

LICENSING COMMITTEE

Date: Tuesday 29 May 2018
Time: 5.30 pm
Venue: Rennes Room - Civic Centre

Members are invited to attend the above meeting to consider the items of business.

If you have an enquiry regarding any items on this agenda, please contact Mark Devin, Democratic Services Officer (Committees) on 01392 265477 or email mark.devin@exeter.gov.uk

Entry to the Civic Centre can be gained through the Customer Services Centre, Paris Street.

Membership -

Councillors Owen (Chair), Sheldon (Deputy Chair), Begley, Branston, Foale, Hannan, D Henson, Holland, Keen, Mitchell, Newby, Sills, Warwick and Wright

Agenda

Part I: Items suggested for discussion with the press and public present

1 **Apologies**

To receive apologies from Committee members.

2 **Minutes**

To approve and sign the minutes of the meeting held on 27 March 2018.

3 **Declarations of Interest**

Councillors are reminded of the need to declare any disclosable pecuniary interests that relate to business on the agenda and which have not already been included in the register of interests, before any discussion takes place on the item. Unless the interest is sensitive, you must also disclose the nature of the interest. In accordance with the Council's Code of Conduct, you must then leave the room and must not participate in any further discussion of the item. Councillors requiring clarification should seek the advice of the Monitoring Officer prior to the day of the meeting.

4 **Local Government (Access to Information) Act 1985 - Exclusion of Press and Public**

To pass the following resolution:

RESOLVED that, under Section 100A (4) of the Local Government Act 1972, the press and public be excluded from the meeting for items 6 on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs

1 and 2 of Part I of Schedule 12A of the Act.

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

5 Proposal to introduce an updated Gambling Act 2005 Statement of Licensing Policy

To consider the report of the Environmental Health and Licensing Manager.

(Pages 3 -
48)

Part II: Items suggested for discussion with the press and public excluded

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

6 Application for Consent to Street Trade in Heavitree Park

To consider the report of the Environmental Health and Licensing Manager.

(Pages 49
- 58)

Individual reports on this agenda can be produced in large print on request to Democratic Services (Committees) on 01392 265107.

REPORT TO LICENSING COMMITTEE

Date of Hearing: 29 MAY 2018

Report of: Environmental Health and Licensing Manager

Type of Application: Report outlining a proposal to introduce an updated Gambling Act 2005 Statement of Licensing Policy

Ward Application Refers to: ALL

Applicant: Not applicable.

Premises Address: Not Applicable

Is this a Key Decision?

No

* One that affects finances over £1m or significantly affects two or more wards. If this is a key decision then the item must be on the appropriate forward plan of key decisions.

1. What is the report about?

- 1.1 Exeter City Council's current Statement of Licensing policy was written in 2015 and came into effect in January 2016. There is a legal requirement to review such policy statements every three years. The current policy must be reviewed by 31 January 2019. The draft policy attached to this report has been updated to reflect changes in national guidance, and feedback from the Gambling Commission.
- 1.2 The purpose of this report is to inform Members of the draft policy that is proposed to be used as a consultation document on the introduction of an updated Gambling Act 2005 Statement of Licensing Policy.
- 1.3 This Policy will ensure that the Council carries out its Gambling Licensing responsibilities in a fair, equitable and consistent manner.
- 1.4 It will help ensure that the public, councillors and those engaged in Gambling Licensing activities understand what the law requires and how the Council will approach its enforcement duties.
- 1.5 The DRAFT form of words is attached as appendix 1.

2. BACKGROUND

- 2.1 The Licensing Authority must determine and publish a statement of Licensing Policy for the Gambling Act. The Licensing Authority is under a duty to keep its policy under review and make such revisions as it considers appropriate during each three-year period.
- 2.2 Before determining such a policy, Section 349(3) of the Gambling Act 2005 places a statutory duty on the Authority to consult. Where revisions are made the authority must publish a statement of the revisions or the revised licensing statement.

2.3 In line with good practise it is proposed to conduct a widespread consultation with a number of prescribed bodies and interested parties.

2.4 The responses to the consultation will need to be brought back to a subsequent Licensing Committee for them to consider any amendments or variations that may have been suggested during the consultation.

3. OPTIONS

3.1 The Committee are invited to indicate whether they support the recommendation to consult on the draft Licensing Policy.

4. TIMETABLE

- Notification to interested parties 30th May 2018.
- 22nd August 2018 consultation period ends.
- 18th September 2018, statement of Licensing Policy for the Gambling Act (amended as necessary) to Licensing Committee with recommendation for approval to Full Council.
- 9th October 2018 statement of Licensing Policy for the Gambling Act to Executive Committee.
- 13th November 2018 Licensing Policy to Full Council for approval.

5. CONCLUSION

5.1 It is proposed that the revised Policy draft document at appendix 1 will be used as a basis for consultation with Members of the Council, businesses, resident's representatives and others with an interest in the policy. It is further proposed that the draft policy be brought back to the Licensing Committee on 18th September 2018 to consider any representations that have been received, and to enable a recommendation for the adoption of the final (reviewed) Policy to be made to Full Council in November 2018.

6. RECOMMENDED

- 1) That Members of the Committee give consideration to the draft document to be consulted upon as attached and either:
 - a) Accept the request of the Environmental Health and Licensing Manager and authorise the consultation process as outlined above.
 - b) Reject the request submitted by the Environmental Health and Licensing Manager on the grounds that the draft policy requires amendment prior to the consultation period beginning.

Environmental Health and Licensing Manager

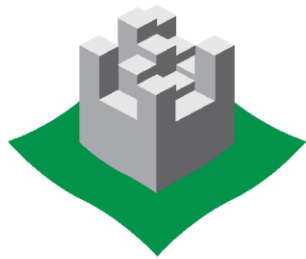
Local Government (Access to Information) Act 1972 (as amended)

Background papers used in compiling this report:-

None

APPENDIX 1: Draft Gambling Licensing Policy

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Exeter
City Council

THE GAMBLING ACT 2005

Draft Statement of Gambling Policy 2019 - 2021

**Environmental Health and Licensing Manager
Civic Centre
Paris Street
Exeter
EX1 1RQ**

 **01392 265702**
 **licensing@exeter.gov.uk**
 **www.exeter.gov.uk/licensing**

Draft Issue Date: 30 May 2018

Proposed Commencement: 31 January 2019

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Section 1 - Introduction

- 1.1 Exeter City Council (the Council) is the Licensing Authority (the Authority) under the Gambling Act 2005 (the Act). Section 349 of the Act requires that all Licensing Authorities prepare, consult and publish a Statement of Licensing Policy which will be used when exercising its licensing functions in relation to its responsibilities under the Act.
- 1.2 Once published, this Policy Statement will be kept under constant review and in any case, will be re-published after every three years. Before any revision of this Statement of Gambling Policy is published, the Authority will carry out a full consultation exercise on the relevant sections. This version of the Statement has been revised following the fourth triennial review and is for the period 2019 – 2021.
- 1.3 Section 25 of the Gambling Act states in the Guidance to local authorities that “*The (Gambling) Commission shall from time to time issue guidance as to*
- a) the manner in which local authorities are to exercise their functions under this Act,*
 - and*
 - b) in particular, the principles to be applied by local authorities in exercising functions under this Act.”*
- 1.4 In producing a Gambling Licensing Policy, the Licensing Authority will have regard to the Licensing Objectives of the Gambling Act 2005, the current guidance issued by the Gambling Commission, any relevant current statutory regulations, codes of practice issued by the Secretary of State and any responses from those consulted on the policy statement.
- 1.5 This Policy, therefore, generally follows the principles laid down in the Gambling Commission’s Guidance to Licensing Authorities.
- The Gambling Act 2005 can be accessed at <http://www.legislation.gov.uk> and the Gambling Commission’s Guidance to Licensing Authorities may be accessed via www.gamblingcommission.gov.uk
- 1.6 The Act also requires this Authority to carry out its various licensing functions to promote the three licensing objectives:
- 1. Preventing gambling from being a source of crime and disorder, being associated with crime or disorder, or being used to support crime
 - 2. Ensuring that gambling is conducted in a fair and open way
 - 3. Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 1.7 The Licensing Authority will expect applicants for premises licenses to assess the impact of their premises on the locality in relation to crime and disorder and will give

consideration to the measures offered by applicants in relation to this licensing objective in their assessment. If an area has high levels of organised crime then the Authority will consider whether or not gambling premises are suitable for that location and whether conditions may be suitable such as the provision of Door Supervisors

- 1.8 The Licensing Authority considers that serious nuisance and anti-social behaviour can sometimes amount to disorder. They will consider factors such as how threatening the behaviour was to those affected and whether police assistance was required in determining whether disorder has been created.
- 1.9 In carrying out its licensing functions under the Act, particularly with regard to premises licences, the Council will generally aim to permit the use of premises for gambling as long as it is considered to be:
 - i) In accordance with any relevant code of practice issued by the Gambling Commission,
 - ii) In accordance with any relevant guidance issued by the Commission reasonably consistent with the licensing objectives, and in accordance with the statement published by this Authority under section 349 of the Act
 - iii) Nothing in this Policy will override the right of any person to make an application under this Act and have that application considered on its individual merits. Equally, nothing in this Statement will undermine the right of any person to make representations to an application, or seek a review of a licence where there is a legal power to do so.
- 1.8 This Authority will endeavour to ensure that when considering applications under this legislation it will avoid duplication with other regulatory regimes so far as possible.
- 1.9 Previous gambling legislation required that the grant of certain gambling permissions should take account of whether there was an unfulfilled demand for gambling facilities. However, unfulfilled demand is not a criterion for a Licensing Authority in considering an application for a premises licence under this legislation. Each application will be considered on its merits without regard to demand.

SECTION 2 – PROFILE OF THE CITY OF EXETER

- 2.1 Exeter is the Licensing Authority as defined by the Gambling Act 2005. The term “Licensing Authority” will be used in all future references to Exeter in this Policy.



- 2.2 Exeter is a mainly urban Authority located towards the East of the County of Devon and bordered by the more rural Authorities of East Devon, Mid Devon and Teignbridge. Exeter is the regional capital of Devon comprising 4774 hectares. Long established as a cultural and visitor centre, it attracts large numbers of tourists and holiday makers as well as providing attractions to the surrounding towns and villages of east and mid Devon.
- 2.3 To the south and west of Exeter is Plymouth and Torbay; between them they have three casinos all granted prior to the Gambling Act 2005 coming into force. Exeter lies at the end of the M5 corridor and has a well established airport as well as excellent rail and bus links to London and the rest of the country.
- 2.4 Because of the size of the City and the density of its residential population there are very few areas within its boundaries that could be described as solely commercial or shopping areas. Even those that are commercial or shopping areas have significant numbers of residential dwellings above commercial premises and residential areas in close proximity.
- 2.5 The Council area has a population of approximately 129,801 [2016 ONS]. This figure includes the student population.
- 2.6 There are eight Lower Super Output Areas (LSOAs) within the city which represent some of the most deprived areas in Exeter, affected by unemployment, low education, skills and training, low income and poor health and disability.

2.7 The eight LSOAs within Exeter are:

- Sidwell Street and Clifton Road Area – Newtown Ward
- Burnthouse Lane Trees Area – Priory Ward
- Burnthouse Lane Rifford Road Area – Priory Ward
- Whipton Area Leypark Road- Mincinglake Ward
- Whipton Area Hillyfield Road-Mincinglake Beacon Heath Area – Mincinglake Ward
- City Centre West Area- Newtown
- Cathedral and City Centre East Area – St David’s Ward

2.7 All eight of the above LSOAs fall within the 20% of most deprived areas in England, with the ‘Sidwell Street’ and ‘Burnthouse Lane (Trees)’ falling within the 10% of most deprived English regions.

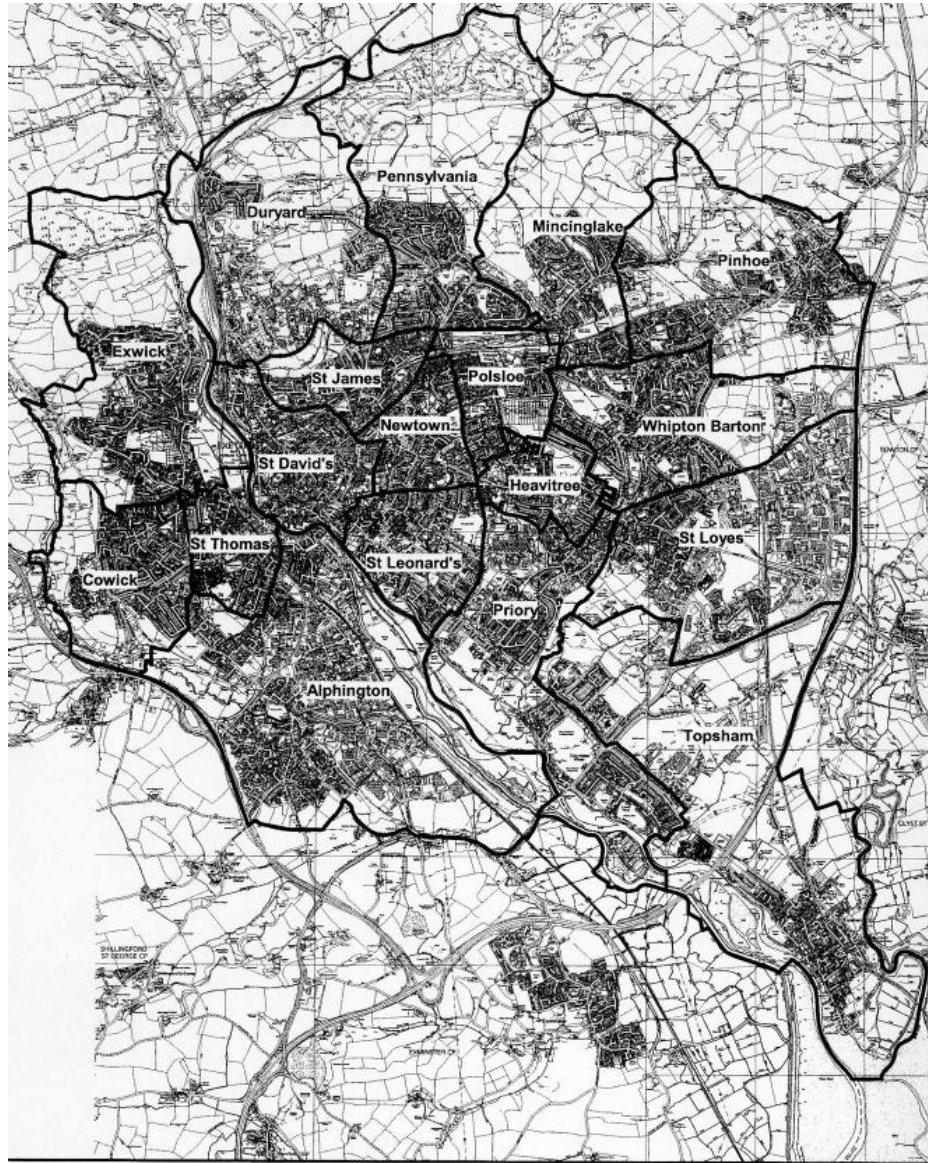
2.8 In line with updated guidance, the Licensing Authority has developed local area profiles to help shape the Statement of Licensing Policy. The profiles will be maintained separately from this statement to enable profiles to be updated accordingly.


2.9 The local area profile will have regard to:


- Schools, sixth form colleges, youth centres etc, with reference to the potential risk of under-age gambling
- Hostels or support services for vulnerable people, such as those with addiction issues or who are homeless, given the greater risk of problem gambling amongst these groups
- Religious buildings
- Any known issues with problem gambling
- The surrounding night time economy and any possible interaction with gambling premises
- The socio-economic makeup of the area, in particular the index of deprivation
- The density of different types of gambling premises in certain locations
- Specific types of gambling premises in the local area

2.10 The Licensing Authority is aware that nationally recognised studies have shown a close link between deprivation and problem gambling. The National Centre for Social Research British Gambling Prevalence Survey 2010 stated that ‘high-time/high-spend gamblers, like high-time only gamblers, displayed the most adverse socio-economic profile. They were more likely to live in areas of greatest deprivation, live in low income households and be unemployed. This group showed a relative preference for betting on horse races, fixed odds betting terminals and playing casino games.’

2.11 The report also went on to say that ‘compared with the average, those who were unemployed were more likely to gamble on several different activities (exceptions being the National Lottery Draw, other lotteries, football pools, betting on dog races and online betting). For example, 12% of those who were unemployed had played fixed odds betting terminals in the past year compared with 4% of respondents overall. Prevalence of playing fixed odds betting terminals was highest among those with the lowest personal income.’



Scale 1:45000  © Crown copyright Exeter City Council 100025458 5 Feb 2004
 Revised ward boundaries

Planning Services, Exeter City Council, Civic Centre, Paris Street, Exeter, EX1 1NN 

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SECTION 3 – CONSULTATION ON THE STATEMENT OF GAMBLING POLICY

- 3.1 Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they propose to apply when exercising their functions. A new statement must be published at least every three years. The statement must also be reviewed from “time to time” and any amended parts re-consulted upon. The revised statement must be then re-published.
- 3.2 Before publishing this Statement the Licensing Authority (Exeter City Council) consulted widely upon this statement before finalising and publishing. The consultation included the Police, the Fire Authority, representatives of local residents, representatives of local businesses and representatives of those persons carrying on gambling businesses in this Authority’s area. This Licensing Authority has also consulted with relevant departments within the Council.
- 3.3 The Gambling Act 2005 requires that the following parties are consulted by Licensing Authorities:
- The Chief Officer of Police;
 - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority’s area;
 - One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority’s functions under the Gambling Act 2005.
- 3.4 Other persons and bodies this authority consulted are:
- Citizens Advice Bureau
 - Crime and Disorder Reduction Partnership [CDRP]
 - Devon and Cornwall Constabulary.
 - Devon County Council Social services /Education dept
 - Devon and Somerset Fire and Rescue Service
 - Environmental Health
 - Gamblers Anonymous
 - Gambling Commission
 - Gamcare
 - Local Business and their representatives
 - Local residents and their representatives
 - Mencap
 - NSPCC
 - Representatives of existing licence holders
 - Voluntary and community organisations working with children
- 3.5 Our consultation took place between 30 May and 22 August 2018 and we followed the HM Government Code of Practice on Consultation (published July 2008), which is available at: <http://www.bis.gov.uk/files/file47158.pdf>

3.6 The full list of comments made and the consideration by the Council of those comments will then be published with the final version of the policy which needs to be approved at a meeting of the Full Council on 13 November 2018.

3.7 Any comments relating to this policy statement please should be submitted to the Licensing Authority via e-mail or letter to the following contact:

Environmental Health and Licensing Manager, Licensing Team, Civic Centre Paris Street
Exeter EX1 1RQ E-mail: licensing.team@exeter.gov.uk

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

SECTION 4 – DECLARATION

- 4.1 In producing this Statement of Gambling Policy, this Licensing Authority declares that it has had regard to the licensing objectives of the Gambling Act 2005; the Guidance issued by the Gambling Commission and have considered those responses from those consulted on the Statement.

SECTION 5 – RESPONSIBLE AUTHORITIES AND INTERESTED PARTIES

- 5.1 The Gambling Act 2005 allows for two different types of groups to make representations regarding applications to the Licensing Authority and also to apply having existing licences reviewed by the Authority. These groups are “Responsible Authorities” and “Interested Parties”
- 5.2 The Act defines Responsible Authorities as:
- a. A licensing authority in England and Wales in whose area the premises are wholly or partly situated
 - b. the Gambling Commission
 - c. the chief officer of police for a police area in which the premises are wholly or partly situated
 - d. the fire and rescue authority for an area in which the premises are wholly or partly situated
 - e. the local planning authority, in accordance with Part I of the Town and Country Planning Act 1990 (c. 8), for an area in which the premises are wholly or partly situated
 - f. an authority which has functions by virtue of an enactment in respect of minimising or preventing the risk of pollution of the environment or of harm to human health in an area in which the premises are wholly or partly situated
 - g. a body which is designated in writing for the purposes of this paragraph, by the licensing authority for an area in which the premises are wholly or partly situated, as competent to advise the authority about the protection of children from harm
 - h. Her Majesty's Commissioners of Customs and Excise
 - i. any other person prescribed for the purposes of this section by regulations made by the Secretary of State.
- 5.3 For the purpose of this Licensing Authority the body designated as competent to advise the authority about the protection of children from harm (“g” above) will be the Independent Safeguarding Authority.
- 5.4 Section 158 of the Act states that a person is an “Interested Party” if, in the opinion of the Licensing Authority that person:
- a. lives sufficiently close to the premises to be likely to be affected by the authorised activities
 - b. has business interests that might be affected by the authorised activities, or

- c. represents persons who satisfy paragraph (a) or (b).
- 5.5 The Licensing Authority is required by Legislation to state the principles it will apply in exercising its powers under the Act to determine whether a person is an interested party.
- 5.6 The principles for this Authority are that each case will be decided upon its own merits and rigid rules will not be applied to its decision making. It will consider the examples provided in the Gambling Commissions Guidance for Licensing Authorities. It will also consider the Commissions Guidance that “has business interests” should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.
- 5.7 Section 158 of the Gambling Act states that an “interested party” must “live sufficiently close to the premises to be likely to be affected by the authorised activities”, or “has business interests that might be affected by the authorised activities”, or be a body representing persons who satisfy this criteria. The Gambling Commission recommends in its Guidance to Licensing Authorities that Interested Parties could include trade associations and trade unions, and residents and tenants associations. However, it fails to mention that those bodies should represent persons or businesses sufficiently close to be likely to be affected by the operation of the premises. This Authority will follow section 158 of the Act and will not generally view these bodies as interested parties unless they have a member who can be classed as an interested person under the terms of the Gambling Act 2005, i.e. they live sufficiently close or carry on a business so that they will be likely to be affected by the activities being applied for.

SECTION 6 – EXCHANGE OF INFORMATION

- 6.1 Licensing Authorities are required to include in their Statement of Policy the principles to be applied by the Authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.
- 6.2 The principle that this Licensing Authority applies is that it will act in accordance with the provisions of the Act in its exchange of information, which includes the provision that the General Data Protection Regulation will not be contravened. The Licensing Authority will also have regard to any Guidance issued by the Gambling Commission to Local Authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.
- 6.3 Should any protocols be established as regards information with other bodies, then they will be made available.

SECTION 7 – ENFORCEMENT

- 7.1 Licensing Authorities are required by regulation under the Act to state the principles to be applied by the Authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.
- 7.2 This Licensing Authority's principles are that it will be guided by the Gambling Commissions Guidance for Local Authorities and will endeavour to be:
- a. Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
 - b. Accountable: regulators must be able to justify decisions and be subject to public scrutiny;
 - c. Consistent: rules and standards must be joined up and implemented fairly;
 - d. Transparent: regulators should be open, and keep regulations simple and user friendly; and
 - e. Targeted: regulation should be focused on the problem, and minimise side effects.
- 7.3 As per the Gambling Commission's Guidance for Licensing Authorities, this Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 7.4 This Authority will also, as recommended by the Gambling Commission's Guidance for Licensing Authorities, adopt a risk-based inspection programme. As part of the inspection programme, areas that will be covered include:
- Layout is maintained in accordance with the plan
 - Looking at details of training policies
 - Local risk assessment documentation
 - Training undertaken by staff
 - Entries in the refusal book
 - Records of any relevant incidents in or outside the premises
 - Signage displayed
 - Approach to customer selfexclusion and multi operator self exclusion
 - Involvement in local and national schemes
- 7.5 The main enforcement and compliance role for this Licensing Authority in terms of the Act will be to ensure compliance with the premises licences and other permissions that it authorises. The Gambling Commission will be the enforcement body for the operating and personal licences. It should be noted that any issues relating to the manufacture, supply or repair of gaming machines will also be dealt with by the Gambling Commission.
- 7.6 This Licensing Authority embraces the Department for Business Innovation and Skills' "Regulators Code." The authority embraces the principles of better regulation to promote efficient and effective approaches to regulatory activity without imposing unnecessary burdens on business.

7.7 The Licensing Authority shall have regard to any inspection plan agreed between a company and primary authority.

SECTION 8 – LICENSING AUTHORITY FUNCTIONS

- 8.1 Licensing Authorities are required under the Act to undertake various regulatory functions in relation to a number of gambling activities. They are required to:
- a) Issue Premises Licences
 - b) Issue Provisional Statements where premises are intended to provide gambling activities
 - c) Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
 - d) Issue Club Machine Permits to Commercial Clubs
 - e) Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
 - f) Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
 - g) Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
 - h) Register small society lotteries below prescribed thresholds
 - i) Issue Prize Gaming Permits
 - j) Receive and Endorse Temporary Use Notices
 - k) Receive Occasional Use Notices
 - l) Provide information to the Gambling Commission regarding details of licences issued (detailed in Section 6 – Information Exchange)
 - m) Maintain registers of the permits and licences that are issued under these functions
 - n) Issue notices and other documentation required under the Act and the Regulations made
- 8.2 It should be noted that Licensing Authorities will not be involved in licensing remote gambling at all. This will fall to the Gambling Commission via operating licences.

SECTION 9 – PREMISES LICENCES

- 9.1 A Premises licence is required for the following categories of gambling premises:
- Betting (other than track)
 - Betting (track)
 - Bingo
 - Adult Gaming Centre
 - Family Entertainment Centre
- 9.2 Premises licences will be subject to the requirements set out in the Gambling Act 2005 and Regulations made under the Act, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State (The Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007). Licensing Authorities are able to exclude default conditions where appropriate and also attach additional conditions where relevant.
- 9.2 This Licensing Authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it is:
- In accordance with any relevant code of practice issued by the Gambling Commission
 - In accordance with any relevant guidance issued by the Gambling Commission
 - Reasonably consistent with the licensing objectives
 - In accordance with the Authority's statement of licensing policy (this document).
- 9.3 The Licensing Authority takes particular note of the Gambling Commission's Guidance for Licensing Authorities, which states that Authorities should take particular care in considering applications for multiple licences for a building, and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware that entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not drift into a gambling area. The Licensing Authority will pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed)
- 9.4 Clearly, there will be specific issues that the Licensing Authority will consider before granting such applications, for example, whether children can gain access; compatibility of the two establishments; and ability to comply with the requirements of the Act. But, in addition, an overriding consideration should be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act.

- 9.5 This Authority takes particular note of the Gambling Commission’s Guidance to Licensing Authorities relating to the artificial sub-division of premises. It also takes note of section 152 (1) of the Act and will look very carefully at any application that may appear to breach any of these provisions.
- 9.6 This Authority also takes particular note of the Gambling Commission’s Guidance regarding the “primary gambling activity” authorised under a premises licence. For example, where a premise is licensed to provide bingo facilities then the primary activity must be the provision of bingo, with gaming machines being an ancillary offering in the premises. This Authority also notes the Gambling Commission’s Code of Practice for the Primary Gambling Activity of licensed premises.
- 9.9 When an application is made for a premises licence for a premises that is in the course of construction or alteration, or are still to be constructed or altered, the Licensing Authority will take into account the current Guidance issued by the Gambling Commission. The Licensing Authority will also consider:
- Whether the premises ought to be permitted for gambling
 - Whether the appropriate conditions can be put in place to cater for the situation that the premises are not yet in a state in which they ought to be before gambling takes place
 - When the premises intends to start operating under the licence
- 9.10 In considering licensing applications, the Licensing Authority will take into account the following:
- The design and layout of the premises (in the form of a plan)
 - Staffing arrangements on the premises
 - Training given to staff in crime prevention measures appropriate to those premises
 - Physical security features installed in the premises. This may include matters such as the positioning of cash registers and the standard of any CCTV system
 - Where premises are subject to age restrictions, the procedures in place to conduct age verification checks
 - The likelihood of any crime, public order and anti-social behaviour issues if the licence is granted
 - Details of any intended participation in local business schemes (such as Exeter Business Against Crime, Business Improvement District, Chamber of Commerce, Best Bar None)
 - Details of intended national voluntary codes or schemes
 - The operators risk assessment to include
 - Identification of schools, sixth form colleges, youth centres etc, with reference to the potential risk of under-age gambling
 - Identification of hostels or support services for vulnerable people, such as those with addiction issues or who are homeless, given the greater risk of problem gambling amongst these groups
 - Identification of Religious buildings
 - Any known issues with problem gambling in the area of the proposed premises
 - The surrounding night time economy and any possible interaction with gambling premises
 - The socio-economic makeup of the area

- The density of different types of gambling premises in certain locations
- How any risks identified will be mitigated
- What monitoring arrangements will be put in place where risks are identified

- 9.11 This Licensing Authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. As per the Gambling Commission's Guidance for Licensing Authorities, this Authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon regarding areas where gambling premises should not be located, this Statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus being upon the applicant to show how potential concerns can be overcome.
- 9.12 This Licensing Authority will seek to avoid any duplication with other statutory/regulatory systems including planning, where possible, This Authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval in its consideration of it.
- 9.13 Planning: The Gambling Commission Guidance to Licensing Authorities states: In determining applications the Licensing Authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal...

This Authority will not take into account irrelevant matters as per the above guidance. In addition this Authority notes the following excerpt from the Guidance:

When dealing with a premises licence application for finished buildings, the Licensing Authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Nor should fire or health and safety risks be taken into account. Those matters should be dealt with under relevant planning control, building and other regulations, and must not form part of the consideration for the premises licence. Section 210 of the 2005 Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally, the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.

- 9.14 Premises licences granted must be reasonably consistent with the licensing objectives. This Licensing Authority is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance 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 crime this Authority will consider carefully whether gambling premises are suitable to be located there and whether conditions, such as the provision of door supervisors, may be relevant.
- 9.15 Where gambling premises are located in sensitive areas, e.g. near schools, this Licensing Authority will consider imposing restrictions on advertising gambling facilities

on such premises where it is felt relevant and reasonably consistent with the Licensing Objectives.

- 9.16 **Ensuring that gambling is conducted in a fair and open way** - This Licensing Authority has noted that the Gambling Commission has stated that it would generally not 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.
- 9.16 **Protecting children and other vulnerable persons from being harmed or exploited by gambling** - This Licensing Authority has noted that the Gambling Commission's Guidance for Licensing Authorities states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at, or are particularly attractive to, children). The Licensing Authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises with regard to this licensing objective. Appropriate measures may include supervision of entrances/machines, clear segregation of areas, appropriate signage etc.
- 9.19 As regards the term “**vulnerable persons**” it is noted that the Gambling Commission is not seeking to offer a definition but states that “it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.” This Licensing Authority will consider this licensing objective on a case by case basis. Should a practical definition prove possible in future then this policy statement will be updated with it, by way of a revision.
- 9.20 Any conditions attached to licences will be proportionate and will be:
- Relevant to the need to make the proposed building suitable as a gambling facility
 - Directly related to the premises and the type of licence applied for
 - Fairly and reasonably related to the scale, neighbourhood and type of premises
 - Reasonable in all other respects.
- 9.21 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this Licensing Authority will consider utilising should there be a perceived need, such as the use of door supervisors, appropriate signage for adult only areas etc. This Authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.
- 9.22 This Authority will also ensure that where category C or above machines are on offer in premises to which children are admitted, all such machines are located in an area of the

premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;

- Only adults are admitted to the area where these machines are located
- Access to the area where the machines are located is supervised
- The area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.
- These considerations will apply to premises including buildings where multiple premises licences are applicable.

9.23 It is noted that because of restrictions imposed by the Gambling Act there are conditions which the Licensing Authority cannot attach to premises licences, which are:

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

9.24 The Gambling Commission advises in its Guidance for Licensing Authorities that they may consider whether there is a need for door supervisors in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime. It is noted though that there is no requirement for “in house” door supervisors at casinos or bingo premises to be licensed by the Security Industry Authority (SIA) through a specific exemption contained in Paragraph 17 of Schedule 16 to the Act. However, following clarification from the Department for Digital, Culture, Media and Sport (DCMS) and the Security Industry Authority (SIA), any contract staff employed in a Door Supervisor role will still require to be licensed by the SIA.

9.25 For premises other than “in house” staff employed at casinos and bingo premises, operators and Licensing Authorities may decide that supervision of entrances/machines is appropriate for particular cases but it will need to be decided whether these need to be SIA licensed or not. It will not be automatically assumed that they need to be.

9.26 There is no evidence that the operation of betting offices has required door supervisors for the protection of the public. This Licensing Authority will make a door supervisor requirement only if there is clear evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.

9.27 In relation to Adult Gaming Centres this Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling. It is recommended that applicants provide means to satisfy the Authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises. Such measures may cover issues such as:

- Proof of age schemes
- CCTV
- Supervision of entrances/machine areas
- Physical separation of areas

9.28 In relation to (licensed) Family Entertainment Centres this Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling. The following list is not mandatory, nor exhaustive, and is merely indicative of example measures that may be appropriate to adopt. It is recommended that applicants are able to satisfy the Authority that, for example, there will be sufficient measures to ensure that under 18 year olds do not have access to any adult only gaming machine areas. Such measures may include:

- CCTV
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entrance
- Notices/signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets/helpline numbers for organisations such as GamCare.
- Measures/training for staff on how to deal with suspected truanting school children on the premises, and awareness of safeguarding/ child sexual exploitation

9.29 *No Casinos resolution* – At this time this Licensing Authority has passed a no casino/no additional casinos” resolution under Section 166 of the Act, but should the Licensing Authority decide in the future to review this resolution, this Statement of Gambling Policy will be updated with details of that resolution. Any such decision will be made by the Full Council after a full consultation has taken place.

9.30 Management of areas where category B and C gaming machines are located in gambling premises that admit children and young people.

9.31 This Authority notes that the Gambling Commission’s Guidance states in that:

According to mandatory and default conditions relating to premises that admit under 18s, any area where category B and C gaming machines are located must be:

- separated from the rest of the premises by a physical barrier which is effective to prevent access other than by an entrance designed for that purpose

- supervised (see below) at all times to ensure that under-18s do not enter the area
- arranged in a way that ensures that all parts of the area can be observed; and
- supervised either by:
 - one or more persons whose responsibilities include ensuring that under-18s do not enter the areas; or
 - CCTV monitored by one or more persons whose responsibilities include ensuring that under-18s do not enter the areas and a notice stating that no person under the age of 18 is permitted to enter the area must be displayed in a prominent place at the entrance to the area.

9.32 *Betting machines in Betting Premises* – the Licensing Authority, may when appropriate, use its powers under Section 181 of the Act to restrict the number of betting machines (also known as bet receipt terminals), their nature and the circumstances in which they are made available at betting premises by imposing a licensing condition. When considering whether such a condition should be imposed, the Licensing Authority will take into account:

- The size of the premises
- The number and location of the machines
- The number of counter position available for person-to-person transactions, and
- The number and ability of staff to monitor the licensed premises and prevent persons under the age of 18 from entering the premises.

9.33 *Betting Offices* – This Licensing Authority will look closely at applications to re-site betting offices in the same locality or to extend premises in order to enhance the quality of facilities offered to the public who may wish to use them. In particular, The Authority will expect any application proposing the use of customer privacy screens, to clearly identify how these areas can be adequately supervised. The Authority will look at those applications sympathetically where there are no concerns that the Licensing Objectives will be adversely affected.

9.34 This Licensing Authority recognises that certain bookmakers have a number of premises within its area. In order to ensure compliance issues are recognised and resolved at the earliest stage, operators are requested to give the Authority a single named point of contact, who should be a senior individual, and whom the Authority will contact first should any compliance queries or issues arise.

9.35 *Travelling Fairs* - It will fall to this Licensing Authority to decide whether, where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met. The Licensing Authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

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

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

- 9.37 **Provisional Statements** - This Licensing Authority notes the Guidance from the Gambling Commission which states that "It is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence" and that "Requiring the building to be complete ensures that the authority could, if necessary, inspect it fully".
- 9.38 The Gambling Act 2005 (Premises Licences and Provisional Statements) Regulations requires applications for Provisional Statements to be advertised in the same way as applications for Premises Licences. In terms of representations about premises licence applications, following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances. In addition, the Authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:
- a. which could not have been raised by objectors at the provisional licence stage; or
 - b. which in the authority's opinion reflect a change in the operator's circumstances.
- 9.39 This Authority has noted the Gambling Commission's Guidance that "A licensing authority should not take into account irrelevant matters.... One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal."
- 9.40 **Reviews** - Requests for a review of a premises licence can be made by interested parties or responsible authorities, however, it is for the Licensing Authority to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to one or more of the matters listed below, as well as consideration as to whether the request is frivolous, vexatious or will certainly not cause this Authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review unless there is a material change in circumstances. Representations should be made in accordance with any relevant code of practice issued by the Gambling Commission;
- Made in accordance with any relevant guidance issued by the Gambling Commission;
 - Are reasonably consistent with the licensing objectives; and are made in accordance with the authority's statement of licensing policy.
 - This Licensing Authority can also initiate a review of a licence on the basis of any reason which it thinks is appropriate.

SECTION 10 – PERMITS, TEMPORARY AND OCCASIONAL USE NOTICES

- 10.1 This part relates to Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits - Schedule 10 paragraph 7 to the Gambling Act 2005). Where an operator does not hold a premises licence but wishes to provide gaming machines, an applicant may apply to the Licensing Authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).
- 10.2 The Act states that a Licensing Authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives, and shall have regard to any relevant guidance issued by the Commission under section 25. The Gambling Commission's Guidance for Licensing Authorities also states: "In its Licensing Authority Statement of Policy, a licensing authority may include a statement of principles that it proposes to apply when exercising its functions in considering applications for permits. ..., licensing authorities may want to give weight to matters relating to child protection issues."
- 10.3 An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed Family Entertainment Centre (FEC), and if the chief officer of police has been consulted on the application The Licensing Authority will require applicants to demonstrate:
- a. a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.
 - b. It should be noted that a Licensing Authority cannot attach conditions to this type of permit.
 - 10.4 Statement of Principles – This Licensing Authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures/training for staff as regards suspected truanting school children on the premises, measures/training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on or around the premises, and awareness of safeguarding/child sexual exploitation. This Licensing Authority will also expect that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.
- 10.5 (Alcohol) Licensed premises gaming machine permits - (Schedule 13 paragraph 4(1) to the Gambling Act 2005). There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the Licensing Authority. The

Licensing Authority can remove the automatic authorisation in respect of any particular premises if:

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

- 10.6 If a premises wishes to have more than 2 machines then it needs to apply for a permit and the Licensing Authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*” This Licensing Authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling. This Authority will also expect the applicant to satisfy it that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the Authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be helpful. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.
- 10.7 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.
- 10.8 It should be noted that the Licensing Authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached. It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machines.
- 10.9 Prize Gaming Permits - (Statement of Principles on Permits - Schedule 14 paragraph 8 (3) to the Gambling Act 2005)
- 10.10 The Gambling Act 2005 states that a Licensing Authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority proposes to consider in determining the suitability of the applicant for a permit”.
- 10.11 This Licensing Authority has prepared this Statement of Principles which expects that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:
- that they understand the limits to stakes and prizes that are set out in Regulations;

- that the gaming offered is within the law;
- clear policies that outline the steps to be taken to protect children from harm;
- that they meet the objective of carrying out gambling openly and fairly; and,
- that the premises are mainly or wholly used for gambling purposes.

10.12 In making its decision on an application for this permit the Licensing Authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

10.13 It should be noted that there are conditions in the Gambling Act 2005 with which the permit holder must comply, but that the Licensing Authority cannot attach any further conditions. The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated;
- the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

10.14 Club Gaming and Club Machines Permits

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

10.15 The Licensing Authority has to satisfy itself that the club meets the requirements of the Act to obtain a club gaming permit. In doing so it will take account of a number of matters which include the constitution of the club, the frequency of gaming and ensuring that there are more than 25 members. The club must be conducted wholly or mainly for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulations and these cover bridge and whist clubs.

10.16 The Licensing Authority may only refuse an application on the grounds that:

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

10.17 There is also a fast-track application procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). It should be noted that commercial clubs cannot hold club premises certificates under the Licensing Act 2003 and so cannot use the fast-track procedure. Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced. The grounds on which an application under the process may be refused are:

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

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

10.19 Temporary Use Notices

There are a number of statutory limits as regards temporary use notices. It is noted that the Gambling Commission Guidance states that "The meaning of "premises" in part 8 of the Act is discussed in Part 7 of this guidance. As with "premises", the definition of a set of premises will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including any place. In considering whether a place falls within the definition of a set of premises, Licensing Authorities will need to look at, amongst other things, the ownership/occupation and control of the premises. This Licensing Authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.

10.20 The Licensing Authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence. The Secretary of State has the power to determine what form of gambling can be authorised

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

10.21 Occasional Use Notices

This notice allows for betting on a track without the need for a premises licence on 8 days or less in a calendar year. The Licensing Authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This Licensing Authority will though consider the definition of a “track” and whether the applicant is permitted to avail him/herself of the notice.

SECTION 11 – SMALL SOCIETY LOTTERIES

- 11.1 Under the Act, a lottery is unlawful unless it runs with an operating licence or is an exempt lottery. The Licensing Authority will register and administer small society lotteries (as defined). Promoting or facilitating a lottery will fall within 2 categories:
- licensed lotteries (requiring an operating licence from the Gambling Commission); and
 - exempt lotteries (including small society lotteries registered by the Licensing Authority)
- 11.2 Exempt lotteries are lotteries permitted to run without a licence from the Gambling Commission and these are:
- small society lotteries
 - incidental non-commercial lotteries
 - private lotteries
 - private society lotteries
 - work lotteries
 - residents' lotteries
 - customer lotteries
- 11.3 Societies may organise lotteries if they are licensed by the Gambling Commission or fall within the exempt category. The Licensing Authority recommends those seeking to run lotteries take their own legal advice on which type of lottery category they fall within. Guidance notes on small society lotteries, limits placed on them and information setting out financial limits can be found on the Council's web-site at: www.exeter.gov.uk/licensing
- 11.4 Applicants for registration of small society lotteries must apply to the Licensing Authority in the area where their principal office is located. Where the Licensing Authority believes that the Society's principal office is situated in another area it will inform the Society as soon as possible and where possible, will inform the other Licensing Authority.
- 11.5 Lotteries will be regulated through; a licensing and registration scheme, conditions imposed on licences by the Gambling Commission, codes of practice and any guidance issued by the Gambling Commission. In exercising its functions with regard to small society and exempt lotteries, the Licensing Authority will have due regard to the Gambling Commission's guidance.
- 11.6 The Licensing Authority will keep a public register of all applications and will provide information to the Gambling Commission on all lotteries registered by the Licensing Authority. As soon as the entry on the register is completed, the Licensing Authority will notify the applicant of his registration. In addition, the Licensing Authority will make available for inspection by the public the financial statements or returns submitted by societies in the preceding 18 months and will monitor the cumulative totals for each

society to ensure the annual monetary limit is not breached. If there is any doubt, the Licensing Authority will notify the Gambling Commission in writing, copying this to the Society concerned. The Licensing Authority will accept return information either manually but preferably electronically by emailing: licensing.team@exeter.gov.uk

- 11.7 The Licensing Authority will refuse applications for registration if in the previous five years, either an operating licence held by the applicant for registration has been revoked, or an application for an operating licence made by the applicant for registration has been refused. Where the Licensing Authority is uncertain as to whether or not an application has been refused, it will contact the Gambling Commission to seek advice.
- 11.8 The Licensing Authority may refuse an application for registration if in their opinion:
- 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 application for registration is false or misleading.
- 11.9 The Licensing Authority will ask applicants to set out the purposes for which the Society is established and will ask the Society to declare that they represent a bona fide non-commercial society and have no relevant convictions. The Licensing Authority may also seek further information from the Society.
- 11.10 Where the Licensing Authority intends to refuse registration of a Society, it will give the Society an opportunity to make representations and will inform the Society of the reasons why it is minded to refuse registration, and supply evidence on which it has reached that preliminary conclusion.
- 11.11 The Licensing Authority may revoke the registered status of a Society if it thinks that it would have had to, or would be entitled to refuse an application for registration if it were being made at that time. However, no revocations will take place unless the Society has been given the opportunity to make representations. The Licensing Authority will inform the Society of the reasons why it is minded to revoke the registration and will provide an outline of the evidence on which it has reached that preliminary conclusion.
- 11.12 Where a Society employs an external lottery manager, it will need to satisfy itself that the manager holds an operator's licence issued by the Gambling Commission, and the Licensing Authority will expect this to be verified by the Society.

APPENDIX A – GLOSSARY OF TERMS

Adult Gaming Centre	Person operating an adult gaming centre (AGC) must hold a gaming machines general operating licence from the Commission and have an AGC premises licence from the Licensing Authority. They will be able to make category B, C and D gaming machines available to their customers.
Alcohol licensed premises gaming machine permits	The Licensing Authority can issue such permits for a number of category C or D machines in licensed premises. There is an automatic entitlement for alcohol on-licence holders to make available 2 gaming machines of category C or D for use in alcohol licensed premises.
Betting Machines	A machine designed or adapted for the use to bet on future real events (not Gaming Machines).
Bingo	<p>A game of equal chance.</p> <p>Whilst there is no statutory definition of Bingo, generally there are 2 different types of bingo:</p> <ul style="list-style-type: none">• Cash Bingo, where the stakes paid made up the cash prizes that were won; or• Prize Bingo, where various forms of prizes were won, not directly related to the stake paid. <p>Premises with a bingo premises licence, or a casino premises licence will be able to offer bingo in all its forms.</p> <p>Adult Gaming Centres, both licensed and unlicensed family entertainment centres, travelling fairs and any premises with a prize gaming permit, will be able to offer prize gaming which includes prize bingo.</p>
Default Conditions	Conditions that will apply through Statute unless the Licensing Authority decide to exclude them. This may apply to all Premises Licences, to a class of Premises Licence or Licences for specified circumstances
Casino Premises Licence Categories	<ol style="list-style-type: none">a) Regional Casino Premises Licenceb) Large Casino Premises Licencec) Small Casino Premises Licenced) Casinos permitted under transitional arrangements.
Code of Practice	Means any relevant code of practice under section 24 of the Gambling Act 2005.
Club Gaming Machine Permit	Permit to enable commercial and non-commercial clubs to provide at their premises the number of gaming machines (Category B, C or D) as set out in the regulations.

Default Conditions	Conditions that will apply unless the Licensing Authority decide to exclude them. This may apply to all premises licences, to a class of premises licence or licences for specified circumstances.
Equal Chance Gaming	Games that do not involve playing or staking against a bank and where the chances are equally favourable to all participants.
Exempt Lotteries	<p>Lotteries specified in the Gambling Act as permitted to be run without a licence from the Gambling Commission. There are 4 types:</p> <ul style="list-style-type: none"> • Small Society Lottery (required to register with Licensing Authorities) • Incidental Non Commercial Lotteries e.g. Raffle at a dance/church fair • Private Lotteries e.g. Raffle at a student hall of residence • Customer Lotteries e.g. Supermarket holding a hamper raffle
External Lottery Manager	An individual, firm or company appointed by the Small Lottery Society to manage a lottery on their behalf. They are consultants who generally take their fees from the expenses of the lottery.
Large Lottery	Where the total value of tickets in any one lottery exceeds £20,000 OR tickets in separate lotteries in one calendar year exceeds £250,000. This requires an Operating Licence.
Licensing Committee	A committee of 10 to 15 Councillors appointed by the Council to represent the Licensing Authority in Gambling matters.
Licensing Sub Committee	A sub-committee of members appointed from the Licensing Committee to whom the functions of the licensing committee can be delegated under the Act to determine applications.
Lottery	An arrangement where 1) persons are required to pay to participate in the arrangement 2) in the course of the arrangement, one or more prizes are allocated to one or more members of a class 3) the prizes are allocated by a series of processes, and 4) the first of those processes relies wholly on chance.
Mandatory Conditions	Conditions that must be attached to a licence. This may apply to all Premises Licences, to a class of Premises Licence or licences for specified circumstances
Occasional use notices	Where there is betting on a track on up to 8 days in a calendar year, betting may be permitted by an occasional use notice without the need for a premises licence. A track includes a horse racing venue, dog track and temporary tracks used for races or sporting events.
Operating Licences	Licences to permit individuals and companies to provide facilities for certain types of gambling. They may authorise remote or non remote gambling.
Personal Licence	Formal authorisation to individuals who control facilities for gambling or are able to influence the outcome of gambling. These cannot be held by companies.

Premises Licence	Licence to authorise the provision of gaming facilities on casino premises, bingo premises, betting premises, including tracks, adult gaming centres and some family entertainment centres
Premises	Premises are defined in the Act as “any place”. Different premises licences cannot apply in respect of single premises at different times. However, it is possible for a single building to be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. Whether different parts of a building can properly be regarded as being separate premises will always be a question of fact in the circumstances. However, the Gambling Commission does not consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises
Private Lotteries	<p>3 Types of Private Lotteries:</p> <ul style="list-style-type: none"> • Private Society Lotteries – tickets may only be sold to members of the Society or persons who are on the premises of the Society • Work Lotteries – the promoters and purchasers of tickets must all work on a single set of work premises • Residents” Lotteries – promoted by, and tickets may only be sold to, people who live at the same set of premises; • Prize Gaming - Where the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before play commences.
Small Lottery	Where the total value of tickets in a single lottery is £20,000 or less and the aggregate value of the tickets in a calendar year is £250,000 or less
Small Society Lottery	A lottery promoted on behalf of a non-commercial society, i.e. lotteries intended to raise funds for good causes.
Provisional Statement	<p>Where an applicant can make an application to the Licensing Authority in respect of premises that he:</p> <ul style="list-style-type: none"> • Expects to be constructed • Expects to be altered • Expects to acquire a right to occupy.
Temporary Use Notice	To 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.

Vehicles

Defined as trains, aircraft, sea planes and amphibious vehicles other than hovercraft. No form of commercial betting and gaming is permitted

APPENDIX B – DELEGATION OF FUNCTIONS

Matter to be dealt with	Full Council	Licensing Sub-Committee	Officers
Approval of Gambling Policy	x		
Policy not to permit casino	x		
Fee Setting (Where appropriate)	x		
Application for premises licence		Where representations have been received and not withdrawn	Where no representations have been received or have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations have been received or have been withdrawn
Application for the transfer of a licence		Where representations have been received and not withdrawn	Where no representations have been received or have been withdrawn
Application for a Provisional Statement		Where representations have been received and not withdrawn	Where no representations have been received or have been withdrawn
Review of premises licence		x	
Application for club gaming/club machine permit		Where representations have been received and not withdrawn	Where no representations have been received or have been withdrawn
Cancellation of club gaming /club machine permit		x	
Application for other permits			x
Cancellation of licensed premises gaming machine permits			x
Consideration of a Temporary Use Notice			X
Decision to give counter notice to Temporary Use Notice		X	

APPENDIX C – CATEGORIES OF GAMING MACHINES

CATEGORY MAXIMUM STAKE MAXIMUM PRIZE

CATEGORY	MAXIMUM STAKE	MAXIMUM PRIZE
A	Unlimited	Unlimited
B1	£2	£4000
B2	£100	£500
B3	£2	£500
B3A	£1	£500
B4	£1	£250
C	£1	£70
D	10p or 30p when non-monetary prize £1 if “crane grab machine” 10p if “coin pusher machine”	£5 or £8 when non-monetary prize Prize value no more than £50 £8 cash plus up to £7 non-monetary prize

APPENDIX D – USEFUL CONTACTS

If you wish to make any comments on the Gambling Policy of Exeter City Council or if you want further information regarding the Gambling Act 2005 please contact:

Environmental Health and Licensing Manager
Exeter City Council
Civic Centre
Paris Street
Exeter
EX1 1RQ

Telephone: 01392 265702
Email: licensing.team@exeter.gov.uk

Information is also available from:

The Department for Digital, Culture, Media and Sport
2-4 Cockspur Street
London
SW1Y 5DH

Telephone: 020 7211 6200
Internet: www.culture.gov.uk
Email: gambling@culture.gov.uk

The Gambling Commission's Guidance can be viewed at: www.gamblingcommission.gov.uk

APPENDIX E – RESPONSIBLE AUTHORITY CONTACTS

Gambling Commission

Gambling Commission
Victoria Square House
Victoria Square
Birmingham
B2 4BP

Tel: 0121 230 6666

Devon & Cornwall Police

The Chief Constable
Devon & Cornwall Police Headquarters
Licensing Department (East)
Middlemoor
Exeter
EX2 7HQ

Tel: 01392 452225

Devon & Somerset Fire & Rescue Service

Divisional Commander
Central Command (Exeter Group)
Exeter Fire Station
Danes Castle
Howell Road
EXETER
EX4 4LP

Tel: 01392 872354

HMRC

Revenue & Customs,
National Registration Unit
Portcullis House,
21 India Street
Glasgow
G2 4HY

Environmental Health & Licensing Manager

(For Environmental Protection/Health & Safety)

Environmental health & Licensing Manager
Exeter City Council
Civic Centre
Paris Street
EXETER
EX1 1RQ

Tel: 01392 265193
Fax: 01392 265852

Exeter City Council Planning & Development Service

Assistant Director City Development
Exeter City Council
Civic Centre
Paris Street
EXETER
EX1 1NN

Tel: 01822 813600

Devon County Council Child Protection

Head of Safeguarding,
Child Protection Manager
Children's Services Division
Devon County Council
Parker's Barn,
Parker's Way
TOTNES
TQ9 5UF

Tel: 01392 386091

Devon Trading Standards Service

Chief Trading Standards Officer
Devon County Council
County Hall
Topsham Road
EXETER

Tel: 01392 382818

APPENDIX F – POOL OF CONDITIONS

- F1 The premises shall be fitted out and operational within 6 months of the issue of the licence
- F2 The Licensee shall notify the Licensing Authority when the premises have been fitted out and are ready for operation, so that the Licensing Authority can inspect the premises. Such notification to the Licensing Authority shall be given no less than 10 days prior to the premises opening under the licence
- F3 There shall be a minimum of 2 staff (excluding back room staff) on duty at the premises at all times that it is open, whose duties are to include the age verification of persons entering the premises who appear under the age of 21 years.
- F4 The Licensee shall have a 'Challenge 21' policy whereby all customers who appear to be under the age of 21 are asked for proof of their age
- F5 The Licensee shall prominently display notices advising customers of the 'challenge 21' policy
- F6 The following proofs of age are the only ones to be accepted:
- Proof of age cards bearing the 'PASS' hologram symbol
 - UK Photo Driving Licence
 - Passport
- F7 The Licensee shall keep written records of all staff authorised to verify the age of customers has received adequate training on the law with regard to under age gambling and the procedure if an underage person enters the premises and that this is properly documented and training records kept. The record should be kept on the licensed premises and made available for inspection by Licensing, Trading Standards or the Police.
- F8 The Licensee is to keep a register (Refusals Book) to contain details of the date and time, description of under age persons entering the premises and the name of the employee who verified that the person was under age.
- F9 The Refusals Book is to be kept on the licensed premises and made available for inspection by Licensing, Trading Standards or the Police.
- F10 A CCTV system shall be maintained in a good working order and fully operational covering both internal and external areas when the premises are open to the public.
- F11 The medium on which CCTV images are recorded will be clearly visible, stored securely and shall be retained for a period of 28 days. Recordings shall be made available for inspection by the Police or Licensing Authority upon request.

- F12 A copy of the local risk assessment shall be kept on the licensed premises and made available for inspection by Licensing, Trading Standards or the Police. All staff authorised to verify the age of customers should be made aware of the contents of the local risk assessment, including any additional control measures identified in the assessment.
- F13 Test purchase results shall be kept on the licensed premises and made available for inspection by Licensing, Trading Standards or the Police.
- F14 All staff shall wear ID badges or other measures so that customers can easily identify them for assistance, guidance or gambling advice.
- F15 Officers shall expect to be able to interview employees who can confidently define and clearly understand which are 'Gaming Machines' and which are not (e.g. only 'Skill Machines'). Employees need to be fully conversant with the Gambling Act 2005 and familiar with their own 'Local Risk Assessment'.
- F16 Staff training records shall be kept on the licensed premises and made available for inspection by Licensing, Trading Standards or the Police.
- F17 Staff training shall include various topics including a section on 'truanting youngsters'.
- F18 Social Responsibility Stickers/notices shall be clearly displayed in a prominent position on all gaming machines at the point of play, to include category stickers/notices and also 'gamcare' stickers/notices.
- F19 A book shall be kept at the premises, which is maintained with the following records
- The name of the door supervisor deployed
 - The SIA registration number of the door supervisor deployed
 - The time they commenced and finished duty
 - All incidents that the door supervisor dealt with.

By virtue of paragraph(s) 1, 2, 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

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