



Environmental Heath & Licensing

STATEMENT OF PRINCIPLES

GAMBLING ACT 2005

September 2006

"Promoting pride in our communities"

South Kesteven District Council

STAMFORD • GRANTHAM • BOURNE • THE DEEPINGS

SOUTH KESTEVEN DISTRICT COUNCIL

STATEMENT OF PRINCIPLES – GAMBLING ACT 2005

1. Introduction

The Licensing Objectives

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

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

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

1.2 South Kesteven District Council, referred to in this statement of principles as “the council”, is situated in the southwest corner of the county of Lincolnshire, which contains 7 district councils in total. The council area has a population of 130,000 making it the second largest district in the County in terms of population. In terms of area it is the fourth largest, covering 365 square miles. The council area is mainly rural with 4 urban areas comprising of Grantham, in the north of the district with the towns of Stamford, Bourne and the Deepings in the south of the district. Additionally there are 100 villages and hamlets in the district.

The council has worked in partnership with the other councils in the county in preparing this statement of principles, which is based on the draft statement of principles guidance issued by the Department of Culture, Media and Sport (DCMS), the Gambling Commission (the commission) and The Local Authorities Coordinators of Regulatory Services (LACORS).

The council recognises its duties to consider the impact of all its functions and decisions on crime and disorder under the requirements of Section 17 of the Crime and Disorder Act 1998 in adopting this statement of principles. The council acknowledges the benefits to the community of properly regulating gambling in the district.

- 1.3 The council are the licensing authority for the purpose of the Gambling Act 2005 and any subsequent regulations and guidance. Any such regulations will be consulted on in due course.

The Gambling Act 2005 provides the delegated and procedural arrangements for the establishment of licensing authorities.

Licensing committees are established with Section 6 of the Licensing Act 2003 are also the relevant committees for the purpose of gambling functions. Therefore, the same committee that deals with applications and other issues in relation to alcohol premises will also be responsible for premise licence applications and other issues (i.e. permits) in relation to gambling.

The proceedings of the licensing committee are regulated by Section 9 of the 2003 Act (and regulations made under that section). Particular provision can be made for proceedings in relation to just the 2003 Act functions or just the 2005 Act functions. Any such regulations will be consulted upon in due course.

- 1.4 The functions of the licensing authority under the Act may be carried out by the licensing committee, by a sub-committee or by one or more officers acting under delegated authority. Delegated powers shall be in accordance with the table at Appendix 1.
- 1.5 Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles, which they proposed to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed as required and any amended parts re-consulted upon, the statement must be then re-published.

The council consulted widely upon this statement of principles before finalising and publishing. A list of the persons we consulted is provided, in Appendix 2. It should be noted that unsolicited comments were received from other persons but we have not listed all of these.

- 1.6 The Gambling Act requires that the following parties be consulted by licensing authorities:
- The chief officer of police
 - One or more persons who appear to the authority 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

The consultation took place between 5 June 2006 and 1 September 2006. The authority followed the Revised Code of Practice (which came into effect in April 2004) and Guidance issued by the cabinet office on consultations by the public sector. These documents are available via:

<http://www.cabinetoffice.gov.uk/regulation/consultation/code/index.asp>
<http://www.cabinetoffice.gov.uk/regulation/consultation/documents/pdf/code.pdf>

- 1.7 The statement of principles will be submitted for approval at a meeting of the full council on 26 October 2006 and will be published via the council's website, shortly after that meeting. Copies will be placed in the public libraries of the area as well as being available in the councils' offices throughout the district.

Should you have any comments as regards this statement of principles statement please send them via e-mail or letter to the following contact:

The Licensing Team, Environmental Health and Licensing, Council Offices, Saint Peters Hill Grantham NG31 PZ
E-mail ehs@southkesteven.gov.uk or telephone 01476 406300.

- 1.8 It should be noted that this statement of principles 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.

Further information is available on the council's website www.southkesteven.gov.uk.

Declaration

- 1.9 In producing the draft licensing statement of principles statement, the 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 any responses from those consulted on the statement of principles statement.

Responsible Authorities

- 1.10 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:
- The need for the body to be responsible for an area covering the whole of the licensing authority's area.

- The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group etc.

In accordance with the Gambling Commission's guidance for local authorities this authority designates the democratically elected Lincolnshire Safeguarding Children's Board for this purpose.

Interested parties

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

"For the purposes of this part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the applications is made, the person-

- a) Lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- b) Has business interests that might be affected by the authorised activities, or
- c) Represents persons who satisfy paragraph (a) or (b) e.g. members of parliament and ward councillors.

The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. The principles are: to be confirmed by statutory regulations when passed by Parliament.

Each case will be decided upon its merits. The Authority will not apply a rigid rule to its decision-making. It will consider the examples of considerations provided in the Gambling Commission's guidance to local authorities. Decisions though, on premises licences, must be "in accordance" with the Gambling Commission guidance (section 153).

1.12 The Gambling Commission has recommended that the licensing authority state that interested parties include trade associations and trade unions, and residents' and tenants' associations (Gambling Commission guidance for local authorities 8.17). This authority will not however generally view these bodies as interested parties unless they have a member who can be classed as an interested person under the terms of the Gambling Act 2005 i.e. lives sufficiently close to the premises to be likely to be affected by the activities being applied for.

Interested parties can be persons who are democratically elected such as councillors and members of parliament. No specific evidence of being asked to represent an interested person will be required as long as the councillor or Member of Parliament represents the ward likely to

be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these however, this authority will require written evidence that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the licensing committee dealing with the licence application. If there are any doubts then please contact the licensing department on 01476 406300 or email: ehs@southkesteven.gov.uk.

Exchange of Information

- 1.13 Licensing authorities are required to include in their statement of principles statement 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 the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

The principle that the licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The licensing authority will also have regard to any guidance issued by the Gambling Commission to local authorities on this matter when it is published, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

Should any protocols be established as regards information exchange with other bodies then they will be made available. Discussions with the Gambling Commission and LACORS as regards information exchange between the commission and local authorities are, at the time of writing, at an early stage.

The council is a signatory to the joint protocol on information exchange under the provisions of Section 115 of the Crime and Disorder Act 1998 with the Lincolnshire Police and the Lincolnshire County Council. The council will seek to use that provision as appropriate.

Enforcement

- 1.14 Licensing authorities are required by regulation under the Gambling Act 2005 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.

The licensing authority's principles are that:

It will be guided by the Gambling Commission's guidance for local authorities and as per the Gambling Commission's guidance for local authorities; it will endeavour to be,

- Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
- Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
- Consistent: rules and standards must be consistent and implemented fairly;
- Transparent: regulators should be open, and keep regulations simple and user friendly; and
- Targeted: regulation should be focused on the problem, and minimise side effects

As per the Gambling Commission's guidance for local authorities The licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

The licensing authority will also, as recommended by the Gambling Commission's guidance for local authorities, adopt a risk-based inspection programme.

- 1.15 The main enforcement and compliance role for the licensing authority in terms of the Gambling Act 2005 will be to ensure compliance with the premises licences and other permissions, which it authorises. The Gambling Commission will be the enforcement body for the operator and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines will not be dealt with by the licensing authority but will be notified to the Gambling Commission. This authority also understands from LACORS that the Gambling Commission will be responsible for compliance as regards unlicensed premises.

The licensing authority will also keep itself informed of developments as regards the work of the better regulation executive in its consideration of the regulatory functions of local authorities.

Bearing in mind the principle of transparency, the licensing authority's enforcement/compliance protocols/written agreements will be available upon request to the licensing team.

Licensing Authority functions

1.16 The licensing authority is required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences
- Issue provisional statements
- Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing club gaming permits and/or club machine permits
- Issue club machine permits to commercial clubs
- Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or fewer gaming machines
- Grant licensed premises gaming machine permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required
- Register small society lotteries below prescribed thresholds
- Issue prize gaming permits
- Receive and endorse temporary use notices
- Receive occasional use notices
- Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
- Maintain registers of the permits and licences that are issued under these functions

It should be noted that local licensing authorities would not be involved in licensing remote gambling at all. This will fall to the Gambling Commission via operator licences.

2. PREMISES LICENSES SECTION

General Principles

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

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

- In accordance with any relevant code of practice issued by the Gambling Commission
- In accordance with any relevant guidance issued by the Gambling Commission
- Reasonably consistent with the licensing objectives and
- In accordance with the authority's statement of licensing statement of principles

2.2 Definition of “premises” - Premises is defined in the Act as “any place”. It is for the licensing authority to decide whether different parts of a building can be properly regarded as being separate premises and as the Gambling Commission states in its guidance for local authorities, it “will always be a question of fact in the circumstances.” The Gambling Commission does not however consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises. The Licensing Authority will not normally depart from adopting this guidance.

The licensing authority takes particular note of the Gambling Commission's guidance for local authorities which states that in considering applications for multiple licences for a building or those for a specific part of the building to be licensed, “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 also take note of the Gambling Commission's guidance to local authorities that: “licensing authorities should pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed).”

2.3 Location - The 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 local 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 statement of principles be decided upon as regards areas where gambling premises should not be located, this statement of principles statement will be updated. It should be noted that any such statement of principles does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how the concerns can be overcome.

- 2.4 **Duplication with other regulatory regimes** - The authority will seek to avoid any duplication with other statutory / regulatory systems where possible, including planning. The authority will not consider whether a licence application is likely to be awarded planning or building consent, in its consideration of it. The authority will though listen to, and consider carefully, any concerns about conditions, which cannot be met by licensees due to planning restrictions, should such a situation arise.
- 2.5 **Licensing objectives** - Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, the licensing authority has considered the Gambling Commission's guidance to local authorities and some comments are made below.
- 2.6 **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** – The Licensing Authority is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it.

Unlike the Licensing Act 2003 there is no provision under the Gambling Act to address matters of nuisance arising from premises operating gambling. The authority therefore considers that in the event of such incidents of nuisance arising other regulatory bodies should address them.

- 2.7 **Ensuring that gambling is conducted in a fair and open way** - The licensing authority has noted that the Gambling Commission in its guidance for local authorities has stated that "Generally the commission would not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be a matter for either the management of the gambling business, and therefore subject to the operating licence, or will be in relation to the suitability and actions of an individual and therefore subject to the personal licence. " The licensing authority notes, however, that the Gambling Commission states "in relating to the licensing of tracks the licensing authorities' role will be different from other premises in that track operators will not necessarily have an operating licence. In those circumstances the premises licence may need to contain conditions to ensure that the environment in which betting takes place is suitable." The licensing authority understands that there may be further guidance from the Gambling Commission on this issue which it will have regard to, when available.
- 2.8 **Protecting children and other vulnerable persons from being harmed or exploited by gambling** - The licensing authority has noted the Gambling Commission guidance to local authorities states that

“The objective talks of protecting children from being “harmed or exploited by gambling”, but in practice that often means preventing them from taking part in or being in close proximity to gambling...”

The licensing authority will pay particular attention to any Codes of Practice, which the Gambling Commission issues as regards this licensing objective in relation to specific premises, such as casinos. It is understood that such a Code will consider any relevant code of practice for casinos must:

- Specify steps that the premises licence-holder must take to ensure that children and young persons (that is those under the age of 18) do not enter casino premises, or in the case of the regional casino do not enter the gambling area;
- Amongst those specified steps, ensure that each entrance to the casino or gambling area is supervised by at least one person (“the supervisor”) who is responsible for compliance with the code of practice; and
- Require that, unless the supervisor is certain that a person seeking admittance is an adult, evidence of age must be required of all those seeking to enter the casino or gambling area.
- To prevent the use of in-appropriate use of gambling products

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 are gambling beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.” The licensing authority will consider this licensing objective on a case-by-case basis. Should a practical definition prove possible in future then this statement of principles statement will be updated with it, by way of a revision.

2.9 Conditions - Any conditions attached to licences will be proportionate and will be:

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

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of control measures the licensing authority will consider utilising should there be a perceived need, such as the use of door supervisors, supervision of adult gaming machines, appropriate signage for adult only areas etc. There are specific comments made in this regard under each of the licence types

below. The licensing authority will also expect the licence applicant to offer his/her own suggestions as to way in which the licensing objectives can be met effectively.

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

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

2.10 Door Supervisors - The Gambling Commission advises in its guidance for local authorities that licensing authorities 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 the Gambling Act 2005 has amended the Security Industry Act and the Licensing Authority cannot insist that the Security Industry Authority register door supervisors at casinos or bingo premises. The licensing authority may have specific requirements for door supervisors working at casinos or bingo premises, which are shown to be appropriate to individual premises and subject to any codes of practice. This is in recognition of the nature of their work in terms such as checking ages, searching individuals and dealing with potentially aggressive persons.

2.11 Adult Gaming Centres - The licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises. Appropriate licence conditions may cover issues such as:

- Proof of age schemes
- CCTV
- Door supervisors
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours

This list is not exhaustive.

As regards the protection of vulnerable persons, the licensing authority will consider measures such as the use of self-barring schemes, provision of information leaflets / helpline numbers for organisations such as GAMCARE

- 2.12 **Licensed Family Entertainment Centres** - The licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas. Appropriate licence conditions may cover issues such as:

- Proof of age schemes
- CCTV
- Door supervisors
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- No persons under 18 to be admitted unless supervised by an adult

This list is not exhaustive.

As regards the protection of vulnerable persons, this licensing authority will consider measures such as the use of self-barring schemes, provision of information leaflets / help line numbers for organisations such as GamCare.

The licensing authority will, as per the Gambling Commission's draft guidance, refer to the commission's website to see any conditions that apply to operator licences covering the way in which the area containing the category C machines should be delineated. The licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

Casinos

- 2.13 **No Casinos resolution** – Full council has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should the full council decide in the future to pass such a resolution, it will update this statement of principles statement with details of that resolution.

- 2.14 **Casinos and competitive bidding** - The licensing authority is aware that where a licensing authority area is enabled to grant a premises licence for a new style casino (i.e. the Secretary of State has made such regulations under Section 175 of the Gambling Act 2005) there are likely to be a number of operators which will want to run the casino. In such situations the local authority will run a 'competition' under Schedule 9 of the Gambling Act 2005. The licensing authority will run such a competition in line with any regulations issued under the Gambling Act 2005 by the Secretary of State.
- 2.15 **Betting machines** - The licensing authority is aware that, as explained in the Gambling Commission's guidance for local authorities: "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 or to a casino premises licence (where betting is permitted in the casino). When considering whether to impose a condition to restrict the number of betting machines in particular premises, the licensing authority, amongst other things, will take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable persons."

Bingo premises

The licensing authority notes that the Gambling Commission's guidance states:

- "Licensing authorities will be able to find information about the restrictions that apply in the codes of practice that will be published on the commission's website"
- "Further guidance will be issued in due course about the particular issues that licensing authorities should take into account in relation to the suitability and layout of bingo premises"

Once this information is available, the licensing authority will consider its application to premises licences for bingo premises.

Betting premises

- 2.17 **Betting machines** - It is noted that the Gambling Commission's guidance for local authorities states: "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 or to a casino premises licence (where betting is permitted in the casino). When considering whether to impose a condition to restrict the number of betting machines in particular premises, the licensing authority, amongst other things, will take into account the size of the premises, the number of counter positions available for person-to-

person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable persons.”

- 2.18 **Tracks** - Note there are currently no tracks operating in the district, however this statement of principles contains provision for the event of such a premise.

The licensing authority is aware that the Gambling Commission may provide further specific guidance as regards tracks. We have taken note of the existing guidance from the Gambling Commission which highlights that tracks are different from other premises in that there may be more than one premises licence in effect and that the track operator may not be required to hold an operator licence as there may be several premises licence holders at the track which will need to hold their own operator licences.

There may be some specific considerations with regard to the protection of children and vulnerable persons from being harmed or exploited by gambling and the authority would expect the premises licence applicants to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, although they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

Appropriate licence conditions may be:

- Proof of age schemes
- CCTV
- Door supervisors
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- The location of gaming machines

This list is not exhaustive.

As regards the protection of vulnerable persons, the licensing authority will consider measures such as the use of self-barring schemes, provision of information leaflets and helpline numbers for organisations such as GamCare.

- 2.19 In respect of betting machines on tracks licensing authorities have a power under the Gambling Act 2005, to restrict the number of betting machines, their nature and the circumstances in which they are made available, by attaching a licence condition to a betting premises

licence. The Gambling Commission's guidance will be noted in that it states: "In relation to betting premises away from tracks, the commission is proposing that licensing authorities should take into account the size of the premises and the ability of staff to monitor the use of the machines by vulnerable people when determining the number of machines permitted. Similar considerations apply in relation to tracks, where the potential space for such machines may be considerable, bringing with it significant problems in relation to the proliferation of such machines, the ability of track staff to supervise them if they are scattered around the track and the ability of the track operator to comply with the law and prevent children betting on the machine. Licensing authorities will want to consider restricting the number and location of betting machines, in the light of the circumstances of each application for a track betting premises licence."

The licensing authority also notes that, "In the commission's view, it would be preferable for all self-contained premises operated by off-course betting operators on track to be the subject of separate premises licences. This would ensure that there was clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises"

- 2.20 **Condition on rules being displayed** - The Gambling Commission has advised in its guidance for local authorities that "...licensing authorities should attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office."

- 2.21 **Travelling Fairs** - It will fall to the 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 as defined by the Gambling Commissions guidance to licensing authorities. The authority will determine on each occasion whether gambling without a permit can be made available, but subject to the legal requirements in the way gaming machines operate.

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. The 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.

2.22 Provisional Statements

The licensing authority notes the guidance for 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 can inspect it fully”.

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 authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

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

This authority has noted the Gambling Commission’s guidance that “A licensing authority must not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with planning or building law.”

2.23 Reviews - Interested parties or responsible authorities can make requests for a review of a premises licence; 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 the matters listed below, as well as consideration as to whether the request is frivolous, vexatious. The grounds will certainly not cause the authority to revoke or suspend a licence or to remove, amend or attach conditions on the premises licence, or whether it is substantially the same as previous representations or requests for review.

- In accordance with any relevant code of practice issued by the Gambling Commission
- In accordance with any relevant guidance issued by the Gambling Commission
- Reasonably consistent with the licensing objectives and
- In accordance with the authority’s statement of licensing statement of principles

The licensing authority can also initiate a review of a licence on the basis of any reason, which it thinks is appropriate.

3. Permits / Temporary & Occasional Use Notice

- 3.1 **Unlicensed Family Entertainment Centre gaming machine permits (statement of principles on permits – schedule 10 para 7)** - Where a premise does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).
- 3.2 The Gambling Act 2005 states that a licensing authority may prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the commission under section 25. The Gambling Commission's guidance for local authorities also states: "In their three year licensing statement of principles statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits licensing authorities will want to give weight to child protection issues. Further guidance on the information that should be obtained from the applicant and others will be provided in the next version of this guidance."

The guidance also states: "An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application. Relevant considerations to take into account would be the applicant's suitability... such as any convictions that they may have that would make them unsuitable to operate a family entertainment centre. And the suitability of the premises in relation to their location and issues about disorder."

It should be noted that a licensing authority cannot attach conditions to this type of permit and that the "statement of principles" only applies to initial applications and not to renewals (paragraph 18(4)).

Statement of Principles - The 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 criminal record checks for staff, training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises.

With regard to renewals of these permits, a licensing authority may refuse an application for renewal of a permit only on the grounds that an authorised local authority officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with pursuit of the licensing objectives.

3.3 Alcohol licensed premises gaming machine permits – (schedule 13 para 4(1)) - There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority. The licensing authority can remove the automatic authorisation in respect of any particular premises if:

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

3.4 If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under section 25 of the Gambling Act 2005, and “such matters as they think relevant.” The 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 and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in site of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also help. As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets and helpline numbers for organisations such as GamCare.

3.5 It is recognised that some alcohol-licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would need to be applied for, and dealt with as an adult entertainment centre premises licence.

- 3.6 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.
- 3.7 It should also be noted that the holder of a permit must comply with any code of practice issued by the Gambling Commission about the location and operation of the machine.
- 3.8 **Prize Gaming Permits – (statement of principles on permits)** - 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 propose to consider in determining the suitability of the applicant for a permit”.

The licensing authority has not prepared a statement of principles. Should it decide to do so it will include details in a revised version of the statement of principles statement?

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.

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

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

- 3.9 **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 forthcoming regulations. A club gaming machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).

Gambling Commission guidance for local authorities states: “Members clubs must have at least 25 members and be established and conducted “wholly or mainly” for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968. A members’ club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men’s clubs, branches of Royal British Legion and clubs with political affiliations.”

The guidance also makes it clear that “Before granting the permit the authority will need to satisfy itself that the premises meet the requirements of a members’ club and may grant the permit if the majority of members are over 18.”

The Commission Guidance also notes that: “Licensing authorities may only refuse an application on the grounds that:

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

It should be noted that there is a ‘fast-track’ procedure available for premises, which hold a club premises certificate under the Licensing Act 2003. As the Gambling Commission’s guidance for local authorities states: “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” and “the grounds on which an application under the process may be refused are:

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

- 3.10 **Temporary Use Notices** - There are a number of statutory limits as regards temporary use notices. It is noted that it falls to the licensing authority to decide what constitutes a ‘set of premises’ where temporary use notices are received relating to the same building / site (see Gambling Commission’s guidance for local authorities).

- 3.11 **Occasional Use Notices** - 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. The licensing authority will though need to consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

4. Lotteries

- 4.1 The licensing authority recognises and seeks to promote the existing valuable work done by lottery organisers and fundraisers on behalf of local charities and similar good causes. The licensing authority will work with such organisations to promote compliance with the relevant legislation, and the three licensing objectives, by processing timely and appropriate applications from such promoters. In order to ensure compliance with the legislation the licensing authority will maintain such registers and information required by the legislation.

5. Review

The statement of principles statement will remain in existence for a period of three years and will be subject to review and further consultation before October 2009. However, following consultation, the licensing authority may make revisions to it as deemed necessary.

Appendix 1

Summary of licensing authority delegations permitted under the Gambling Act

Matter to be dealt with	Full Council	Sub-committee of Licensing Committee	Officers
Final approval of three year licensing statement of principles	X		
Statement of principles not to permit casinos	X		
Fee setting (when appropriate)			X
Application for premises licenses		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		X	
Application for club gaming/club machine permits		Where objections have been made (and not withdrawn)	Where no objections made/objections have been withdrawn
Cancellation of club gaming/club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

X Indicates at the lowest level to which decisions can be delegated.

The Sub-Committee of the Alcohol, Entertainment and Late Night Refreshment Licensing Committee shall be comprised of normally a minimum of 3 members of that committee

Document enhancement for the visually impaired on request.

Telephone: 01476 406300 or email: frontdesk@southkesteven.gov.uk

Appendix 2

SOUTH KESTIVEN DISTRICT COUNCIL STATEMENT OF GAMBLING STATEMENT OF PRINCIPLES Gambling Act 2005

Persons consulted

Statutory Consultees

Lincolnshire Police – South Division
Lincolnshire Fire and Rescue
Environmental Health – Environment Section - SKDC
Environmental Health – Commercial Section – SKDC
Health and Safety Executive
Health Protection Agency
Environment Agency
Gambling Commission
Lincolnshire Safe Guarding Children's Board
Building Control Services – SKDC
HM Revenue and Customs

Public Bodies

Community Safety Team – SKDC
Lincolnshire Health Care Trust
Lincolnshire County Council Highways
Security Industry Authority
Lincolnshire County Council Social Services
Lincolnshire County Council Trading Standards
MOD establishments - RAF Wittering, RAF Cottesmore and MOD North Luffenham
CCTV Manager – SKDC
Community and Economics Development Manager – SKDC
Clerk to the South Lincolnshire Justices
Lincolnshire County Council Education Welfare Service
Citizens Advice – Grantham and Stamford
Probation Service

Lincolnshire Authorities

Lincoln City Council
North Kesteven DC
South Holland DC
West Lindsey DC
East Lindsey DC
Boston Borough Council
North East Lincolnshire Council

Media

Grantham Journal
Stamford Mercury

Community Groups

Bourne Town Council
Market Deeping Town Council
Stamford Town Council
Bourne Town Centre Partnership
Deeping St James Town Council
Grantham Town Centre Partnership
Stamford Vision
Grantham Charter Trustees
St Peters Community Group
Stamford Civic Society
Grantham Civic Society
Bourne Tenants Resource Centre
Barnhill Residents Association – Stamford
Market Deeping Town Centre Partnership
Gay Men Talking
Grantham Town Centre Residents Association
Mencap
Help The Aged
NSPCC
Childrens Society
GAMCARE
Addaction
Alcoholics Anonymous
Grantham Senior Citizens
Community Care for the Elderly
Lincoln Diocesan office
Rev T Pick
Salvation Army
Samaritans
Community Council for Lincolnshire
Quentin Davies MP

Relate
Grantham Council for Churches
Earlesfield Forum
Grantham Learning Disability
Grantham Mind
Lincolnshire Credit Union
Stamford SHYP

Additionally there are a number of private individuals also held on a separate list.

Trade Associations involved in Gaming and Entertainment Industry

British Beer and Pub Association
British Institute of Innkeeping
Campaign for Real Ale
P J Enterprises
Pubwatch – Grantham, Stamford and Bourne and the Deepings
The Bingo Association
Gamestech
Musicians Union
LVA's – Grantham, Stamford, Bourne and the Deepings
Association of British Bookmakers
Casino Operators Association
Racecourse Association
Business in Sport and Leisure
British Holiday and Home Parks
British Casino Association
British Amusements and Catering Trade Association
Wakely Automatics
Eastern Automatics
Hart Marler
Leisure Link
Peterborough Automatics
Shire Leisure
Claremont Automatics
Keeday Leisure
Gala Bingo
Bet Fred
Coral UK
Mark Jarvis Betting
Ladbrookes
All late night food outlets holding AWP permit
All alcohol licensed premises and registered club premises
Amusement arcades permit holders in the district

Appendix 2 Glossary of terms

South Kesteven District Council

Applications:	Applications for licences and permits as stated in the Statement of Principles
Notifications:	Notifications of temporary and occasional use notices
Act:	The Gambling Act 2005
Regulations:	Regulations made under the Gambling Act 2005
Premises:	Any place, including a vehicle, vessel or moveable structure
Premises Licence	Issued by the Licensing Authority to authorise premises to be used for the activities as defined by Section 150 of the Gambling Act
Operator Licence	Issued by the Gambling Commission to organisations and individuals who are providing facilities for gambling as defined by Section 65 of the Gambling Act
Personal Licence	Issued by the Gambling Commission to certain categories of people working in the gambling industry as defined by Section 127 of the Gambling Act
Family Entertainment Centre	The Act creates two classes of Family Entertainment Centres – Licensed: which provide category C and D gaming machines and require a premises licence Unlicensed: which provide category D gaming machines in reliance on a Gaming machine Permit
Adult Gaming Centre	Premises which provide category B, C and D gaming machines and require an operating licence and a premises licence
Gaming Machine	A machine which is designed or adapted for use by individuals to gamble as defined by Section 235 of the Gambling Act
Categories of Gaming machines	A – Maximum Stake: unlimited, Maximum Prize: unlimited B1 – Maximum Stake: £2, Maximum Prize: £4000 B2 – Maximum Stake: £100, Maximum Prize: £500 B3 – Maximum Stake: £1, Maximum Prize: £500 B4 – Maximum Stake: £1, Maximum Prize: £250 C – Maximum Stake: 50p, Maximum Prize: £25 D – Maximum Stake: 10p or 30p when non-monetary prize, Maximum Prize: £5 cash or £8 non-monetary prize
Betting Machine	A machine designed or adapted for use to bet on future real events as defined by Section 235(2)(c) of the Gambling Act
Remote Gambling	Gambling in which persons participate by the use of remote communication as defined by Section 4 of the Gambling Act
Remote Communication	Communication using - The internet Telephone Television Radio, or Any other type of electronic or other technology As defined by Section 4(2) of the Gambling Act.

Travelling Fair	<p>A fair wholly or principally providing amusements and that has been provided wholly or principally by persons who travel from place to place for the purpose of providing fairs, and</p> <p>On a site used for fairs for no more than 27 days per calendar year</p> <p>As defined by Section 286 of the Gambling Act</p>
Code of Practice:	Means any relevant code of practice under section 24 of the Gambling Act 2005
Responsible Authority:	<p>For the purposes of this Act, the following are responsible authorities in relation to premises:</p> <ol style="list-style-type: none"> 1. The Licensing Authority in whose area the premises are wholly or mainly situated South Kesteven District Council); 2. The Gambling Commission; 3. Lincolnshire Police; 4. Lincolnshire Fire and Rescue Service; 5. Planning Department, South Kesteven District Council; 6. Environmental Protection Team, South Kesteven District Council 7. Lincolnshire Safe Guarding Children's Board, Lincolnshire County Council; 8. HM Customs and Excise.
Interested Party:	<p>For the purposes of this Act, a person is an interested party in relation to a premises licence if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, the person: -</p> <p>Lives sufficiently close to the premises to be likely to be affected by the authorised activities;</p> <p>Has business interests that might be affected by the authorised activities;</p> <p>Represents persons who satisfy a) or b) above.</p>