

MEETING

LICENSING COMMITTEE

DATE AND TIME

TUESDAY 1 SEPTEMBER 2009

at 7.000 PM

VENUE

HENDON TOWN HALL, THE BURROUGHS HENDON, NW4 4BG

TO: MEMBERS OF THE COMMITTEE (Quorum 4)

Chairman: Councillor Andreas Tambourides

Vice Chairman: Councillor Kate Salinger

Councillors:

Alison Cornelius

Kath McGuirk

Agnes Slocombe

Claire Farrier

Susette Palmer

Joanna Tambourides

John Hart

Wendy Prentice

You are requested to attend the above meeting for which an Agenda is attached.

Democratic Services Manager: David Seabrooke

Democratic Services contact: Nick Musgrove tel: 020 8359 2024

To view Agenda papers on the website: <http://committeepapers.barnet.gov.uk/democracy>

CORPORATE GOVERNANCE DIRECTORATE

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ORDER OF BUSINESS

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Meeting	Licensing Committee
Date	1 September 2009
Subject	Gambling Statement of Principles
Report of	Director of Corporate Governance
Summary	The Gambling Act 2005 places a responsibility on local authorities to publish a gambling statement of principles every three years. The last policy was published in January 2007. This is a report on the proposed new statement of principles.

Officer Contributors	Emma Phasey, Trading Standards and Licensing Manager
Status (public or exempt)	Public
Wards affected	All
Enclosures	Appendix 1 – Draft statement of principles Appendix 2 – Summary of main changes Appendix 3 – Consultation document
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 the draft Gambling Statement of Principles be approved for consultation and that the Officers be instructed to report to the December 2009 meeting on the outcome for recommendation to Council.**

2 RELEVANT PREVIOUS DECISIONS

- 2.1 Decision of Council on 7th November 2006 (minute 90), on recommendation of Licensing Committee 18/10/2006, to adopt the current licensing policy.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 In accordance with the Gambling Act 2005, the London Borough of Barnet is a licensing authority and is responsible for licensing gambling premises within its area as well as undertaking functions in relation to lower stake gaming machines in clubs. The Act also provides a system of temporary and occasional user notices which authorise premises to be used for certain types of gambling for limited periods.

- 3.2 There are three statutory objectives to be met through licensing:

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

The second objective is principally a matter for the Gambling Commission, who issue operator and personal licences. The Council are mainly concerned with gambling premises rather than gambling itself.

- 3.3 The Gambling Statement of Principles directly supports the corporate priority of Clean, Green and Safe by ensuring that Gambling and Gaming within the Borough is properly regulated.
- 3.4 The Gambling Statement of Principles supports objectives and targets contained within the Sustainable Community Strategy 2008 – 2018, Local Area Agreement 2008/09 – 2010/11, Corporate Plan 2009/10 – 2011/12 and the Crime and Disorder Strategy 2008 – 2011.

4. RISK MANAGEMENT ISSUES

- 4.1 Failure to review and adopt a Gambling Statement of Principles would be in breach of a legislative requirement of the Gambling Act 2005 and would mean that decisions of the Licensing Committee would not be valid.

- 4.2 The adoption of an unsound policy may result in poor licensing decisions being taken and could cause difficulty to businesses, residents and responsible authorities. This would leave the authority open to challenge by way of Judicial Review in relation to the Statement of Principles and/or appeal of a Licensing Committee decision to the Magistrates' Court. This would adversely affect the Councils reputation.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 The Council has a legal obligation to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different groups. An impact assessment will therefore be performed on the policy.
- 5.2 When considering gambling applications and representations, only issues provided for in the Gambling Act 2005 and associated Guidance, in addition to the licensing authority's Statement of Gambling Principles will be taken into account. This will ensure a consistent approach is adopted. Under the terms of the policy, every application will be considered on its own merits, regardless of the race, colour, nationality, ethnic origin, sex, marital status, disability or age of the individuals involved.
- 5.3 The community in Barnet has a richness of diversity with a broad range of cultural activities and entertainments. Applications will be dealt with in accordance with the Act. Guidance will only be issued and conditions will only be imposed that are reasonable, proportionate and strictly necessary for the promotion of the four licensing objectives.

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

- 6.1 Administration and enforcement of the Gambling Act will be carried out by the Licensing team, together with support from across the Community Protection Group, Legal Services and from Democratic Services, when arranging and co-ordinating arrangements for hearings where there are objections.
- 6.2 The setting of fees is dealt with separately to the Statement of Principles and fees are reviewed every 12 months.

7. LEGAL ISSUES

- 7.1 It is mandatory under the Gambling Act 2005 for the statement of principles to be reviewed and updated.

8. CONSTITUTIONAL POWERS

- 8.1 Constitution Part 3, Section 2, details the functions of the Licensing Committee including “all functions under the ...Gambling Act 2005, associated Regulations, not otherwise delegated to the Licensing Sub-Committee”.
- 8.2 The statutory and regulatory provisions reserve to full Council the decision to approve the draft Gambling Statement of Principles and it will therefore be necessary for the Committee to make a recommendation to the Council meeting on 14 December 2009 in order to meet the statutory deadline for publication which is January 2010 .

9 BACKGROUND INFORMATION

- 9.1 The Gambling Act 2005 makes the Council the licensing authority for gambling premises in the Borough. 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.
- 9.2 The Council has 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.
- 9.3 There are currently 73 gambling premises licences in the borough and since November 2007, 61 Permits have been issued.
- 9.4 In accordance with the Act, the Council must prepare, consult on and publish a Statement of Principles which it proposes to apply when exercising relevant functions. In exercising their functions, licensing authorities must have regard to the statutory guidance issued by the Gambling Commission. The latest version of this guidance was published in May 2009.
- 9.5 If approved by the Committee, the Statement of Principles will be submitted for consultation with all relevant stakeholders during the next 12 weeks, in accordance with best practice. All replies will be taken into account and the Statement of Principles, revised as necessary, will be submitted to this Committee for final approval at its meeting on 7 December 2009. The Committee will then be asked to recommend that the Statement of Principles be adopted at a meeting of the full Council on 14 December 2009 before being published in January 2010.

- 9.6 The Statement of Principles may be changed at any time after adoption (after further consultation), and must be renewed at intervals of not less than three years.
- 9.7 The proposed draft Statement of Principles for agreement prior to formal consultation can be found in Appendix 1. A summary of the main changes between this draft and the current document can be found in Appendix 2.
- 9.8 The consultation document must be sent to the Police, trade associations for gambling businesses, and residents groups. It will also be sent to councillors, responsible authorities, sample gambling businesses in our area, faith groups, voluntary organisations, community organisations working with children and young people and organisations working with problem gambling.
- 9.9 In so far as possible, the consultation document will be emailed to the relevant consultees, or a hard copy sent, where this is not appropriate. All of the consultation documents will also be published on the Council's website.
- 9.10 A specific consultation response document has also been produced. This can be found in Appendix 3 and this will be sent out with the consultation.
- 9.11 Responses will need to be considered carefully by the Licensing Committee as to whether they should be taken into account and to what extent. The Committee is only able to consider matters that are within the scope of the Guidance, Act and Codes of Practice.

10. LIST OF BACKGROUND PAPERS

- 10.1 Guidance to licensing authorities on the Gambling Act 2005 issued by the Gambling Commission,
<http://www.gamblingcommission.gov.uk/pdf/GLA%203%20May%2009%20revised.pdf>
- 10.2 LACORS Statement of Principles template
<http://www.lacors.gov.uk/LACORS/upload/21730.doc>

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Appendix 1

London Borough of Barnet

Statement of Principles

Gambling Act 2005

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19. Relevant Documents

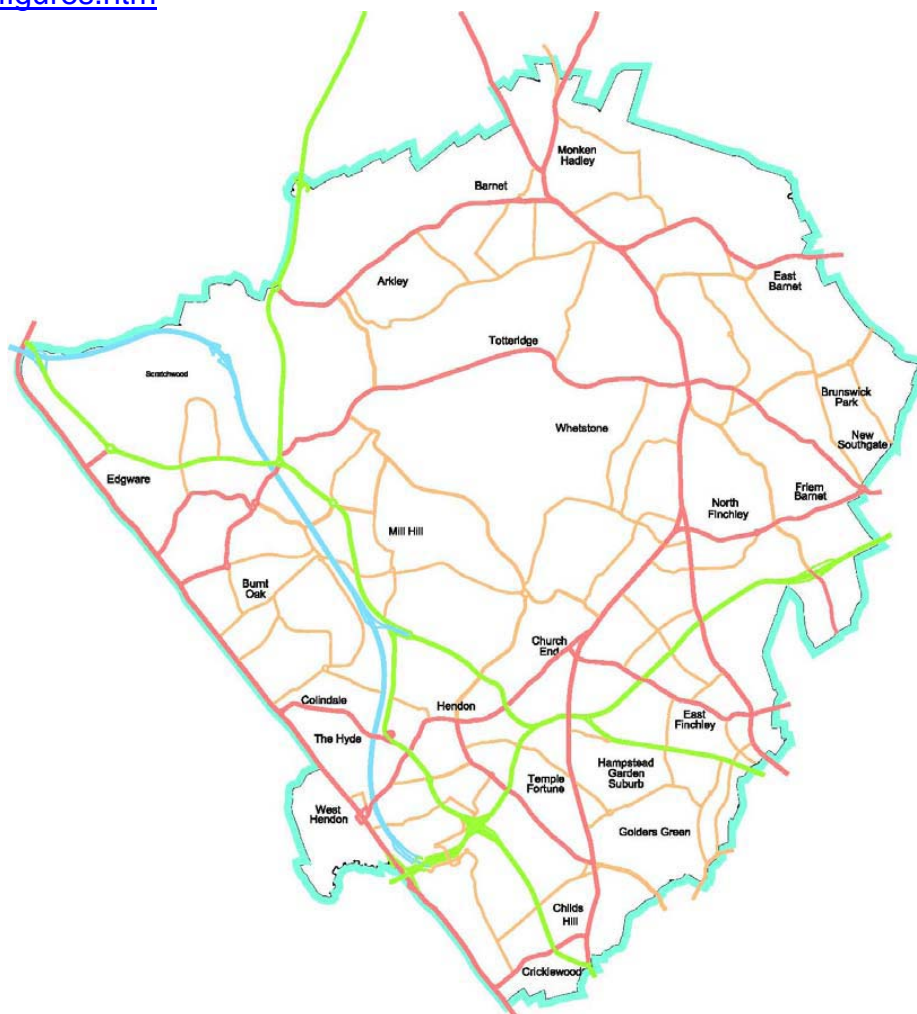
20. Complaints Regarding the Licensing Authority

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22. Commencement and Review

1. Introduction

- 1.1 The London Borough of Barnet here sets out a statement of principles that it will apply when carrying out its functions as a licensing authority in accordance with the Gambling Act 2005.
- 1.2 The London Borough Barnet is situated in North London. Barnet's overall population in 2008 was projected by the Office of National Statistics to be 334,600, the second largest population of the 32 London boroughs. In terms of area it is the fourth largest. 36% of the borough is undeveloped, being green belt (28%) and metropolitan open land (8%). The rest of the borough is made up of densely populated suburban areas, 20 town centres and the transport network.
- 1.3 The Borough is shown in the map below and in detail at <https://www.barnet.gov.uk/index/council-democracy/barnet-maps-facts-figures.htm>



- 1.4 Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they propose to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from “time to

time” and any amended parts re-consulted upon. The statement must be then re-published.

1.5 The Act requires that the following parties are consulted by licensing authorities:

- The Chief Officer of Police;
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority’s area;
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority’s functions under the Gambling Act 2005.

1.6 The Council of the London Borough of Barnet consulted widely upon this statement before finalising and publishing. A list of those persons consulted is provided below:

- The Metropolitan police service
- Social Services
- Trade associations
- Resident associations
- Responsible authorities
- Councillors
- Faith Groups
- Voluntary Groups

1.7 Our consultation took place between 2 September 2009 and 26 November 2009 and we followed the HM Government Code of Practice on Consultation (published July 2008), which is available at: <http://www.berr.gov.uk/files/file47158.pdf>

1.8 The policy was approved at a meeting of the Full Council on 14 December 2009 date and was published on [Date to be inserted following approval process].

1.9 It should be noted that this statement of licensing principles will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

2. The licensing objectives

2.1 In exercising functions under the Gambling Act 2005 licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:

- Preventing gambling 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 Council of the London Borough of Barnet as the relevant licensing authority accepts that the term “vulnerable person” 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 and drugs. The Council as the relevant licensing authority will consider this objective on a case by case basis and will not interpret the term narrowly.

It should be noted that the Gambling Commission has stated: “The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”.

- 2.2 This licensing authority is aware that, as per Section 153, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it:
- in accordance with any relevant code of practice issued by the Gambling Commission;
 - in accordance with any relevant guidance issued by the Gambling Commission;
 - reasonably consistent with the licensing objectives; and
 - in accordance with the authority’s statement of licensing policy.

3. Declaration

- 3.1 In preparing this statement of principles, licensing authority has had regard to the licensing objectives of the Act, and the Guidance to Licensing Authorities issued by the Gambling Commission in May 2009.

4. Responsible authorities

- 4.1 The responsible authorities with respect to licensing premises in Barnet are:

- The Gambling Commission
- The Metropolitan Police Service
- The Council’s Planning Service
- The London Fire and Emergency Planning Authority
- The Safeguarding Children Board

- HM Revenue and Customs
- The Council itself as the licensing authority

4.2 In selecting the Safeguarding Children Board as the body competent to advise about the protection of children from harm, the London Borough of Barnet 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 the London Borough of Barnet
- The Board includes a variety of professionals with skills and experiences directly relevant to the need to protect children from being harmed or exploited by gambling
- The Board is answerable to democratically elected persons and does not represent any particular interest group
- The Board 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

4.3 The Gambling Commission has a number of important functions in the regulation of gambling. In particular it issues operating and personal licences, and deals with internet gambling. These matters are not within the Council's remit. For information see www.gamblingcommission.gov.uk

4.4 Responsible authorities have the right to make representations in connection with an application, or to ask for a review of an existing licence. Any such representations must be relevant to the application.

5. Interested parties

5.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in Section 158 of the Act as follows:

“A person is an interested party in relation to a premises licence or in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the application is made, the person;
a) Lives sufficiently close to the premises to be likely to be affected by the authorised activities

- b) Has business interests that might be affected by the authorised activities*
c) Represents persons who satisfy paragraph a) or b)”

- 5.2 Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission’s Guidance to Licensing Authorities at paragraphs 8.11 to 8.19.
- 5.3 To enable the licensing authority 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 then the representation will not be accepted by the licensing authority.
- 5.4 In considering whether an interested party lives or has business interests sufficiently close to the premises certain factors will be taken into account including;
- The size of the premises
 - The nature of the premises
 - The distance of the premises from the habitual residence or workplace of the person making the representation
 - The potential impact of the premises (number of customers, routes likely to be taken when visiting the premises)
 - The circumstances of the complainants and their interest that may be relevant to the distance from the premises
- 5.5 In determining whether a person or organisation has “business interests” the authority will adopt the widest possible interpretation and may recognise as interested parties but not limited to, trade unions, partnerships, charities, faith groups, residents and tenants associations and medical practices.
- 5.6 If the representation is from an association or any other body then these will only be accepted provided that they have at least one member who is an interested party.
- 5.7 Unless the person making the representation is a locally elected councillor or MP the licensing authority may require written evidence that they represent identified interested parties. A letter from one of these persons will be sufficient.
- 5.8 If individuals wish to approach locally elected councillors to ask them to represent their views then those councillors cannot sit on a licensing committee that meets to determine the licence application.

- 5.9 To be deemed relevant a representation must relate to the licensing objectives or raise issues under the policy or the Gambling Commissions guidance or codes or practice.
- 5.10 In deciding whether to treat a representation as frivolous or vexatious the following will be taken into account
- Who is making the representation and whether that person has a history of making representation 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. Exchange of Information

- 6.1 The licensing authority will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The licensing authority will also have regard to any guidance issued by the Gambling Commission to local authorities on this matter, as well as any relevant regulations issued by the Secretary of State under its powers provided in the Act.
- 6.2 The licensing authority will seek to establish information exchange protocols with the responsible authorities and will make these available.

7. Inspection and Enforcement

- 7.1 A licensing authority is required to state the principles to be applied by the authority in exercising its functions under Part 15 of the Act with respect to the inspection of premises; and the powers under Section 346 of the Act to institute criminal proceedings in respect of the offences specified.
- 7.2 The licensing authority's principles are that it will be guided by the Gambling Commissions Guidance for Local Authorities and will endeavour to be:
- Proportionate -The licensing authority will only intervene when necessary; remedies will be appropriate to the risks posed and costs identified and minimised
 - Accountable - the licensing authority must be able to justify decisions and will be subject to public scrutiny
 - Consistent - rules and standards will be implemented fairly
 - Transparent -the licensing authority will be open and do its best to keep things simple and user friendly
 - Targeted – the licensing authority will focus on the problem and do its best to minimise side effects.

- 7.3 Any enforcement action will be in accordance with the relevant enforcement policy.
- 7.4 The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the licensing authority but should be notified to the Gambling Commission.
- 7.5 This licensing authority also keeps itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.
- 7.6 The London Borough of Barnet's licensing officers will monitor ongoing compliance with licence conditions. They may carry out inspections without prior notice to the occupier or licensee.
- 7.7 As per the Gambling Commission's Guidance to Licensing Authorities this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 7.8 Planned enforcement activity will be prioritised according to assessed risk (the potential for harm to the licensing objectives). This licensing authority has adopted and implemented a risk-based inspection programme, based on;
- The licensing objectives
 - Relevant codes of practice
 - Guidance issued by the Gambling Commission, in particular at Part 36
 - The principles set out in this statement of licensing policy
- 7.9 When assessing risk, the licensing authority 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
 - Relevant information from other agencies.
- 7.10 The risk rating for each premises will be kept under constant review and may change at any time.

7.11 The licensing authority 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.

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

8. Licensing authorities functions

8.1 Licensing authorities are required under the Act to assume responsibility for the;

- Licensing of premises where gambling activities are to take place by issuing premises licences
- Issue provisional statements
- Regulation of members clubs and miners welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issuing of Club Machine Permits to Commercial clubs
- Grant of permits for the use of certain lower stake gaming machines at unlicensed family entertainment centres
- Receiving notifications from alcohol licensed premise (Under the Licensing Act 2003) for the use of two or fewer gaming machines
- Issue of Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines.
- Registration of small society lotteries below the prescribed thresholds
- Issue of Prize Gaming Permits
- Receiving and endorsing Temporary Use Notices
- Receiving Occasional Use Notices
- Providing information to the Gambling Commission regarding details of licenses issues
- Maintaining of registers of the permits and licences that are issued under these functions.

8.2 It should be noted that local licensing authorities are not involved in licensing remote gambling at all. This falls within the remit of the Gambling Commission via operating licences.

9. Applications - General principles

9.1 The licensing authority has no rigid rules about the acceptability of applications and will consider each on its merits.

9.2 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:

- 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 licensing authority will give particular weight to child protection issues. The licensing authority 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 public availability at the premises of information about organisations that can provide advice and support in relation to gambling and debt, for example GamCare, Gamblers Anonymous, the Gordon House Association, the National Debtline and local Citizens Advice Bureaux and other relevant advice agencies.
- 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.

9.3 It will assist the sub-committee in contested cases if applicants, responsible authorities and interested parties address these matters.

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

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

10. Premises Licenses

10.1 General

10.1.1 A premises licence may authorise:

- the operation of a casino
- the provision of facilities for playing bingo
- Adult Gaming Centres
- Licensed Family Entertainment Centres
- The provision of facilities for betting.

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

10.1.3 The licensing authority recognises that every application and representation made in connection with premises licences, with the exception of applications for a casino licence, must be treated on its merits.

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

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

10.1.5 It is appreciated that as stated in the Gambling Commission's Guidance to Licensing Authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" and also that unmet demand is not a criterion for a licensing authority.

10.1.6 Premises licences that are granted must be consistent with the licensing objectives. In consideration of the Gambling Commissions Guidance to Licensing Authorities the following comments are made:

- This licensing authority is aware that the Gambling Commission takes a lead role in preventing gambling from being a source of crime. However, the guidance does envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective.
- This licensing authority has noted that the Gambling Commission states it generally does not expect licensing authorities to be concerned with ensuring that gambling is

- This licensing authority has noted that Gambling Commissions Guidance on protecting children from being harmed or exploited by gambling means preventing children from taking part in gambling as well as restriction of advertising so that gambling products are not aimed at or are particularly attractive to children.

10.2 Definition of “premises”

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

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

10.2.3 In most cases the expectation is that a single building or plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer.

10.2.4 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.

10.2.5 This licensing authority will take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non gambling) purposes. In particular, the attention of applicants is drawn to the following:

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling.

- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not “drift” into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers should be able to participate in the activity names on the premises licence.

10.2.6 Other factors which the licensing authority may consider are:

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

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

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

Adult Gaming Centre

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

Betting Shops

- Access must be from a street (as per paragraph 7.23 Guidance to Licensing Authorities) or from another premises with a betting premises licence
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.

Tracks

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

Bingo Premises

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

Family Entertainment Centre

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

10.2.8 Part 7 of the Gambling Commission's Guidance to Licensing Authorities contains further guidance on this issue, which this authority will also take into account in its decision-making.

10.3 Location

10.3.1. The licensing authority 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 licensing authority 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 licensing authority has not identified any such areas, but will be receptive to advice from the Police when considering applications.

10.3.4 As stated in the Gambling Commissions Guidance to Licensing Authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling. Applications for granting licenses in respect of gambling premises that are in close proximity to locations for such vulnerable persons for example schools, centres for gambling addicts, hostels, centres catering for people with mental disabilities or learning difficulties or those with drug or alcohol abuse problems, will receive very careful consideration.

10.3.5 Should any policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. Again it should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

10.4 Premises "ready for gambling"

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

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

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

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

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

10.5 Duplication with other regimes

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

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

10.5.3 The licensing authority wishes to reconcile planning, building control and licensing considerations whenever possible. However, it should be noted that licensing decisions will not over-rule planning or building control decisions, as the legal framework for each is different.

10.5.4 Licensable activities cannot lawfully be carried on at premises unless there is 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.

10.5.5 Where there is no relevant planning permission or building regulation approval, or where there are planning conditions that conflict with the licence application, the licensing authority recommends applicants to submit a planning application or building regulation approval application as early as possible in order to regularise the position.

10.5.6 The licensing authority will take into account any concerns about conditions that are not able to be met by licence holders due to planning restrictions

10.6 Adult Gaming Centres

10.6.1 The licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that those who are aged under 18 years old are not attracted to or gain access to the premises.

10.6.2 The licensing authority may consider measures to meet the licensing objectives such as:

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

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

10.6.3 The licensing authority 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.

10.7 Licensed Family Entertainment Centres

10.7.1 Gaming machines are a form of gambling which is attractive to children and Licensed Family Entertainment Centres will contain machines of the Category D machine types on which they are allowed to play. Because gaming machines provide opportunities for solitary play and for immediate payouts, they are likely to engender repetitive and excessive play. In considering applications the licensing authority will have regard to the need to protect children and vulnerable people from harm or being exploited by gambling and will expect the applicant to satisfy the licensing authority, for example, that those aged under 18 years old do not have access to the adult only gaming machine areas.

10.7.2 The London Borough of Barnet may consider measures to meet the licensing objectives such as:

- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.
- Measures / training for staff on how to deal with suspected truant school children on the premises

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

10.7.3 The licensing authority will refer to the Gambling Commission's website from time to time to ascertain any conditions that may apply to operating licences regulating the way in which the area containing the category C machines should be delineated. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

10.8 Tracks

10.8.1 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 licensing authority 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.

10.8.2 The licensing authority 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.

10.9 Casinos

10.9.1 The licensing authority has resolved not to licence casinos, with immediate effect. Any applications received will be returned with a notification that a 'no-casino' resolution is in place.

10.10 Bingo

10.10.1 The licensing authority will need to be satisfied that appropriate conditions exist for bingo to be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.

10.10.2 This authority also notes the Gambling Commission's Guidance at paragraph 18.8 regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

10.10.3 Children and young people are allowed into bingo premises. However, they are not permitted to participate in the playing of bingo and if category B or C machines are made available for use, then these must be separated from areas where children and young people are allowed.

10.11 Betting premises

10.11.1 The licensing authority is aware that there is a trend to enlarge betting offices and that this can result in improved customer facilities. The licensing authority will look favourably on applications to improve customer facilities by enlarging or relocating existing premises, provided this does not entail risk to the licensing objectives.

10.11.2 The licensing authority recognises that certain bookmakers have a number of premises within its area. In order to ensure compliance and that issues are recognised and resolved at the earliest stage, operators are requested to give the licensing authority a single named point of

contact, who should be a senior individual, and whom the licensing authority will contact first should any compliance queries or issues arise.

10.11.3 Betting machines - This licensing authority 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 people, when considering the number, nature and circumstances of betting machines an operator wants to offer.

10.12 Provisional Statements

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

10.12.2 S204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:

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

10.12.3 The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.

10.12.4 In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

10.12.5 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:

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

10.12.6 In addition, the licensing authority may refuse the premises licence or grant it on terms different to those attached to the provisional statement only by reference to matters:

- which could not have been raised by objectors at the provisional statement stage;
- which in the licensing authority's opinion reflect a change in the operator's circumstances;
- where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

10.13 Licence Conditions

10.13.1 Premises Licences will be subject to the permissions and 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 licensing authority is able to exclude default conditions and also attach others. The licensing authority 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.

10.13.2 The London Borough of Barnet accepts that conditions, other than mandatory ones, must be tailored to the individual style and characteristics of the premises concerned. Apart from the mandatory conditions, the London Borough of Barnet 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, or
- Directly related to the type of licence applied for
- Relevant to one or more of the licensing objectives
- 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.

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

10.13.4 This licensing authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives.

10.13.5 This authority believes that children should not normally be permitted access to premises or parts of premises where gambling takes place. The authority will ensure that where category C or above machines are on offer in premises to which children are admitted:

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is 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 there are prominently displayed notices indicating that access to the area is prohibited to persons under 18 years of age.
- Ages of younger patrons are checked

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

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

10.13.7. 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.

10.13.8 Licence conditions may be imposed if there is justified concern about burglary targeted at gaming machines or the use of gaming machines by children.

10.13.9 If the licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a premises licence to this effect.

10.13.10 Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether these need to be Security Industries Act licensed or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary (as per the Gambling Commission's Guidance, Part 33).

10.13.11 When considering whether to impose a licence condition to restrict the number of betting machines in particular premises, the licensing authority 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.

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

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

10.13.13 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 licensing authority 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.

10.14 Reviews

10.14.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities. However, it is for the licensing authority to decide whether the review is to be carried out. This decision will be made on the basis of whether the request for the review is relevant to the matters listed below but the licensing authority 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 licensing authority 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 authority's statement of principles.

10.14.2 The licensing authority 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 London Borough of Barnet authorised to do so to initiate a review in the London Borough of Barnet's name but it is expected that in most cases licensing officers will take the lead.

10.14.3 The licensing authority does not wish its licensing officers to take on the initiation of a review that could otherwise be requested by another 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 licensing authority expects that they, not the licensing officers, will normally initiate the review.

10.14.4 Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt. The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.

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

- (a) add, remove or amend a licence condition imposed by the licensing authority;
- (b) exclude a default condition imposed by the Secretary of State or remove or amend such an exclusion;

- (c) suspend the premises licence for a period not exceeding three months; and
- (d) revoke the premises licence.

10.14.6 In determining what action, if any, should be taken following a review, the licensing authority will have regard to the principles set out in section 153 of the Act, as well as any relevant representations. In particular, the licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

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

- the licence holder
- the applicant for review (if any)
- the Commission
- any person who made representations
- the chief officer of police or chief constable; and
- Her Majesty's Commissioners for Revenue and Customs

11. Permits

11.1 General

11.1.1 The licensing authority believes that gambling, including the use of category D gaming machines, is harmful to children. The licensing authority believes that the use of gaming machines by children is not consistent with the third licensing objective.

11.1.2 The licensing authority will not grant permits for any category of gaming machines where it considers that they are likely to be used or easily accessed, by children. Permits may be granted if adequate precautions are offered by the applicant. These could include, for example, steps to prevent access to the machines by children, and training for staff with respect to suspected truants and unsupervised very young children on the premises. At premises licensed for gambling, conditions may be imposed where it is considered necessary to prevent children from using or having easy access to gaming machines.

11.1.3 This licensing authority is concerned about burglary targeted at gaming machines. The authority considers that this is relevant to the first licensing objective.

11.1.4 Precautions to reduce the risk of burglary or theft from the machines 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
- emptying machines of cash nightly, and displaying a notice stating that this is done
- siting machines where they can be observed by staff or the licence holder to deter theft when the premises are open
- providing adequate secure cash storage facilities to Police recommendations.

11.1.5 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.

11.1.6 The licensing authority recommends that applicants consult the Police, including the local Safer Neighbourhood Team, at an early stage, to obtain advice about crime prevention measures.

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

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

11.2.1 Where a premise does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.

11.2.2 An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed Family Entertainment Centre (FEC) and if the chief officer of police has been consulted on the application.

11.2.3 This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures including training for staff as regards suspected truant school children on the premises, measures including training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on or around the premises.

11.2.4 The licensing authority will expect applications to demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- that the applicant has no relevant convictions
- that staff are trained to have a full understanding of the maximum stakes and prizes.

11.2.5 It should be noted that a licensing authority cannot attach conditions to this type of permit.

11.3 Alcohol licensed premises gaming machine permits (Schedule 13 paragraph 4(1)) Automatic entitlement: 2 machines

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

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

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

11.3.3 If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority will consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and any other matters that it may think relevant. This licensing authority considers that such matters will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harmed or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that those aged under 18 years old do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also help. As

regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

11.3.4 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.

11.3.5 It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions other than these cannot be attached.

11.3.6 It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

11.4 Prize Gaming Permits

11.4.1 Gaming is prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming.

11.4.2 This licensing authority requires that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:

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

11.4.3 In making its decision on an application for this permit the licensing authority does not need to but may have regard to the licensing objectives. However, it must have regard to any Gambling Commission guidance.

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

- 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

- the prize for which the game is played must not exceed the amount set out in regulations if a money prize, or the prescribed value if non-monetary prize;
- participation in the gaming must not entitle the player to take part in any other gambling.

11.5 Club Gaming and Club Machine Permits

11.5.1 Members clubs and miners' welfare institutes but not commercial clubs may apply for a club gaming permit. The club gaming permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set out in regulations.

11.5.2 Members clubs, miner's welfare institutes and commercial clubs may apply for a club machine permit. A club machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D). It should be noted that commercial clubs may not site category B3A gaming machines offering lottery games in their club.

11.5.3 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. The Secretary of State has made regulations and these 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 equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations.

11.5.4 Licensing authorities may refuse an application on the grounds that:

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

11.5.5 There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003. Under the fast-track procedure there is no opportunity for

objections to be made by the Commission or the Police and the grounds on which an application under the process may be refused are:

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

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

11.6 Temporary and Occasional Use Notices

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

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

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

11.6.4 There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place". In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.

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

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

12. Travelling Fairs

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

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

12.3 It is noted that the 27-day statutory maximum for the land being used as a fair applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land.

12.4 This licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

13. Small Society Lotteries

13.1 Registration of non-commercial society lotteries may be refused if it appears that the applicant is commercial society, and the licensing authority will therefore expect full details to be provided of the purpose for which the society is established. The licensing authority may make enquiries to satisfy itself on this point.

13.2 If the licensing authority 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.

13.3 The London Borough of Barnet does not currently possess an operating licence in its own name for the purposes of promoting a lottery for the benefit of the community.

14. Integration of licensing with other strategies

14.1 The licensing authority 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:

- The Cultural Strategy for London
- The objectives of the Security Industry Authority
- The Safer Communities Strategy
<http://www.barnet.gov.uk/safer-communities-strategy-2008-2013.pdf>
- The Sustainable Communities Strategy
<http://www.barnet.gov.uk/sus-community-strategy-2008-2018.pdf>
- Putting the community first: Barnet's Equalities policy
www.barnet.gov.uk/equalities-policy.pdf

15. Tourism and employment

15.1 The licensing authority 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.

16. Promotion of equality

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

16.2 The licensing authority 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 licensing authority will treat all parties equally. However, it can take into account only the issues provided for in the Gambling Act.

17. Delegation of functions

Matter to be dealt with	Licensing sub committee	Officers
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 received from the Commission	Where no representations have been 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 by the council in its capacity as licensing authority		All cases
Fee setting (when appropriate)		Normal budget-setting arrangements
Consideration of representations when the council is	All cases	

minded to refuse to register a lottery or to revoke a lottery registration		
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18. Licensing Register

18.1 The licensing authority 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 7443.

19. Relevant documents

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

20. Complaints about the licensing service

20.1 The licensing authority 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 www.barnet.gov.uk/contact-us.htm

21. Further information

21.1 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 7443, licensingadmin@barnet.gov.uk or see the council's website, www.barnet.gov.uk

22. Commencement and review

22.1 This policy will come into effect on (Date to be inserted when once policy has been approved) January 2010. It will be kept under review and the council may make changes after consultation. It will be renewed every three years. The council will be pleased to receive the views of responsible authorities, individuals or organisations at any time.

Appendix 2

Summary of changes

In reviewing and updating our statement of principles the latest Gambling Commission Guidance has been considered and also best practice advice issued by the Local Authorities Coordinators of Regulatory Services (LACORS) in May 2009.

Although the document looks quite different and changes have been made, these are mainly in style and presentation rather than content. LACORS as part of their best practice advice issued a template on how a statement of principles should look; this is with the intention to ensure a consistent national approach. Our new statement of principles reflects the LACORS template.

However, notable changes to the old policy are:

- **The title of the document has been changed from “Gambling Policy” to “Gambling - Statement of Principles”**

Both the Gambling Act and the Gambling Commission refer to the document as both a statement of policy and a statement of principles. This is because it is both a statement of general policy in relation to gambling matters and also may set out the principles that the authority will apply in considering applicant suitability in relation to certain permits. As this current document contains both it has been given the correct title of “Statement of Principles”.

- **Enforcement**

This section in the document reflects the current Gambling Commission Guidance on enforcement and inspection, and builds on the risk rated approach that has been adopted by the Licensing team. However, a new Enforcement Concordat is currently being drafted to operate between the Gambling Commission, Licensing authorities and the Association of Chief Police Officers. So, although the document reflects the current position, this section will need to be reviewed again once this Enforcement Concordat is agreed.

- **Split premises**

The amount of information in the document relating to split premises has increased and has become a separate section.

Currently, there is a tendency for gambling premises to attempt to split large premises into a number of smaller premises, each with an individual licence. The reason behind this is that each premises has a limit on the number of high value gaming machines that it can make available. So, by splitting large single premises into multiple premises means that an operator can

have more machines operating in the same area. The Gambling Commission has issued a wealth of guidance on this practice to stop it being used as a loop hole to create a machine shed environment. The new document reflects this guidance and gives clear information on access arrangements between such premises to ensure that premises are correctly divided with no direct access between licensed premises where appropriate.

- **Ready for gambling**

This section in the document is new to the policy, and reflects the clarification that has been given by Gambling Commission in relation to this matter.

A premises can only be licensed for gambling if the licensing authority can be satisfied that the premises are ready to be used for gambling in the reasonably near future. If the premises have not been constructed or need alteration, or the applicant has no right to occupy the premises yet; then they cannot apply for a premises licence. They must instead apply for a provisional statement.

Obviously, from a business point of view, traders would prefer to apply for a licence as it is cheaper and they only need to go through the process once. However, the Gambling Commission guidance has made it clear that the premises proprietor would have to apply for a provisional statement first and then convert this to a premises licence when appropriate. The new document reflects this.

- **Temporary use notices**

Operating licence holders are entitled to serve a temporary use notice on a licensing authority where they wish to provide temporary facilities for equal chance gaming without a gambling premises licence already in force. Currently, temporary event notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which, in practice, means poker tournaments

The notice authorises the premises to be used for the provision of equal chance gaming during a specified period. The total of these periods for one premises cannot exceed 21 days in a 12 month period.

As with split premises an operator may wish to try to interpret “premises” narrowly so that they can hold more than 21 days worth of events in 12 months. The Gambling Commission has given guidance on this which has been reflected in the new document. It clearly states that the department will look carefully at any temporary use notice and its definition of “premises” and would expect to object to notices which would attempt to permit regular gambling in a place which could be described as one set of premises.

- **“Relevant general principles”**

The previous policy stated that there were no special policies in place in respect to the following specific licences/permits:

- Unlicensed family entertainment centre gaming machine permits
- Prize gaming permits
- Club machine and club gaming permits
- Licensed family entertainment centre premises licences
- Track licences
- Bingo licences
- Betting premises licences
- Temporary and Occasional use notices
- Travelling fairs

It referred to taking into account all “relevant general principles” when considering an application

The new document no longer states this and the wording now reflects the LACORS best practice template which sets out what the general principles are. In essence the way that applications will be decided has not changed as although these principles were not set out in the previous document, they reflect current guidance and so would have been used when deciding whether to grant a licence. With the new document it is clear what general principles will be used when determining an application.

Appendix 3

**London Borough of Barnet
GAMBLING ACT 2005**

**FORMAL CONSULTATION: COMMENTS ON OUR DRAFT GAMBLING
POLICY**

When you have completed this form please return to
licensingadmin@barnet.gov.uk

or by letter, addressed to
Emma Phasey, Trading Standards and Licensing Manager,
London Borough of Barnet, Building 4,
North London Business Park,
Oakleigh Road South,
London,
N11 1NP

Name:

Organisation or capacity (if applicable):

Address:

E-mail:

Telephone Number:

**Paragraph No.
COMMENTS**

**Paragraph No.
COMMENTS**

Please add further rows if you wish

In addition I wish to make the following general comments:

Declaration:

I am happy for this Response to be made public OR

I do not wish this Response to be made public

***Failure to complete the above Declaration will result in your Response being
made public.***

Signature: Date:

.....

Name: *(Please print)*

Please note the consultation closes on 26th November 2009