



Public Document Pack

MEETING:	General Licensing Regulatory Board
DATE:	Wednesday 15 February 2023
TIME:	2.00 pm
VENUE:	Reception Room, Barnsley Town Hall

AGENDA

1 Declaration of Interests

To receive any declarations of pecuniary and non-pecuniary interest from Members in respect of items on the agenda.

2 Minutes (*Pages 3 - 4*)

To accept as a correct record the minutes of the meeting held on 21 December 2022.

3 Statement of Gambling Policy Review Consultation 2022/23 (*Pages 5 - 74*)

4 Licensing and Enforcement Update (*Pages 75 - 78*)

To: Chair and Members of General Licensing Regulatory Board:-

Councillors Green (Chair), Bowser, A. Cave, Cherryholme, Clarke, Danforth, K. Dyson, Franklin, Greenhough, Hunt, Kitching, Lodge, Markham, Newing, Osborne, Pickering, Ramchandani, Risebury, Shepherd, Stowe, Sumner, Webster, White, Williams, Wilson and Wraith MBE

Matt O'Neill, Executive Director Growth and Sustainability
Sajeda Khalifa, Solicitor
Debbie Bailey, Senior Licensing Officer
Jamie Impey, Senior Legal Officer

Please contact Mel Bray on email melaniebray@barnsley.gov.uk

Tuesday 7 February 2023

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MEETING:	General Licensing Regulatory Board
DATE:	Wednesday 21 December 2022
TIME:	2.00 pm
VENUE:	Reception Room, Barnsley Town Hall

MINUTES

Present

Councillors Green (Chair), Bowser, Cherryholme, Clarke, Danforth, Hunt, Markham, Newing, Osborne, Shepherd, Stowe, Webster, White, Williams and Wilson

8 Declaration of Interests

There were no declarations of pecuniary or non-pecuniary interests.

9 Minutes

RESOLVED that the minutes of the General Licensing Regulatory Board meeting held on the 26 October 2022 be approved as a true and correct record.

10 Enforcement Update

Members were provided with an overview of the enforcement work Licensing Officers had recently undertaken, presented by the Senior Licensing Officer.

A regular Trade Liaison Meeting was being held to facilitate communications between Hackney Carriage and Private Hire Trade and other Local Authority Departments. Feedback was given that these meetings were working well as a mechanism to cascade information to licensees and that positive feedback had been received from participants.

Members were advised that on 11 November 2022 Licensing Enforcement Officers alongside Officers from South Yorkshire Police took part in a night time operation focused on Barnsley town centre and the drivers and vehicles that work in the night time economy. The Chair of General Licensing Regulatory Board was also in attendance. The results of the vehicles inspected as part of the operation were that;

- 18 vehicles were found to be fully compliant
- 3 vehicles were found to have defective lights being two number plate lights and a main beam - all of which were rectified on the night
- 1 vehicle was suspended for failing to display the required door signage – this vehicle suspension was lifted the same night when the driver returned displaying the required signage
- 6 drivers were issued with written warnings for failing to complete their daily vehicle checks
- 6 drivers were also spoken to about the signage on the vehicles and reminded of the required standard.

During Member discussion, queries were raised as to what the licensed vehicle checks currently entailed. The advice given was that this was a paper booklet of visual checks drivers could make without being mechanically qualified. A request was made for Members to be supplied with this document for reference. Members suggested an electronic method be explored and arguments for and against this were debated. Ultimately, it was suggested that this be raised at the next Trade Liaison Meeting by the Senior Licensing Officer as a means of gathering industry feedback.

RESOLVED that Members note the update.

Chair

Item 3

**Report of the Service Director to the
General Licensing Regulatory Board
to be held on the 15th of February 2023**

Statement of Gambling Policy Review Consultation 2022/23

1. Purpose of Report

The purpose of this report is to inform Members of the statement of Gambling Policy Review Consultation responses and seek views and recommendations in relation to the same for Cabinet and Full Council.

2. Background

Members will be aware that as a licensing authority we must determine and publish a Statement of Gambling Policy at least once every three years, in line with statutory guidelines. In respect of this Officers produced our Statement of Gambling Policy and carried out a statutory consultation from the 28th of October 2022 until the 6th of January 2023 to seek the views and opinions of all interested parties.

3. Current Position

The Gambling Act 2005 requires the Council to have a “Statement of Gambling 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.

The Gambling Commission jointly regulates the gambling industry with licensing authorities. The gambling authorities regulate personal and operating licenses, i.e., business who provide gambling, and local authorities regulate permits and premises i.e., the physical area/premises where gambling takes place.

The Gambling Act 2005 has three licensing objectives that a licensing authority must incorporate into any strategy. These are:

- preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- ensuring that gambling is conducted in a fair and open way
- protecting children and other vulnerable people from being harmed or exploited by gambling.

The Statement of Gambling Policy 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 in accordance with the statutory requirements of the Act.

The statutory consultation ran for 10 weeks from the 28th of October 2022 until the 6th of January 2023 and the following three responses were received: -

- 1) Very comprehensive. Thank you to Officers for their work.**
- 2) Please can more information be added to the section around risks, including the below: -**

Barnsley Council will assess each application relating to a premise that is: -

- **Close to an educational establishment, including colleges**
- **Close to any centre dealing with addictions**
- **Situated in an area of high deprivation**
- **Close to locations that are visited by those who are unemployed such as job centres or food banks**
- **Close to the location of businesses providing instant access to money such as payday**

Officer response - the draft policy has been amended to include the following at 1.13: -

It is the Council's policy, upon receipt of any relevant representations, to consider specific location issues, including the possible impact that a gambling premise may have on:

- Organisations for children and young people, i.e., educational establishments.
- Residential areas where there may be a high concentration of families with children.
- Organisations for vulnerable adults i.e., centres dealing with substance use or organisations for those who are unemployed i.e., job centres or food banks
- Organisations providing instant access to money i.e., payday loans
- An area of particularly high deprivation
- Any area where evidence suggests that a gambling premise would be harmful to the health and wellbeing of residents
- The size of the premises and the nature of the activities taking place.
- Any levels of organised crime in the area.

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.

Currently there are no identified areas of the borough in which a concentration of licensed premises exist that 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 Policy will be updated, and each application will be considered on its own individual merits.

- 3) I've read the policy and it looks really good. The stuff in there about vulnerable people and gambling harms I think really adds to the level of information given and the quality of the policy.**

I have a few questions regarding the OSC recommendations. I'm not sure if they're appropriate for inclusion in the policy or if they sit somewhere else.

- Placement of Cat D machines in pairs
- Can we change the wording of consulting with public health colleagues to consulting with the Director of Public Health please?
- In terms of protecting vulnerable people, I think the recommendation for providing support material in other languages would fit with this

In terms of the recommendations for signposting. As per the cabinet recommendations, we would be recommend the NHS resources, not gamcare/gambleaware due to their ties with industry.

<https://www.nhs.uk/live-well/addiction-support/gambling-addiction/>

- i) Officer response - the draft policy has been amended at 2.051 to include the wording: -

2.051 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 Council, 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 (as it is an offence for those under 18 to bet) or by vulnerable persons. ***Where it can be accommodated, we will also encourage the separate siting of betting machines.***

- ii) The Head of Public Health has confirmed that changing the Policy to state “The Director of Public Health” as opposed to “colleagues in Public Health” has no impact on the working practises in terms of considering applications received and so this will remain the same.

- iii) The draft policy has also been amended at 2.01, 2.02, 2.06, 2.103 and 2.022 to inform applicants that they should consider making any supporting material available in a variety of languages.
- iv) The draft policy has also been amended at 2.01, 2.02, 2.06, 5.05, 6.022 and 6.0241 to recommend and signpost the NHS resource for addiction support, providing the link <https://www.nhs.uk/live-well/addiction-support/gambling-addiction/>

A copy of the draft Statement of Gambling Policy which has been updated to reflect the amended wording and points referred to above has been included in this report at Appendix 1.

4. Proposal

Members are asked to consider the draft policy and give proper weight to all responses received.

5. Recommendation

That members consider the draft policy and the consultation responses received and contained within the body of this report and make their recommendation to Cabinet and Full Council accordingly.

6. Officer Contact

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Appendix 1



Gambling Act 2005 Statement of Licensing Policy 2022 – 2025

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Statement of Licensing Policy

Section 1 - General

1.01 Glossary of Terms

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

Licensing objectives

- As defined in section 1.16 below

The Council

- Barnsley Metropolitan Borough Council. The area of South Yorkshire administered by Barnsley Metropolitan Borough Council (map appended at Appendix A)

Licences

- As specified in section 3 below.

Applications

- Applications for licences and permits as defined in section 3 below

Notifications

- Means notification of temporary and occasional use notices

The 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

Local Authority Condition

- A condition imposed by the Council itself

Interested party

- For the purposes of this Act, a person is an interested party in relation to a premises if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, the person:
 - a) Lives sufficiently closed 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 1.09 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 section 349(1) of the Gambling Act 2005

The Licensing Authority

- Barnsley Metropolitan Borough Council, which carries out its functions as the Licensing Authority under the Gambling Act 2005 within the borough boundary

Gambling-related harm

- Gambling-related harms are the adverse impacts from gambling on the health and wellbeing of individuals, families, communities and society

Problem gamblers

- Those who gamble to a degree that compromises, disrupts or damages family, personal or recreational pursuits

Child

- Person under the age of 16 years

Young Person

- Person under the age of 18 years

1.02 The Borough of Barnsley

Future Council ambitions, together with the Barnsley 2030 strategy, sets out the Council's long-term vision for Barnsley and how the Council will work with the people of Barnsley together to achieve it.

The Barnsley 2030 strategy is about celebrating and championing the borough. The Council has identified 2030 as it feels this will give the Council enough time to make defined progress in achieving its stated ambitions.

The Council's strategic partnership defines 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 Council's plan to transform the borough include bringing about a step-change in its approach to provision of regeneration in the borough, ensuring that it achieves a new and sustainable economic future in the community.

The urban core of Barnsley is home to approximately 82,000 people. The Glass Works is the name given to the new town centre redevelopment project and is the focus for the borough's main retail, restaurants, cafes and leisure facilities. It includes a modern, landscaped public square where routes into the town centre converge. The square, looking into the indoor market, can hold market stalls and public events.

Barnsley has been 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 and 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.

The Council is the Licensing Authority under the Gambling Act 2005 and is responsible for granting premises licences, permits and other permissions under the Act within the Metropolitan Borough of Barnsley.

The Council's main functions under the Act are to:

- Licence premises for gambling activities, including the issue of provisional statements;
- Regulate and grant permits for gambling and gaming machines in clubs, including commercial clubs;
- Regulate gaming and gaming machines in alcohol-licensed premises;
- Grant permits to family entertainment centres for the use of certain lower-stake gaming machines;
- Grant permits for prize gaming;
- Receive and endorse notices given for the temporary use notices;
- Receive occasional use notices for betting at tracks;
- Register small societies' lotteries;
- Maintain public registers, and
- Provide information to the Gambling Commission on issued licences.

NB. The Council will not become involved in the licensing of remote gambling at all. This will, instead, be the responsibility of the Gambling Commission.

1.03 The Gambling Commission

Under the Act, the Gambling Commission jointly regulates the gambling industry with licensing authorities. In short, the Commission sets the overall direction at a national level, whereas licensing authorities lead locally, but with the appropriate support from the Commission.

The Commission is solely responsible for regulating remote gambling and also issues personal and operating licences for premises.

The “National Lottery” is also regulated by the Gambling Commission. Spread betting is regulated by the Financial Conduct Authority.

The Gambling Commission regulated gambling in the public interest. It does so by: keeping crime out of gambling; by ensuring that gambling is conducted fairly and openly, and by protecting children and vulnerable persons.

The Commission provides independent advice to the Government about the manner in which gambling is carried out, the effects of gambling, and the regulation of gambling generally. It also produces guidance under section 25 of the Act, detailing how local authorities should exercise their licensing functions.

In addition, the Commission’s role is to issue Codes of Practice under section 24 of the Act about the manner in which facilities for gambling are provided, and how those provisions might be advertised.

The Council periodically completes reports for the Gambling Commission.

1.04 General Principles

In accordance with section 153 of the Act, in exercising its licensing functions under the 2005 act, the Council must aim to permit the use of premises for gambling insofar as it considers it to be:

- In accordance with any relevant codes of practice issued by the Gambling Commission;
- In accordance with any relevant guidance issued by the Gambling Commission;
- Reasonably consistent with the licensing objectives;
- In accordance with this Policy.
-

1.05 Statement of Principles

The Act 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.

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

The Policy 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 in accordance with the statutory requirements of the Act.

The Council will not seek to use the Act to resolve matters that would be more appropriately resolved under other legislation. Licensing is not the primary mechanism for the general control of nuisance and the antisocial behaviour of people once they are away from licensed premises.

The Council will ensure that in dealing with applications under the Act that it follows the required procedures and only takes into account issues that are relevant. Specifically, it will not have regard to “demand” when considering applications for gambling premises, nor will it consider the suitability of applicants for premises licences (which is a matter for the Gambling Commission).

Applications to provide gambling facilities will not be rejected on moral grounds. If an application is rejected, full and details reasons will be given for doing so.

The Policy will be made available on the Council’s website.

The Policy will come into effect on *.

1.06 Consultation

The Council is committed to consulting as widely as possible with regards to this Policy.

Under section 349(3) of the Act, the Council must in any case consult with:

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

A list of all those consulted is attached as Appendix G

1.07 Scope of Licensing Policy

The purpose of the Licensing Policy is to:

- Provide applicants with a clear, consistent basis for submitting applications and notices;
- 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 operators through risk assessments;
- Protect children and other vulnerable person from being harmed or exploited by gambling;
- Support the wider Barnsley 2030 strategy.

1.08 The Licensing Objectives

The Council will carry out its functions under the Act with the aim of permitting the use of premises for gambling insofar as it is reasonably consistent with the three licensing objectives set out in the Act.

The licensing objectives are:

- a) Preventing gambling from being a source of crime and 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.

1.09 Responsible Authorities

Responsible authorities are public bodies that must be notified of applications, they are entitled to make representations to the Council 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 are wholly or partly situated;
- The Gambling Commission;
- The chief officer of police for a police area in which the premises are wholly or partly situated;
- The fire and rescue authority for an area in which the premises are wholly or partly situated;
- The local planning authority;
- Any authority which has functions in relation to pollution to the environment or harm to human health;
- HM Revenue and Customs;
- A body, designated in writing by the Licensing Authority as competent to advise about the protection of children from harm (see below).

Contact details for the above relevant to Barnsley can be found in Appendix G.

NB. The Council is required by regulations to state the principles it will apply in exercising its powers under section 157(h) of the Act, and in accordance with guidance issued by the Gambling Commission, to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. These principles are:

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

The Council has designated the **Local Safeguarding Childrens Board** for this purpose.

The list of responsible authorities also includes 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;
- The relevant Secretary of State (note: in practice, the Secretary of State responsible for transport who acts through the Maritime and Coastguard Agency).

1.10 Interested Parties

The Council is required to determine whether a person is an interest party in relation to a premises licence, or in relation to an application for, or in respect of, a premises licence.

Section 158 of the Act defines an interested party as a person whom, in the Council's opinion:

- 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)

When deciding whether a person is an interested party for the purposes of the Act, each case will be considered on its own individual merits.

In considering whether a person lives sufficiently close to a premises (to be considered to be an interest party), the following matters will be taken into account:

- The size of the premises;
- The nature of the premises;
- The distance of the premises from the usual residence or workplace of the person making the representation;
- The potential impact of the premises (numbers of customers, routes likely to be taken by those visiting the premises);
- The circumstances of the person and nature of their interests, which may be relevant to the distance from the premises.

When deciding whether a person or organisation "has business interests" the Council will adopt the widest possible interpretation and include residents' and tenants' associations, trade associations, trades unions, partnerships, charities, faith groups and medical practices, as appropriate.

Trade associations, trades unions, residents' and tenants' associations, and professional advisors such as solicitors, barristers and consultants, will be regarded as capable of representing interested parties in cases where the interested party has asked for representation. Representative bodies will only be regarded as interested parties in their own right if they have a member who is an interested party.

An interested party is allowed to be represented by anyone of their choosing as long as there is some evidence that the person/body in question (for example, an advocate or relative) genuinely 'represents' the interested party. If persons representing interest parties are Councillors or Members of Parliament, then the Council will not ask for specific evidence as long as they represent the relevant area.

If individuals wish to approach Councillors to ask them to represent their views, then those Councillors will not be able to sit on a Board or sub-committee, which is charged with determining an application.

1.11 Premises Licences

Nothing in this Policy will:

- Undermine the rights of any person to apply under the Act for a variety of permissions and have their application considered on its individual merits;
- 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.

The Council has a statutory duty to aim to permit gambling.

All applicants for premises licences will be required to set out how they will promote the licensing objectives, and what measures they intend to employ to ensure compliance with them.

When determining an application to grant a premises licence or review a premises licence, consideration will be given to the location of the proposed premises, for example its proximity to schools, vulnerable adult centres or residential areas where there may be a high concentration of families with children (see section 1.13). Each case will be decided on its own individual merits.

1.12 Definition of “premises”

A premises licence can authorise the provision of facilities at the following:

- Casino premises
- Bingo premises
- Betting premises (including betting tracks)
- Adult gaming centres
- Family entertainment centres

Premises can be ‘any place’ but the Act generally prevents more than one premises licence applying to any one place. A single building could be subject to more than one premises licence provided they are for different parts of the building and those parts can be reasonably regarded as being separate premises.

This will allow large multiple-unit premises such as tracks, shopping centres or service stations to obtain discrete premises licences with appropriate safeguards in place. The Council will pay particular attention if there are issues about sub-divisions of a single building or plot and whether mandatory conditions relating to access between premises are going to be observed. The Council does not consider that areas of a building that are artificially or temporarily separated – for example, by ropes or moveable partition – can properly be regarded as ‘different’ premises. Whether different parts of a building can properly be regarded as being separate premises will always depend on the individual circumstances of the case.

A particular requirement could be for entrances and exits from parts of a building covered by one or more licences to be separate and identifiable, so that the separation of the premises is not compromised and people are not allowed to ‘drift’ accidentally into a gambling area. It should normally be possible to access any premises providing gambling facilities without going through

another licensed premises or, perhaps, a premises with a permit authorising gambling facilities. The Council will expect customers to be able to participate in the gambling activity authorised by the premises licence.

Other than an application for a track betting premises licence, the Council is not able to issue a premises licence unless the applicant holds a relevant operating licence from the Gambling Commission.

When considering applications for premises licences, the Council will not take into account any expected 'demand' for gambling facilities, or the likelihood of planning permission or building regulation approval being granted, as well as any 'moral' objections to gambling generally. Equally, the grant of a premises licence will not prejudice or prevent any action that may be appropriate under the law relating to planning or building regulations.

In accordance with the Act and guidance issued by the Gambling Commission, a premises licence can only be granted and, therefore, have effect if the Council is satisfied that the premises is ready to be used for gambling. In cases where the construction of a premises is not yet complete, or if the premises requires alteration, or in cases where the applicant for a licence does not yet have a right to occupy them, an application for a provisional statement should be made as having a right to occupy the premises is a pre-condition to making a premises licence application.

The Council will apply a two-stage consideration process if there is outstanding construction or alteration works ongoing at the premises, i.e.

- Should the premises be permitted to be used for gambling?
- Can appropriate conditions be imposed in order to address the fact that the premises is not yet in a state to allow gambling facilities to be provided?

The Council will maintain a public register of premises licence applications which may be viewed by contacting the Licensing Section via licensing@barnsley.gov.uk.

1.13 Location of premises

It is the Council's policy, upon receipt of any relevant representations, to consider specific location issues, including the possible impact that a gambling premise may have on:

- Organisations for children and young people, i.e., educational establishments
- Residential areas where there may be a high concentration of families with children
- Organisations for vulnerable adults i.e., centres dealing with substance use or organisations for those who are unemployed, i.e. job centres or food banks
- Organisations providing instant access to money i.e., payday loans
- An area of particularly high deprivation
- Any area where evidence suggests that a gambling premise would be harmful to the health and wellbeing of residents
- The size of the premises and the nature of the activities taking place
- Any levels of organised crime in the area

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.

Currently there are no identified areas of the borough in which a concentration of licensed premises exist that 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 Policy will be updated, and each application will be considered on its own individual merits.

1.14 Local Area Profile

The Council's Local Area Profile is an assessment of the local environment and identifies the key characteristics of the borough. It is the Council's intention that the Local Area Profile will provide operators, the various departments of the Council, and the public with a better understanding and awareness of the gambling-related risks in the borough. In this context, risk includes actual and potential risk, taking into account any future or emerging risks.

The Local Area Profile takes account of a wide number and range of factors and information. It enables the Council to better serve its local communities by providing clarity for operators as to the relevant factors likely to be of consideration in the decision-making process. It also enables the Council to make evidence-based decisions from a clear and published set of factors and risks.

It is expected that the Local Area Profile will lead to improved premises licence applications and that operators will be able to incorporate controls and measures within their applications to mitigate risk. Through this proactive approach to risk, the Council is aiming to reduce the need for compliance and enforcement action.

The Council's Local Area Profile can be accessed via the Council's website:

<https://www.barnsley.gov.uk/media/17269/our-borough-profile-20190724.pdf>

[accessed 13th October 2022]

1.15 Local Risk Assessments

It is a requirement of the Gambling Commission's Licence Conditions and Codes of Practice that applicants and licensees are required to assess any local risks to the licensing objectives posed by the provision of gambling facilities at their premises and have policies, procedures and other control measures in place to mitigate those risks.

Licensees must review and update their local risk assessments in line with the Council's Local Area Profile (see section 1.14):

- 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;
- In all cases, undertake a local risk assessment when applying for a new premises licence.

As a minimum, the Council expects 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.

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

- The possible impact that 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, treatment or vulnerable adult centres in the area (and any mitigating factors put in place by the applicant to reduce risks);
- The possible impact that a gambling premises may have on residential areas where there may be a high concentration of families with children (and any mitigation 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.

The Policy does not preclude an application being made but each application will be decided on its own individual merits, with the onus being upon the applicant to show how the concerns identified above can be overcome.

1.16 Licensing Objectives

The Council's role will be to ensure that the granting of a premises licence is reasonably consistent with the licensing objectives. With regard to the licensing objectives, the Council will have regard to the Act and guidance issued by the Gambling Commission.

Applicants are encouraged to discuss any necessary crime prevention procedures with South Yorkshire Police before making a formal application.

1.161 Licensing Objective 1

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. Where an area has known high levels of organised crime the Council, in conjunction with

the Police, and via its Local Area Profile, 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 Act's provisions.

Specific considerations for the Council to consider when determining whether the grant of a premises licence would be appropriate 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 (e.g., physical security features, position of cash tills, CCTV);
- 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?

1.162 Licensing Objective 2

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 betting tracks.

When determining an application, the following issues and other relevant factors should be considered in the applicant's local risk assessment:

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

1.163 Licensing Objective 3

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

The Council, in having regard to the Commission's guidance recognises that this objective is largely about restricting access to gambling facilities, particularly in the case of premises which have an age restriction on entry to those premises.

The Commission's Codes of Practice set out the good practice examples in terms of access to gambling facilities alongside proper supervision of those areas within the premises where gambling takes place.

1.17 What is meant by the term ‘vulnerable persons’

The Commission’s guidance specifies the following who might be included in the description ‘vulnerable person’:

- Those who gamble more than they want to;
- Those who gamble beyond their means;
- Those who may not be able to make informed or balanced decisions about gambling due to mental impairment, alcohol or drugs.

Section 2 - Types of Premises Licence

2.01 Adult Gaming Centres

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

The Council will expect applicants to offer their own measures to meet the licensing objectives, however appropriate measures or potential licence conditions may cover among other things, issues including:

- Proof of age schemes
- Staff training
- Record-keeping
- CCTV
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entry
- Notices / signage - and the consideration of providing these in a variety of languages
- Specific opening hours
- Self-barring schemes
- Provision of information leaflets / helpline numbers for gambling-related organisations such as the NHS resource for addiction support at <https://www.nhs.uk/live-well/addiction-support/gambling-addiction/>
- Local area profiling

2.02 Family Entertainment Centres

The Council will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gaming and will expect applicants to satisfy the authority, for example,

that there will be sufficient measures to ensure that young people under 18 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 Council's requirements under the Policy and also the Council's Local Area Profile;
- Measures and procedures in place for any staff supervision requirements;
- The suitability of the location through the applicant's 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.).

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- and the consideration of providing these in a variety of languages
- Specific opening hours
- Self-barring schemes
- Provision of information leaflets / helpline numbers for gambling-related organisations such as the NHS resource for addiction support at <https://www.nhs.uk/live-well/addiction-support/gambling-addiction/>
- Measures / training for staff on how to deal with suspected truant schoolchildren on the premises
- The suitability of the location for the premises through the applicant's local area risk assessment

The Council will have a particular regard to guidance issued by the Gambling Commission, and their Licensing Conditions and Codes of Practice to be mindful of any conditions or codes which might apply to operating licences covering the way in which areas containing category C machines should be delineated.

2.03 Casinos

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

The Act prevents the Council from accepting any applications for new casino premises licences.

The Council was not named as an authority that could issue small or large casino premises licences under the Act.

2.04 Bingo Premises

Bingo is not given a statutory definition in the Act, 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

The Council acknowledges the Gambling Commission’s guidance to local authorities in connection with bingo premises. In particular, paragraph 18.7 of the guidance states:

- “Children and young people are allowed into bingo premises; however they are not permitted to participate in games of 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.”

When determining an application for a bingo licence, the Council will require an applicant to demonstrate:

- The promotion of the licensing objectives;
- Local area profiling via the risk assessment in respect of the location and situation of the premises;
- The suitability and layout of the premises.

2.05 Betting Premises

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).

2.051 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 Council, 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 (as it is an offence for those under 18 to bet) or by vulnerable persons. Where it can be accommodated, we will also encourage the separate siting of betting machines.

2.052 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 Council will also take note of any restrictions and requirements on the operating licences for betting premises as regards credit.

It will normally be a requirement that any ATM should be sited away from the betting machines and in such a position that a customer has to cease betting, albeit temporarily, in order to use the ATM.

2.053 Betting Shops

Off-course betting is betting that takes place other than at a track, e.g., a betting shop. When determining an application, the Council will particularly take into account the following:

- The licensing objectives and relevant issues as listed in the Policy;
- Local area profiling via the applicant's risk assessment;
- The location of the premises;
- Procedures in place to prevent access to young people under the age of 18;
- Suitability and layout of the premises;
- Size of the premises 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.

2.06 Betting Tracks

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".

The Council is aware that tracks may be subject to individual or multiple premises licences, as long as each licence relates to a different specified area of the track. In accordance with the Gambling Commission's guidance, the Council will consider the impact upon the third licensing objective (the protection of children and vulnerable persons from being harmed or exploited by gambling – see section 1.163 above) and the need to ensure that entrances to each type of premises are distinct and that proper supervision is in place in order to ensure that children are excluded from gambling areas where they are not permitted to enter.

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 horseracing takes place, but that they are still prevented from entering areas where gaming machines (other than category C and D machines) are provided.

The Council will expect applicants to offer their own measures to meet the licensing objectives, however appropriate measures or 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- and the consideration of providing these in a variety of languages
- Specific opening hours
- Self-barring schemes
- Provision of information leaflets / helpline numbers for gambling-related organisations such as the NHS resource for addiction support at <https://www.nhs.uk/live-well/addiction-support/gambling-addiction/>
- Customer charter to promote responsible behaviour and the supervision of children

2.061 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 (as it is an offence for those under 18 to bet) or by vulnerable persons, when considering the number, nature or circumstances of any betting machines an operator wants to make available for gambling purposes. 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.

2.062 Condition on rules being displayed

The Gambling Commission's guidance advises that licensing authorities should consider attaching 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.

2.063 Applications and Plans

All applications must be made in accordance with the appropriate regulations for premises licences and in accordance with the Gambling Commission's suggested 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.

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.

2.07 Provisional Statements

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, in order to judge more accurately whether a development is worth taking forward in light of the need to obtain a premises licence.

The Council notes the guidance issued by the Gambling Commission on this issue. It is a question of fact whether premises are finished to a standard or degree that they can be considered suitable for a premises licence. Requiring the building to be completed also ensures that the Council and others have the chance to inspect it fully before gambling facilities are provided.

In terms of representations about premises licence applications, following the grant of a provisional statement, no further representations from responsible 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 Council 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.

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 as the Act itself prevents any consideration of planning issues when considering an application under the Act.

2.08 Reviews and Representations

The Council will hold a hearing to carry out a review of a premises licence where it has received a formal review application which is relevant to one or more of the licensing objectives.

Representations may include issues relating to the following:

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

Representations should include as much detail and evidence as possible.

Due consideration will be given to all relevant representations unless:

- The grounds are frivolous;
- The grounds are vexatious;
- The grounds are irrelevant;
- 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;
- The grounds are substantially the same as the grounds cited in a previous application relating to the same premises;
- The grounds are substantially the same as representations made at the time the application for a premises licence was considered.

As the Licensing Authority itself, the Council can also initiate a review of a licence.

Representations made outside the statutory period for making such representations, or those which are not about the effect of the gambling facilities on the promotion of the licensing objectives, will not be taken into consideration.

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

2.09 Decision-making

The Council has a wide range of licensing functions and has established a Statutory Licensing Board to administer them.

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.

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

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 Act.

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 involving the licence in question.

The 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.

Every determination of a licensing decision by the Statutory Licensing Board or a Sub-Committee 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.

The Council's Licensing Officers have the delegated authority to deal with all other licensing applications or matters 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.

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 a representation is not admissible.

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

The form of delegation is without prejudice to Officers being able to refer any matter to a Sub-Committee or Statutory Licensing Board if it is considered appropriate in the circumstances of any particular case.

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

2.10 Conditions of Licence

The starting point for determining applications will be to grant the application without additional conditions in line with the Council's statutory duty to aim to permit gambling. The Council will only consider imposing conditions of its own where they are necessary to meet the requirements of the licensing objectives. Any conditions applied will not be overly onerous and will be proportionate to the scale of the application and the risks involved. Conditions will be considered unnecessary if they are already adequately covered by other legislation.

Conditions can be attached to licences in three different ways:

2.101 Mandatory conditions

Mandatory conditions are imposed directly under the Act and it is intended that no further regulation in the areas covered by the conditions should be necessary. It is extremely unlikely that the Council would impose conditions of its own which would affect matters already covered by the mandatory conditions. To do so, and in accordance with the Commission's guidance, any regulatory concerns would have to be of an 'exceptional' nature.

2.102 Default conditions

Default conditions are also automatically applied to premises licences by Regulations under the Act and they reflect the gambling industry's normal working/operating practices. The Council does have some flexibility in relation to a default condition, as it is able to 'exclude' such a condition or, in certain circumstances, impose a condition of its own.

2.103 Conditions imposed by the Licensing Authority

Conditions imposed by the Licensing Authority may be necessary where there are specific risks or problems associated with a particular locality or premises.

The Council cannot attach the following types of condition to a premises licence:

- Any condition that makes it impossible to comply with a condition on the operating licence;
- Conditions relating to gambling machines categories, numbers or method of operation;
- Conditions which provide that membership of a club or body be required;
- Conditions in relation to stakes, fees, winnings or prizes.

Any conditions the Council decides to attach to premises licences will be proportionate to the circumstances which they seek to address, and will be:

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

The Council's Local Area Profile may identify specific risks or problems associated with a particular locality, specific premises or a class of premises. The Council will determine those matters on a case-by-case basis to assess whether individual conditions may be necessary depending on the circumstances of each case to address any risks or problems.

The Council may also exclude any default conditions where it is appropriate to do so.

Conditions will not be imposed if they duplicate or conflict with:

- Statutory requirements or conditions attached to a premises licence under the Act;
- The Gambling Commission's Codes of Practice;
- Conditions attached to an operator's licence or personal licence by the Gambling Commission.

The following are some, but not all, matters that operators may be required to comply with by virtue of the Act, Regulations, mandatory or default conditions, or Codes of Practice:

- Proof of age schemes
- CCTV
- Supervision of entrances and machine areas
- Physical separation of areas
- Whether the premises may hold a licence to provide alcohol
- Location of entry to the premises
- Notices and signage about persons under 18 years of age not entering the premises
- Opening hours
- Self-barring schemes
- Provision of information leaflets / helpline number of gambling self-help organisations- and the consideration of providing these in a variety of languages

The Council will normally only consider attaching conditions of its own in circumstances not covered by other requirements mentioned above, and only where it is considered necessary to do so.

2.10 Conditions of Licence (continued)

The Council may identify specific measures that may be required for buildings that 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. All matters will be in accordance with guidance issued by the Gambling Commission.

In accordance with the relevant codes of practice, the Council will ensure that where category C 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 that is separated from the remainder of the premises by a physical barrier that is effective to prevent access other than through a designated entrance;
- Where possible, only adults are admitted to the area where these machines are located;
- Access to the area where the machines are located is supervised at all times;
- The area where the machines are located is arranged so that it can be observed by the staff or the licence holder at all times.

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

The Council is aware that tracks may be subject to one or more than one type of premises licence, provided each licence relates to specified area of track. The Council will consider the impact upon the licensing objectives, in particular 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.

The Commission's guidance advises licensing authorities to consider whether there is a need for door supervisors in order to ensure 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. The Council will consider the need for door supervisors on a case-by-case basis.

2.11 Other Control Measures

2.111 Codes of Practice

The Council will expect gambling operators to comply with the Commission's Licensing Conditions and Codes of Practice, especially in the case of access to premises by children and vulnerable persons, and supervision of the gambling facilities being provided.

The Code of Practice on equal chance gaming may be accessed here:

<https://www.gamblingcommission.gov.uk/authorities/codes-of-practice/guide/page/section-b-equal-chance-gaming-in-clubs-and-premises-with-an-alcohol-licence>

[accessed 13th October 2022]

The Code of Practice on gaming machines in alcohol-licensed premises may be accessed here:

<https://www.gamblingcommission.gov.uk/authorities/codes-of-practice/guide/page/section-c-gaming-machines-in-clubs-and-premises-with-an-alcohol-licence>

[accessed 13th October 2022]

2.11 Other Control Measures (continued)

The Council recognises that there are other mechanisms for addressing issues of concern that can occur in connection with licensing gambling premises, including:

- Planning controls
- Ongoing measures to create a safe and clean environment, in partnership with local businesses, transport operators and other departments of the Council;
- Regular liaison with the police on law enforcement issues regarding disorder and anti-social behaviour;
- The power of the police, other responsible authorities or local residents and businesses to seek a review of the licence.

Any person making a representation in respect of a licence application will be required to relate their representation to one or more of the licensing objectives before the Council will be able to consider it.

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 ethnic and minority groups.

Section 3 - Permits and Notices

3.01 Unlicensed family entertainment centre (FEC) gaming machine permits

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

Typically, it is not possible for a permit to apply to premises such as a whole shopping centre or motorway service station. Instead, a permit will only normally be issued in respect of a designated enclosed area of such premises.

The Gambling Commission's guidance advises licensing authorities to include in its Policy a statement of the principles it proposes to apply when exercising its functions in considering applications for permits under the Act. In particular, this should include the matters that it will take into account in determining the suitability of an applicant.

Given that these premises are likely to appeal particularly to children and young persons, licensing authorities are advised 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.

An application for a permit may be granted only if the Council is satisfied that the premises will be used wholly or mainly as an unlicensed family entertainment centre (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 persons;
- The police and Local Safeguarding Childrens Board have been consulted on the application;
- That the applicant has no 'relevant' convictions as set out in the Act;
- 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 via the risk assessment;
- That a member of staff is designated with lead responsibility for safeguarding children and other vulnerable persons;
- That there are policies and training available for safeguarding children and vulnerable persons;
- Provide details of the supplier of the machines and the licence number;

- Provide a plan of the premises.

The Council cannot attach conditions to this type of permit.

In addition to the police, the Local Safeguarding Childrens Board and the Council's Public Health department 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.

3.02 Gaming machines in alcohol-licensed premises

3.021 Automatic entitlement

There is an automatic provision in the Act for premises licensed to sell alcohol for consumption on the premises to have up to two gaming machines of categories C and/or D. Premises merely need to notify the Licensing Authority that they intend to take advantage of this automatic provision. The Council can remove the automatic authorisation in respect of any particular premises at any time if:

- Provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- Gaming has taken place on the premises in breach of the relevant code of practice issued by the Gambling Commission concerning the location, operation and/or supervision of gaming machines on the premises;
- The premises are mainly used for gaming;
- An offence under the Act has been committed on the premises.

3.022 Permit required for more than 2 gaming machines

If a premises wishes to have more than two gaming machines, a permit is needed. Under the Act, and in accordance with the Commission's guidance, the Council can consider "such matters as they think relevant" when deciding whether to grant a permit or not. The Council's key consideration will be about the need to comply with the relevant codes of practice in relation to location and supervision of gaming machines in alcohol-licensed premises.

The overall aim of the Council is to protect children and vulnerable persons from harm or being exploited by gambling, and applicants are expected to satisfy the Council that there will be sufficient measures in place to ensure that those under 18 do not have access to any adult-only gaming machines.

Measures could include siting any gaming machines in direct sight of the bar, or at least within the sight of staff who would be able to monitor the use of those machines to ensure that they are not being used by anyone under 18 years of age.

Notices and appropriate signage may also help.

If the Council has concerns about the siting or supervision of any machines, they may still decide to grant the application but with a reduced number of machines.

The Council cannot attach conditions to a permit of this type.

Permit holders must comply with any codes of practice issued by the Gambling Commission that relate to the location, supervision and/or operation of gaming machines.

3.03 Prize gaming permits

The Council requires applicants for a prize gaming permit to set out the types of gaming that they intend to offer and must be able to demonstrate:

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

To assist the Council in making its decision on an application for a permit, applicants may be requested to demonstrate the following:

- The type(s) of gaming intended to be offered;
- 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 in relation to the Council's Local Area Profile;
- That a member of staff is designated with lead responsibility for safeguarding children and vulnerable persons;
- There are policies available for safeguarding children and vulnerable persons;
- That the application has been copied to the police and the Local Safeguarding Children Board.

The Council cannot attach conditions to a permit but all permits will be granted subject to restrictions set out in the Act itself that provide for:

- Limits on participation fees, as set out in Regulations;
- All chances to participate in the gaming must be allocated on the premises in 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);
- Participation in the gaming must not entitle the player to take part in any other gambling.

3.04 Club Gaming and Club Machine Permits

Members' clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming. A members' club must be permanent in nature, not established to make commercial profit, and be controlled by all its members equally. Examples include working men's clubs, branches of the Royal British Legion, and clubs with political affiliations.

The Council may grant members' clubs and miners' welfare institutes (but not commercial clubs) **club gaming permits**, which authorise club premises to provide gaming machines, equal chance

gaming (without having to abide by the stake and prize limits that would apply to exempt gaming in the absence of a permit), and games of chance as prescribed in Regulations, specifically games of pontoon and *chemin de fer*. This is in addition to the exempt gaming authorisation detailed above.

Club gaming permits allow the provision of no more than three gaming machines. These may be from categories B3A, B4, C or D, but only one B3A machine can be sited as part of this entitlement.

Where a club has gaming machines, the Council expects the club to comply with the Gambling Commission's Codes of Practice for gaming machines in clubs and premises with an alcohol licence.

If a members' club or a miners' welfare institute does not wish to have the full range of facilities permitted by a club gaming permit, they may apply to the Council for a club machine permit under section 273 of the Act. This type of permit authorises the holder to have up to three gaming machines of categories B3A, B4, C or D.

Commercial clubs are also able to apply for a club machine permit, although such a permit does not allow the siting of category B3A gaming machines by commercial clubs.

Where a club has gaming machines, the Licensing Authority expects the club to comply with the Gambling Commission's Codes of Practice for gaming machines in clubs and premises with an alcohol licence.

The Council may refuse an application on the following grounds:

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

There is a 'fast-track' procedure available under the Gambling Act 2005 for premises that hold a club premises certificate under the Licensing Act 2003. Under the 'fast-track' procedure, there is no opportunity for objections to be made by either the Commission or the police, and the grounds upon which the Licensing Authority can refuse a permit are reduced. The grounds on which an application under the 'fast-track' procedure may be refused are:

- That the club is established primarily for gaming, other than gaming prescribed under schedule 12 of the Gambling Act 2005;
- That in addition to the prescribed gaming, the applicant provides facilities for other gaming;
- That a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

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 the Codes of Practice covering the location, supervision and/or operation of gaming machines.

3.05 Exempt gaming

Exempt gaming is generally permissible in any relevant alcohol-licensed premises. Such gaming must be equal chance gaming and must be **ancillary** to the purposes of the premises. This provision is automatically available to all such premises, but is subject to statutory stakes and prize limits determined by Regulations.

Equal chance gaming is gaming that does not involve staking against a bank, and the chances of winning are equally favourable to all participants. It includes games such as backgammon, Mahjong, rummy, Kalooki, dominoes, cribbage, bingo and poker.

Regulations set daily and weekly prize limits for exempt gaming in alcohol-licensed premises and details of these can be found on the Gambling Commission's website.

The Council expects exempt gaming in alcohol-licensed premises to comply with the Commission's Codes of Practice on equal chance gaming in clubs and premises with an alcohol licence.

The Council has the power to remove the automatic authorisation for exempt gaming in respect of any particular premises by making an order section 284 of the Act if:

- Provision of the gaming is not reasonably consistent with the pursuit of the licensing objectives;
- Gaming has taken place on the premises that breaches a condition of section 279 of the Act, for example the gaming does not abide by the prescribed limits for stakes and prizes; a participation fee is charged for the gaming, or an amount is deducted or levied from the sums staked or won;
- The premises are mainly used for gaming;
- An offence under the Act has been committed on the premises.

Before making such an order, the Council will give the licensee at least 21 days' notice of the intention to make the order and consider any representations that they may make. The Council will hold a hearing if the licensee so requests and will comply with any other procedural requirements set out in Regulations. If there is no appeal, the order will take effect 21 days after notice of the intention was given. The Council must give the licensee a copy of the order and written reasons for making it. The licensee may appeal to the Magistrates' Court against a decision of the Council.

3.06 Temporary use notices (TUNs)

Temporary use notices (TUNs) allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a TUN could include hotels, conference centres or sporting venues. The Council can only grant a TUN to a person or company holding a relevant operating licence issued by the Gambling Commission.

Regulations determine what form of gambling can be authorised by a TUN, and the Council will always have regard to any relevant regulations. Currently, TUNs can only be used to permit the provision of facilities or equal chance gaming where the gaming is intended to produce a single winner. It is common knowledge that TUNs will mostly (but not always) be used to run poker tournaments.

Operators should note the following:

- A TUN can only be used to provide facilities for equal chance gaming that must be intended to produce a single, overall winner;
- Cash games are not permitted;
- The licensed operator who gives the TUN bears full responsibility for compliance with the Act and any relevant Codes of Practice;
- All existing operator licence conditions apply equally to the TUN.

In considering a TUN, the Council will consider the following:

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

3.07 Occasional use notices (OUNs)

Occasional use notice (OUN) permits betting on a sporting event or race at a track on eight days or fewer in a calendar year without the need for a full premises licence. It therefore allows occasional and infrequent events such as point-to-point racing and for bets to be taken on the outcome.

The Council has little discretion in relation to OUNs apart from ensuring that the statutory limit of eight days in a calendar year is not exceeded. The Council will check to confirm that the person who gives the OUN is licensed as a betting operator and has the appropriate permission from the Gambling Commission to use tracks for conducting betting.

The Council will also decide what constitutes a track, sporting event or race on a case-by-case basis and in doing so will follow guidance issued by the Gambling Commission in relation to tracks and OUNs.

3.08 Small society lottery licences

3.081 Introduction

A lottery is any arrangement that satisfies all of the criteria contained within the statutory description of either a simple lottery or a complex lottery under section 14 of the Act.

An arrangement is a simple lottery if:

- Persons are required to pay to participate;
- One or more prizes are allocated to one or more members of a class;
- The prizes are allocated by a process that relies wholly on chance.

An arrangement is a complex lottery if:

- Persons are required to pay to participate;
- One or more prizes are allocated to one or more members of a class;
- The prizes are allocated by a series of processes;
- The first of those processes relies wholly on chance.

The Act provides that promoting or facilitating a lottery is illegal unless it falls into one of two category of permitted lottery, namely:

- **Licensed lotteries** – these are large society lotteries and lotteries run for the benefit of local authorities that are regulated by the Commission and require operating licences;
- **Exempt lotteries** – there are four types of exempt lottery that are expressly permitted under schedule 11 of the Act, including the small society lottery.

The Council is responsible for registration of societies for the purposes of carrying on small society lotteries. Information on other forms of exempt lotteries is available from the Gambling Commission’s website.

The Act defines ‘society’ as the society, or any separate branch thereof, on whose behalf a lottery is to be promoted, and needs to understand the purposes for which a society has been established in ensuring that it is a non-commercial organisation.

Section 19 of the Act defines a society as such if it is established and conducted:

- For charitable purposes, as defined in section 2 of the Charities Act 2006;
- For the purposes of enabling participation in, or of supporting, sport, athletics or a cultural activity;
- For any other non-commercial purposes other than that of private gain.

It is inherent in this definition that the society must have been established for one of the permitted purposes as set out in section 19 of the Gambling Act 2005, and that the proceeds of any lottery must be devoted to those purposes. It is not permissible to establish a society whose sole purposes is to facilitate lotteries.

3.082 Registration applications

The Council with whom a small society lottery is required to register must be in the same area where the principal office of the society is located. If the Council believes that a society’s principal office is situated in another area, it will inform the society and the relevant Licensing Authority as soon as possible.

Applications for small society lottery registrations must be in the form prescribed by Regulations and be accompanied by both the required registration fee and all necessary documents required by the Council to assess the application. The types of evidence that may be required include, but are not restricted to:

- A list of the members of the society;
- The society’s constitution or a similar document setting out the aims and objectives of the society and its governance arrangements;
- A written declaration from the applicant stating that they represent a *bona fide* non-commercial society.

The Council shall refuse an application for registration if in the period of five years ending with the date of the application:

- An operating licence held by the application for registration has been revoked under section 119(1) of the Act; or,
- An application for an operating licence made by the applicant for registration has been refused.

The Council may refuse an application for registration if they think that:

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

The Council may only refuse an application for registration after the society has had the opportunity to make representations at a formal hearing. If the Council is minded to refuse registration, it will inform the society of the reasons why it is minded to do so and provide it with an outline of the evidence on which it has reached that preliminary conclusion, in order to enable representations to be made.

Any representations received will be considered at a formal hearing and the following principles will be applied when reaching a decision:

- Whether allowing the registration of the society would be consistent with the Act;
- Whether allowing the registration of the society would be consistent with the promotion of the licensing objectives;
- Whether allowing the registration of the society would be consistent with any relevant Codes of Practice issued by the Gambling Commission.

3.083 Promotion of small society lotteries once registered

Participation in a lottery is a form of gambling and as such the Council requires societies to conduct their lotteries in a socially responsible manner and in accordance with the Act.

The Act requires that lottery tickets may only be sold by persons that are aged 16 or over to persons that are aged 16 or over.

As the minimum age for participation in a lottery is 16, the Council expects those societies that it registers to have effective procedures to minimise the risk of lottery tickets being sold to children, including procedures for:

- Checking the age of apparently underage purchasers of lottery tickets;
- Taking action where there are unlawful attempts to purchase tickets;

Lotteries may involve the issuing of physical or virtual tickets to participants (a virtual ticket being non-physical, for example in the form of an email or text message). All tickets must state:

- The name of the promoting society;
- The price of the ticket, which must be the same for all tickets;
- The name and address of the member of the society who is designated as having responsibility at the society for promoting small lotteries or, if there is one, the external lottery manager (ELM);
- The date of the draw, or information which enables the date to be determined.

The requirement to provide this information can be satisfied by providing an opportunity for the participant to retain the message electronically or print it.

The Council expects all registered small society lottery operators to maintain written records of any unsold and returned tickets for a period of one year from the date of the lottery draw.

With regards to where small society lottery tickets may be sold, the Council applies the following criteria to all small society lottery operators:

- Lottery tickets must not be sold to a person in any street;
 - o For these purposes, 'street' includes any bridge, road, lane, footway, subway, square, court, alley or passage (including passages through enclosed premises such as shopping malls), whether a thoroughfare or not;
- Tickets may, however, be sold in a street from a static structure such as a kiosk or display stand;
- Tickets may also be sold door-to-door. Licensees must ensure that they have any necessary local authority permissions, such as a street trading licence, if necessary.

This approach is consistent with the operating licence conditions imposed upon operators, large society lotteries and local authority lotteries.

3.084 Financial returns

As the purpose of permitting lotteries is to raise money for non-commercial causes, the Act requires that a minimum proportion of the money raised by the lottery is channelled to the goals of the society that promoted the lottery. If a small society lottery does not comply with these limits, it will be in breach of the Act's provisions, and consequently be liable to prosecution.

The limits are as follows:

- At least 20% of the lottery proceeds must be applied to the purposes of the society;
- No single prize may be worth more than £25,000;
- Rollovers between lotteries are only permitted where every lottery affected is also a small society lottery promoted by the same society, and the maximum single prize is £25,000;
- Every ticket in the lottery must cost the same and the society must take payment for the ticket fee before entry into the draw is allowed.

The Act sets out the information that the promoting society of a small society lottery must send as returns to the Council with which it is registered, following each lottery held. This information allows the Council to assess whether financial limits are being adhered to and to ensure that any money raised is applied for the proper purposes.

The following information must be submitted on the return:

- The arrangements for the lottery – specifically the date on which tickets were available for sale or supply, the dates of any draw and the value of prizes, including any donated prizes and any rollover;
- The total proceeds of the lottery;
- The amounts deducted by the promoters of the lottery in providing prizes, including prizes in accordance with any rollovers;
- The amounts deducted by the promoters of the lottery in respect of the costs incurred in organising the lottery;
- The amount applied to the purpose for which the promoting society is conducted (this must be at least 20% of the proceeds);
- Whether any expenses incurred in connection with the lottery were not paid for by deduction from the proceeds and, if so, the amount of expenses and the sources from which they were paid.

The Act also requires that returns must:

- Be sent to the Council no later than three months after the date of the lottery draw or, in the case of 'instant lotteries' (scratch cards), within three months of the last date on which tickets were on sale;
- Be signed (electronic signatures are acceptable if the return is submitted electronically) by two members of the society, who must be:
 - o Aged 18 or older;
 - o Are appointed for the purpose in writing by the society or, if it has one, its governing body;
 - o Be accompanied by a copy of their letter or letters of appointment.

The Council allows for returns to be sent to them both electronically and manually. The form of returns required can be downloaded from the Council's website.

Where societies run more than one lottery in a calendar year, the Council will monitor the cumulative totals of returns to ensure that societies do not breach the annual monetary limit of £250,000 on ticket sales.

The Council will notify the Commission if returns reveal that a society's lotteries have exceeded the values permissible and such notifications will be copied to the society in question.

3.085 Revocation of a registration

The Council may determine to revoke the registration of a society if it thinks that they would have had to, or would be entitled to, refuse an application for registration if it were being made at that time.

Revocations cannot take place unless the society has been given an opportunity to make representations at a hearing. In preparation for this, the Council will inform the society of the reasons why it is minded to revoke the registration and provide them with the evidence on which it has reached that preliminary conclusion.

Any representations received will be considered at a formal hearing and the following principles will be applied when reaching a decision:

- Whether allowing the registration of the society to continue would be consistent with the Act;
- Whether allowing the registration of the society to continue would be consistent with the promotion of the licensing objectives;
- Whether allowing the registration of the society to continue would be consistent with any relevant Codes of Practice issued by the Gambling Commission.

3.09 Travelling Fairs

Where any category D machines and/or equal chance prize gaming is to be made available for use at a travelling fair without a permit, the Council will ensure that any facilities for gambling amount to

no more than an **ancillary** amusement to the fair and not a reason in itself, i.e., for people to come to the fair for the purpose of gambling.

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

Section 4 – Inspection, Enforcement and Compliance

4.01 General information

The main enforcement and compliance role for the Council under the Act will be to ensure compliance with the premises licences, permits and other permissions that it authorises and any local issues that arise in relation to the provision of gambling facilities.

The Gambling Commission will be the enforcement and compliance body for operator and personal licences and will also take the lead role on issues that have implications nationally in relation to the provision of gambling facilities.

The Act requires licensing authorities to state the principles to be applied when 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 instigate criminal proceedings in respect of specified offences.

To that end, the Council will have regard to the Regulator’s Code and will follow the principles set out in it. The Code is based around the principles of consistency, proportionality and accountability. Regulation will be targeted where appropriate.

The Council’s Legal Services has adopted, and will have regard to, the principles set out in its Enforcement Policy (see Appendix D), which follows the principles of the Regulator’s Code.

The Regulator’s Code and Legal Services’ Enforcement Policy provide for a graduated response to be taken where breaches of the Act occur, or in cases where licence conditions may be contravened. An isolated 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, in some cases, a referral for prosecution.

The Council will use a risk-based inspection programme, based on compliance with:

- The licensing objectives
- The relevant Codes of Practice
- Guidance issued by the Gambling Commission
- The principles set out in this Policy

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 requirements of the Act, and in compliance with any licence conditions. It will also be important to monitor the borough for unlicensed premises.

The Council will work actively with the police, where appropriate, in enforcing licensing legislation and has established protocols with South Yorkshire Police, the Council’s Trading Standards

department and South Yorkshire Fire and Rescue on enforcement issues to ensure an efficient deployment of police and council officers.

Similarly, the Council will work closely with the Gambling Commission through its regional Compliance Officers and, where appropriate, will undertake joint visits, inspections and/or enforcement action to ensure compliance with the Act and Regulations.

Premises that have a history of complaints or previous enforcement action are likely to be classed as 'high risk' for enforcement purposes. Lower-risk premises will generally require a lighter touch so that resources are effectively concentrated on problem premises.

In accordance with guidance issued by the Gambling Commission, the Council will endeavour to avoid duplication with other regulatory regimes so far as is reasonably possible.

The main enforcement and compliance role for the Council in terms of the Act will be to ensure compliance with the premises licences and the other permissions it authorises. It will also investigate complaints about unlicensed premises where appropriate. Enforcement action will largely be concentrated on compliance with the licensing objective that protects children and other vulnerable persons from being harmed or exploited by gambling.

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 Commission of any significant issues relating to operator licences, personal licences and the manufacture, supply or repair of gaming machines that may arise.

4.02 Departure from Policy

The Council 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 matters listed below:

- In accordance with any relevant Codes of Practice issued by the Gambling Commission;
- In accordance with any relevant guidance issued by the Commission;
- Reasonably consistent with the licensing objectives;
- In accordance with the Council's policy statement.

In such an event, the Council will give full reasons for its decision to depart from the Policy.

Each case will always be dealt with on its own individual merits and circumstances.

4.03 Duplication with other regulatory regimes

In carrying out its functions under the Act, the Council will seek to avoid any duplication with other statutory or regulatory systems where possible, including planning. Section 210 of the Act specifically states that the Council when considering an application cannot consider whether the premises that is the subject of the application is likely to be awarded planning permission or building regulations' approval.

In other words, planning and licensing remain two separate regulatory regimes and the Council's Statutory Licensing Board cannot be bound by a decision of the Council's Planning Committee, or vice versa.

4.04 Exchange of information

The Council is required to set out the principles it will apply when exchanging information with the Gambling Commission and other persons or bodies.

The Commission can require the Council to provide specific information if it forms part of the licensing register or if it is held in connection with the exercise of the Council's licensing functions under the Act. Currently, the Commission requires the Council to submit a return at the end of each financial year, which is subsequently included in the Department for Communities and Local Government Single Data List. The Council will therefore continue to provide the following details to the Commission:

- Permits issued
- Temporary use notices issued
- Occasional use notices issued
- Premises inspections conducted
- Reasons for – and outcomes of – reviews

Any exchange of information with the Commission and other persons or bodies will be in accordance with the provisions of both the Gambling Act 2005 and the Data Protection Act 1998. The Council will have regard to any guidance or advice issued by the Gambling Commission or the Information Commissioner, and any relevant Regulations under the Gambling Act 2005.

The Council may also exchange information with other persons or bodies listed below for use in the exercise of functions under the Act, i.e.:

- A constable or police force;
- An enforcement officer;
- Another Licensing Authority;
- HM Revenue and Customs;
- The Secretary of State.

If protocols are established with any of these bodies relating to the exchange of information, the Council will make them available on the Council's website.

NB. Unless specifically restricted by the Act, details about applications, licences and representations will be made available in the Council's public register.

Details of any 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. This is primarily done to ensure a fair hearing for all parties.

Section 5 – Legislation, Policies and Strategies

5.01 Legislation

In exercising its licensing functions under the Gambling Act 2005, the Council will have regard to its commitments under other relevant legislation, including:

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

5.02 Local strategies and policies

Where appropriate, the Council will carry out its functions with regard to other relevant local strategies and policies, including:

- The Council's Corporate Strategy and Priorities
- The Community Safety Strategy
- Legal Services Enforcement Policy
- Safer and Sustainable Communities Plan
- Barnsley 2030 Strategy

5.03 Integrating strategies

The Council recognises in particular the importance of the co-ordination and integration of its Policy with other plans aimed at the management of town centres and the night-time economy. These include:

- **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 other permissions will reflect local crime prevention strategies;
- **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;
- **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;
- **Human Rights** – The Human Rights Act 1998 incorporates the European Convention on Human Rights (ECHR) and makes it unlawful for a local authority to act in a way that is incompatible with a Convention right. The Council will have particular regard to the following relevant provisions of the ECHR:
 - Article 1 – every person is entitled to the peaceful enjoyment of his or her possessions, including, for example, the possessions of a licence;
 - Article 6 – 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;
 - Article 8 – everyone has the right to respect for his/her home and private and family life;

- **Planning** – The Council’s Statutory Licensing Board will provide reports, when appropriate, to the 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;
- **Tourism and Town Centre Management** – The Council aims to promote a high-quality, thriving night-time economy;
 - o 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;
- **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;
- **Enforcement Policy** – All licensing enforcement will be conducted in accordance with the National Regulator’s Code and the Council’s Legal Services Enforcement Policy.

5.04 Equality, diversity and inclusion

Barnsley is a multiracial, multicultural and multifaith borough. The Council values and celebrates the diversity that exists amongst the residents of Barnsley, and those who choose to visit or work in our borough. The Council aims to ensure that every individual can fully participate in the social, cultural, political and economic life of Barnsley.

As such, applicants and licensees 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. Accordingly, the Council will ensure that it has due regard to the above at all times.

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

5.05 Ongoing responsibilities of premises licence holders

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

All customer-facing and management staff in licensed premises are expected to have sufficient knowledge and training to promote responsible gambling and to address risks associated with gambling. Where appropriate, this should include:

- The importance of social responsibility
- Staff being familiar with partnership agencies, having relevant contact details and knowing how to report any concerns;
- The causes and consequences of problem gambling;
- Identifying and communication with vulnerable persons, including primary intervention and escalation;

- How to deal with problem gamblers, including exclusion (mandatory and voluntary) and escalating for advice and/or treatment;
- Being made aware of contacts for gambling-related organisations such as the NHS resource for addiction support at <https://www.nhs.uk/live-well/addiction-support/gambling-addiction/>
- 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 both time and spend limits;
- Licence conditions;
- Offences under the 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 and report forged ID, and knowledge of procedures in relation to the offender (such as reporting to the police and/or barring offenders from the premises);
- Knowledge of a problem gambling helpline number;
- The importance of not encouraging customers to:
 - o Increase the amount of money they have decided to gamble;
 - o Enter into continuous gambling for a prolonged period;
 - o Continue gambling when they have expressed a desire to stop;
 - o Re-gamble any winnings or chase losses.

Section 6 – Problem gambling and gambling-related harms

6.01 Gambling-related harms

The Council acknowledges its statutory duty under the Act to aim to permit gambling, but it is also aware that gambling is becoming increasingly recognised as a public health issue, contributing to ongoing health inequalities, the experience of physical and mental health (including suicide), and poor wellbeing.

Gambling-related harms are often not recognised and require greater attention. The legislative framework for gambling recognises it as a legitimate leisure activity that many people enjoy. It generates income, employment and tax revenue. Set against this, it also generates significant disadvantages, such as working days lost through disordered gambling, or the cost of treatment for ill-health caused by stress related to gambling debt. There are also less-easily measured, though potentially very significant impacts, such as the negative effects of gambling on family relationships, and the psychological and social development of children.

There is growing evidence that the prevalence of problem gambling or the vulnerability to developing a problem with gambling may be higher within certain groups within the general population, particularly:

- Younger people, especially men;
- Those with other addictions, such as drugs, alcohol or nicotine;
- Those with mental health issues;
- Those who are unemployed, economically inactive or from a low socio-economic status or deprived background;
- Some ethnic groups, e.g., new migrants;
- Children of problem gamblers;
- Repeat offenders, or those recently released from prison.

Gambling related harms are associated with the wider determinants of health; particularly; deprivation, substance misuse, poor mental health and low levels of education and income. Problem gambling widens health inequalities and disproportionately affects those with lower socio-economic status. The impacts are not just experienced by gamblers, but their children, partners, families, and employers. These may include the breakdown in relationships, unemployment, descent into debt and associated crime. There is the concept of “intergenerational” harms, for example, if a parent loses the family home due to gambling debts, this affects the children of the problem gambler, currently and into their adult life. For these children, their life chances can be significantly affected by parental choices.

6.02 Supporting information and data

The Gambling Behaviour in GB report (2015) indicates that there are over 430,000 problem gamblers in Great Britain, and it is estimated that there are 2 million at risk and 4.2 million affected others.

The lack of local screening for gambling issues means that the extent of the problem is largely unknown within a specific authority. However, Barnsley public health data can provide a degree of insight into the individuals and subregions that will be most vulnerable to problem gambling, and how they and the wider population of the borough are impacted.

6.021 Deprivation

Gambling-related harms are strongly associated with deprivation. According to the Indices of Multiple Deprivation, Barnsley is ranked 39th out of 326 local authorities in England. However, 21.8% of Barnsley Lower Super Output Areas (LSOA) were in the 10% most-deprived areas in the country. This indicates very high levels of deprivation within the town alongside high levels of inequality. Figures relating to income deprivation affecting children are also significantly higher in Barnsley than the England average. Data from 2019 states that 22.5% of Barnsley residents have income deprivation affecting children compared to 17.1% of England.

See Appendix E for a breakdown of the IMD score for the borough and accompanying map.

6.012 Mental health

The Gambling Commission states that “self-reported anxiety and depression is higher in problem gamblers, as is a mental health disorder”. Barnsley’s recorded prevalence of depression in persons aged 18 or over are higher than the Yorkshire and Humber average: for the years 2020/21, Barnsley’s recorded prevalence of depression was 13.7%, compared to the Yorkshire and Humber average of 12.3%.

The most significant adverse effect of gambling is its contribution to suicide. One UK study found that 4% of suicides amongst 20–24-year-olds were related to gambling. The suicide rates in Barnsley are significantly higher than the England average: 10.4 per 100,000 people in England compared to 14.8 per 100,000 in Barnsley in the period 2019-21.

6.013 Unemployment

Gambling-related harms are strongly associated with unemployment. Barnsley's percentage of people in employment has been lower than the England average: for 2020/21, 72.5% of Barnsley residents were in employment, compared to the England average of 75.1% of people.

6.014 Children and young people

Hospital admissions due to substance abuse for young people in the age group 15-24 in Barnsley has been significantly higher than the average across England. The average across England was 81.2 per 100,000, whereas the same statistics for Barnsley were 144.3 per 100,000. As individuals with a history of substance abuse are a group vulnerable to problem gambling, this data highlights the above-average danger of younger people in the borough becoming affected by problem gambling, either directly or indirectly.

6.02 Safeguarding

6.021 Public health and gambling

The Council agrees with the Gambling Commission's position that gambling-related harm should be considered as a public health issue.

Gambling is a legitimate leisure activity enjoyed by many and the majority of those who gamble appear to do so with enjoyment, and without exhibiting any signs of problematic behaviour. There are, however, significant numbers of people who do experience substantial harm as result of their gambling.

For these problem gamblers, harm can include higher levels of physical and mental illness, debt problems, relationship breakdown and, in some cases, criminality. It can also be associated with substance misuse.

There can also be considerable negative effects experienced by the wider group of people around a gambler. The health and wellbeing of partners, children, and friends can all be negatively affected.

6.022 Commercial determinants

It is important to note that gambling and gambling-related harms are considered a commercial determinant of health, much like tobacco, alcohol and high fat sugar and salt foods (HFSS). As such, the influence of industry at all levels of practice needs careful and continuous consideration when decision-making. There is ongoing regional and national work to address this influence and it is vital that the Council remains apprised of any developments to protect the borough's population from potential harms.

Therefore, the Council considers that its Public Health department, whilst not a responsible authority under the Act, should still play a leading role in assisting the Council to address gambling-

related harms in its area. The Public Health department will play an important part in developing the Policy as well as the Council's Local Area Profile.

It is planned that the Public Health department will be able to help the Licensing Authority:

- Identify and interpret health data and evidence to inform the review of the Policy and develop tailored Local Area Profiles;
- Make decisions that benefit and protect the health and wellbeing of local communities;
- Be clear on issues that the Council can have regard to when deciding on licences for a wide range of gambling activities;
- Conduct a health-impact assessment of gambling in the local area or assess any existing information.

6.022 Protection of vulnerable people

The Council is aware of the difficulty in defining the term "vulnerable person". In recent literature it is not a term that is widely used, with the term "adults at risk of abuse or neglect" or "adults at risk" being preferred. See Appendix F for a table breakdown of groups identified as vulnerable.

The Gambling Commission, in its guidance to local authorities, does not seek to offer a definition for the term "vulnerable people" but will, for regulatory purposes, assume that this group includes people: "who gamble more than they want to, people who gamble beyond their means, elderly persons, and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, or because of the influence of alcohol or drugs."

The Care Act 2014 imposes a requirement on a local authority to "make enquiries if it has reasonable cause to suspect that an adult in its area, whether or not ordinarily resident there, has needs for care and support, is experiencing, or is at risk of, abuse or neglect, and as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it".

The local authority must make whatever enquiries it thinks necessary to enable it to decide whether any action should be taken in the adult's case (whether under this part or otherwise) and, if so, what action and by whom. "Abuse" includes financial abuse; and for that purpose "financial abuse" includes having money or other property stolen, being defrauded, being put under pressure in relation to money or other property, and having money or other property misused.

In 2016, Leeds City Council commissioned Leeds Beckett University to undertake research into Problem Gambling in Leeds (Problem Gambling in Leeds; Kenyon, Ormerod, Parsons and Wardle, 2016). This research looked specifically at identifying groups of society that could be considered vulnerable to problem gambling.

- **Young people** – Rates of problem gambling among young people who gamble are higher than older adults and youth gambling behaviours are consistent with the harm paradox: whereby these age groups are less likely to gamble generally but those that do are more likely to experience difficulties with their behaviour (Wardle, 2015);
 - o Licensing objective 3 of the act exists specifically to protect children and vulnerable persons 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;
- The 2012 Health Survey for England found that in the previous year 68% of men and 61% of women had gambled, and that problem gambling rates were 0.8% for men and 0.2% for women;
 - **Minority ethnic groups** – There is consistent evidence that those from Asian or Black backgrounds are more vulnerable to gambling problems and there is clear evidence of the harm paradox (Wardle, 2015);
 - **Unemployed and those of constrained economic circumstance** – Generally those of lower income are less likely to gamble but those that do spend a higher proportion of their income on gambling. This is highlighted as a concern given the lesser ability of lower-income households to protect themselves from financial instability (Brown et al, 2011);
 - There is evidence that those in debt and those using money lenders and/or pawnbrokers are more likely to be problem or at-risk gamblers (Meltzer et al, 2012). The relationship between constrained economic circumstances and gambling problems is likely to be complex and multi-faceted. It may be mediated by other economic opportunities and personal feelings about how well off one is compared with others. Despite this complexity, there is a consistent body of evidence showing that, for whatever reason, those who are unemployed and who gamble are more likely to experience adverse outcomes from their gambling than those in paid employment;
 - **Area deprivation** – There are several British surveys that have consistently shown that those living in more deprived areas are more likely to experience problems with their gambling behaviour. This was despite having roughly similar levels of past-year gambling participation to those who live in less deprived areas;
 - Wardle (2015) looked at the distribution of machines and licensed betting offices and argues that there was clear and consistent evidence of a spatial skew, whereby high-density machine zones or areas with licensed betting offices are more deprived than others. Recent research has shown that among gamblers who held loyalty cards, rates of problem gambling (28%) were higher among those who lived within 400 metres of a concentration of betting offices than those who did not (22%) (Astbury & Wardle, 2016);
 - **Homelessness** – The rates of problem gambling are higher among those who are homeless than those who are not. Although studies are small, they show that there is a significant relationship with gambling preceding homelessness. Little is known about why rates of problem gambling among homeless population groups are higher than the general population, but given associations with other mental health conditions, homeless people should be considered a vulnerable group;
 - **Mental health issues** – There is a strong association between mental ill health and problem gambling, in addition to suicide. Associations were found between problem gambling and general anxiety disorder, phobia, obsessive compulsive disorder, panic disorders, eating disorders, probably psychosis, attention deficit hyperactivity disorder, post-traumatic stress disorder, harmful and hazardous levels of alcohol consumption and drug addiction. Overall, three-quarters of problem gamblers seeking treatment also experience comorbid mental health disorders;
 - Being a problem or at-risk gambler is associated with later onset of major depressive disorder, alcohol use and dependence, drug use and experience of any mental

disorder. Illegal drug use and experience of any mental disorder is also associated with the subsequent onset of at-risk and problem gambling. These findings seem to confirm the conclusion that the relationship between problem gambling and mental ill health may be cyclical;

- **Substance abuse/misuse** – The evidence base relating to the relationship between substance abuse/misuse and experience of problem gambling broadly measures that of mental ill health. Evidence from British based surveys has shown that rates of problem gambling were higher among those with alcohol dependence (3.4%) or drug dependence (4.4%) than the general population (0.74%) (Wardle, 2015). A systemic review of those seeking treatment for gambling problems showed that 15% also experience alcohol dependence and 7% have other substance abuse disorders (Dowling et al, 2015). There is strong evidence that alcohol and substance misuse are associated with problem gambling. As with other mental health conditions, these conditions can occur at the same time;
- **Personality traits/cognitive distortions** – There is a strong body of evidence highlighting the relationship between various personality traits, such as cognitive distortions or impulsivity, with problem gambling. Cognitive distortions, such as erroneous perceptions of gambling and illusion of control, are well-established risk factors for problem gambling (Johansson et al, 2009). However, little research has been conducted to explore the complex interaction of personality traits with other factors and their combined influence on the experience of broader gambling harms. Certain personality traits and/or cognitive distortions are just one potential aspect of vulnerability which is likely to be affected by a range of other factors;
- **Problem gamblers seeking treatment** – Because this group is in the process of attempting to recover from gambling problems they should be treated as a vulnerable group in their own right (Wardle, 2015);

Problem gambling can affect anyone at any time. Whilst rates of problem gambling among all adults in Britain tend to be less than 1%, there are some groups that are more likely to experience problems. These groups could all be considered vulnerable to gambling problems. The Council works with many of these groups, however operators should consider these groups in their Local Risk Assessments, especially in relation to identifying the people in these groups, and mitigating harm experienced by them.

In the case of premises licences, the Council is aware of the extensive requirements set out for operators in the Gambling Commission's Licensing Conditions and Codes of Practice regarding social responsibility. In this document the Gambling Commission clearly sets out the policies and procedures that operators should put in place regarding:

- Combating problem gambling
- Access to gambling by children and young people
- Information on how to gamble responsibly and help for problem gamblers
- Customer interaction
- Self-exclusion
- Employment of children and young people

All applicants should familiarise themselves with the operator licence conditions and Codes of Practice relating to this objective and determine if these policies and procedures are appropriate in their circumstances. The Council will communicate any concerns to the Gambling Commission about any absence of this required information.

All applicants should also familiarise themselves with the Local Area Profile (see section 1.14 above).

Applicants should consider the following proposed measures for protecting and supporting vulnerable people:

- Leaflets offering assistance to problem gamblers should be available on gambling premises in a location that is both prominent and discreet, such as toilets;
- Training for staff members that focuses on building an employee's ability to maintain a sense of awareness of how much (e.g. how long) customers are gambling, as part of measures to detect people who may be vulnerable;
- Trained personnel for the purpose of identifying and providing support to vulnerable people;
- Self-exclusion schemes;
- Operators should demonstrate their understanding of best practice issued by organisations that represent the interests of vulnerable people;
- The NHS website link <https://www.nhs.uk/live-well/addiction-support/gambling-addiction/> displayed in prominent locations;
- Windows, entrances and advertisements to be positioned or designed not to entice children or vulnerable persons.

Some of the above measures already form part of the mandatory conditions placed on premises licences. The Council may consider any of the above or similar measures as licence conditions should these not be adequately addressed by the mandatory conditions, default conditions or matters proposed by the applicant.

6.023 Local Risk Assessment

The following must be included in any risk assessment:

- The location of the premises (e.g., close to premises frequented by children or other vulnerable persons);
- Whether any promotional material/advertising associated with the premises might encourage use of the premises by children or vulnerable persons;
- Whether there are management measures in place to ensure adequate staff training is in place to protect children, young persons and vulnerable persons 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;
 - o 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 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 (e.g. 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;
- A risk assessment for safeguarding children and vulnerable persons at gambling premises, the outcome of which should be used to inform staff training and operating policy.

- There is sufficient evidence of links between suicide and problem gambling that risk assessments for suicide should be offered to individuals identified to be at-risk of problem gambling as a suicide prevention intervention.

6.024 Support for problem gamblers

6.0241 NHS

The Council recommends that all licence and permit holders recognise the importance of partnership working with organisations such as the NHS resource for addiction support at <https://www.nhs.uk/live-well/addiction-support/gambling-addiction/> to increase awareness of issues around problem gambling.

Operators should be expected to work in partnership with local health/vulnerable people/welfare services and be clearly stated e.g. that we would expect screening for problem gambling using reliable tools, signposting and referral to national and local services, and support to self-exclude. Where someone has mental capacity but is a vulnerable person and displaying problem gambling behaviours then the operator should work in partnership with their key worker to manage the risk of harm.

6.0242 Self-exclusion scheme

The Council expects all premises to operate a voluntary self-exclusion scheme, meaning that whenever a customer voluntarily requests to be excluded from the premises, they are excluded for an agreed timeframe, taking into account the Gambling Commissions Licence Conditions and Codes of Practice minimum requirements

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.

Appendix A – 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	
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Appendix B – 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 that 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

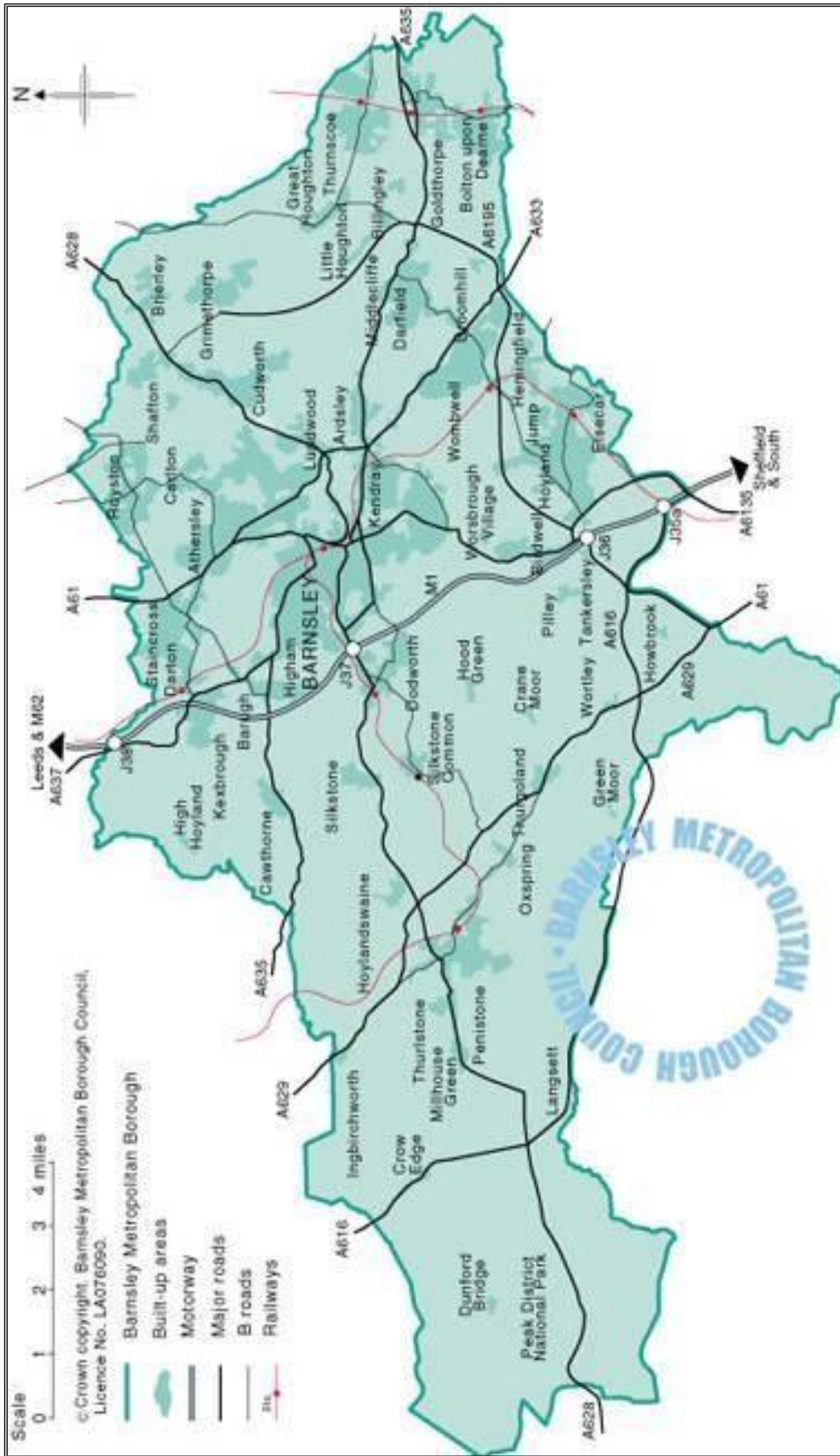
The maximum stakes and prizes for certain gaming machines were updated by the Gambling Commission in June 2009.

A breakdown of categories of gaming machines, along with their maximum stakes, maximum prizes and site locations, can be accessed on the Gambling Commission's website via the link below:

<https://www.gamblingcommission.gov.uk/licensees-and-businesses/guide/gaming-machine-categories>

[accessed 13th October 2022]

Appendix C – Map of Barnsley Metropolitan Borough





BARNSLEY
Metropolitan Borough Council

LEGAL SERVICES ENFORCEMENT POLICY

Signed:

Name: Sukdave S. Ghuman – Service Director, Law & Governance

Date: 26th January 2023

1. Enforcement Policy Statement

The purpose of this Policy is to set out the general principles of enforcement to be followed by officers in Legal Services, in order to ensure that enforcement decisions are consistent, appropriate, balanced, fair, targeted, accountable, transparent and proportionate.

2. Introduction

Legal Services is a public authority for the purposes of the Human Rights Act 1988. Officers in Legal Services will apply the principles of the European Convention on Human Rights in accordance with the Act. The Service will follow the provisions of the Regulators' Code in its regulatory activities, taking a supportive, risk-based approach to businesses. It will provide clear information and guidance on compliance and will act with fairness and transparency. Formal enforcement action will normally be a last resort, but where it is deemed appropriate, this Policy will be applied.

This policy sets out the general regulatory options available to Legal Services Officers to ensure compliance with relevant legislation. Officers will be suitably trained, qualified and experienced, as set out in their job profiles, and they will be familiar with, and follow, the provisions of this Policy.

Each case is unique and must be judged on its own merits. However, there are general principles that apply in the way each situation must be approached. This document sets out the factors to be taken into account when considering appropriate

enforcement action to be taken. Officers will follow this Policy, except in exceptional circumstances.

Where the Service becomes aware of a situation for which it is not the enforcing authority, it will contact the relevant enforcement agency. Where there is a shared role with another enforcement agency, officers shall liaise accordingly with that agency.

Legal Services enforce a wide variety of legislation and use powers that enable officers to issue verbal advice, send letters, serve formal notices, issue simple cautions, and prosecute in the courts. This list is not exhaustive and other enforcement options are available, as detailed later in this document. The officer will choose the most appropriate method of achieving compliance from the range of actions available.

The aims of the Service in taking action are:

- To protect the public and business from offenders;
- To change the behaviour of the offender;
- To eliminate any financial gain or benefit from non-compliance;
- To restore the harm caused by regulatory non-compliance in appropriate cases;

3. Enforcement Options

There are a number of options available when legal contraventions are found:

a) No Action

In exceptional circumstances contraventions may not warrant any action. This could be where the cost of compliance to the offender outweighs the detrimental impact of the contravention on the community, or the cost of the required enforcement action to the Council outweighs the detrimental impact of the contravention on the community. A decision of no action may also be taken where formal action is inappropriate, e.g., the offender is elderly and frail. A decision to take no action must be recorded in writing and must take account of health, safety, environmental and nuisance implications of the contravention. A decision to take no action does not preclude further investigation or review of the case at a later date, or when there is material change in the circumstances.

b) Informal Action

Informal action to secure compliance with the legislation includes offering advice, issuing warnings and requests for action. It may be appropriate to use informal action in the following circumstances:

- The act or omission is not serious enough to warrant formal action;
- From the individual's/organisations past history it can be reasonably expected that informal action will achieve compliance;

- Where the original approach is from person(s) seeking advice or assistance – although if serious breaches are found, formal action may be appropriate;

When an informal approach is used to secure compliance, this may be verbal or written. Any written documentation sent to individuals or businesses must include:

- All the information necessary to understand what action is required and why;
- The legislation being contravened and measures which will achieve compliance;
- Clear distinction between legal requirements and recommendations;

c) Statutory notices, Seizing Equipment, Closing Premises

Notice can be served to require persons to cease contravening activities, give offenders reasonable time to rectify a contravention or require people to provide information. Notices may require contravening activities to cease immediately where circumstances relating to health, safety, environmental damage, or nuisance demands. In other circumstances, the time allowed must be reasonable, but must also take account of the implications of the contravention.

Specific guidance is available on circumstances under which notices shall be served, equipment seized or premises closed, and this varies according to the legislation and type of notice.

The use of statutory notices may take place in conjunction with other enforcement options set out in this policy.

d) Refusal/Revocation of Licence/Approval/Permit

Licences, Approvals and Permits are issued under specific legislation and the circumstances that allow refusal or revocation of a licence etc. shall be taken into account in accordance with the specific legislation and relevant Codes of Practice. In order to justify such an action, the applicant/licence/approval/permit holder must meet one or more of the following criteria:

- Engage in fraudulent activity;
- Deliberately or persistently breach legal obligations;
- Deliberately or persistently ignore warnings or formal notices;
- Endanger, to a serious degree, the health, safety or wellbeing of people, animals or the environment;
- Fail to pay renewal fees.

In relation to licensing matters, cases may also be referred to the General Licensing Sub-Committee.

e) Works in Default

Where provided for under the legislation, work may be carried out in default. Such action will be dependent upon public risk and strategic considerations.

f) Injunctions

In exceptional cases, it may be considered that an injunction is the best course of action to remedy contraventions or dangerous circumstances. For example, where there is an immediate risk to public health, or where there is an extraordinary statutory nuisance.

g) Enterprise Act Actions

The Enterprise Act 2002 gives some officers in the Service the authority to seek civil remedies for certain breaches of legislation. Officers will consider these remedies, such as undertakings and injunctions, where they are the most appropriate course of action.

h) Fixed Penalty Notices

Fixed Penalty notices will be issued under certain legislation. If a fixed penalty is not paid within the prescribed period, legal proceedings shall be instituted.

i) Simple Cautions

In some cases, Simple Cautions may be used as an alternative to prosecution. In order to offer a Simple Caution, there must be enough evidence for the matter to proceed to Court by way of prosecution, and the offender must admit guilt.

j) Prosecution

Without prejudicing the right of the Council to prosecute for any offence within its jurisdiction, prosecution will be considered in the case of serious offences, matters of significant public concern, failure to comply with a statutory notice, and repeated infringements.

Particular circumstances in which prosecution will also be considered include:

- The contravention involved fraud;
- The contravention involved deliberate or persistent breach of legal responsibility;
- The contravention was through gross negligence or carelessness and caused, or was likely to cause, significant loss or prejudice to another individual;
- The contravention led to, or contributed to, the health safety or well-being of people, animals or the environment being seriously compromised, or contributed to damage to the reputation or economic well-being of the Borough;
- The contravention involved the obstruction of an authorised officer in carrying out his or her duties, or violence or aggressive behaviour towards them;
- The contravention was an absolute offence under the legislation;
- The matter relating to the offence is widespread throughout the borough.

Cases will only be submitted for prosecution when it is considered that the sufficiency of evidence and the public interest requirement fall within the guidelines as laid down by the Attorney General and Crown Prosecution Service Code of Crown Prosecutors. Before deciding whether or not to prosecute, consideration will also be given to the following:

- The calibre and reliability of witnesses;
- The probable public benefit of a prosecution and the importance of the case – e.g., the possibility of establishing legal precedent;
- The contravention is trivial;
- Whether a Simple Caution would be more appropriate or effective;
- Cost effectiveness – a need to balance likely overall cost against the ‘value’ of the likely outcome;

4. References

The Code for Crown Prosecutors

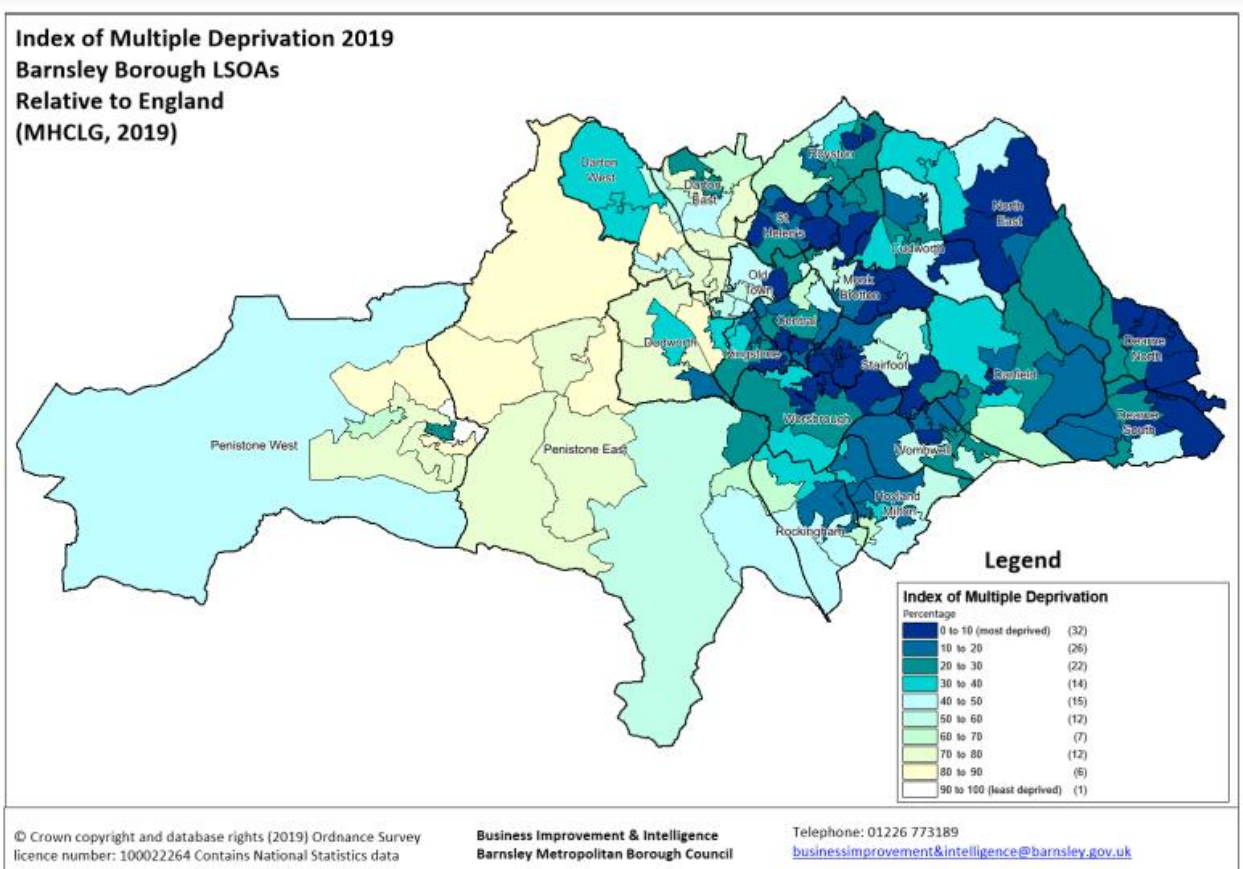
http://www.cps.gov.uk/publications/code_for_crown_prosecutors/

Regulators Code <https://www.gov.uk/government/publications/regulators-code>

Simple Cautions <https://www.gov.uk/government/publications/simple-cautions-guidance-for-police-andprosecutors>

Appendix E – Index of Multiple Deprivation Data and Map of the Wards of Barnsley

Area ▲▼	Recent Trend	Count ▲▼	Value ▲▼	95% Lower CI	95% Upper CI
England	-	-	21.7	-	-
Barnsley	-	-	29.9	-	-
Dearne North	-	-	50.1	-	-
St Helens	-	-	44.6	-	-
Worsbrough	-	-	42.2	-	-
Stairfoot	-	-	39.7	-	-
Monk Bretton	-	-	38.5	-	-
Kingstone	-	-	36.2	-	-
Central	-	-	35.5	-	-
Dearne South	-	-	35.3	-	-
North East	-	-	33.6	-	-
Wombwell	-	-	31.6	-	-
Darfield	-	-	30.1	-	-
Cudworth	-	-	29.8	-	-
Royston	-	-	29.2	-	-
Hoyland Milton	-	-	26.5	-	-
Rockingham	-	-	26.2	-	-
Old Town	-	-	22.3	-	-
Darton East	-	-	18.3	-	-
Dodworth	-	-	17.1	-	-
Darton West	-	-	15.1	-	-
Penistone West	-	-	12.1	-	-
Penistone East	-	-	10.8	-	-



Vulnerable Groups (Geofutures, 2015)

Key: Supported by evidence Emerging evidence No/conflicting evidence

Demographic	Socio-economic	Poor judgement/impairment	Other
Youth	Unemployment	Low educational attainment	Poor mental health
Older people	Low income	Low IQ	SMS/alcohol
Women	Deprived	Under influence of drugs/alcohol	Problem gamblers
Ethnic groups	Financial difficulties/debt	Learning disability	
	Homeless	Personal traits	
	Migrants		
	Prisoners/probation		

Appendix G – Responsible Authorities

The Licensing Authority

Barnsley Metropolitan Borough Council, Licensing, Legal Services, PO Box 634, Barnsley, S70 9GG
Telephone: (01226) 773555

South Yorkshire Police

South Yorkshire Police Licensing Department, Force Headquarters, Carbrook House, Carbrook Hall Road, Sheffield, S9 2EH
Telephone: (01226) 726154

South Yorkshire Fire Service

The Chief Fire Officer, South Yorkshire Fire and Rescue Services, Dearne District Fire Safety, Broadway, Barnsley, S70 6RA
Telephone: (01226) 282222

Health protection service

Director of Public Health, PO Box 634, Barnsley, S70 9GG
Telephone: (01226) 773555

The planning authority

Barnsley Metropolitan Borough Council, Planning and Transportation/Building Control, PO Box 604, Barnsley, S70 9FE
Telephone: (01226) 770770

Environmental protection service

Barnsley Metropolitan Borough Council, Regulatory Services, PO Box 604, Barnsley, S70 9FB
Telephone: (01226) 773555

Barnsley Safeguarding Children Partnership

Safeguarding Children Unit, PO Box 634, Barnsley, S70 9GG
Email: safeguardingchildrenboard@barnsley.gov.uk

Gambling Commission

Victoria Square House, Victoria Square, Birmingham, B2 4BP
Telephone: (0121) 230 6697
Email: info@gamblingcommission.gov.uk
Website: www.gamblingcommission.gov.uk

HM Revenue and Customs

Excise Processing Teams, BX9 1GL
Telephone: 0300 322 7072 (Option 7)

Further Information

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

Licensing
Legal Services
PO Box 634
Barnsley
S70 9GG

Tel: 01226 773843

Email: licensing@barnsley.gov.uk

Website: www.barnsley.gov.uk

Information is also available from:-

Gambling Commission
Victoria Square House
Victoria Square
Birmingham
B2 4BP

Telephone: (0121) 230 6697

Email: info@gamblingcommission.gov.uk

Website: www.gamblingcommission.gov.uk

Notes

Amendments may have been made to relevant parts of this document and/or its appendices to correct any grammatical or spelling errors, provide clarity where required, meet government digital accessibility standards, or for other reasons to facilitate understanding.

Item 4

**Report of the Assistant Director to the
General Licensing Regulatory Board
to be held on the 15 February 2023**

LICENSING AND ENFORCEMENT UPDATE

1. Purpose of Report

The purpose of this report is to provide Members with an overview of the enforcement work Licensing Officers have recently undertaken.

2. Background

Members are minded to note, that Licensing Officers have continued to proactively work with the Hackney Carriage and Private Hire Trade and other Local Authority Departments to ensure that any issues and concerns within the trades are raised and addressed efficiently.

In addition, on the 24th of January 2023 Licensing Officers conducted a private hire licensing enforcement operation in the town centre. A summary of the enforcement operation is detailed below.

3. Current Position

On the 24th of January 2023 Licensing Enforcement Officers took part in a daytime operation focusing their attention on Private Hire drivers and vehicles that work in the day time economy.

In total 21 licensed vehicles and drivers were inspected on the day, the results of which are detailed as follows:

- 7 vehicles were suspended for failing to display the required door signage
- 1 vehicle was suspended for an inoperative front offside side light

- 1 vehicle was suspended for failing to display the required front private hire licence plate
- 3 written warnings were issued to drivers for failing to carry out their daily vehicle inspection checks
- 6 drivers were also spoken to about the signage on the vehicles and reminded of the required standard – being: -

The vehicle when working must display on its front doors the words “Private Hire Vehicle Advanced Booking Only” and must display on the rear offside and near side doors of the vehicle the operator’s trade or business name and telephone number.

No other signs or words whatsoever shall be displayed.

The “Private Hire Vehicle Advanced Booking Only” signage must be in a contrasting colour to the vehicle, be at least 19” x 6” in area and be in a prominent position in the centre of the door panel.

Vehicle non-compliance is an issue Officers are concerned with during the undertaking of each and every enforcement operation. Incorrect signage on vehicles cannot be excused, coupled with failing to complete basic vehicle inspection sheets, which is a tool that ensures the very safety of a licensed vehicle, is not acceptable.

4. Proposal

Proactive enforcement operations will continue to take place. Vehicle failures are always unacceptable, and our operations must convey the message that operators, vehicle proprietors and drivers must accept responsibility for their failures and make a change. We have clear standards that must be adhered to as failure to do so may put the safety of the public at risk when using a hackney carriage or private hire vehicle in Barnsley.

The principal consideration is as always, one of public safety.

Members are asked to support Officers and encourage private hire and hackney carriage drivers and operators to comply with the conditions of their licence and continue to keep their vehicles as safe as possible for both drivers and customers at all times.

5. Background Papers

Enforcement Officer Reports which contain exempt information are not available for public inspection

6. Officer Contact

Debbie Bailey

07786525961

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