latter stages of the 'small casino premises licence' determination process. Objections raised 'out of time' will only be considered if the applicant can satisfy the Local Authority, that the objection could not reasonably have been made within the stipulated period for objections).*

- 2.44 It is important that the small casino premises licence application includes all documents and paperwork in support of the proposals, (hereinafter referred to as the 'bid documentation'). Once all the bid documentation has been submitted, the Advisory Panel will carry out a preliminary evaluation of each application. Following the preliminary evaluation, Officers of Torbay Council may liaise with applicants with a view to the application being refined, supplemented or altered so as to maximise the greatest benefit to the Torbay area.
- 2.45 Once the bid documentation is finalised, the Advisory Panel will evaluate each bid and the bids will be scored within definitive bands determined by the Local Authority. Once assessed, the Advisory Panel's draft evaluation report on each application will be sent to the applicant, in order to enable the relevant applicant to identify and address any factual errors that may have occurred. Thereafter no additional information may be submitted by the applicant, but any agreed factual errors will be amended.
- 2.46 The unsuccessful applicant(s) will be informed of the result and reasons for rejection as soon as is reasonably practicable.