

## TRAFFORD COUNCIL

**Report to:** Council  
**Date:** 28<sup>th</sup> November 2018  
**Report for:** Decision  
**Report of:** Corporate Director, Place

### Report Title

**Gambling Act 2005 – Statement of Gambling Policy Statement 2019-2022**

### Summary

**The Council is required to prepare, consult on and publish a Statement of Gambling Policy in accordance with the Gambling Act 2005.**

**The Council is invited to consider the summary of responses received following the statutory consultation.**

### Recommendation(s)

**That the Council adopt the Statement of Gambling Policy as attached at Appendix 2.**

Contact person for access to background papers and further information:

Name: Joanne Boyle – Licensing Team Leader  
Extension: 4129

Background Papers: None

Relationship to Policy Framework/Corporate Priorities	<i>Having a Policy on how the Council will administer its functions under the Gambling Act 2005 makes the processing of applications more efficient by giving residents, applicants and decision makers clear guidance on what factors will be taken into consideration when making decisions.</i>
Financial	<i>There will be no net additional cost to the Council</i>
Legal Implications:	<i>Section 349 of the Gambling Act requires the Council to publish a Statement of Gambling Policy every three years.</i>
Equality/Diversity Implications	<i>None</i>
Sustainability Implications	<i>None</i>
Staffing/E-Government/Asset Management Implications	<i>None</i>
Risk Management Implications	<i>None</i>
Health and Safety Implications	<i>None</i>

## **1.0 Background**

- 1.1 Under the terms of the Gambling Act 2005 the Council is required to prepare, consult on and publish a statement of principles that it proposes to apply in exercising its functions under the Act, applicable to a three year period. The Council published its last Gambling Policy on the 31<sup>st</sup> January 2016 and must now review and publish any revisions to its Policy by 31<sup>st</sup> January 2019.
- 1.2 The Council's Gambling Policy was reviewed to ascertain if it was necessary to update the policy to incorporate either any new guidance from the Gambling Commission; or any significant changes in the local area.

## **2.0 Revisions**

Paragraph	Revision	Reason
7.8-7.11	Addition	To update the Council's enforcement principles
9.4	Addition	To include reference to the Gambling Commissions Licence Conditions & Code of Practice (LCCP) that came into force on the 6 <sup>th</sup> April 2016.
9.7	Addition	Advice to operators that they must consider how premises will be configured to protect children from being harmed by gambling.
9.17-9.19	Addition	Reference to the Gambling Commissions (LCCP) in particular staff training and self-exclusion records
13.2	Addition	To clarify the Council's position on the splitting of pre-existing licensed premises into adjacent premises and how that will

		effect the number of gaming machines permitted.
14.1	Addition	To clarify the Council's position on the use of door supervisors at betting offices.
20.4	Addition	To clarify the Council's approach to the granting of gaming machines in licensed premises.
21.2	Addition	
26.0	Addition	Part D outlines the Council's approach to local area risk assessments and the LCCP

### **3.0 Other Options**

3.1 The only alternative option is for the Council not to approve and publish a Statement of Gambling Policy. The consequences of this course of action would be that the Council would not be complying with the requirement of the Gambling Act 2005, and the Council would not be able to effectively carry out any function in respect of applications made under the Act.

### **4.0 Consultation**

4.1 The Act requires the licensing authority to consult on its Policy with the police; those who represent the interests of gambling businesses in their area; and those which represent interested persons likely to be affected. The Policy was consulted on between the 2<sup>nd</sup> July 2018 and the 31<sup>st</sup> August 2018. A list of those consulted is contained within the Policy Document at Appendix A.

4.2 The Council received three responses to the consultation which are detailed at Appendix 1 – Summary of Responses.

4.3 A copy of the Council's proposed Gambling Policy for 2019 - 2022, is attached to this report at Appendix 2.

4.4 The Policy, if approved, will come into force on **31<sup>st</sup> January 2019**, and will remain in force for a period not exceeding three years, and will be subject to review and further consultation before **31<sup>st</sup> January 2022**. The Council will keep the policy under review, making any amendments as it considers appropriate.

### **5.0 Recommendation.**

5.1 That the Council adopt the Statement of Gambling Policy as attached at Appendix 2.

Appendices Attached:

Appendix 1 – Summary of Responses to consultation  
Appendix 2 - Draft Licensing Policy – 2019-2022

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### GAMBLING POLICY 2019-2022 SUMMARY OF RESPONSES TO CONSULTATION

POLICY	RESPONSES	COUNCIL RESPONSE
<p>13.2 The Council notes the Guidance at paragraph 18.9 regarding the unusual circumstances in which we might permit pre-existing premises to be split into two adjacent premises and in particular, that it is not permissible to locate sixteen Category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded</p>	<p><b>Cherry Hosking Company Secretary – The Bingo Association</b></p> <p>Since 2011, (SI 2011 1710) there has been no numerical limit on the number of Category B3 machines (unless a premises licence was acquired after that date). The limit for B3 gaming machines in licensed bingo premises was increased to 20% of the available machine estate and therefore reference to a number in the Policy document is misleading.</p>	<p>The Council notes this response and has amended the policy to read:</p> <p>13.2 S. 172 (7) of the Act, as amended, provides that the holder of a bingo premises licence may make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines on the premises. Premises that were licensed before 13<sup>th</sup> July 2011 are entitled to make available eight category B gaming machines, or 20% of the total number of gaming machines. This authority notes the Guidance at paragraph 18.9 regarding the unusual circumstances in which the splitting of pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible for all the gaming machines to which each of the licences brings an entitlement to be grouped together within one of the licensed premises.</p>

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	<p><b>Catherine Sweet</b>  <b>Head of Marketing &amp; Communications</b>  <b>GamCare</b></p> <p>While we do not have the resources available to allow us to personally respond to each Local Authority which contacts us regarding their refreshed Statement of Principles, we have compiled a list of the issues or factors which we think it would be helpful to consider below, more information is available via the Gambling Commission.</p> <p>The function of the Statement is to reflect locally specific gambling concerns and to reflect the Council's wider strategic objectives. The active use of the Statement is one means by which you can make clear your expectations of gambling operators who have premises in your area. This allows operators to respond to locally specific requirements and adjust their own policies and procedures as required.</p> <ul style="list-style-type: none"> <li>• A helpful first step is to develop a risk map of your local area so that you are aware of both potential and actual risks</li> </ul>	<p>The Council has considered the need for a local area profile but feels that the main issues will be covered by the risk assessments required under the Gambling Commissions' Local Conditions and Codes of Practice (LCCP)</p> <p>The Council has added a new section at Part D of the Policy which outlines the matters the Council will expect operators to consider when drafting their risk assessments, including:</p> <ul style="list-style-type: none"> <li>•Information held by the licensee regarding self-exclusions and incidences of underage gambling.</li> <li>•Gaming trends that may reflect benefit payments. Arrangement for localised exchange of information regarding self-exclusions and gaming trends.</li> <li>•Urban setting such as proximity to schools, commercial environment, factors affecting footfall.</li> </ul>

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	<p>around gambling venues. A useful explanation of area-based risk-mapping has been developed with Westminster and Manchester City Councils, which gives some guidance on those who may be most vulnerable or at-risk of gambling-related harm. For more information please see <a href="http://www.geofutures.com/research-2/gambling-related-harm-how-local-space-shapes-our-understanding-of-risk/">www.geofutures.com/research-2/gambling-related-harm-how-local-space-shapes-our-understanding-of-risk/</a></p> <ul style="list-style-type: none"> <li>• Consider that proposals for new gambling premises which are near hostels or other accommodation or centres catering for vulnerable people, including those with learning difficulties, and those with gambling / alcohol / drug abuse problems, as likely to adversely affect the licensing objectives set out by the Gambling Commission. This is also relevant regarding the proximity to schools, colleges and universities.</li> <li>• A detailed local risk assessment at each gambling venue – pertinent to the environment immediately surrounding the premises as well as the wider local area – is a good way to gauge whether the operator and staff teams are fully aware of the challenges present in the local area and can help reassure the Local Licensing Authority that appropriate mitigations are</li> </ul>	<ul style="list-style-type: none"> <li>•Range of facilities in proximity to the licensed premises such as other gambling outlets, banks, post offices, refreshment and entertainment type facilities.</li> <li>•Known problems in the area such as problems arising from street drinkers, youths participating in anti-social behaviour, drug dealing activities, etc.</li> </ul> <p>Matters relating to children and young persons, including:</p> <ul style="list-style-type: none"> <li>•Institutions, places or areas where presence of children and young persons should be expected such as schools, youth clubs, parks, playgrounds and entertainment venues such as bowling allies, cinemas etc.</li> <li>•Any premises where children congregate including bus stops, café's, shops, and any other place where children are attracted.</li> <li>•Areas that are prone to issues of youths participating in anti-social behaviour, including such activities as graffiti/tagging, underage drinking, etc.</li> <li>•Recorded incidents of attempted underage gambling.</li> </ul>
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	<p>in place.</p> <ul style="list-style-type: none"> <li>• Does the operator have a specific training programme for staff to ensure that they are able to identify children and other vulnerable people, and take appropriate action to ensure they are not able to access the premises or are supported appropriately?</li> <li>• Does the operator ensure that there is an adequate number of staff and managers are on the premises at key points throughout the day? This may be particularly relevant for premises situated nearby schools / colleges / universities, and/or pubs, bars and clubs.</li> <li>• Consider whether the layout, lighting and fitting out of the premises have been designed so as not to attract children and other vulnerable persons who might be harmed or exploited by gambling.</li> <li>• Consider whether any promotional material associated with the premises could encourage the use of the premises by children or young people if they are not legally allowed to do so.</li> </ul> <p>We would suggest that the Local</p>	<p>Matters relating to vulnerable adults, including:</p> <ul style="list-style-type: none"> <li>• Information held by the licensee regarding self-exclusions and incidences of underage gambling.</li> <li>• Gaming trends that may mirror days for financial payments such as pay days or benefit payments. Arrangement for localised exchange of information regarding self-exclusions and gaming trends.</li> <li>• Proximity of premises which may be frequented by vulnerable people such as hospitals, residential care homes, medical facilities, doctor's surgeries, council housing offices, addiction clinics or help centres, places where alcohol or drug dependant people may congregate, etc.</li> </ul> <p>The Council will consider each application on a case by case basis but will include in its deliberations: its statement of policy;</p>
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	<p>Licensing Authority primarily consider applications from GamCare Certified operators. GamCare Certification is a voluntary process comprising an independent audit assessment of an operator's player protection measures and social responsibility standards, policy and practice. Standards are measured in accordance with the GamCare Player Protection Code of Practice.</p>	<p>the advice of the Gambling commission and the advice of those working in or with the industry including organisations such as GamCare.</p>
<p>20.3 Permit: 3 or more machines - 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."</p> <p>20.4 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</p>	<p><b>Eleanor Roaf</b>  <b>Interim Director of Public Health</b>  <b>Trafford Council</b></p> <p>Almost three quarters of British adults gamble on occasion, and many gamble regularly. Most experience no problems and the prevalence of gambling-related harm in Britain is less than 1%.</p> <p>Therefore, for most people, gambling is a pleasurable and harmless activity. However, although only a small proportion of people who gamble suffer adverse consequences, the sheer number of people who gamble in the UK means that this small proportion creates, in numerical terms, a significant number of people where gambling is causing harm either directly to them or indirectly to their family</p>	<p>Fixed odds betting terminals (FOBTs) are electronic machines, sited in betting shops, on which customers can play a variety of games, including roulette. Each machine accepts bets for amounts up to a pre-set maximum and pays out according to fixed odds on the simulated outcomes of games.</p> <p>The Gambling Act 2005 regulates gambling in Great Britain. The Act classified FOBTs as B2 gaming machines. By the time the 2005 Act came into force in September 2007, the Culture, Media and Sport Committee estimated there were 30,000 FOBTs in place.</p>

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<p>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 sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also help. As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare. [Addition]Where premises are applying for additional machines these would normally be granted where the premises comply with the Gambling Commission's Code of Practice. An application for a permit for up to four machines would normally be considered by Officers without the need for a hearing.</p>	<p>or community. For every problem gambler, a further 5-10 people are directly affected, and there are more problem gamblers in the UK than there are Class A drug users</p> <p>Gambling-related harm includes a range of health and social problems, such as mental ill-health, (e.g., anxiety, depression, compulsive behaviour patterns); impact on family cohesion, including domestic violence; employment instability; debt problems; homelessness, and criminality (eg theft or fraud to fund gambling activity).</p> <p>The likelihood of experiencing harm is not evenly distributed across the population, with men being much more likely than women to suffer problems with gambling. Deprivation is also a significant risk factor, with 13% of men in the most deprived populations experiencing harm, compared to 6% in the least deprived<sup>3</sup>. The Gambling Act (2005) requires that children and other vulnerable people be protected from being harmed or exploited by gambling. Different forms of gambling carry different levels of risk, with fixed odds betting terminals carrying particularly high levels of risk.</p>	<p>An operating licence (issued by the Gambling Commission), together with a betting premises licence (issued by the licensing authority), allows up to four B2 machines to be sited on betting premises.</p> <p>The maximum stake on a single bet on a B2 machine is £100. The maximum prize is £500.</p> <p>In October 2017, the Department for Digital, Culture, Media and Sport (DCMS) announced a range of proposals to strengthen protections around gambling. These included lowering the maximum stake on FOBTs to between £50 and £2. A consultation on the proposals, including the level of the new stake, closed on 23 January 2018.</p> <p>On 17 May 2018, the Government announced that the maximum stake on FOBTs will be reduced to £2. This will require secondary legislation.</p> <p>The Gambling Commission has responded by stating that it does not consider that a stake cut alone on B2s (irrespective of the level) would go far enough to address the risk of harm fully.</p>
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	<p>In relation to Trafford's policy, I welcome the strengthening of the processes to safeguard children from harms caused by gambling, and would ask the Council to look carefully at section 20.3-4 regarding the number of fixed odds betting machines per premises, given the associated risks.</p>	<p>It considers that it is necessary to recommend a package of measures to address harm. This package would not just address the risk of financial harm from B2 machines. It would also minimise the risk of diverting problematic play onto other machines or other forms of gambling, and would help to identify the range of indicators of problem gambling at a much earlier stage.</p> <p>It favours a comprehensive approach, which would help to make gambling on all machines safer. A key part of this is that it see a strong case in principle to make tracked play mandatory across Category B1, B2 and B3 machines. This would increase the availability of information about play, giving:</p> <ul style="list-style-type: none"><li>• consumers access to information that would help them keep track of their own play and make informed choices about whether to continue</li><li>• operators no excuse if they fail to identify players that are starting to show signs of problematic gambling</li><li>• Government and the Commission a clearer picture of whether the industry is meeting its social responsibly.</li></ul> <p>Section 20 of the Policy relates to the numbers of gaming machines in alcohol</p>
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		<p>licensed premises which can be regulated by the licensing authority.</p> <p>However, as the legislation currently stands the licensing authority is prevented from attaching a condition to a betting office licence to restrict the number of gaming machines (including FOBTs) permitted on the premises.</p> <p>Therefore, the Council is currently unable to limit the use of such machines in Trafford.</p>
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## APPENDIX 2



# TRAFFORD COUNCIL

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## STATEMENT OF GAMBLING POLICY

JANUARY 2019 - 2022

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### Policy Statement

#### PART A

#### 1.0 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

1.2 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”.

1.3 This licensing authority is aware that, as per Section 153, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it's:

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

#### 2.0 Introduction

2.1 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. This statement must be published at least every three years. The statement must also be reviewed from “time to time” and any amended parts re-consulted upon. The statement must be then re-published.

2.2 The Authority consulted widely upon this statement before finalising and publishing. A list of those persons consulted is provided in **Appendix A**.

2.3 The Gambling Act requires that the following parties are consulted by Licensing Authorities:

- The Chief Officer of Police;

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- 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.

Our consultation took place between 2<sup>nd</sup> July 2018 and 31<sup>st</sup> August 2018.

The full list of comments made and the consideration by the Council of those comments is available by request to: the Licensing Office, Trafford Town Hall, Talbot Road, Stretford, Greater Manchester, M32 0TH.

The policy was approved at a meeting of the Full Council on the 28<sup>th</sup> November 2018 and was published via our website on . A copy is available for viewing upon request at the Council Offices.

- 2.4 It should be noted that this statement of licensing principles will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.
- 2.5 The Authority is one of the 10 Metropolitan Districts of Greater Manchester.
- 2.6 Trafford's population in 2011 was 226,6005 (Source: Census 2011). Trafford occupies an area of 10,608 hectares and comprises Stretford, Sale, and Altrincham, together with the former urban districts of Bowdon, Hale and Urmston, and the parishes of Carrington, Warburton, Dunham Massey and Partington.

### **3.0 Declaration**

- 3.1 In producing the final statement, this licensing authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the Guidance to Licensing Authorities issued by the Gambling Commission, and any responses from those consulted on the statement.

### **4.0 Responsible Authorities**

- 4.1 Responsible Authorities are public bodies that must be notified of application and are entitled to make representations to the council in relation to applications for, and in relation to, premises licences.
- 4.2 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

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writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:

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

4.3 In accordance with the suggestion in the Gambling Commission's Guidance to Licensing Authorities, this authority designates the Local Safeguarding Children Board for this purpose.

4.4 The contact details of all the Responsible Authorities under the Gambling Act 2005 are available at **Appendix B**.

### 5.0 Interested parties

5.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in 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)"

5.2 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party.

5.2.1 The factors that the Council will take into account when determining what "sufficiently close to the premises" means (in each case) might include:

- the size of the premises
- the nature of the premises
- the distance of the premises from the location of the person making the representation
- the potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment); and

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- the circumstances of the complaint. This is not the personal characteristics of the complainant, but the interests of the complainant which may be relevant to the distance from the premises.

The factors that are likely to be relevant to “persons with business interests” and which the council will take into account include:

- the size of the premises
- the ‘catchment’ area of the premises (i.e. how far people travel to visit); and
- whether the person making the representation has business interests in that catchment area that might be affected.

5.2.2 Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission’s Guidance to Local Authorities at 8.11 and 8.17. It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices. If in the particular circumstances of the application the licensing authority departs from the guidance it will explain its reason for doing so.

5.2.3 The Gambling Commission recommended in its guidance that the licensing authority states that interested parties include trade associations and trade unions, and residents’ and tenants’ associations although it is noted that the Commission have now stated this was a mistake which will be rectified in future guidance. However, this authority emphasises that it 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. lives sufficiently close to the premises to be likely to be affected by the activities being applied for.

5.2.4 Interested parties can be persons who are democratically elected such as councillors and MP’s. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate / relative) ‘represents’ someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation, is sufficient.

5.2.5 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

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Licensing Committee dealing with the licence application. If there are any doubts then please contact the licensing section.

### 6.0 Exchange of Information

- 6.1 Licensing authorities are required to include in their statements 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.
- 6.2 The principle that this 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 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 exchange with other bodies then they will be made available.

### 7.0 Enforcement

- 7.1 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.
- 7.2 This licensing authority's principles are that:

It will be guided by the Gambling Commission's Guidance to Licensing Authorities and 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 joined up 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.

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- 7.3 As per the Gambling Commission's Guidance for Licensing Authorities this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 7.4 This authority has adopted a risk-based inspection programme, based on:
- The licensing objectives
  - Relevant codes of practice
  - Guidance issued by the Gambling Commission
  - The principles set out in this statement of licensing policy
  - The enforcement policy, intelligence and complaints .
- 7.5 The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines will not be dealt with by the licensing authority but should be notified to the Gambling Commission.
- 7.6 This 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.
- 7.7 Bearing in mind the principle of transparency, this licensing authority's enforcement/compliance protocols/written agreements will be available upon request to the licensing section. Our risk methodology will also be available upon request.
- 7.8 ***[Addition] Reference should also be made to the Council's Enforcement Policy when considering enforcement action. The Council will take into account any published Enforcement Concordat issued by the Gambling Commission.***
- 7.9 ***[Addition] This authority is aware that certain bookmakers have a number of premises within the area. In order to ensure that any 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.***
- 7.10 ***[Addition] The Council will take account of the Gambling Commission's guidance document issued in February 2015 (and any subsequent amendments) 'Approach to Test Purchasing' when considering making test purchases at gambling premises. The Council will also follow its own policies and procedures regarding the use of underage test purchasers.***
- 7.11 ***[Addition] Where there is a Primary Authority scheme in place, the Council will seek guidance from the Primary Authority before taking any enforcement action.***

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### 8.0 Licensing Authority functions

8.1 Licensing Authorities are required under the Act to:

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

These functions will be carried out in accordance with the Scheme of Delegation.

8.2 It should be noted that licensing authorities will not be involved in licensing remote gambling at all, which is regulated by the Gambling Commission via operating licences.

## PART B

### PREMISES LICENCES: CONSIDERATION OF APPLICATION

#### 9.0 General Principles

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

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mandatory and default conditions will only be imposed where there is evidence of a risk to the licensing objectives in the circumstances of a particular case.

### 9.2 Decision –Making

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:

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

9.3 It is appreciated that as per the Gambling Commission's Guidance to Licensing Authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' – see section on casinos) and also that unmet demand is not criterion for a licensing authority. Further it is under a duty not to take other irrelevant matters into consideration, e.g. the likelihood of an applicant obtaining Planning permission.

**9.4 *[Addition]The Licence Conditions and Code of Practice (LCCP) issued by the Gambling Commission places further onus on premises to complete a risk assessment based on code 8, the social responsibility code which will come into force on 6 April 2016. The council will have regard to this code when considering applications. This is covered in detail in Part D of this statement.***

### 9.5 Definition of “premises”

Premises are defined in the Act as “any place”. Different premises licences cannot apply in respect of a 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.

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

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consider that the areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises”.

- 9.7 This licensing authority takes particular note of the Gambling Commission’s Guidance to Licensing Authorities which states that: licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

***[Addition]The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.***

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

Customers should be able to participate in the activity names on the premises licence

- The Guidance also gives a list of factors which the licensing authority should be aware of, which may include:
- Do the premises have a separate registration for business rates
- Is the premises’ neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?

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

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

### **Casinos**

- The principal access entrance to the premises must be from a street (as defined at 7.21 of the Guidance)

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- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons
- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence

### Adult Gaming Centre

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

### Betting Shops

- Access must be from a street (as per para 7.21 Guidance to Licensing Authorities) or from another premises with a betting premises licence
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.

### Tracks

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

### Bingo Premises

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

### Family Entertainment Centre

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

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

## 9.8 Premises "ready for gambling"

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

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

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

- First, whether the premises ought to be permitted to be used for gambling
- Second, in order that if the premises were to be used for gambling the premises would be fit.

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

More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.58-7.65 of the Guidance.

9.9 **Location** - 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 are relevant to its decision-making. As per the Gambling Commission's Guidance to Licensing Authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards 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 upon the applicant showing how potential concerns can be overcome

9.10 **Planning:** The Gambling Commission Guidance to Licensing Authorities states: 7.58 – 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.

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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:

7.65 - 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. Those matters should be dealt with under relevant planning control and building regulation powers, and 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.

- 9.11 **Duplication with other regulatory regimes** - This licensing authority seeks to avoid any duplication with other statutory / regulatory systems where possible, including planning. 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. It will though listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

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

- 9.12 **Licensing objectives** - Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission's Guidance to Licensing Authorities and some comments are made below.
- 9.13 **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** - This licensing authority is aware that the Gambling Commission takes 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. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it), so as to make that

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distinction. Issues of nuisance cannot be addressed via the Gambling Act 2005.

- 9.14 **Ensuring that gambling is conducted in a fair and open way** - This licensing authority has noted that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section).
- 9.15 **Protecting children and other vulnerable persons from being harmed or exploited by gambling** - This licensing authority has noted the Gambling Commission's Guidance that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The 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, segregation of areas etc.
- 9.16 This licensing authority is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.
- 9.17 ***[Addition] Section 7 of the Gambling Commission Guidance to Local Authorities sets out considerations that they must make in order to protect children and young people from accessing gambling premises.***

***The Licence Conditions and Codes of Practice (LCCP) issued in 2015 prescribe how operators must prevent children from using age restricted gaming or gambling activities, particularly where gaming machines are licensed.***

***In particular operators must ensure that;***

- ***all staff are trained,***
- ***that all customers are supervised when on gambling premises***
- ***must have procedures for identifying customers who are at risk of gambling related harm.***

- 9.18 ***The Council will expect all operators to have policies and procedures in place as required by the LCCP codes on social responsibility to cover all aspects of the code, in particular staff training records and self-exclusion records.***
- 9.19 ***Further provisions with regard to self-exclusion and marketing are included in the social responsibility code. The council will take all conditions and codes into account when considering applications or performing enforcement activities.***  
***See Part D of this policy statement for further details and on the Council's requirements in relation to the LCCP.***

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9.20 As regards the term “vulnerable persons” it is noted that the Gambling Commission does not seek 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 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.” 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).

9.21 **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.
- Consistent with those attached to Operator’s Licences.

The conditions in addition to the mandatory and default conditions will only be imposed where there is evidence of a risk to the licensing objectives in the circumstances of a particular case.

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

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

9.24 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;

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- 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.
- Physical barriers to segregate areas should not impede the escape routes from that or other areas

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

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

9.27 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.

All premises licences shall by virtue of section 183 of the Act be subject to the condition that premises shall not be used to provide facilities for gambling on Christmas Day.

9.28 **Door Supervisors** - The Gambling Commission advises in its Guidance to Licensing Authorities that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a premises licence to this effect.

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

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### 10.0 Adult Gaming Centres

- 10.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.
- 10.2 Where gambling facilities are provided at premises as a supplementary activity to the main purpose of the premises; e.g. motorway service areas and shopping malls. The council will expect the gambling area to be clearly defined to ensure that customers are fully aware that they are making a choice to enter into the gambling premises and that the premises is adequately supervised at all times.
- 10.3 This licensing authority may consider measures to meet the licensing objectives such as:
- Proof of age schemes
  - CCTV
  - Supervision of entrances / machine areas
  - Physical separation of areas
  - Location of entry
  - Notices / signage
  - Specific opening hours
  - Self-exclusion schemes
  - Provision of information leaflets / helpline numbers for organisations such as GamCare.

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

### 11.0 (Licensed) Family Entertainment Centres

- 11.1 This 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, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.
- 11.2 This licensing authority may consider measures to meet the licensing objectives such as:
- CCTV
  - Supervision of entrances / machine areas
  - Physical separation of areas

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

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

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

### 12.0 Casinos

- 12.1 No Casinos resolution - This licensing authority 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 this licensing authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution. Any such decision will be made by the Full Council.

- 12.2 Licence considerations / conditions – This licensing authority will attach conditions to casino premises licences according to the principles set out in the Gambling Commission's Guidance at Part 9, bearing in mind the mandatory conditions listed in Part 17 of the guidance, and the Licensing Conditions and Codes of Practice published by the Gambling commission

### 13.0 Bingo premises

- 13.1 This licensing authority notes that the Gambling Commission's Guidance states:

"[18.5] Licensing authorities need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. An operator may choose to vary their licence to exclude a previously licensed area of that premises, and then apply for a new premises licence, or multiple new premises licences, with the aim of creating separate premises in that area, essentially providing multiple licensed premises within a single building or site. Before issuing additional bingo premises licences, licensing authorities need to consider whether bingo can be played at each of those new premises."

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- 13.2 ***[Addition] 13.2 S. 172 (7) of the Act, as amended, provides that the holder of a bingo premises licence may make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines on the premises. Premises that were licensed before 13th July 2011 are entitled to make available eight category B gaming machines, or 20% of the total number of gaming machines. This authority notes the Guidance at paragraph 18.9 regarding the unusual circumstances in which the splitting of pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible for all the gaming machines to which each of the licences brings an entitlement to be grouped together within one of the licensed premises.***
- 13.3 [18.7] Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed. Social Responsibility (SR) code 3.2.5(3) states that 'licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises' in order to prevent underage gambling.

### 14.0 Betting premises

- 14.1 Betting machines - This licensing authority will, as per the Gambling Commission's Guidance, 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 people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

***[Addition] There is no evidence that the operation of betting offices has required door supervisors for the protection of the public. The authority will make a door supervision 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.***

***This authority recognises that certain bookmakers have a number of premises within its area. In order to ensure that any 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.***

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### 15.0 Tracks

- 15.1 This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 15.2 This authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.
- 15.3 This licensing authority may consider measures to meet the licensing objectives such as:
- Proof of age schemes
  - CCTV
  - Supervision of entrances / machine areas
  - Physical separation of areas
  - Location of entry
  - Notices / signage
  - Specific opening hours
  - Self-exclusion schemes
  - Provision of information leaflets / helpline numbers for organisations such as GamCare
- This list is not mandatory, nor exhaustive, and is merely indicative of example measures.
- 15.4 Gaming machines - Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.
- 15.5 Betting machines - This licensing authority will, as per Part 6 of the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people,

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when considering the number/nature/circumstances of betting machines an operator proposes to offer.

- 15.6 **Applications and plans** - The Gambling Act (s51) requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity. (See Guidance to Licensing Authorities para 20.43 – 20.47).
- 15.7 Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations.
- 15.8 This authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place.

### 16.0 Travelling Fairs

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

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

- 16.2 It is noted that the 27 day statutory maximum for the land being used as a fair, applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. 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. In any event neighbouring authorities will be consulted to ensure best practice and consistency is applied.

### 17.0 Provisional Statements

- 17.1 Developers may wish to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a

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premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

- 17.2 S.204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:
- expects to be constructed;
  - expects to be altered; or
  - expects to acquire a right to occupy.
- 17.3 The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for the premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.
- 17.4 In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.
- 17.5 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:
- they concern matters which could not have been addressed at the provisional statement stage, or
  - they reflect a change in the applicant's circumstances.
- 17.6 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:
- which could not have been raised by objectors at the provisional licence stage; or
  - which in the authority's opinion reflect a change in the operator's circumstances; or
  - where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

### 18.0 Reviews

- 18.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the licensing authority to

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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.

- in accordance with any relevant code of practice issued by the Gambling Commission;
  - in accordance with any relevant guidance issued by the Gambling Commission;
  - reasonably consistent with the licensing objectives; and
  - in accordance with the authority's statement of principles.
- 18.2 The request for the review will also be subject to the consideration by the authority as to whether the request is frivolous, vexatious or whether it 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.
- 18.3 The licensing authority can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.
- 18.4 Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.
- 18.5 The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.
- 18.6 The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:-
- (a) add, remove or amend a licence condition imposed by the licensing authority;
  - (b) exclude a default condition imposed by the Secretary of state or Scottish Ministers (e.g. opening hours) or remove or amend such an exclusion;
  - (c) suspend the premises licence for a period not exceeding three months; and
  - (d) revoke the premises licence.
- 18.7 In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.
- 18.8 In particular, the licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

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- 18.9 Once the review has been completed, the licensing authority must, as soon as possible, notify its decision to:
- the licence holder
  - the applicant for review (if any)
  - the Commission
  - any person who made representations
  - the Chief Officer of police or Chief constable; and
  - Her Majesty's Commissioners for Revenue and Customs

### PART C PERMITS / TEMPORARY AND OCCASIONAL USE NOTICES

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

- 19.1 Where a premises 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).
- 19.2 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 to Licensing Authorities also states: "In their three year licensing policy 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." (24.6)
- 19.3 Guidance also states that "...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..... Licensing authorities might wish to consider asking applications to demonstrate:
- A full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FEC's;
  - 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. (24.7)
- It should be noted that a licensing authority cannot attach conditions to this type of permit

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19.4 **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 truant 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 / around the premises. This licensing authority will also expect, as per Gambling Commission Guidance, 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.

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

20.1 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 and pay the prescribed fee.

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

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

20.3 **Permit: 3 or more machines** - 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.*”

20.4 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 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 sight of the bar, or

## APPENDIX 2

in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also help. As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

***[Addition]Where premises are applying for additional machines these would normally be granted where the premises comply with the Gambling Commission's Code of Practice. An application for a permit for up to four machines would normally be considered by Officers without the need for a hearing.***

- 20.5 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.
- 20.6 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.
- 20.7 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.

### 21.0 Prize Gaming Permits

- 21.1 The Gambling Act 2005 states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may in particular, specify matters that the licensing authority proposes to consider in determining the suitability of the applicant for a permit”.
- 21.2 This licensing authority has prepared a Statement of Principles which is 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;
  - and that the gaming offered is within the law.
  - ***[Addition]Clear policies that outline the steps to be taken to protect children from harm.***
- 21.3 In making its decision on an application for this permit the licensing authority does not need to (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance.
- 21.4 It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but that the licensing authority cannot attach conditions. The conditions in the Act are:

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- 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.

### 22.0 Club Gaming and Club Machines Permits

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

22.2 Members Clubs and Miners Welfare institutes - and also Commercial Clubs – may apply for a Club Machine Permit. A Club Machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D). NB Commercial Clubs may not site category B3A gaming machines offering lottery games in their club.

22.3 This licensing authority notes that the Gambling Commissions guidance states:

[25.44] 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 a number of matters as outlined in sections 25.45-25.47 of the gambling Commissions Guidance. These 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.

22.4 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 commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- (b) the applicant's premises are used wholly or mainly by children and/or young persons;

## APPENDIX 2

- (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.

22.5 There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). Commercial clubs cannot hold Club premises certificates under the Licensing Act 2003 and so cannot use the fast-track procedure. 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."

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

### 23.0 Temporary Use Notices

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

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

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

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

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

### 24.0 Occasional Use Notices

24.1 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. This licensing authority will also ensure that no more than 8 OUNs are issued in one calendar year in respect of any venue.

### 25.0 Small Society Lotteries

25.1 This licensing authority will adopt a risk based approach towards its enforcement responsibilities for small society lotteries. This authority considers that the following list, although not exclusive, could affect the risk status of the operator:

- Submission of late returns (returns must be submitted no later than three months after the date on which the lottery draw was held)
- Submission of incomplete or incorrect returns
- Breaches of the limits for small society lotteries

25.2 Non-commercial gaming is permitted if it takes place at a non-commercial event, either as an incidental or principal activity at the event. Events are non-commercial if no part of the proceeds is for private profit or gain. The proceeds of such events may benefit one or more individuals if the activity is organised:

- By, on behalf of, a charity or for charitable purposes
- To enable participation in, or support of, sporting, athletic or cultural activities.

Charities and community groups should contact this licensing authority at the address and contact details on the front of this policy.

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### [ADDITION]PART D LICENCE CONDITIONS & CODES OF PRACTICE (LCCP)

#### 26.0 LCCP and Risk Assessments

26.1 *The Gambling Commission released an LCCP in February 2015 with a commencement date of May 2015. The code strengthened the social responsibility code (SR) requirements. Details regarding the LCCP and SR code can be accessed via the Gambling Commission website at [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)*

*The code requires operators:*

- *To supervise customers effectively on gambling premises and identify customers who are at risk of gambling related harm.*
- *With effect from April 2016 to have in place schemes to allow customers to self-exclude themselves from all operators of a similar type in the area where they live and work.*
- *To have a range of measures with regard to marketing to ensure social responsibility that are transparent and not misleading.*
- *With effect from April 2016 to produce a risk assessment on individual premises, and have policies and procedures and control measures in place to mitigate local risks to the licensing objectives.*

26.2 *Risk Assessments - Such risk assessments are required from new applicants, and from existing premises licensees seeking to vary a licence and are to be presented to the licensing authority upon application. The code requires all operators of; Casino's, AGC's, Bingo Premises, FEC's, Betting shops and remote betting intermediaries to assess local risks to the licensing objectives, and to have policies, procedures and control measures in place to mitigate those risks.*

26.3 *Operators are required by the SR code to make the risk assessment available to licensing authorities when an application is submitted either for new premises licence or variation of a premises licence, or otherwise on request, and this will form part of the council's inspection regime and may be requested when officers are investigating complaints.*

26.4 *The code requires the Council to set out matters they expect the operator to take account of in the risk assessment in its statement of policy and this council expects the following matters to be considered by operators when making their risk assessment:*

- *Information held by the licensee regarding self-exclusions and incidences of underage gambling.*

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- **Gaming trends that may reflect benefit payments. Arrangement for localised exchange of information regarding self-exclusions and gaming trends.**
- **Urban setting such as proximity to schools, commercial environment, factors affecting footfall.**
- **Range of facilities in proximity to the licensed premises such as other gambling outlets, banks, post offices, refreshment and entertainment type facilities.**
- **Known problems in the area such as problems arising from street drinkers, youths participating in anti-social behaviour, drug dealing activities, etc.**

**26.5 The council expects the following matters to be considered by operators when making their risk assessment.**

**Matters relating to children and young persons, including:**

- **Institutions, places or areas where presence of children and young persons should be expected such as schools, youth clubs, parks, playgrounds and entertainment venues such as bowling allies, cinemas etc.**
- **Any premises where children congregate including bus stops, café's, shops, and any other place where children are attracted.**
- **Areas that are prone to issues of youths participating in anti-social behaviour, including such activities as graffiti/tagging, underage drinking, etc.**
- **Recorded incidents of attempted underage gambling.**

**Matters relating to vulnerable adults, including:**

- **Information held by the licensee regarding self-exclusions and incidences of underage gambling.**
- **Gaming trends that may mirror days for financial payments such as pay days or benefit payments. Arrangement for localised exchange of information regarding self-exclusions and gaming trends.**
- **Proximity of premises which may be frequented by vulnerable people such as hospitals, residential care homes, medical facilities, doctor's surgeries, council housing offices, addiction clinics or help centres, places where alcohol or drug dependant people may congregate, etc.**

**27.0 Local Area Profile**

**27.1 The Council has considered the need for a local area profile and feels the main issues will be covered by the risk assessments required under the LCCP.**

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### APPENDIX A

#### LIST OF CONSULTEES

<b>General</b>
All Trafford Councillors
Aaron & Partners Solicitors
Afzal Khan Solicitors
Altrincham & Sale Chamber of Commerce
Altrincham Civic Society
Altrincham Town Centre Partnership
Association of British Bookmakers
Astons Turf Accountants
BACTA
Barnardo's
BEDA Ltd
Betfred
Beulah Apostolic Church Stretford
Blake Morgan Solicitors
British Beer & Pub Association
British Casino Association
British Holiday & Home parks Association
British Hospitality Association
British Institute of Innkeeping
British Retail Consortium
Buckingham Bingo & Social Club
Buckingham Bingo Ltd
Buddhist Centre
Casino Operators Association of the UK
Church of England
Citizen's Advice
Daniel Thwaites plc
Done Brothers (Cash & Betting) Ltd
Enterprise Inns
Equity
Ford & Warren Solicitors
Gala Coral Group Ltd
Gamblers Anonymous
Gambling Commission
Gamcare

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Gamestec Leisure Ltd
George Bet Centres Ltd
Greater Manchester Chamber of Commerce
Greater Manchester Churches Together
Greene King
HM Customs & Excise
Hydes Brewery
Hydes Brewery Ltd
J D Wetherspoons
J W Lees
Jewish Representative Council
John Gaunt Solicitors
Joseph Holt Ltd
Kuits Solicitors
Ladbrokes
Licensing Matters Solicitors
Local Government Association
Lockett & Co Solicitors
Marstons Brewery
Martin & McColls
Mecca Bingo Club
MENCAP
Mitchells & Butler Leisure Retail Ltd
National Casino Forum
Punch Pub Company
Reel Leisure Ltd
Remote Gambling Association
Responsibility in Gambling Trust
Sale Civic Society
Salvation Army – North West
Samuel Smith
Spirit Group
The Bingo Association
The Bingo Association
The Children's Society
The Lotteries Council
The Rank Group Plc
The Trafford Centre
The Trafford Centre
TOTE
Totesport
Trafford Magistrates' Court
Trethowans Solicitors
Trust Inns
United Reform Church

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United Reform Church
Urmston Unitarian Church
William Hill
Winckworth Sherwood Solicitors
Woods Whur Solicitors
Working Men's Club and Institute Union
<b>Council Officers</b>
Director of Integrated Services
Acting Corporate Director, Economic Growth, Environment & Infrastructure
Head of Planning
Head of Strategic Growth
Environment Strategic Business Manager
Director – Transformation & Resources
Regulatory Services manager – Environmental Health
Regulatory Services Manager – Trading Standards & Licensing
Director – Children, Families and Well Being
Strategic Manager Crime & Anti-Social Behaviour
Strategic Manager – Culture & Sport
<b>Responsible Authorities</b>
Chief Constable Greater Manchester Police
Greater Manchester Fire & Rescue Service
<b>Bordering Local Authorities</b>
Manchester City Council
Salford City Council
Cheshire East Council
Warrington Borough Council

## APPENDIX B

## **APPENDIX 2**

### **RESPONSIBLE AUTHORITIES**

Section 157 of the Gambling Act 2005 relates to who has been defined as a responsible authority

1. The licensing authority in whose area the premises are wholly or partly situated
2. The Gambling Commission
3. Chief Officer of Police
4. Fire and Rescue Authority
5. Planning Authority
6. Children's Services Department
7. Environmental Health (Pollution Control)
8. HM Customs
9. Any other person prescribed by the purposes of this section by regulations made by the Secretary of State.

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<b>APPENDIX C</b>
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### SCHEME OF DELEGATION

Matter to be dealt with	Full Council	Sub-committee of licensing committee	Officers
Final approval of three year licensing policy	X		
Policy not to permit casinos	X		
Fee setting (when appropriate)			X
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Review of a premises licence		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	
Application 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	