



BARNLSLEY
Metropolitan Borough Council

Gambling Act 2005

Statement of Licensing Policy

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REGULATORY SERVICES

Barnsley Metropolitan Borough Council
Statement of Licensing Policy

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Statement of Licensing Policy

Part A – General

1.1 Introduction

1.1.1 Barnsley Metropolitan Borough Council are the Licensing Authority under the Gambling Act 2005 and the Council is responsible for granting premises licences and permits in the Metropolitan Borough of Barnsley in respect of:-

- a) Casino premises;
- b) Bingo premises;
- c) Betting premises, including tracks;
- d) Adult Gaming Centres;
- e) Family Entertainment Centres;
- f) Permits, Temporary and Occasional Use notices.

1.1.2 The Gambling Act 2005 requires the Council to prepare and publish a “Statement of Licensing Policy” that sets out the policies that the Council will generally apply to promote the Licensing Objectives when making decisions on applications made under the Act.

1.1.3 Each Policy lasts for a maximum of three years, but can be reviewed and revised by the Council at any time.

1.1.4 In producing this statement, the Licensing Authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the Guidance to Licensing Authorities and the Licence Conditions and Codes of Practice (LCCP) issued by the Gambling Commission, and any responses from those consulted on the statement.

1.1.5 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.

1.1.6 The formal Statement of Licensing Policy will be available on Barnsley Metropolitan Borough Council's website.

1.1.7 The policy will come into effect on the date of adoption by the Council.

1.2 The Borough of Barnsley

1.2.1 Future Council ambitions together with the 'One Barnsley' strategic partnership define an achievable vision of a future in which Barnsley is an innovative and vibrant 21st-Century market town at the centre of a modern dynamic economy and a "great place to live". Priorities within the Community Plan to transform the Borough include bringing about a step change in our approach to provision of regeneration in the Borough, ensuring that we achieve a new and sustainable economic future in the community.

1.2.2 The urban core of Barnsley is home to 82,000 people. Barnsley town centre is the focus of the Borough's main shopping, administrative, commercial and entertainment activities. It is long famous for its market and more recently has become noted for its club scene and nightlife. To the west of the urban core is the lightly populated attractive hilly country centred on the market town of Penistone. To the south and east there are a number of dispersed towns and villages, separated by open land of the former coalfield, which are home to some 95,000 people. Remaking Barnsley is a long-term strategy to revitalise Barnsley town centre and the wider economy. The Barnsley urban area will play a pivotal role and the town centre in itself will be transformed into a modern urban living space offering shoppers and visitors exciting retail, recreational, entertainment and cultural experiences that will enable it to compete successfully with neighbouring centres.

1.3 Consultation

1.3.1 The Licensing Authority is committed to consulting with as wide and varied an audience as possible with regards to this Policy.

1.3.2 Under section 349(3) of the Act, the Licensing Authority must in any case consult with;

- The Chief Officer of Police for the Authority's area;
- 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.

1.4 Glossary of Terms

1.4.1 Within this Statement of Policy, the following words and terms are defined as stated:

Licensing	As defined in section 1.6.1 below
Objectives:	
Council:	Barnsley Metropolitan Borough Council
Borough:	The area of South Yorkshire administered by Barnsley Metropolitan Borough Council (Map appended at Appendix A)
Licences:	As specified in section 1.12.1 below
Applications:	Applications for licences and permits as defined in section 1.12.1 below
Notifications:	Means notification of temporary and occasional use notices
Act:	The Gambling Act 2005
Regulations:	Regulations made under the Gambling Act 2005
Premises:	Any place, including a vehicle, vessel or moveable structure

Code of Practice:	Means any relevant code of practice under section 24 of the Gambling Act 2005
Mandatory Condition:	Means a specified condition provided by regulations to be attached to a licence
Default Condition:	Means a specified condition provided by regulations to be attached to a licence, unless excluded by Barnsley Metropolitan Borough Council
Interested Party:	For the purposes of this Act, a person is an interested party in relation to a premises licence if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, the person:- <ul style="list-style-type: none"> 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 a) or b) above.
Responsible Authority:	For the purposes of this Act, those listed in section 1.7 of this Policy are responsible authorities in relation to premises.
The Commission	The Gambling Commission
The Policy	Refers to this Statement of Principles (policy) as required under sec 349 (1) of the Gambling Act 2005
The Licensing Authority	Barnsley Metropolitan Borough Council which carries out it's functions as the Licensing Authority under the Gambling Act 2005 within the borough boundary.
Child	Person under the age of 16 years.
Young Person	Person under the age of 18 years

1.5 Scope of Licensing Policy

1.5.1 The purpose of the Licensing Policy is to:

- Provide applicants with a clear, consistent basis for submitting applications and notices in the Borough;
- Provide a clear, consistent basis for determining licence applications in Barnsley;
- Ensure the relevant views of those affected by licensed premises are taken into consideration;
- Ensure local area issues are taken into account by licensed premises; and
- Support the wider strategies of the Council and the approach to gambling across the Borough.

1.6 Promotion of the Licensing Objectives

1.6.1 The Council will carry out its functions under the Gambling Act 2005 Act with a view to aiming to permit the use of premises for gambling in so far as it is reasonably consistent with the three licensing objectives set out at Section 1 of the Act:- The licensing objectives are:

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

1.6.2 The Gambling Commission has stated that the requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling.

People who are vulnerable to gambling related harm may risk becoming problem gamblers, where problem gambling is defined as an individual's gambling that disrupts or damages personal, family or recreational pursuits. The social, economic and health impacts of problem gambling are well documented. In a severe form it becomes an addiction which is recognised as a clinical psychiatric diagnosis, 'disordered gambling.'

1.6.3 The 2012 Health Survey for England found that in the previous year 68 per cent of men and 61 per cent of women had gambled, and that problem gambling rates were 0.8 per cent for men and 0.2 per cent for women.

1.7 General Principles

1.7.1 Nothing in this Statement of Policy will:-

- a) Undermine the rights of any person to apply, under the Act, for a variety of permissions and have the application considered on its individual merits; or
- b) Override the right of any person to make representations on any application or seek a review of a licence or permit where they are permitted to do so under the Act.

1.7.2 The Council is aware, as per Section 153 of the Act, that in exercising its functions it must aim to permit the use of premises for gambling in so far as the Authority thinks it is:

- a) in accordance with any relevant code of practice issued by the Gambling Commission;
- b) in accordance with any relevant guidance issued by the Gambling Commission;
- c) reasonably consistent with the licensing objectives; and
- d) in accordance with the Council's Statement of Gambling Policy.

1.7.3 The starting point in determining applications will be to grant the application without additional conditions. Conditions will only be considered where they are needed to meet the requirements of the licensing objectives, and any conditions applied will not be overly onerous and will be proportionate to the scale of the

application and the risks involved. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

1.7.4 All applicants for Premises Licences will be required to set out how they will promote the licensing objectives, as specified in section 1.6, and what measures they intend to employ to ensure compliance with them. With effect from 6 April 2016, the Licensing Authority will also expect to receive a copy on request of the applicant's local risk assessment in accordance with the LCCP and Social Responsibility Code. When determining an application to grant a Premises Licence or review a Premises Licence, regard will be taken to the proximity of the premises to schools, vulnerable adult centres or residential areas where there may be a high concentration of families with children. The proximity of premises taken into consideration will vary depending on the size and scope of the gambling premises concerned. Each case will, however, be determined on its individual merits. Therefore, if an applicant can effectively demonstrate how they might overcome licensing objective concerns, this will be taken into account.

1.7.5 Licensing is concerned with the control of licensed premises, temporary use notices or occasional use notices within the terms of the Act. Conditions may be attached to licences that will cover matters that are within the control of individual operators.

1.7.6 When considering any conditions to be attached to licences, the Licensing Authority will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned. The Secretary of State may, by regulation, provide for specified conditions to be attached to a premises licence as either "mandatory" or "default" conditions. In determining an application, the Licensing Authority may not have regard to the expected demand for the facilities, which it is proposed to provide.

1.7.7 The Licensing Authority recognises that, apart from the licensing function, there are a number of other mechanisms available for addressing issues of unruly behaviour that can occur away from licensed premises, including:-

a) Planning controls;

b) Ongoing measures to create a safe and clean environment in these areas in partnership with local businesses, transport operators and other Council departments;

c) Regular liaison with the Police on law enforcement issues regarding disorder and anti-social behaviour;

d) The power of the Police, other responsible authorities or local residents and businesses to seek a review of the licence.

1.7.8 Any person making a representation in respect of a licence application will be required to relate their representation to one of more of the Licensing Objectives, as specified in section 1.6, before the Licensing Authority will be able to consider it.

1.7.9 The Licensing Authority, in undertaking its licensing function, will have due regard to the need to eliminate unlawful discrimination and to promote equality and good relations between persons of different ethnic and minority groups.

1.8 Responsible Authorities

1.8.1 Responsible authorities are public bodies that must be notified of applications and are entitled to make representations to the licensing authority in relation to applications for, and in relation to, premises licences. Section 157 of the Act identifies the bodies that are to be treated as responsible authorities. They are: -

- a licensing authority in England and Wales in whose area the premises is wholly/partly situated;
- the Gambling Commission;
- the South Yorkshire Police;
- the fire and rescue authority for the same area;
- the local planning authority;
- an authority which has functions in relation to pollution to the environment or harm to human health;

- anybody, designated in writing by the licensing authority as competent to advise about the protection of children from harm;
- HM Revenue & Customs; and
- any other person prescribed in regulations by the Secretary of State.

1.8.2 Responsible authorities also include navigation authorities that have statutory functions in relation to the waters where the vessel is usually moored or berthed or any water where it is proposed to be navigated at a time when it is used for licensable activities. This would include:-

- Environment Agency;
- British Waterways Board; and
- Secretary of State. (Note: in practice, the Secretary of State for Transport who acts through the Maritime and Coastguard Agency).

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

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

1.8.4 In accordance with the Gambling Commission's Guidance for local authorities, the Council designates the Local Safeguarding Children Board for this purpose.

1.9 Interested Parties

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

“A person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the application is made, the person:-

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

1.9.2 The Licensing Authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. The principles are:-

- Each case will be decided upon its merits. The Council will not apply a rigid rule to its decision making and will consider the examples of considerations provided in the Gambling Commission’s Guidance for local authorities. It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.
- Interested parties can include trade associations and trade unions, and residents’ and tenants’ associations but the Council will not however generally view these bodies as interested parties unless they have a member who can be classed as an interested person under the terms of the Gambling Act 2005, i.e. lives sufficiently close to the premises to be likely to be affected by the activities being applied for.
- Interested parties can be persons who are democratically elected such as councillors and MP’s. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these however, the

Council will generally require written evidence that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

1.9.3 If individuals wish to approach Councillors to ask them to represent their views then care should be taken that the Councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the Licensing Section.

1.10 Exchange of Information

1.10.1 Barnsley Metropolitan Borough Council will ensure it exercises its functions in accordance with the laws on exchange of information with respect to the exchange of information between it and the Gambling Commission, and its functions under the Act with the respect to the exchange of information between it and other persons listed in Schedule 6 to the Act.

1.10.2 The Council will act in accordance with the provisions of the Act in its exchange of information which includes complying with the Data Protection Act 1998 provisions. The Council will have regard to any guidance issued by the Gambling Commission as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

1.10.3 Where local protocols are established as regards to information exchange with other bodies these will be made available on request.

1.10.4 Details of those persons making representations will be made available to applicants to allow for negotiation and, in the event of a hearing being required, will form part of a public document. Anyone making representations or applying for a review of a premises licence will be informed that their details will be disclosed.

1.11 Enforcement

1.11.1 Licensing Authorities are required by Regulation under the Gambling Act 2005 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 specified offences.

1.11.2 Barnsley Metropolitan Borough Council will have regard to the Regulators Code and will follow the principles set out in it. The Code is based around the principles of consistency, transparency, proportionality and accountability. Regulation will be targeted where appropriate.

1.11.3 Regulatory Services has adopted and will have regard to the principles set out in its Enforcement Policy, which follows the principles of the Regulators Code.

1.11.4 The Regulators Code and Regulatory Services Enforcement Policy (available upon request) set out that a graduated response is taken where offences against legislation are found or where licence conditions have been contravened. An isolated administrative offence, such as failing to maintain certain records, may be dealt with by way of a written warning. More serious offences may result in a referral to Sub-Committee, the issue of a Formal Caution or a referral for prosecution.

1.11.5 Barnsley Metropolitan Borough Council will use a risk-based inspection programme, based on;

- The licensing objectives
- Relevant codes of practice
- Guidance issued by the Gambling Commission
- The principles set out in this statement of licensing policy.

1.11.6 Once licensed, it is essential that premises are monitored to ensure that they are run in accordance with their operating schedules, in compliance with the specific requirements of the Act and in compliance with any licence conditions. It will also be important to monitor the Borough for unlicensed premises.

1.11.7 The Council will seek to work actively with the Police in enforcing licensing legislation and has established protocols with The South Yorkshire Police, Barnsley Trading Standards and South Yorkshire's Fire and Rescue Service on enforcement issues to ensure an efficient deployment of police and council officers.

1.11.8 In accordance with the Gambling Commission's Guidance the Council will endeavour to avoid duplication with other regulatory regimes so far as is reasonably possible.

1.11.9 The main enforcement and compliance role for Barnsley Metropolitan Borough Council in terms of the Gambling Act 2005 will be to ensure compliance with the premises licences and other permissions it authorises. It will investigate complaints about licensed/unlicensed premises where appropriate.

1.11.10 The Gambling Commission will be the enforcement body for the operating licences and personal licences it issues. The Council will not deal with concerns about manufacture, supply or repair of gaming machines. The Council will however notify the Gambling Commission of any significant issues relating to operating licences, personal licences and the supply, manufacture or repair of gaming machines that arise.

1.12 Equality, Diversity and Inclusion

1.12.1 Barnsley is a multi-racial, multi-cultural and multi-faith borough. We value and celebrate the diversity that exists amongst the residents of Barnsley, and those who choose to visit or work in our town. As a Council we want to ensure that everyone can fully participate in the social, cultural, political and economic life of the borough.

1.12.2 As such, applicants are reminded of their duties under the Equality Act 2010, the Disability Discrimination Act 1995 (as amended by the Disability Discrimination Act 2005), the Race Relations Act 1976 (as amended by the Race Relations Amendment Act 2003), the Sex Discrimination Act 1975 (as amended) and the Gender Equality Act 2006. The Council will ensure that it has due regard to the above at all times.

1.13 Licensing Authority Functions

1.13.1 Barnsley Metropolitan Borough Council is required under the Act to:-

- be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences;
- issue Provisional Statements;
- regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits;
- issue Club Machine Permits to Commercial Clubs;
- grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres;
- receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines;
- issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines;
- register small society lotteries below prescribed thresholds;
- issue Prize Gaming Permits;
- receive and Endorse Temporary Use Notices;

- Commission regarding details of licences issued (see section above on 'information exchange'); and
- maintain registers of the permits and licences issued under these functions.

1.12.2 The Council will not get involved in licensing remote gambling at all. This will fall to the Gambling Commission and be controlled through the issue of operating licences.

Part B - Premises Licences

2.1 General Principles

2.1.1 Premises licences will be subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities will also be able to exclude default conditions and also attach others, where it is believed to be appropriate.

2.1.2 Nothing in this Statement of Policy will:-

- a) Undermine the rights of any person to apply under the Act for a variety of permissions and have the application considered on its individual merits; OR
- b) Override the right of any person to make representations on any application or seek a review of a licence or permit where they are permitted to do so under the Act.

2.1.3 The starting point in determining applications will be to grant the application without conditions. Conditions will only be considered where they are needed to meet the requirements of the licensing objectives, and any conditions applied will not be overly onerous and will be proportionate to the scale of the application and the risks involved. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

2.1.4 All applicants for Premises Licences will be required to set out how they will promote the licensing objectives, as specified in section 1.6.1 above, and what measures they intend to employ to ensure compliance with them.

2.1.5 When determining an application to grant a Premises Licence or review a Premises Licence, consideration will be taken regarding the proximity of the premises to schools, vulnerable adult centres or residential areas where there may be a high concentration of families with children. The proximity of premises taken into consideration will vary depending on the size and scope of the gambling premises concerned. Each case will, however, be decided on its merits. Therefore, if an applicant can effectively demonstrate how they might overcome licensing objective concerns, this will be taken into account.

2.1.6 Licensing is about the control of licensed premises, temporary use notices or occasional use notices within the terms of the Act. Conditions may be attached to licences that will cover matters that are within the control of individual licensees.

2.1.7 When considering any conditions to be attached to licences, the Council will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned. The Secretary of State may by regulation provide for specified conditions to be attached to a premises licence as either “mandatory” or “default” conditions. In determining an application the Council can not take into account the expected demand for the facilities, which it is proposed to provide.

2.1.8 The Council recognises that, apart from the licensing function, there are a number of other mechanisms available for addressing issues of unruly behaviour that can occur away from licensed premises, including:-

- a) Planning controls;
- b) Ongoing measures to create a safe and clean environment in these areas in partnership with local businesses, transport operators and other Council departments;

- c) Regular liaison with the Police on law enforcement issues regarding disorder and anti-social behaviour;
- d) The power of the Police, other responsible authorities or local residents and businesses to seek a review of the licence.

2.1.9 Objectors will be required to relate their objection to one of more of the Licensing Objectives, as specified in section 1.6.1 above, before the Council will be able to consider it.

2.1.10 The Council, in undertaking its licensing function, will have due regard to the need to eliminate unlawful discrimination and to promote equality and good relations between persons of different racial groups.

2.2 Definition of “premises”

2.2.1 ‘Premises’ is defined in the Act as “any place”. Different premises licences cannot apply in respect of a single premise at different times. However, it is possible for a single building to 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. Whether different parts of a building can properly be regarded as being separate premises will always be a question of fact in the circumstances. Notwithstanding, the Gambling Commission does not consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.

2.2.2 The Council takes particular note of the Gambling Commission’s guidance for local authorities which states that:-

- “Licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following;

a) the third licensing objective seeks to protect children from being harmed or exploited by gambling and premises should be configured so that children are

prohibited from participating in gambling, such that they are not invited to participate in, have accidental access to, or closely observe gambling

b) 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”.

2.2.3 It should also be noted that an applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed. The Gambling Commission has advised that references to “the premises” are to the premises in which gambling may now take place. Thus a licence to use premises for gambling will only be issued in relation to premises that are ready to be used for gambling. The Council agrees with the Gambling Commission that it is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence. The Gambling Commission emphasises that requiring the building to be complete ensures that the authority can, if necessary, inspect it fully, as can other responsible authorities with inspection rights.

2.3 Location.

2.3.1 Barnsley Metropolitan Borough Council is aware that ‘demand’ issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. The Council will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.

2.3.2 With regards to these objectives it is the council’s policy, upon receipt of any relevant representations to look at specific location issues including:

- the possible impact a gambling premises may have on any premises that provide services to children or young people, i.e. a school, or vulnerable adult centres in the area

- the possible impact a gambling premises may have on residential areas where there may be a high concentration of families with children
- the size of the premises and the nature of the activities taking place
- any levels of organised crime in the area.

2.3.3 Such information may be used to inform the decision the council makes about whether to grant the licence, to grant the licence with special conditions or to refuse the application.

2.3.4 Currently, there are no identified areas of the borough in which a concentration of licensed premises exist which are leading to problems concerning the licensing objectives. Should any specific policy be decided upon with regards to areas where gambling premises should not be located, this statement will be updated and each application will be considered on its merits.

2.4 Area Profiles and Risk Assessments.

2.4.1 The council will need to be satisfied that there is sufficient evidence that the particular location of the premises would be reasonably consistent with the licensing objectives.

2.4.2 As of the 6th April 2016, it will be a requirement of the Gambling Commission's Licence conditions and Codes of Practice that licensees assess the local risks to the licensing objectives posed by the provision of gambling facilities at their premises; and have policies, procedures and control measures in place to mitigate the risks. The Licensing Authority will require assessments to be submitted/ available from that date.

2.4.3 Licensees must review and update their local risk assessments:

- when applying for a variation of a premises licence;

- when there are significant changes at a licensee's premises that may affect their mitigation of local risks;
- to take account of significant changes in local circumstances, including those identified in this policy; and
- in any case, undertake a local risk assessment when applying for a new premises licence.

2.4.4 As a minimum, the Authority will expect applicants to consider the following in their local risk assessments:

- whether the premises is in an area of deprivation
- whether the premises is in an area subject to high levels of crime and/or disorder
- the ethnic profile of residents in the area
- the demographics of the area in relation to vulnerable groups
- the location of services for children such as schools, playgrounds, toy shops, leisure centres and other areas where children will gather

2.4.5 The Licensing Authority will consider the following factors when deciding if an application is appropriate in a particular location:

- The possible impact a gambling premises may have on any premises that provide services to children, young people and vulnerable persons, such as a place of education, play, recreation or treatment or vulnerable adult centres in the area; and any mitigating factors put in place by the applicant to reduce risks
- The possible impact a gambling premise may have on residential areas where there may be a high concentration of families with children; and any mitigating factors put in place by the applicant to reduce risks.
- The size of the premises and the nature of the activities taking place.
- The appropriate level of staff and suitable supervision procedures.
- Levels of crime in the area and any impact of the granting of the licence

- Whether the applicant has offered any conditions to mitigate any risks and promote the licensing objectives
- Details of how the premises will operate to restrict access to children, young people and vulnerable persons
- Details of any partnership working arrangements the operator has in place with Police, Social Care or similar agencies.

2.4.6 This policy does not preclude any application being made and each application will be decided on its merits, with the onus being upon the applicant to show how the concerns can be overcome.

2.5 Duplication with other Regulatory regimes

2.5.1 Barnsley Metropolitan Borough Council will seek to avoid any duplication with other statutory / regulatory systems where possible, including planning. The Council 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 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.

2.6 Licensing Objectives

2.6.1 Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, the Council has considered the Gambling Commission's Guidance to local authorities and these are referred to in 2.6.2, 2.6.5 and 2.6.7 below. Applicants are encouraged to discuss the crime prevention procedures in their premises with the Council's Licensing Officer and South Yorkshire Police before making a formal application.

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

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

2.6.3 Considerations when determining whether the grant of a Premises licence will result in an increase in crime and disorder will include;

- The location of the premises
- Whether the premises has a history of crime and disorder, or has been associated with crime and/or disorder and whether there are any potential future risks of this occurring (including violence, public nuisance, public order or other crimes and policing problems)
- Whether the premises has been designed, laid out and fitted to minimise conflict and opportunities for crime and disorder (eg. physical security features, position of cash tills, CCTV etc.).
- What management measures are proposed to promote this licensing objective
- Have local supporting strategies, schemes and plans been assessed and included in the risk assessments to promote this licensing objective?

2.6.4 The Licensing Authority will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

2.6.5 Licensing Objective: **'Ensuring that gambling is conducted in a fair and open way'**

The Council recognises that the Gambling Commission does not generally expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is however, more of a role with regard to tracks (see section 2.15).

2.6.6 When determining an application the following issues and other relevant factors should be considered in the risk assessment;

- Whether sufficient management measures are proposed, eg. is the management and operation of the premises open and transparent. Evidence of compliance with the Gambling Commissions Code of Practice, co-operation with enforcement agencies and relevant protocols and procedures are in place.
- The design, layout, fitting and lighting of the premises.

2.6.7 Licensing Objective: **‘Protecting children and other vulnerable persons from being harmed or exploited by gambling’**

BMBC recognises the Gambling Commission's guidance that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The Council will therefore consider whether specific measures are required at particular premises, with regard to this licensing objective.

2.6.8 With regards to “vulnerable persons”, the Gambling Commission states that “it will for regulatory purposes assume that this group of people includes those who gamble more than they want to; those who gamble beyond their means; and those 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 licensing objective on a case-by-case basis.

2.6.9 The following must be included in any risk assessment;

- The location of the premises (eg. close to premises frequented by children or other vulnerable persons etc.)

- Whether any promotional material/advertising associated with the premises might encourage use of the premises by children or vulnerable adults.
- Whether there are management measures in place to ensure adequate staff training is in place to protect children, young persons and vulnerable people who could be harmed or exploited by gambling. Staff should receive refresher and induction training in relation to the procedures and operating systems for the protection of children and young people. Staff training records should be kept and made available to the Licensing Authority on request. Self testing procedures should be in place to identify staff training needs and staff competence in relation to age verification.
- A risk assessment for safeguarding children and vulnerable people at gambling premises, the outcome of which should be used to inform staff training and operating policy.
- A member of staff to be designated to have lead responsibility for the operating systems relating to the protection of children and other vulnerable persons.
- A recognised Proof of Age scheme shall be operated in all areas of the premises where alcohol is on sale and at entrances to areas of the premises which give access to adult gambling facilities.
- A written record shall be maintained of all staff interventions that are made with customers for the protection of children and other vulnerable persons (eg. refusals of service or admission, the provision of self help information, membership records for the self exclusion scheme including photographic ID, records of interventions with parents/carers who fail to behave responsibly at the premises, record of persons barred).
- Signage to be displayed in areas where children are admitted.
- A customer charter promoting the principles of acceptable behaviour at the premises, including that adults must supervise their children at all times.

2.7 Codes of Practice

2.7.1 The Council will take into account the Codes of Practice which the Gambling Commission issues from time to time with regards to the licensing objectives.

2.8 Conditions

2.8.1 The Council is aware that the Secretary of State has set mandatory conditions and default conditions and the Gambling Commission has set Licence Conditions and Codes of Practice which are necessary for the general good conduct of gambling premises, therefore it is unlikely that the council will need to impose individual conditions imposing a more restricted regime in relation to matters that have already been dealt with.

2.8.2 Where there are specific risks or problems associated with a particular locality, or specific premises, or class of premises, the council will attach individual conditions to address this.

2.8.3 Any conditions attached to licences will be proportionate and will be:-

- relevant to the need to make the proposed building suitable as a gambling facility;
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects.

2.8.4 Decisions upon individual conditions will be made on a case-by-case basis, although there will be a number of measures that the Council will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types in this policy. The Council will also expect licence

applicants to offer their own suggestions as to the way in which the licensing objectives can be met effectively.

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

2.8.6 The Council will ensure that where category C (see Annex 2) or above machines are on offer in premises to which children are admitted that:-

- 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; and
- 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.

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

2.8.7 The Council is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. The Council 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.

2.8.8 The Council recognises that there are certain conditions which cannot be attached 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.

2.9 Door Supervisors

2.9.1 The Gambling Commission guidance advises licensing authorities to consider whether there is a need for door supervisors in terms of the licensing objectives of the protection of children and vulnerable persons from being harmed or exploited by gambling, and in terms of preventing premises becoming a source of crime. It is also recognised that the door supervisors at casinos or bingo premises cannot be licensed by the Security Industry Authority (SIA) if the premises are being used wholly or mainly for the purposes for which such a licence is required. The Council will however consider on a case by case basis whether door supervisors are required to work at casino or bingo premises and may have specific requirements appropriate to the individual premises by attaching conditions subject to any codes of practice. This is in recognition of the nature of the work in terms of searching individuals and dealing with potentially aggressive persons.

2.9.2 For premises other than casinos and bingo premises, operators and licensing authorities may decide that supervision of entrances / machines is appropriate for particular cases but it will need to be decided whether these need to be SIA licensed or not. It will not be automatically assumed that they need to be.

2.10 Adult Gaming Centres

2.10.1 Barnsley Metropolitan Borough Council will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.

2.10.2 The Council will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures/ licence conditions may cover issues such as:-

- Proof of age schemes
- Staff training
- Record keeping
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-barring schemes
- Provision of information leaflets / helpline numbers for gambling related organisations such as GamCare.
- Local area profiling.

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

2.11 (Licensed) Family Entertainment Centres

2.11.1 Barnsley Metropolitan Borough Council will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect applicants to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to 'adult only' gaming machine areas. Applicants will be expected to address the following;

- Promotion of the licensing objectives and the Licensing Authorities requirements under this Policy;
- Measures and procedures for any staff supervision requirements;
- The suitability of the location through the applicants local area risk assessment (including proximity to residential areas, shopping centres, places of education, play or recreation, specialist services for children/ vulnerable adults and /or community buildings etc.).

2.11.2 The Council will expect applicants to offer their own measures to meet the licensing objectives and appropriate measures/ licence conditions may cover issues such as:-

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

- The suitability of the location of the premises through the applicant's local area risk assessment.

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

2.11.3 The Council will, in line with the Gambling Commission's guidance, refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. The Council will also make itself aware of any mandatory or default conditions on these premises licences.

2.12 Casinos

2.12.1 There are currently no casinos within the Metropolitan Borough of Barnsley.

2.12.2 The Gambling Act 2005 prevents Barnsley Metropolitan Borough Council from accepting any applications for new Casino premises licences. The Council was not named as an authority which could issue small or large casino premises licences under the Act.

2.13 Bingo Premises

2.13.1 Bingo is not given a statutory definition in the Gambling Act 2005, although there are two main types;

- Cash bingo, where the stakes paid make up the cash prizes that are won
- Prize bingo, where various forms of prizes are won, not directly related to the stakes paid.

2.13.2 The Council acknowledges the Gambling Commission's guidance to local authorities in connection with bingo premises. Paragraph 18.7 of the guidance states:-

- "Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed. Social Responsibility (SR) code 3.2.5(3) states that "licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises" in order to prevent underage gambling".

2.13.3 When determining an application for a bingo licence, the Licensing Authority will require the applicant to demonstrate;

- Promotion of the licensing objectives and the relevant considerations as listed in this policy;
- Local area profiling via the risk assessment;
- Location of the premises
- Suitability and layout of the premises

This list is not exhaustive, and each application will be judged on its merits.

2.14 Betting Premises

2.14.1 There are different types of premises, licensed under a single class of licence for betting. These are off course betting, on-course betting for tracks, betting machines and different categories of gaming machines (B2, B3, B4, C and D).

2.14.2 **Betting machines** - Section 181 contains an express power for licensing authorities 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. When considering whether to impose a condition to restrict the number of betting machines in particular premises, the licensing authority, amongst other things, 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 (it is an offence for those under 18 to bet) or by vulnerable persons.

2.14.3 Credit - section 177 does not prevent the licensee from permitting the installation of cash dispensers (ATMs) on the premises. Such machines may accept credit cards (and debit cards) and the arrangement is subject to a requirement that the licensee has no other commercial connection in relation to gambling (aside from the agreement to site the machines) with the service-provider and does not profit from the arrangement, nor make any payment in connection with the machines. The licensing authority will also take note of any restrictions and requirements on the Operating Licences for betting premises as regards credit.

2.14.4 Betting shops – Off course betting is betting that takes place other than at a track eg. a betting shop. When determining an application, the Licensing Authority will particularly take into account the following;

- The licensing objectives and relevant issues as listed in this policy;
- Local area profiling via risk assessment
- Location of the premises (in particular to young and vulnerable persons)
- Procedures in place to prevent access to young people under 18
- Suitability and layout of the premises
- Size of the premise in relation to the number of betting machines
- Ability of staff to monitor use /abuse of machines
- Self-exclusion systems
- Staff training in relation to responding to vulnerable or underage persons.

This list is not exhaustive and each case will be judged on its merits.

2.15 Tracks

2.15.1 A track is defined in the Act as a “horse racecourse, greyhound track or other premises of which a race or other sporting event takes place or is intended to take place”.

2.15.2 The Council is aware that tracks may be subject to individual or multiple premises licences, provided each licence relates to a specified area of the track. In accordance with the Gambling Commission's guidance the Council will consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

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

2.15.4 Barnsley Metropolitan Borough Council will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures / licence conditions may cover issues 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-barring schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare
- Customer charter to promote responsibility behaviour and the supervision of children.

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

2.15.5 Gaming machines used on Tracks - All machines must be located in accordance with Gambling Commission guidance and any special considerations that should apply in relation to, for example, supervision of the machines and preventing children from playing them. The Council supports the Commission's guidance that licensing authorities need to consider the location of gaming machines at tracks, and applications for track premises licences will need to demonstrate that, where the applicant holds a pool betting operating licence and is going to use his entitlement to four gaming machines, these machines are located in areas from which children are excluded. Children and young persons will not be prohibited from playing category D gaming machines on a track.

2.15.6 Betting machines used on Tracks – The Council will take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer. It also supports the Gambling Commission's suggestion that licensing authorities will want to consider restricting the number and location of such machines in respect of applications for track betting premises licences.

2.15.7 Condition on rules being displayed - The Gambling Commission's guidance advises that licensing authorities should 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.

2.15.8 Applications and plans – All application must be made in accordance with the appropriate Regulations for premises licences and in accordance with the Gambling Commission's suggestion in its guidance. Plans should make clear what is being sought for authorisation under the track betting premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence.

2.15.9 The Council accepts the Gambling Commission's view that it would be preferable for all self-contained premises operated by off-course betting operators on a track to be the subject of separate premises licences, to ensure that there is clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

2.16 Travelling Fairs

2.16.1 Barnsley Metropolitan Borough Council will decide whether, where category D machines and/ or equal chance prize gaming (see Annex 2) 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.

2.16.2 The Council will also consider whether the applicant falls within the statutory definition of a travelling fair.

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

2.17 Provisional Statements

2.17.1 Section 204 of the Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that they:

- Expect to be constructed
- Expect to be altered
- Expect to acquire a right to occupy

Developers may wish to apply for provisional statements before they enter 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.

2.17.2 The Council notes the Guidance from the Gambling Commission on this issue. It is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence and requiring the building to be complete ensures that the authority could, if necessary, inspect it fully.

2.17.3 In terms of representations about premises licence applications, following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances. In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:-

- (a) which could not have been raised by objectors at the provisional licence stage; or
- (b) which is in the authority's opinion reflect a change in the operator's circumstances.

2.17.4 The Council recognises that, as a licensing authority, it should not take into account irrelevant matters. An example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal.

2.18 Reviews and Representations

2.18.1 The Council will carry out a review of a Premises Licence where it has received a formal application for review in accordance with the Act that is relevant to one or more of the Licensing Objectives. Representations may include issues relating to the following:-

- a) Use of licensed premises for the sale and distribution of class A drugs and/or the laundering of the proceeds of drugs crimes;
- b) Use of licensed premises for the sale and distribution of illegal firearms;
- c) Use of licensed premises for prostitution or the sale of unlawful pornography;
- d) Use of licensed premises as a base for organised crime activity;
- e) Use of licensed premises for the organisation of racist, homophobic or sexual abuse or attacks;
- f) Use of licensed premises for the sale of smuggled tobacco or goods;
- g) Use of licensed premises for the sale of stolen goods;
- h) Children and/or vulnerable persons being put at risk.

Representations should include as much detail and evidence as possible.

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

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

2.18.3 The Council (licensing authority) can also initiate a review of a licence based on any reason that it thinks is appropriate.

2.18.4 Representations made outside of the statutory period for making such representations or which otherwise fail to comply with the regulations will not be valid and will not be taken into consideration.

2.18.5 Where valid representations are received, the Authority will hold a hearing.

2.19 Decision Making

2.19.1 The Council will be involved in a wide range of licensing decisions and functions and has established a Statutory Licensing Board to administer them.

2.19.2 Appreciating the need to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process, the Board has delegated certain decisions and functions and has established a Sub-Committee to deal with them.

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

2.19.4 The Statutory Licensing Board will also sit to determine general licensing matters that have been delegated to it by the full Council that are not associated with the Gambling Act 2005.

2.19.5 Where a Councillor who is a member of the Statutory Licensing Board is making or has made representations regarding a licence on behalf of an interested

party, in the interests of good governance they will disqualify themselves from any involvement in the decision making process affecting the licence in question.

2.19.6 The Licensing Sub-Committee will also refer to the Statutory Licensing Board any matter it is unable to deal with because of the number of its members who are unable to take part in the consideration or discussion of any matter or vote on any question with respect to it.

2.19.7 The Statutory Licensing Board will refer to the full Council any matter it is unable to deal with because of the number of its members who are unable to take part in the consideration or discussion of any matter or vote on any question with respect to it.

2.19.8 Every determination of a licensing decision by the Statutory Licensing Board or a Licensing Sub-Committee shall be accompanied by clear, cogent reasons for the decision. The decision and the reasons for that decision will be sent to the applicant and those who have made relevant representations as soon as practicable. A summary of the decision shall also be posted on the Council's website as soon as possible after the decision has been confirmed, where it will form part of the statutory licensing register required to be kept by the Council.

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

2.19.10 Decisions as to whether representations are irrelevant, frivolous or vexatious will be made by Council Officers, who will make the decisions on whether representations or applications for licence reviews should be referred to the Statutory Licensing Board or Sub-Committee. Where representations are rejected, the person making that representation will be given a written reason as to why that is the case. There is no right of appeal against a determination that representations are not admissible.

2.19.11 The table shown at Annex 1 sets out the agreed delegation of decisions and functions to Statutory Licensing Board, Sub-Committee and Officers.

2.19.12 This form of delegation is without prejudice to Officers referring an application to a Sub-Committee or Statutory Licensing Board if considered appropriate in the circumstances of any particular case.

2.19.13 An applicant or person making representations will have a right of appeal to the Magistrates' Court if they are unhappy with any decision made by the Council.

2.20 Departure from Policy

2.20.1 The Licensing Authority may choose to depart from this Policy if the individual circumstances of a case warrant such a departure, in the interests of fairness. and it is relevant to the matters listed below;

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

2.20.2 In such an event, the Licensing Authority will give full reasons for the decision to depart from this Policy, and each case will be dealt with on its own merits.

Part C – Permits / Temporary And Occasional Use Notices

3.1 Unlicensed Family Entertainment Centre gaming machine permits

(Statement of Principles on Permits - Schedule 10 paragraph 7)

3.1.1 Where a premise does not hold a premises licence but wishes to provide category D gaming machines only, it may apply to the licensing authority for this permit. Applicants must show that the premises will be wholly or mainly used for making gaming machines available for use.

3.1.2 The Gambling Act 2005 states that; "... a licensing authority may prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25." The Gambling Commission's guidance also states; "a licensing authority may include a statement of principles that it proposes to apply when exercising its functions in considering applications for permits. In particular it may want to set out the matters that it will take into account in determining the suitability of the applicant. Given that the premises is likely to appeal particularly to children and young persons, licensing authorities may wish to give weight to matters relating to protection of children from being harmed or exploited by gambling and to ensure that staff supervision adequately reflects the level of risk to this group."

3.1.3 An application for a permit may be granted only if the Council (licensing authority) is satisfied that the premises will be used as an unlicensed FEC, and if the Chief Officer of Police has been consulted on the application. In addition, the Council will require applicants to demonstrate:-

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- A risk management plan is in place in relation to protecting children and vulnerable people;

- The Police and the Safeguarding Children Board have been consulted on the application;
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and
- that staff are trained to have a full understanding of the maximum stakes and prizes, and all other relevant issues.
- That the applicant is over 18 years of age;
- That proper and appropriate procedures are in place to protect children and vulnerable persons from harm;
- That there are measures set out to promote the licensing objectives;
- The location of the premises;
- local area profiling through via the risk assessment
- that a member of staff is designated with lead responsibility for safeguarding children and other vulnerable people;
- that there are policies and training available for safeguarding children and vulnerable others;
- provide details of the supplier of the machines and the licence number.
- provide a plan of the premises.

3.1.4 It should be noted that the Council (licensing authority) cannot attach conditions to this type of permit.

3.1.5 Applicants are required to obtain an enhanced disclosure from the Disclosure and Barring Service as part of the application process and regard will be given to any “Relevant convictions” (as defined by Schedule 7 of the Act) which may be revealed.

3.1.6 In addition to the Police, the Safeguarding Children’s Board will also be consulted on the application. The Council will expect applicants 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.

3.2 (Alcohol) Licensed premises gaming machine permits - (Schedule 13 paragraph 4(1))

3.2.1 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 (see Annex 2). These premises merely need to notify the licensing authority. 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.

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

3.2.3 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.

3.2.4 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.

3.2.5 Holders of permits must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

3.3 Prize Gaming Permits

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

3.3.2 Barnsley Metropolitan Borough Council’s Statement of Principles require applicants to set out the types of gaming that they intend to offer and be able to demonstrate:-

- that they understand the limits to stakes and prizes that are set out in Regulations;
- and that the gaming offered is within the law.

3.3.3 In making its decision on an application for a permit, applicants will be expected to demonstrate the following;

- the type of gaming they are intending to offer;
- that the applicant is over 18 years of age;
- that proper and appropriate procedures are in place to protect children and vulnerable persons from harm;

- that all staff have been fully trained in all the relevant issues;
- that the applicant has no relevant convictions;
- that there are measures in place to promote the Licensing Objectives;
- the location of premises;
- a local area profile risk assessment;
- that a member of staff is designated with lead responsibility for safeguarding children and vulnerable others;
- there are policies available for safeguarding children and other vulnerable persons;
- that the application has been copied to the Police and the Safeguarding Children Board

3.3.4 Applicants are required to obtain an enhanced disclosure from the Disclosure and Barring Service as part of the application process and regard will be had to any “Relevant convictions” (defined by Schedule 7 of the Act) which may be revealed.

3.3.5 There are conditions in the Gambling Act 2005 by which permit holders 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 game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

3.4 Club Gaming and Club Machines Permits

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

3.4.2 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. It is anticipated that this will cover bridge and whist clubs, which will replicate 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.

3.4.3 The Council may only refuse an application on the grounds that:-

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

3.4.4 There is a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12

paragraph 10). Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the Police, and the grounds upon which an authority can refuse a permit are reduced. 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.

3.4.5 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.

3.5 Temporary Use Notices

3.5.1 Temporary Use notices allow the use of premises for gambling where there is no premises licence, but where an operator wishes to use the premises temporarily for providing facilities for gambling.

3.5.2 There are a number of statutory limits with regards to temporary use notices. Section 218 of the Act in relation to these notices refers to a “set of premises”, which differs from the definition of premises in Part 8 of the Act. In considering whether a place falls within the definition, the licensing authority will consider the ownership, occupation and control of the premises.

3.5.3 Operators should note the following;

- A Temporary Use Notice can only be used to provide facilities for equal chance gaming which must be intended to produce a single overall winner;

- Cash games are not permitted;
- The Gambling Commission licensed operator which notifies the Temporary Use Notice bears full responsibility for the compliance of the event;
- All relevant licence conditions that apply to the Gambling Commission licensed operator responsible for the Temporary Use Notice, apply to the temporary premises.

3.5.4 In considering a Temporary Use Notice, the Local Authority will consider the following;

- Promotion of the licensing objectives;
- Suitability of the premises;
- Suitability of the location;
- Measures put in place for safeguarding; and
- Any guidance issued by the Gambling Commission or relevant authorities.

3.6 Occasional Use Notices

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

Part D – Legislation, Policies and Strategies

4.1 Legislation

4.1.1 In undertaking its licensing function under the Gambling Act 2005, the Council is also bound by other legislation, including:-

- a) Section 17 of the Crime and Disorder Act 1988;
- b) Human Rights Act 1998;
- c) Health and Safety at Work Act 1974;
- d) Environmental Protection Act 1990;
- e) The Anti-Social Behaviour Act 2003;
- f) The Race Relations Act 1976 (as amended);

However, the policy is not intended to duplicate existing legislation and regulation regimes that already place obligations on employers and operators.

4.2 National Strategies

4.2.1 The Council will seek to discharge its responsibilities identified by other Government Strategies, in so far as they impact on the objectives of the licensing function.

4.3 Local Strategies and Policies

4.3.1 Where appropriate, the Council will consider applications with reference to other adopted local strategies and policies, including the following:-

- The Council's Corporate Strategy;
- The Community Safety Strategy;
- Regulators Code of Conduct and Regulatory Services Enforcement Policy.
- Safer and Sustainable Communities Plan

4.4 Integrating Strategies

4.4.1 There are many stakeholders involved in the Leisure industry and many are involved in the promotion of the licensing objectives. A number of stakeholders'

plans and strategies deal with matters related to the licensing function. Where this is the case, the Council will aim, as far as possible, to co-ordinate them.

4.4.2 The Council recognises in particular the importance of the co-ordination and integration of the Gambling policy with other plans aimed at the management of town centres and the night-time economy. Relevant plans and strategies include:-

- a) **Crime and Disorder Strategy** – The Council will fulfil its duty under section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the Borough. As far as possible, licensing decisions will aim to contribute to the targets set in the Crime and Disorder Strategy and conditions attached to licences and certificates will reflect local crime prevention strategies.
- b) **Local Transport Plan** – the Council aims to work with the local transport authority and will consider ways in which the public can be dispersed from licensed premises and events so as to avoid disturbance, crime and disorder. The Police will be encouraged to report on matters related to the swift and safe dispersal of people from licensed premises.
- c) **Racial Equality** – The Council is required under race relations legislation to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups. The impact on these issues of the Gambling Policy will be monitored and amendments will be made as necessary.
- d) **Human Rights** – The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way which is incompatible with a Convention right. The Council will have particular regard to the following relevant provisions of the European Convention on Human Rights:-
 - i. Article 6 that in the determination of civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;

- ii. Article 8 that everyone has the right to respect for his home and private and family life;
 - iii. Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of his or her possessions, including for example the possession of a licence.
- e) The Licensing Authority's Statutory Licensing Board will provide reports, when appropriate, to its Planning Committee on the situation regarding licensed premises in the area, including the general impact of gambling related crime and disorder, to enable the Planning Committee to have regard to such matters when taking its decisions.
- f) **Tourism and Town Centre Management** – The Council aims to promote a high quality thriving night-time economy.
- g) The Council will ensure that the Statutory Licensing Board receives reports, when appropriate, on the needs of the local tourist economy to ensure that these are reflected in their considerations.
- h) **Economic Strategies** – The Council will ensure that the Statutory Licensing Board is appraised of the employment situation in the area and the need for new investment and employment where appropriate.
- i) **Enforcement Policy** – All licensing enforcement will be conducted in accordance with the Regulators Code and the Regulatory Services Enforcement Policy.

4.4.3 In order to avoid duplication with other statutory regimes, the Council will not attach conditions to a licence unless they are considered necessary for the promotion of the licensing objectives. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

4.4.4 Non-compliance with other statutory requirements may be taken into account in reaching a decision about whether to grant a licence, but only if relevant representations are received.

5.1 Ongoing Responsibilities of Licensed Premises

5.1.1 The responsibility to promote the licensing objectives does not end when a licence is granted. Operators must continue to tackle the risks associated with the activities they provide.

5.1.2 All customer-facing and management staff in licensed premises are expected to have sufficient knowledge to promote responsible gambling and to address risks associated with gambling. This should include (where appropriate);

- The importance of social responsibility.
- Staff are familiar with partnership agencies, have relevant contact details and know how to report any concerns.
- The causes and consequences of problem gambling.
- Identifying and communicating with vulnerable persons; including primary intervention and escalation.
- How to deal with problem gamblers; including exclusion (mandatory and voluntary) and escalating for advice/treatment.
- The importance of maintaining records (such as refusals, self-exclusions, incident logs, age challenges).
- Refusal of entry (alcohol and drugs).
- Age verification procedures and the need to return stakes/withdraw winnings if underage persons are found gambling.
- The importance and enforcement of time/spend limits.
- Licence conditions.
- Offences under the Gambling Act.
- Categories of gaming machines and the stakes and odds associated with each machine.
- Types of gaming and the stakes and odds associated with each.
- Staff exclusions from gambling at the premises where they are employed and the reasons for that restriction.

- The ability to signpost customers to support services with respect to problem gambling, financial management, debt advice etc.
- Safe cash handling and the payment of winnings.
- How to identify forged ID, report it and procedures in relation to the offender (such as report to the Police, bar offenders from the premises).
- Knowledge of a problem gambling helpline number.
- The importance of not encouraging customers to increase the amount of money they have decided to gamble; enter into continuous gambling for a prolonged period; continue gambling when they have expressed a desire to stop; re-gamble winnings or chase losses.

6.1 Self Exclusion scheme.

6.1.1 The Licensing Authority expects all premises to operate a voluntary exclusion scheme; which means that whenever a customer requests to be excluded from the premises, they are excluded for an agreed time-frame taking into account the Gambling Commissions Licence Conditions and Code of Practice minimum requirements.

6.1.2 A self-exclusion policy should be supported by a written agreement drawn up in accordance with the relevant Codes of Practice and trade association advice.

Annex 1 – Delegations of Licensing Functions

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

Annex 2 – Definition of Gaming Machines

Definition of Gaming Machines

Based on Gambling Commissions' guidance to Licensing Authorities

Section 235 of the Act defines a “gaming machine” as; “a machine which is designed or adapted for use by individuals to gamble (whether or not it can also be used for other purposes)”. This definition is wider than those included in previous gaming legislation and covers all types of gambling activity which can take place on a machine, including betting on virtual events. However, the following should be noted:

- there remains a distinction between skill machines and gaming machines. Skill machines are unregulated; and
- section 235 contains important exemptions for equipment that is not to be considered a gaming machine, even when gambling can be performed on it. For example, a home PC is not to be classed as a gaming machine, even though someone can access remote gambling on it.

Categories of gaming machines

The maximum stakes and prizes for certain gaming machines were updated by the Gambling Commission in June 2009.

Category of machine	Maximum Stake	Maximum Prize
A	Unlimited	Unlimited
B1	£2	£4,000
B2	£100 (in multiples of £10)	£500
B3	£1	£500
B3A	£1	£500
B4	£1	£250
C	£1	£70
D non-monetary prize (other than crane grab machines)	30p	£8
D non-monetary prize (crane grab machines)	10p	£50
D money prizes	10p	£5
D combined money and non-money prize (coin pusher or penny falls machine)	10p	£15 cash (of which no more than £8 may be a money prize)

Age restrictions

- Categories A, B and C machines – minimum age of 18 years for all players;
- Category D – no minimum age for players, however the Secretary of State has a reserve of power to set a minimum age for playing category D machines with an associated power to exempt certain machines like cranes and penny pushers;
- The holder of a permit or premises licence will have to ensure that he complies with the Codes of Practice issued by the Commission on the location of and access to such machines by children and young persons, and their separation from category C and B machines where those are also located on the same premises.

Summary of maximum number of machines by premises type

Gaming machines on arcade premises

Gaming machines fall into categories depending on the maximum stake and prize available. Arcades are allowed to offer a certain number of gaming machines from each category:

	Machine category			
	B3	B4	C	D
Adult gaming centre	Maximum of 4 machines in category B3 or B4		No limit on category C or D machines	
Family entertainment centre (with premises licence)			No limit on category C or D machines	
Family entertainment centre (with permit)				No limit on category D machines

Gaming machines on betting premises

Gaming machines can be sited on betting premises. All gaming machines sited on betting premises must comply with the Gambling Commission's gaming machines technical standards, and be tested to the appropriate standard by an approved test house.

What gaming machines can betting premises offer?

Gaming machines fall into categories depending on the maximum stake and prize available. A general betting (standard) operating licence, together with a betting premises licence, allows for up to four gaming machines from any of the following categories to be sited on that premises:

	Machine category				
	B2	B3	B4	C	D
Betting premises and tracks occupied by pool betting	Maximum of 4 machines in categories B2 to D				

Gaming machines on bingo premises

Gaming machines can be sited on bingo premises. The rules for the positioning of gaming machines, in relation to other activities on a premises, are listed in the Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007 and the (Mandatory and Default Conditions) (Scotland) Regulations 2007.

All gaming machines sited on bingo premises must comply with the Gambling Commission's Gaming Machine Technical Specifications and be tested to the appropriate standard by an approved test house.

What gaming machines can bingo premises offer?

Gaming machines fall into categories depending on the maximum stake and prize available. A licensed bingo operator is permitted up to eight gaming machines from category B3 or B4, and any number of category C or category D machines.

	Machine category			
	B3	B4	C	D
Bingo premises	Maximum of 8 machines in category B3 or B4			No limit on category C or D machines

Gaming machines on casino premises

Barnsley Metropolitan Borough Council currently has no casino premises and therefore information relating to gaming machines on casino premises has not been included within this policy. Further information on machine categories for casinos can be found at the Gambling Commission website.

Pubs, clubs, and other qualifying alcohol licensed premises

Clubs or miners' welfare institutes

Gaming machines fall into categories depending on the maximum stake and prize available.

	Machine category		
	B4	C	D
Clubs or miners' welfare institute (with permits)	Maximum of 3 machines in categories B3A or B4 to D*		
Qualifying alcohol-licensed premises		1 or 2 machines of category C or D automatic upon notification	

Qualifying alcohol-licensed premises (with gaming machine permit)

Number as specified on permit

Permits for additional gaming machines

In addition to their automatic entitlement, pubs and other alcohol licensed premises may apply to the Council for a gaming machine permit which allows the provision of additional machines. The number of machines allowed will be specified on the permit.

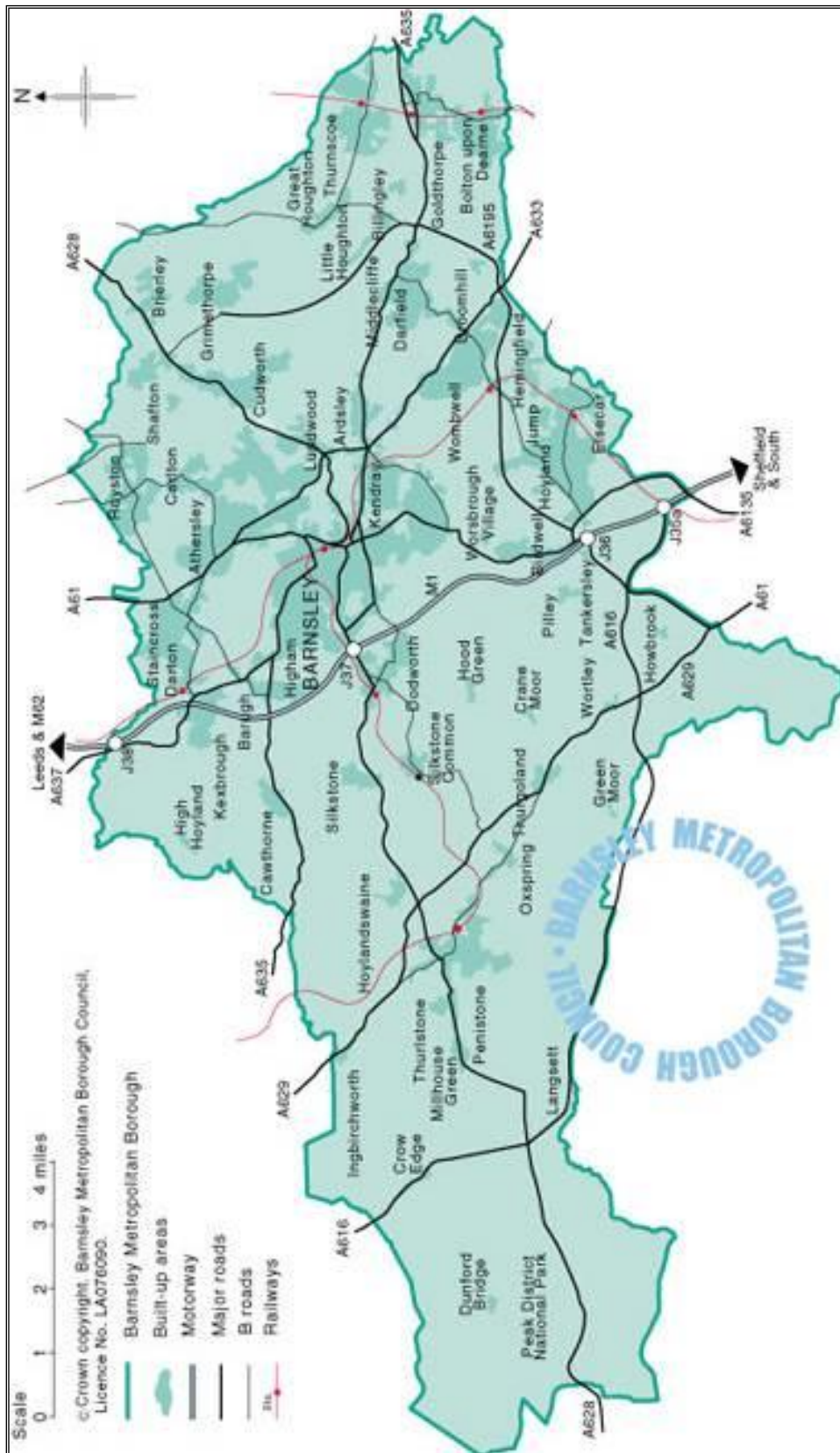
Travelling fairs

Gaming machines fall into categories depending on the maximum stake and prize available.

Travelling fair

Machine category D
No limit on category D machines

Appendix A – Map of Barnsley Metropolitan Borough



Further Information

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

Barnsley Metropolitan Borough Council
Regulatory Services
PO Box 634
Barnsley
S70 9GG

Tel: 01226 773843
Fax: 01226 775699
Email: regulatoryservices@barnsley.gov.uk
Website: www.barnsley.gov.uk

Information is also available from:-

Gambling Commission
Berkshire House
168-173 High Holborn
London
WC1V 7AA

Tel: 020 7306 6219
Website: www.gamblingcommission.gov.uk