

AGENDA ITEM: 4 Page nos. 6 - 11

Meeting Licensing Committee
Date 30 May 2006
Subject Licensing Act 2003 and Gambling Act 2005
Report of Head of Planning and Environmental Protection
Summary This report includes a Position Statement relating to the implementation of the Licensing Act 2003 and submits a draft Gambling Licensing Policy for approval for consultation.

Officer Contributors Rick Mason, Environmental Health Manager (Commercial)
Terry Vaughan, Group Manager (Health and Safety and Licensing)
Status (public or exempt) Public
Wards affected All
Enclosures Draft Gambling Licensing Policy (to be circulated prior to the meeting)
For decision by Licensing Committee
Function of Council
Reason for urgency / exemption from call-in (if appropriate) N/A

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1. RECOMMENDATIONS

- 1.1 That Members note the progress made with implementation of the Licensing Act 2003.
- 1.2 That the proposed draft Gambling Licensing Policy be approved for consultation and that the Head of Planning and Environmental Protection be instructed to report to the October 2006 meeting on the outcome for recommendation to Council.

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Council on 14 December 2004 approved the Licensing Policy.
- 2.2 Council on 31 January 2006 approved the inspection regime for the Licensing Team

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The new gambling licensing regime is the result of a Government policy decision that local authorities are obliged to implement. There are three statutory objectives to be met through licensing of gambling:
 - Preventing gambling from being a source of crime, being associated with crime 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 second objective is principally a matter for the Gambling Commission, which will issue operator's licences. The Council will be mainly concerned with gambling premises rather than gambling itself.

- 3.2 This policy will assist the Council to achieve the licensing objectives through sound decisions and the imposition of appropriate licence conditions.
- 3.3 The proposed policy will directly support the Council's key priorities of tackling crime and supporting the vulnerable.

4. RISK MANAGEMENT ISSUES

- 4.1 Failure to adopt a sound Gambling Licensing Policy that has regard to the Gambling Commission guidance and accurately reflects the views of the Council as licensing authority will hinder defensible decision-making with respect to licence applications and licence reviews. Judicial review of the policy by parties who believe it to be unsound would involve cost and possible adverse publicity. Individual decisions made under an unsound policy would be at risk of appeal or judicial review.

- 4.2 The regime is supposedly self-financing through fee income. However experience with the Licensing Act 2003 leaves considerable doubt over whether this will prove to be the case.

5. FINANCIAL, STAFFING, ICT AND PROPERTY IMPLICATIONS

- 5.1 None in the context of this report.
- 5.2 Provision has been made in 2006/7 budgets for the operation of the Licensing Act 2003.
- 5.3 With regard to the Gambling Act 2005, final guidance on fees has not been issued and fee levels have yet to be determined, but will be set centrally by government aimed at recovering costs, (no new funding was included in the Local Government finance announcement in December 2005 for 2006/7 or provisional 2007/8) with upper band limits for each category of licence. At this stage it is anticipated that the new gambling licensing provisions will have limited staffing (Planning and Environmental Protection, and Law and Probity Services), ICT and accommodation implications. These issues will be subject to future reports to the appropriate Committees when the final guidance and fee levels are known and the implications are clearer (anticipated to be Autumn 2006). It should be noted that although the government's intention is to introduce this regime on a self financing basis through fee income, experience with the Licensing Act proved this not to be the case.
- 5.4 The current timetable envisages the Gambling Act 2005 coming into force early in 2007 but there will be a transition period from that date resulting in the main impact of additional costs and income starting from 2007/8. It is anticipated that any initial costs in 2006/7 (such as printing and training) can be contained within available budgets.
- 5.5 Administration and enforcement of the Gambling Act will be carried out by the Licensing Teams 6 Licensing Officers, together with support from Legal and Democratic Services when arranging and co-ordinating arrangements for hearings where there are objections.

6. LEGAL ISSUES

- 6.1 None

7. CONSTITUTIONAL POWERS

- 7.1 All functions under the Licensing Act 2003 and the Gambling Act 2005 and associated Regulations, not otherwise delegated to the Licensing Sub-Committee. (Council's Constitution – Responsibility for Functions)

8 BACKGROUND INFORMATION

Licensing Act 2003 update

8.1 Between the first appointed day on 7 February 2005 and the end of the transitional period on 6 August 2005, the Council received:

- 870 applications for personal licences
- 295 applications for conversion of existing licences to premises licences and club premises certificates
- 324 applications for new premises licences and club premises certificates
- 96 applications to vary premises licences and club premises certificates

Between the end of transition and 8 May 2006, the Council received:

- 619 applications for personal licences
- 139 applications for conversion of existing licences to premises licences and club premises certificates
- 110 applications for new premises licences and club premises certificates
- 128 applications to vary premises licences and club premises certificates
- 262 temporary event notices

8.2 There have been 13 appeals against sub-committee decisions. Only one has actually been heard. In this case (the Rising Sun, 248 Oakleigh Road North, N20), two licence conditions were removed. Two appeals were withdrawn. One was sent back to the Committee to be heard again. The other cases were settled by agreement, giving back 'grandfather rights' that should not have been removed, and reaching sensible compromises with the agreement of the committee.

The following appeals against decisions of the Sub-Committees are still in progress:

The Weaver, 27 Greenhill Parade, New Barnet, listed for hearing on 1 June.
Esso Tower, 617 Finchley Road, NW3, listed for hearing on 13 June.
Han Restaurant, 138 Burnt Oak Broadway, HA8, listed for hearing on 22 June.

8.3 The Licensing Act 2003 policy includes a commitment that licences will be sought for appropriate public spaces to facilitate cultural activities such as community festivals. Licence applications have been made for 7 parks.

8.4 Since the end of the transition process, pressures on the Licensing Team have eased and officers are beginning to carry out some enforcement visits. These are part of a complaint led, risk-based programme of enforcement activity, to ensure that unlicensed activities are dealt with and that licence holders comply with the conditions on their licences.

Gambling Act 2005

- 8.5 The Gambling Act 2005 makes the Council the licensing authority for gambling premises in the Borough, taking over this role from the Magistrates. It requires that a licensing authority should aim to permit the use of premises for gambling in so far as it thinks it is:
- a) in accordance with any relevant code of practice or any guidance from the Gambling Commission;
 - b) reasonably consistent with the licensing objectives; and
 - c) in accordance with its gambling licensing policy.
- 8.6 The Council will have a number of important regulatory functions in relation to gambling. These include licensing premises, regulating gaming and gaming machines in clubs, granting permits to what the Guidance refers to as 'family entertainment centres' for the use of certain lower stake gaming machines, regulating gaming and gaming machines on alcohol licensed premises, granting permits for prize gaming, and registering small society lotteries.
- 8.7 The Act is likely to take full effect on 1 September 2007, with a transitional period during which existing licences are converted beginning in early 2007. There are a number of similarities between this Act and the Licensing Act 2003.
- 8.8 Preliminary enquiries indicate that there are likely to be between 50 and 60 premises requiring a premises licence, and in addition there will be applications for gaming machine permits.
- 8.9 Under the Act, the Council must prepare, consult on and publish its Gambling Licensing Policy. In exercising its functions, licensing authorities must have regard to the statutory guidance issued by the Gambling Commission. The final version of this guidance was only published on 28 April 2006.
- 8.10 If approved by the Committee, the policy will be submitted for consultation with all relevant stakeholders during the summer of 2006, in accordance with government guidelines. All replies will be taken into account and the policy, revised as necessary, will be submitted to this Committee again for approval at its meeting on 18 October, 2006. The Committee will then be asked to recommend the policy for adoption at a meeting of the full Council on 7 November before being published in December 2006.
- 8.11 The policy may be changed at any time after adoption (after further consultation), and must be renewed at intervals of not less than three years.
- 8.12 The proposed draft policy for agreement prior to formal consultation is appendix 1.

9 LIST OF BACKGROUND PAPERS

9.1 Guidance to licensing authorities on the Gambling Act 2005 issued by the Gambling Commission, www.gamblingcommission.gov.uk

9.2 For further information please contact Terry Vaughan, Group Manager Health & Safety & Licensing 020 8359 7469.

BS: ME

BT: PA

London Borough of Barnet

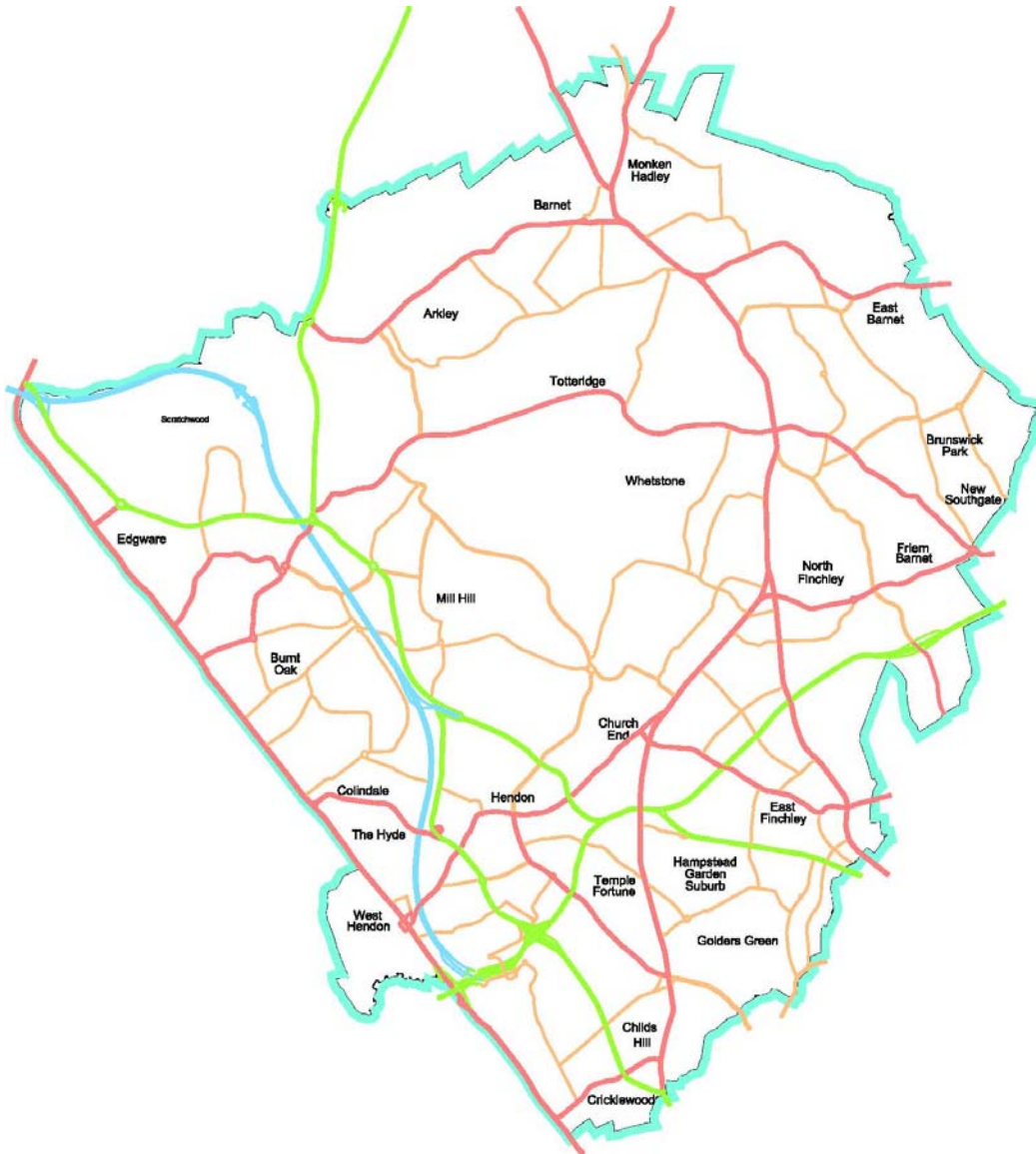
Gambling Act 2005 - Draft Statement of Principles

Contents:	Section
Introduction	1
Licensing objectives	2
Licensing authority functions	3
Licensable activities	4
Responsible authorities	5
Interested parties	6
Exchange of information	7
Inspection and enforcement	8
Applications - general principles	9
Permits – general principles	10.1
Unlicensed Family Entertainment Centre gaming machine permits	10.2
Alcohol Licensed premises gaming machine permits	10.3
Prize gaming permits	10.4
Club Gaming and Club Machines Permits	10.5
Premises Licences	11
Adult Gaming Centres	11.2
Licensed Family Entertainment Centres:	11.3
Tracks:	11.4
Casinos	11.5
Bingo	11.6
Betting premises	11.7
Premises Licence conditions	12
Planning and building control	13
Licence reviews	14
Temporary Use and Occasional Use Notices	15
Travelling Fairs	16
Lotteries	17
Integration of licensing with other strategies	18
Tourism and employment	19
People with disabilities	20
Equalities	21
Delegation of functions	22
Licensing Register	23
Relevant documents	24
Complaints about the licensing service	25
Further information	26
Commencement and review	27

1 Introduction

1.1 The Barnet London Borough Council here states the principles that it will apply in all parts of the Borough of Barnet when carrying out its functions as a licensing authority in accordance with the Gambling Act 2005.

1.2 The Borough is shown in the map below, and in detail at www.maps.barnet.gov.uk



1.3 The principles in this statement provide important support for the council's aims of tackling crime and supporting the vulnerable in our community, as set out in the Corporate Plan 2004/5 – 2007/8.

- 1.4 The council understands that it must aim to permit the use of premises for gambling as long as it is satisfied that to do so would be in accordance with any relevant code of practice and guidance issued under sections 24 and 25 of the Act, would be reasonably consistent with the licensing objectives and in accordance with this statement of principles.
- 1.5 The council recognises that many people enjoy gambling, but is aware that gambling can sometimes lead to problems. It will therefore seek to balance competing interests, so that businesses that it thinks likely to cause problems are controlled, while those that will not cause significant risk to the licensing objectives are free of unnecessary restrictions.
- 1.6 The council declares that, in producing this statement of principles, it has had regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission, and all responses from those consulted on the draft.
- 1.7 The consultation took place between xxx and xxx in accordance with the Revised Code of Practice and the Cabinet Office Guidance on consultations by the public sector.

The following were consulted:

- *List to be included*

The full list of comments made and the consideration by the council of those comments is available by request to the Licensing Team.

- 1.8 This statement of principles was approved at a meeting of the full council on xxx and published on xxx.
- 1.9 The council will keep in mind that this statement of principles was drafted at a time when a number of regulations, operating licence and personal licence conditions, codes of practice and guidance had not been published.

2 The licensing objectives

2.1 The Gambling Act 2005 defines three licensing objectives:

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

2.2 The council accepts that:

- In the case of gambling premises licences, the term ‘disorder’ is considered by the Gambling Commission to mean activity that is more serious and disruptive than mere nuisance
- The Commission does not expect licensing authorities in most circumstances to become concerned with ensuring that gambling is conducted in a fair and open way. This will either relate to the management of the gambling business (and therefore be subject to the operating licence), or to the actions of an individual (and therefore be subject to the personal licence)
- The term “vulnerable persons” is not defined. It may for example include people who gamble more than they want to, or beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs. The council will consider this objective on a case by case basis and will not seek to interpret the term narrowly

3 Licensing Authority functions

3.1 The council is responsible for:

- Licensing and monitoring premises where gambling activities are to take place
- Issuing Provisional Statements when premises are not yet ready for a premises licence to take effect, or when the operator does not yet have a right to occupy them
- Regulating members’ clubs and miners’ welfare institutes that wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issuing Club Machine Permits to Commercial Clubs
- Granting permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres (premises used wholly or mainly for making gaming machines available for use)
- Receiving notifications from alcohol licensed premises of the use of up to two gaming machines
- Granting Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, where more than two machines are required
- Registering small society lotteries below prescribed thresholds
- Issuing Prize Gaming Permits
- Receiving and endorsing Temporary Use Notices
- Receiving Occasional Use Notices
- Providing information to the Gambling Commission
- Maintaining registers of permits and licences
- Enforcing licence conditions

4 Licensable activities

A list of licensable activities will be included in the final document, after guidance from the Commission.

5 Responsible Authorities

5.1 The responsible authorities with respect to premises in Barnet are:

- The Gambling Commission
- The Metropolitan Police Service
- The London Fire and Emergency Planning Authority
- The Council's Planning Service
- A group comprising the Council's Noise and Statutory Nuisance Manager, Scientific Services Group Manager and Street Enforcement Services Manager
- The Safeguarding Children Board
- HM Revenue and Customs
- The council itself

Contact details for all the responsible authorities are available on the council's web site, www.barnet.gov.uk

5.2 In selecting the Safeguarding Children Board as a body competent to advise about the protection of children from harm, the council took into account the following points:

- The Safeguarding Children Board has a responsibility, under the Children Act 2004, to promote the welfare and safety of children and young people in Barnet
- The Board includes a variety of professionals with skills and experience directly relevant to the need to protect children from being harmed or exploited by gambling
- It is answerable to democratically elected persons and does not represent any particular interest group
- It is the responsible authority for the purposes of the Licensing Act 2003, and has experience of the licensing process
- The Board works in partnership with other local authority services and other organisations to make Barnet a safer place for children
- The Board is able to provide advice about protecting children and guidance in accessing appropriate training
- The Board works within the wider Pan London framework of child protection so as to promote a consistent approach across London

- 5.3 The responsible authorities have the right to make representations in connection with an application, or a review of an existing licence. Any such representations must be relevant to the application.
- 5.4 The Gambling Commission has a number of other important functions in the regulation of gambling. In particular, it issues operating and personal licences, is concerned with the second of the licensing objectives (as well as the others), and deals with internet gambling. These matters are not within the council's remit. For information see www.gamblingcommission.gov.uk

6 Interested parties

- 6.1 These are people who, in the opinion of the council:
- live sufficiently close to the premises to be likely to be affected by the authorised activities, or
 - have business interests that might be affected by the authorised activities, or
 - represent persons in either of these two groups.
- 6.2 An interested party can make representations to the council on an application for the grant or variation of a premises licence, and can ask for a review of an existing premises licence.
- 6.3 The council has not specified a distance from the premises within which a person must live or have a business interest in order to be considered an interested party, and will judge each case on its merits. The council will interpret the term 'business interests' as widely as possible, and may recognise as interested parties local charities and other organisations.
- 6.4 To enable the council to decide whether a person is an interested party, it will expect any person making a representation to give their name and address and explain how they or their business interests would be affected by the authorised activities. If this information is not provided, the council will not accept the representation.
- 6.5 When assessing whether an individual lives or has business interests sufficiently close to the premises, the council will take into account factors including:
- The size of the premises
 - The nature of the premises
 - The distance of the premises from the location of the person making the representation

- The potential impact of the premises, such as the number of customers and the routes likely to be taken by those visiting the premises
 - The interests of the person making the representation. For example, the distance that would be considered close enough to be affected may be different in the case of a private resident, a school and a hostel for vulnerable adults.
 - The likely catchment area of the premises (how far people may travel to visit them)
 - Whether the person has business interests within the catchment area that may be affected.
- 6.6 Sometimes people may be asked to sign a petition or a letter in connection with an application. This can make it harder for the council to judge whether or not the individuals are interested parties. The council normally prefers that people state their own views in their own representations rather than sign a petition or a letter written by someone else.
- 6.7 The council will accept representations from local residents', tenants' or business associations, trade unions, and any other bodies or individuals, provided that they have at least one member who is an interested party. Unless the person making the representation is a locally elected councillor or MP, the council may require written evidence that they represent identified interested parties. A letter from one of these persons requesting the representation is sufficient.
- 6.8 To be deemed relevant, a representation must relate to the licensing objectives or raise issues under this statement of principles or the Gambling Commission's guidance or codes of practice. If there are other concerns, they can be referred to the relevant authority.
- 6.9 In deciding whether to treat a representation as frivolous or vexatious, the council will take into account issues including:
- Who is making the representation and whether that person has a history of making representations that are not relevant
 - Whether or not it raises a relevant issue
 - Whether it raises issues specifically to do with the premises which are the subject of the application.
- 6.10 The council recognises that neither the need (commercial demand) for the premises to be licensed, nor people's moral objections to gambling are matters to be taken into account by a licensing authority.

7 Exchange of information

- 7.1 The council will seek to establish protocols for the exchange of information with the responsible authorities, and will share any concerns about the affect on the licensing objectives of any application or the operation of any licensed premises with the relevant authority.
- 7.2 The council may share risk-rating information with the responsible authorities, and will inform the Gambling Commission without delay if:
- It receives information that causes it to question the suitability of the applicant to hold an operating licence.
 - There are persistent or serious disorder problems that an operator could or should do more to prevent.
 - It comes to the council's attention that alcohol-licensed premises or clubs or institutes are playing bingo which involves significant stakes and prizes making it possible that the statutory limit is being exceeded.
 - The council has concerns about the manufacture, supply or repair of gaming machines
- 7.3 Any personal data the council collects and uses will be treated in accordance with the Data Protection Act 1998. It will only be collected and used for appropriate purposes. The council will endeavour to ensure that personal data will be processed in accordance with the principals of the Data Protection Act, and any disclosures will be in accordance with our Notification registered with the Information Commissioner, which can be viewed at www.ico.gov.uk
- 7.4 Details of all the information that is available under the Freedom of Information Act 2000 are given in the council's Publication Scheme. For further information, contact the Freedom of Information officer at foi@barnet.gov.uk
- 7.5 Personal information is kept secure in paper files and password-protected software applications. The public do not have access to personal information.
- All council employees who have access to and are associated with the processing of personal data are obliged to respect the confidentiality of personal data at all times. The council ensures that personal data will not be disclosed to government institutions and authorities except as required by law.
- 7.6 Individuals may ask the council for information held about them by writing to the Data Protection Officer or by email to data.protection@barnet.gov.uk

8 Inspection and enforcement

8.1 The main enforcement role for the council is to ensure compliance with premises licences. All the powers of officers authorised by the council under the Act will be exercised in accordance with the Enforcement Concordat/Regulators' Compliance Code. Enforcement action by council officers will be:

- Proportionate – the council will only intervene when necessary; remedies will be appropriate to the risks posed and costs will be identified and minimised
- Accountable – the council will be able to justify decisions, and be subject to public scrutiny
- Consistent – rules and standards will be implemented fairly
- Transparent – the council will be open and will do its best to keep things simple and user-friendly
- Targeted – the council will always focus on the problem and do its best to minimise side effects. Priority will be given to higher-risk premises and activities.

8.2 Any enforcement action will be in accordance with enforcement policy.

8.3 The council's licensing officers will monitor ongoing compliance with licence conditions. They may carry out inspections without prior notice to the occupier or licensee.

8.4 Planned enforcement activity will be prioritised according to assessed risk (the potential for harm to the licensing objectives). Subject to later guidance, when assessing risk, the council may take into account the following matters:

- The type of gambling and its potential to result in harm
- The size of the premises and the number of patrons
- The standard of compliance with licence conditions
- Officers' confidence in the ability and intention of the management of the premises to maintain good standards of compliance with licence conditions.
- Information from other agencies such as the police

8.5 The risk rating for each premises will be kept under review and may change.

8.6 The council is prepared to receive complaints about licensed premises and, with the agreement of the complainant, deal with them informally with the aim of securing improvement if necessary without the need for a formal review of the licence.

8.7 The council will not tolerate non-compliance with licence conditions or licensable activity at unlicensed premises except in accordance with a Temporary Use Notice.

9 Applications - General principles

9.1.1 The council has no rigid rules about the acceptability of applications and will consider each application on its merits.

9.1.2 The matters that it will generally take into account when considering applications for permits and licences and when reviewing a licence are set out below. If, in a particular case, an applicant or licence holder can show how they might overcome concerns about a licensing objective, it will be taken into account. The matters are:

- The type and nature of the gambling activity
- The proximity of the gambling premises to sensitive premises such as schools or centres for vulnerable adults, or to residential areas where there may be a high concentration of families with children, and the likelihood that children or vulnerable adults will enter the premises
- Where permits or licences are sought for use at premises that may attract children, or where children may be present, the council will give particular weight to child protection issues. The Council is aware that children may be harmed not only by taking part in gambling, but also if they are able to watch it taking place. This concern may be particularly relevant at premises where there are multiple licences, where only part of a premises is licensed or where permits are to be used in part of a premises only.
- The adequacy of any proposed measures to prevent crime connected with gambling
- The adequacy of any proposed steps to prevent access by children and vulnerable adults, or to prevent such people from seeing gambling taking place
- The existence of crime and disorder (particularly if it has required police intervention) or actual harm to children or vulnerable adults, where these are connected to gambling at the premises.

9.1.3 It will assist the Sub-Committee in contested cases if applicants, responsible authorities and interested parties address these matters.

9.1.4 When considering applications, Sub-committees will decide matters of fact on the balance of probabilities.

9.1.5 The council will place information about licence applications on its web site, and will notify ward councillors when applications are received.

10 Permits - General principles

10.1.1 The council's resolution "That the council will neither grant nor renew any permit under Section 34 of the Gaming Act, 1968 in respect of any premises other than those to which paragraph 4 of schedule 9 of the Act applies", passed under Paragraph 3 Schedule 9 of the Gaming Act 1968, no longer applies.

10.1.2 When considering applications for category D machine permits, the council may take into account whether permitting gaming machines that may be used by children is consistent with the licensing objective of protecting children from being harmed. In this context, harm is not limited to any that may be caused by the use of the machines, but may also include, for example, harm that is associated with truanting. Permits may be refused if adequate precautions are not offered by the applicant. These could include, for example, training for staff with respect to suspected truants on the premises and how to deal with unsupervised very young children. At licensed premises, relevant conditions may be imposed. Permits may also be refused if the council considers it necessary in order to stop children from causing nuisance or disorder on or around the premises.

10.1.3 When considering an application for a permit, the council will take into account the applicant's suitability (including whether they have a conviction for any relevant offence).

10.1.4A problem of particular concern in Barnet is the high level of burglary targeted at gaming machines. The council considers that this is relevant to the first licensing objective.

10.1.4 Precautions to reduce the risk may include:

- good security to deter break-ins
- machines monitored by overt CCTV systems of an adequate standard to meet police recommendations
- machines to be of substantial construction to resist damage
- machines to be emptied of cash nightly, and to carry a notice stating that this is done
- machines to be sited where they can be observed by staff or the licence holder to deter theft when the premises are open
- adequate secure cash storage facilities to police recommendations

10.1.5 Conditions such as these may be imposed on premises licences in contested cases, or permits may be refused, if there is concern about the risk of burglary targeted at gaming machines.

10.1.6 The council recommends that applicants consult the police, including the local Safer Neighbourhood Team, at an early stage, to obtain advice about crime prevention measures.

10.2 Unlicensed Family Entertainment Centre gaming machine permits

10.2.1 The council has not determined specific principles in connection with these permits over and above the general principles in this statement.

10.3 Alcohol Licensed premises gaming machine permits

10.3.1 Premises licensed to sell alcohol for consumption on the premises may automatically have two gaming machines, of categories C and/or D. The operator merely needs to notify the council. The council may remove this right if there is evidence of harm to the licensing objectives, disorder (which in this context may be given a wider interpretation) or harm to children.

10.3.2 If an applicant applies for additional machines, the council will take into account the licensing objectives and any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and other matters that it may think relevant. The council expects that any such matters will be decided on a case by case basis, and has no specific principles on this point.

10.4 Prize Gaming Permits

10.4.1 The council has not determined specific principles in connection with these permits over and above the general principles in this statement.

10.5 Club Gaming and Club Machines Permits

10.5.1 The council has not determined specific principles in connection with these permits over and above the general principles in this statement.

11 Premises licences

11.1 A premises licence may authorise:

- the operation of a casino
- the provision of facilities for playing bingo
- making category B and C gaming machines available for use
- the provision of facilities for betting

11.1.2 The council recognises that every application and representation made in connection with premises licences must be treated on its merits.

11.1.3 The council will pay particular attention to applications where access to the licensed premises is through other premises. It will take into account before granting such applications whether children can gain access; the compatibility of the two establishments; and whether it is likely to be difficult to comply with the requirements of the Act.

11.1.4 In addition an overriding consideration will be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act.

11.1.5 The council will take into account the location of premises in the context of the crime prevention objective. For example, if an application for a licence or permit is received in relation to premises that are in an area noted for particular problems with organised crime, the council will consider what (if any) controls might be appropriate to prevent those premises becoming a source of crime. These might include conditions being put on the licence, such as a requirement for door supervisors. The council has not defined any such areas, but will be receptive to advice from the police when considering applications.

11.1.6 The council will take into account the proximity of premises to a school or to any centre for gambling addicts or other vulnerable people when considering applications for a licence. However, each case will be decided on its merits, and the outcome will depend to a large extent on the type of gambling that will be offered on the premises.

11.2 Adult Gaming Centres

11.2.1 The council will have particular regard to the location and management of entrances to adult gaming centres. It will wish to see that the opportunities for children to gain access are minimised. This will be of particular importance if young people are likely to be unsupervised and the gaming centre is in a complex, such as a shopping centre.

11.3 Licensed Family Entertainment Centres

11.3.1 The council has no special policies with respect to licensed family entertainment centres but will deal with applications taking into account all relevant general principles.

11.4 Tracks

11.4.1 Licensing authorities have a power under the Gambling Act 2005 to restrict the number of betting machines, their nature and the circumstances in which they are made available, by attaching a licence

condition to a betting premises licence. The council has no special policy on these issues, but will take into account the size of the track and associated area and the ability of staff to monitor the use of the machines by children and vulnerable people when determining the number of machines permitted.

11.4.2 The council will normally attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public.

11.5 Casinos

11.5.1 The council has not made a “no casinos” resolution.

11.5.2 The council has no special policy with respect to casinos but will deal with applications taking into account all relevant general principles.

11.6 Bingo

11.6.1 The council has no special policy with respect to bingo but will deal with applications taking into account all relevant general principles.

11.7 Betting premises

11.7.1 The council has no special policies with respect to betting premises but will deal with applications taking into account all relevant general principles.

12 Premises Licence conditions

12.1 Premises Licences will be subject to the permissions/restrictions set out in the Gambling Act 2005 and Regulations, as well as specific mandatory and default conditions detailed in regulations. It is expected that in most cases the mandatory and default conditions will be appropriate and sufficient, but the council is able to exclude default conditions and also attach others. The council will be concerned to ensure that appropriate conditions are attached to licences, and if it believes that the mandatory and default conditions will not be appropriate or sufficient in a particular case, it will be minded to impose others. Similarly, it may be prepared to remove or amend default conditions if satisfied that to do so would not harm the licensing objectives.

12.2 The council accepts that conditions, other than mandatory ones, must be tailored to the individual style and characteristics of the premises concerned. It will not apply conditions from a standard list without regard

to the particular circumstances of the application. It will only apply conditions if they are:

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

In this way, unnecessary or disproportionate conditions will be avoided.

12.3 The council expects that any licence holder or applicant will comply with all relevant legal requirements. It is therefore unnecessary to impose any licence condition that clearly duplicates the requirements of other regulatory regimes, and so far as possible, the council will not do so.

12.4 If there is justified concern about serious, disruptive or threatening disorder, particularly if police intervention has been necessary, suitable licence conditions such as door supervision or the use of CCTV will normally be appropriate.

12.5 Licence conditions may be imposed if there is justified concern about burglary targeted at gaming machines.

12.6 The council believes that children should not normally be permitted access to premises, or parts of premises, where gambling takes place, and precautions to protect children may be needed. These may include:

- clear identification of entrances to gambling premises
- display of notices indicating that access to the area by persons under 18 is prohibited
- door supervision
- checking ages of younger patrons
- good configuration of mixed-use premises to prevent drift of patrons or sight of gambling by children
- ensuring that all category A, B and C gaming machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which prevents access other than through a designated entrance
- ensuring that only adults are admitted to the area where such machines are situated
- supervision of gaming machines, for example by ensuring that they are sited where they can be observed by staff or the licence holder

- 12.7 When considering whether to impose a licence condition to restrict the number of betting machines in particular premises, the council will take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons or by vulnerable persons.
- 12.8 Because door supervisors at casinos or bingo premises cannot be licensed by the Security Industry Authority (SIA), the council has its own requirements for door supervisors working at such premises. They are the same as the requirements of the SIA for door supervisors working at other premises. A person licensed by the SIA to work at other types of premises will be considered suitable.
- 12.9 The fairness and openness of gambling are primarily matters for the Gambling Commission, which has the power to impose relevant conditions on operating and personal licences. The council will not impose conditions on premises licences in connection with this objective except in the case of track licences, where the track operator may not have an operating licence.

13 Planning and Building Control

- 13.1 The Council wishes to reconcile planning, building control and licensing considerations whenever possible. Licensing decisions will not over-rule planning or building control decisions, as the legal framework for each is different.
- 13.2 Licensable activities cannot lawfully be carried on at premises unless there is both a premises licence or permit (other than in accordance with a Temporary or Occasional Use Notice) and any necessary planning permission and building regulation approval. A licence will not remove the need for planning permission or building regulation approval, should these be necessary. The onus is on the licence holder or applicant to ensure that these permissions exist.
- 13.3 Where there is no relevant planning permission or building regulation approval, or where there are planning conditions that conflict with the licence application, the council invites applicants to submit a planning application or building regulation approval application as early as possible in order to regularise the position.
- 13.4 When making decisions the council will ensure separation of its licensing function from its planning and building control functions. The Licensing Committee will not take into account whether or not the premises have or comply with planning or building consents. If they do not exist, the council

expects that a planning application or building regulation approval application would be submitted and determined separately. The grant of a licence will not preclude enforcement action by the relevant authorities.

- 13.5 The council will take into account any concerns about conditions that are not able to be met by licence holders due to planning restrictions.

14 Licence reviews

- 14.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the council to decide whether the review is to be carried out. This decision will be made on the basis of whether the request for the review is relevant to the matters listed below, but the council will not review a licence if it considers the request to be frivolous, vexatious or repetitious, or that a review will certainly not cause the council to alter, revoke or suspend the licence, or the request is substantially the same as previous representations or requests for review. The holding of a review must 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 and
- in accordance with the council's statement of licensing principles

- 14.2 The council can itself initiate a review of a licence, and may do so if it appears to its officers that the licensing objectives are being harmed. It is open to any officers of the council authorised to do so to initiate a review in the council's name, but it is expected that in most cases licensing officers will take the lead.

- 14.3 However, the council does not wish its licensing officers to take on the initiation of a review that could otherwise be requested by a responsible authority or an interested party. Where evidence of harm to the licensing objectives is provided by a responsible authority or an interested party who wants a review to take place, the council expects that they, not the licensing officers, will normally initiate the review.

15 Temporary and Occasional Use Notices

- 15.1 The council has no specific policies with respect to temporary or occasional use of premises for gambling, but will take particular care to ensure that, where temporary arrangements are put in place to protect the licensing objectives, they are sufficiently robust.

16 Travelling Fairs

- 16.1 The Council has no special policies with respect to gambling at travelling fairs, but will be concerned to ensure that statutory requirements are met.

17 Lotteries

- 17.1 Registration of non-commercial society lotteries may be refused if it appears that the applicant is not a non-commercial society, and the council will therefore expect full details to be provided of the purpose for which the society is established. The council may make enquiries to satisfy itself on this point.
- 17.2 If the council is minded to refuse to register a lottery, or to revoke a registration, it will inform the applicant, stating the reasons, and the applicant will have the right to make representations. Any such representations will be heard by a sub-committee of the Licensing Committee.
- 17.3 The council does not currently possess an operating licence in its own name for the purposes of promoting a lottery for the benefit of the community.

18 Integration of licensing with other strategies

- 18.1 The council will ensure, so far as is consistent with the Act and guidance, that action taken under this policy supports and does not conflict with strategies for local crime prevention and community safety, planning, equality, tourism and cultural issues, including in particular:
- Barnet's Sustainable Community Strategy 2006-2016 <http://www.barnet.gov.uk/sus-community-strategy-2006-2016.pdf>
 - The Cultural Strategy for London
 - The objectives of the Security Industry Authority
 - The Safer Communities Strategy <http://www.barnet.gov.uk/community-safety-strategy>
 - The Sustainable Communities Strategy. <http://www.barnet.gov.uk/sus-community-strategy-2006-2016.pdf>
 - Putting the community first: Barnet's Equalities policy <http://www.barnet.gov.uk>

19 Tourism and employment

19.1 The council recognises the relevance of licensed premises to tourism and employment in the Borough. The Licensing Committee will receive reports from any body that it considers appropriate on the needs of the local cultural strategy, and tourist economy, including the employment situation in the area and the need for new investment and employment. These issues will be taken into account so far as the Gambling Act permits when making licensing decisions.

20 People with disabilities

20.1 The council encourages the provision of proper facilities for disabled people at licensed premises, and will offer advice and information where necessary to assist applicants.

21 Promotion of equality

21.1 The council is obliged to have due regard to the need to eliminate unlawful discrimination, for example on the grounds of race, gender, disability, sexual orientation or religion, and to promote equality of opportunity and good relations between persons of different groups. When considering applications and representations, the council will treat all parties equally. However, it can take into account only the issues provided for in the Gambling Act.

22 Delegation of functions

Matter to be dealt with	Licensing sub-committee	Head of Planning and Environmental Protection
Application for premises licence	Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application to vary premises licence	Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for transfer of a licence	Where representations have been	Where no representations have been received from the Commission

	received from the Commission	
Application for provisional statement	Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence	All cases	
Application for club gaming/club machine permits	Where objections have been made (and not withdrawn)	Where no objections have been made/objections have been withdrawn
Cancellation of club gaming/club machine permits	All cases	
Applications for other permits		All cases
Cancellation of licensed premises gaming machine permits		All cases
Consideration of temporary use notice		All cases
Decision to give a counter notice to a temporary use notice	All cases	
Decision to reject a representation on the grounds that it is not from an interested party		All cases
Initiation of review of a premises licence		All cases
Fee setting (when appropriate)		All cases

23 Licensing Register

- 23.1 The Council will establish and maintain a Licensing Register containing the information required by statute, and keep it available for inspection. It can be seen on request to the Licensing Team, telephone 0208 359 7995.

24 Relevant documents

- The licensing enforcement policy
- The Enforcement Concordat
www.cabinetoffice.gov.uk/regulation/pst/enforce/enforcecon.asp
- The Regulators' Compliance Code
- The Human Rights Act 1998
www.hmso.gov.uk/acts/acts1998/19980042.htm
- Crime and Disorder Act 1998
www.hmso.gov.uk/acts/acts1998/19980037.htm
- Disability Discrimination Act 1995
http://www.hmso.gov.uk/acts/acts1995/Ukpga_19950050_en_1.htm
- Guidance issued by the Gambling Commission under section 25 of the Gambling Act 2005
<http://www.gamblingcommission.gov.uk/UploadDocs/pressrelease/Documents/Guidance%20to%20Licensing%20Authorities.pdf>

25 Complaints about the licensing service

- 25.1 The council will investigate any complaint about the way it deals with a licensing issue, and will inform the complainant of the outcome. If the complaint is justified, it will put the problem right if possible. The Council has a formal complaints procedure. For information see <http://www.barnet.gov.uk/contact-us.htm>

26 Further information

- 26.1 For information about applications, fees, how to make a representation, details of the responsible authorities and the licensing register, see www.gamblingcommission.gov.uk or contact the Licensing Team on 020 8359 7995, licensingadmin@barnet.gov.uk or see the council's website, www.barnet.gov.uk

27 Commencement and review

- 27.1 This statement of principles will come into effect on xxxxxx. It will be kept under review and the council may make changes after consultation. It will be renewed every three years. We will be pleased to receive the views of responsible authorities, individuals or organisations at any time.