

Public Document Pack

Governance

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<u>The Chair and Members of Licensing Committee</u>	Please ask for	Shirley Bates
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6 November 2013

Dear Councillor,

Please attend a meeting of the LICENSING COMMITTEE to be held on WEDNESDAY, 13 NOVEMBER 2013 at 2.30 pm in Committee Room 1 Town Hall, Chesterfield, the agenda for which is set out below.

AGENDA

Part 1(Public Information)

1. Declarations of Members' and Officers' Interests relating to items on the agenda
2. Apologies for Absence
3. Gambling Act 2005 - Statement of Principles (Pages 1 - 34)

Yours sincerely,

Head of Governance

Chief Executive
Huw Bowen



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FOR PUBLICATION

AGENDA ITEM

GAMBLING ACT 2005- STATEMENT OF PRINCIPLES

MEETING:	LICENSING COMMITTEE EXECUTIVE MEMBER - ENVIRONMENT CABINET FULL COUNCIL
DATE:	13TH NOVEMBER 2013 26 TH NOVEMBER 2013 3 RD DECEMBER 2013 18 TH DECEMBER 2013
REPORT BY:	HEAD OF ENVIRONMENT
WARD:	ALL
COMMUNITY FORUM:	ALL

FOR PUBLICATION

TITLE: Gambling Act 2005 – LOCATION: Licensing Group
Statement of Principles

1.0 **PURPOSE OF REPORT**

- 1.1 To recommend that the full Council adopts and publishes the 'Statement of Principles' (copy attached as Appendix 1) made under the Gambling Act 2005.

2.0 **RECOMMENDATION**

- 2.1 That the Statement of Principles be adopted by the Council.

3.0 **REASON FOR RECOMMENDATION**

- 3.1 To comply with the requirements of the Gambling Act 2005.

4.0 **BACKGROUND**

- 4.1 The Act requires each licensing authority to adopt a Statement of

Principles and that it is reviewed every three years. It was last reviewed in December 2010.

4.2 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.

4.3 The last Statement of Principles was adopted and published January 2010, which means that the review of the Principles must be determined and published by 1st January 2014.

4.4 In this regard, members will recall that reports were presented at the Licensing Committee on 11th September 2013 and circulated to all Council Members seeking approval of the Councils Draft Statement of Principles, prior to it being made available for consultation.

5.0 **RESULT OF CONSULTATION ON CHESTERFIELD BOROUGH COUNCIL'S DRAFT STATEMENT OF PRINCIPLES**

5.1 As part of the consultation process, the authorities required to be consulted have been informed of the consultation as were the major licence holders. The consultation was also published on the Councils website and a notice appeared in the 'Public Notices' section of the Derbyshire Times on 19th September 2013 (Appendix 2). Further copies were made available at Chesterfield Library, Tourist Information Centre, and the Licensing Counter at Customer Service Centre, Chesterfield Borough Council.

5.2 Any comments were to be made in writing to the Licensing Section by Friday 18th October 2013.

5.3 One comment has been received from the Community Safety Partnership based within the Town Hall. The comments and responses are included in Appendix 3.

5.4 The lists of authorities and consultees have been removed from the Statement as they are not relevant to the Statement and were originally included as information when the Statement was first adopted.

6.0 **EQUALITIES**

A preliminary equality impact assessment has been undertaken, no negative impacts have been identified for any of the protected characteristics.

7.0 **RISK MANAGEMENT**

<u>Description</u>	<u>Impact</u>	<u>Probability</u>	<u>Controls to be implemented</u>
Failure to put policy into place by January 2014 as required by legislation	Low	Medium	Draft Policy to be approved by Full Council in December 2013
Lack of policy puts the regulatory decisions of the Licensing Committee at risk of legal challenge	Medium	Low	As Above

8.0 **RECOMMENDATION**

8.1 That the Statement of Principles be adopted by the Council.

9.0 **REASON FOR RECOMMENDATION**

9.1 To comply with the requirements of the Gambling Act 2005.

D W WEST
HEAD OF ENVIRONMENT

October 2013

Report Author; Grace Dowson, Licensing Officer tel 345740
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CHESTERFIELD BOROUGH **COUNCIL**

STATEMENT OF PRINCIPLES

Made under the Gambling Act 2005

**Licensing Section, Environment Services, Customer Service
Centre, 85 New Square, Chesterfield, Derbyshire, S40 1AH**

or e-mail to licensing@chesterfield.gov.uk

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- ✓ We aim to provide what you need for you to read, talk, and write to us.

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- ✓ Translations of written materials into other languages.
- ✓ Materials in braille, large print, on tape, in Easy Read.

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Preface

Under the Gambling Act 2005 all gambling and betting provision, apart from the National Lottery and spread betting, will be regulated by the Gambling Commission.

Chesterfield Borough Council, along with other local licensing authorities, has a duty under the Act to license premises where gambling is to take place, and to license certain other activities (such as registering small society lotteries). This document sets out how we intend to approach this task.

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”.

2.0 Introduction

The Borough of Chesterfield is the second largest settlement in Derbyshire (Derby City is the largest). It is a relatively compact and mainly urban area. It is well known for its Parish Church, with its Crooked Spire. Its famous parish church with its crooked spire, now occupies the site of the original Roman fort. The M1 runs by the sizeable areas of open countryside which lie in the north east Derbyshire Greenbelt. The Rother Valley runs from the south to the north through the Borough and contains many long established industrial environments, railways and the Chesterfield canal. The market town of Chesterfield acts as the sub-regional centre for north eastern Derbyshire and provides a range of retail, commercial, leisure and cultural facilities. The town is well located on the edge of the Peak District National Park and benefits from easy access to the surrounding cities of Sheffield, Derby and Nottingham. Staveley lies on the eastern side of the Borough, approximately five miles from Chesterfield Town Centre it is linked to the M1 and Chesterfield by the A619. Brimington is located halfway between Chesterfield and Staveley on the A619. The town has expanded as the commercial, culture and retail centre for the area and now has a population of 104,000 (2011 Census). As a sub-regional centre, it also provides employment, leisure and retail services for a population of around 250,000.

2.1 Chesterfield Borough Council’s vision for the Borough is: Putting our Communities First. The following long-term priorities for the Borough have been developed:

- A Sustainable Community – a clean, green and attractive Borough, where our open spaces and built heritage are valued.
- An Accessible Community – An inclusive Borough where everybody feels valued and has equal and fair access to local services.
- A Living Community – A place where everyone has fair access to a decent and affordable home.
- A Working and Learning Community – A thriving Borough, where everyone has access to the jobs, training and the support they need.

- A Safe, Healthy and Active Community – A healthy and safe Borough, where the Community is free from the fear of crime.
- A High Performing Council with productive Partnerships – An efficient and effective Council.

We recognise the clear connection between the objectives of the Gambling Act 2005 and the aspirations for Chesterfield Borough.

- 2.2 Licensing authorities are required by the Gambling Act 2005 to publish a Statement of Principles which they propose to apply when exercising their functions. The Statement can also be reviewed from “time to time” and then any amended parts re-consulted upon. The Statement will then be re-published. The Statement sets out the manner in which applications will be considered. Each application will be considered on its individual merits.
- 2.3 Some premises already licensed under the Licensing Act 2003 are also affected by the provisions of the Gambling Act 2005 - having Amusement with Prizes machines (AWPs). In addition to premises licensed to sell/supply alcohol, the 2005 Act affects betting shops and tracks (i.e. where any sporting activities take place), family entertainment centres, premises where bingo occurs, casinos, adult gaming centres and travelling fairs. Also affected are operations not licensed generally for gambling purposes but could be used for certain types of gambling for limited periods - these will be covered by Temporary and Occasional Use Permits.
- 2.4 The Gambling Act requires that the following parties are consulted by Licensing Authorities:
- The Chief Officer of Police
 - One or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority’s area.
 - One or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority’s functions under the Gambling Act 2005.
- 2.6 It should be noted that this Statement of 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.
- 2.7 ‘Gambling’ is defined in the Act as either gaming, betting or taking part in a lottery:
- 2.8 ‘Gaming’ means playing a game of chance for a prize
- 2.9 ‘Betting’ means making or accepting a bet on the outcome of a race, competition, or any other event; the likelihood of anything occurring or not occurring; or whether anything is true or not true

- 2.10 A 'lottery' is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance
- 2.11 Private gaming in private dwellings and on domestic occasions is exempt from licensing or registration providing that no charge is made for participating; only equal chance gaming takes place; and it does not occur in a place to which the public have access. Domestic betting between inhabitants of the same premises or between employees of the same employer is also exempt.
- 2.12 Non-commercial gaming and betting (where no parts of the proceeds are for private gain) may be subject to certain exemptions. Further advice should be sought from the Council's licensing team where appropriate.
- 2.13 All references to the Gambling Commission's Guidance for local authorities, in this document, refer to the latest Guidance issued by the Commission.

3.0 Declaration

- 3.1 In producing this Statement of Principles, Chesterfield Borough Council declares that it has regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission and any responses from those consulted on the Statement of Principles.

4.0 Responsible Authorities

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

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

In accordance with the Gambling Commission's Guidance for local authorities, this Authority designates the Derbyshire Area Child Protection Committee for this purpose.

- 4.2 The contact details of all the Responsible Bodies under the Gambling Act 2005 are available via the Council's website at www.chesterfield.gov.uk.

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:

"a person is an interested party in relation to an application for or in respect of a Premises Licence if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, the person -

- (a) lives sufficiently close to the premises to be likely to be affected by the 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. The principles are:

- Each representation will be considered on its individual merits.
- All decisions made on Premises Licences will be in accordance with the Gambling Commission Guidance (Section 153).

5.3 The Gambling Commission has recommended that the Licensing Authority states that interested parties include trade associations, trade unions, residents' and tenants' associations. This Authority will not however generally view these bodies as interested parties unless they have a member who can be classed as one under the terms of the Gambling Act 2005 e.g. live sufficiently close to the premises to be likely to be affected by the activities being applied for.

5.4 Interested parties can be persons who are democratically elected such as Councillors and Members of Parliament. No specific evidence of being asked to represent an interested person will be required as long as the Councillor/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 represents someone who either lives sufficiently close to the premises to be likely affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

5.5 An individual wishing to approach Councillors to ask him/her to represent his/her views should ensure that the Councillor(s) is/are not part of the Licensing Sub-Committee dealing with the licence application. This can be checked by contacting Democratic Services, Chesterfield Borough Council, Town Hall, Chesterfield, Derbyshire, S40 1LP tel: 01246 345228/9 or democratic.services@chesterfield.gov.uk.

6.0 Exchange of Information

6.1 Licensing authorities are required to include in their Statement of Principles 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 lists in Schedule 6 to the Act.

6.2 The principle that Chesterfield Borough Council 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. Chesterfield Borough Council will also have regard to any Guidance issued by the Gambling Commission to local authorities on this matter

when it is published, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

- 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 In exercising the functions under Part 15 and Section 346 of the Gambling Act 2005, respectively, Chesterfield Borough Council will inspect premises and take any enforcement action in respect of offences specified in accordance with its Environment Services Enforcement Policy, Regulators Compliance Code and the Gambling Commission's Guidance.
- 7.2 The main enforcement role of the licensing authority will be to ensure compliance with the premises licence and other permissions which it authorises. Chesterfield Borough Council will endeavour to avoid duplication with other regulatory regimes so far as is possible.
- 7.3 The Gambling Commission will be the enforcing body for the operating and personal licences. Concerns about manufacture, supply or repair of gaming machines will not be dealt with by the licensing authority but need to be notified to the Gambling Commission.

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, of the use of up to and including two gaming machines.
- Grant Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required.
- Register small society lotteries below prescribed thresholds.
- Issue Prize Gaming Permits.

- Receive and endorse Temporary Use Notices.
- Receive Occasional Use Notices.
- Provide information to the Gambling Commission regarding details of licenses issued.
- Maintain registers of the permits and licences that are issued under these functions. These are available by contacting the Council's Licensing Section and will be available by accessing the Council's website.

8.2 It should be noted that local licensing authorities will not be involved in licensing remote gambling. This will fall to the Gambling Commission via Operator Licences.

PREMISES LICENCES

1.0 General Principles

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

1.2 Chesterfield Borough Council is aware that in making decisions about Premises Licences it should aim to permit the use of premises for gambling in so far as it thinks it is:

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

The Gambling Commission has advised that "moral objections to gambling are not a valid reason to reject applications for premises licences", and that unmet demand is not a criterion for a licensing authority.

1.3 Premises is defined in the Act as "any place". It is for the Licensing Authority to decide whether different parts of a building can be properly regarded as being separate premises and as the Gambling Commission states in its Guidance for Local Authorities, it "will always be a question of fact in the circumstances". The Gambling Commission does not however consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.

- 1.4 Chesterfield Borough Council takes particular note of the Gambling Commission's Guidance for Local Authorities in respect of access to gambling by children and young people, which states that -

"Licensing Authorities should pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). Clearly, there will be specific issues that authorities should consider before granting such applications, e.g. whether children can gain access; before granting such applications, e.g. whether to comply with the requirements of Act. But in addition, an overriding consideration should be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise, would, or should, be prohibited under the Act", and

"Licensing Authorities should take particular care in considering applications for multiple licences for a building and those relating to a discreet part of a building used for other (non-gambling purposes). In particular they should be aware that entrances and exits from parts of the building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area."

- 1.5 An applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling is constructed. A licence will only be issued in relation to premises that are ready to be used for gambling. This requirement for a building to be complete before a licence will be issued ensures that it can be fully inspected if necessary, by the appropriate authorities with inspection rights.
- 1.6 Chesterfield Borough Council is aware that demand issues cannot be considered with regard to the location of premises, but that considerations in terms of the licensing objectives can. As per the Gambling Commission's Guidance for Local Authorities, this Authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this Statement of Principles 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 own merits, with the onus upon the applicant to show how the concerns can be overcome.
- 1.7 **Duplication with Other Regulatory Regimes** - This Authority will seek 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 or building consent, in its consideration of it. This Authority will listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.
- 1.8 Premises Licences granted must be reasonably consistent with the licensing objectives. These are:
- preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
 - ensuring that gambling is conducted in a fair and open way; and

- protecting children and other vulnerable persons from being harmed or exploited by gambling.

With regard to these objectives, Chesterfield Borough Council has considered the Gambling Commission's Guidance.

- 1.9 Chesterfield Borough Council is aware that the Gambling Commission will be taking a leading role in preventing gambling being a source of crime. Where an area has known high levels of crime, this Authority will consider whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. Chesterfield Borough Council is aware of the distinction between disorder and nuisance, and will consider factors such as whether Police assistance was required and the extent to which the behaviour was threatening, so as to make that distinction. Issue of nuisance cannot be addressed by the Gambling Act provisions.
- 1.10 Chesterfield Borough Council has noted that the Gambling Commission has stated that it would, generally, not expect Licensing Authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. However, where the Council feels it is aware of unfairness, this information will be relayed to the Gambling Commission.
- 1.11 Chesterfield Borough Council acknowledges the Commission's Guidance that the protection of children and other vulnerable persons objective means preventing children from taking part in gambling as well as the restriction of advertising so that gambling produces are not aimed at, or are, particularly attractive to children.
- 1.12 Consideration will be given as to whether specific measures should be required at particular premises - these could include, supervision of entrances, machines, segregation of areas etc.
- 1.13 In the absence of a practical definition of 'vulnerable persons' the Licensing Authority acknowledges that for regulatory purposes the Commission assumes, "... that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs".
- 1.14 The Licensing Authority will consider the protecting children and other vulnerable persons objective on a case-by-case objective.
- 1.15 The Licensing Authority will pay particular attention to any Codes of Practice which the Gambling Commission issues as regards the licensing objective, protecting children and other vulnerable persons from being harmed or exploited by gambling, in relation to specific premises such as casinos.

It is understood that a Code of Practice for casinos must:

- specify steps that the premises licence holder must take to ensure that children and young persons (that is those under the age of 18) do not enter casino premises, or in the case of the regional casino, do not enter the gambling area;

- amongst those specified steps, ensure that each entrance to the casino or gambling area is supervised by at least one person ("the Supervisor") who is responsible for compliance with the code of practice; and
- require that, unless the Supervisor is certain that a person seeking admittance is an adult, evidence of age must be required of all those seeking to enter the casino or gambling area.

1.16 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.

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

1.18 The 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.

1.19 Chesterfield Borough Council will ensure that where category C or above machines are on offer in premises to which children are admitted -

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

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

- 1.20 Chesterfield Borough Council is aware that tracks may be subject to one or more than one premises licence, provided that each licence relates to a specified area of the track. Chesterfield Borough Council will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 1.21 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 licensing condition;
 - conditions relating to gaming machine categories, numbers or methods 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.
- 1.22 The Gambling Commission advises in its Guidance for Local Authorities that licensing authorities may consider whether there is a need for door supervisors in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling and also in terms of preventing premises becoming a source of crime. It is noted though that the Gambling Act 2005 has amended the Security Industry Act and that door supervisors at casinos or bingo premises cannot be licensed by the Security Industry Authority. Where it is determined that door supervisors are required, the Licensing Authority will consult with the Police.

2.0 Adult Gaming Centres

- 2.1 Chesterfield Borough Council will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises.
- 2.2 Appropriate licence conditions may cover issues such as:
- Proof of Age Schemes;
 - Supervision of Entrances/Machine Areas;
 - Physical Separation of Areas;
- This list is not exhaustive.
- 2.3 As regards the protection of vulnerable persons, Chesterfield Borough Council will consider measures such as the use of self-barring schemes, provision of information leaflets/helpline numbers for organisations such as GamCare.

3.0 (Licensed) Family Entertainment Centres

3.1 Chesterfield Borough Council will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

3.2 Appropriate licence conditions may cover issues such as:

- Supervision of Entrances/Machine Areas;
- Physical Separation of Areas;
- Self-barring 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 exhaustive.

3.3 As regards the protection of vulnerable persons, Chesterfield Borough Council will consider measures such as the use of self-barring schemes, provision of information leaflets/ helpline numbers for organisations such as GamCare.

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

4.0 Casinos

4.1 Chesterfield Borough Council has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should Chesterfield Borough Council decide in the future to pass such a resolution, it will update this Statement of Principles with details of that resolution.

5.0 Bingo Premises

5.1 Chesterfield Borough Council will consider any guidance given by the Gambling Commission.

6.0 Betting Premises

6.1 Chesterfield Borough Council has the power, under the Gambling Act 2005, to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence.

7.0 Tracks

7.1 Chesterfield Borough Council is aware that tracks are different from other premises in that there may be more than one premises licence in effect and that the track operator may not be required to hold an operator licence, as there may be several premises licence holders at the track who will need to hold their own operator licences.

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

7.3 Appropriate licence conditions may be:

- Proof of Age Schemes;
- CCTV;
- Door Supervisors;
- Supervision of Entrances/Machine Areas;
- Physical Separation of Areas;
- Location of Entry;
- Notices/Signage;
- Specific Opening Hours; and
- The Location of Gaming Machines.

This list is not mandatory or exhaustive - it is merely indicative of example measures.

7.4 As regards the protection of vulnerable persons, Chesterfield Borough Council will consider measures such as the use of self-barring schemes, provision of information leaflets/helpline numbers for organisations such as GamCare.

7.5 Chesterfield Borough Council has the power, under the Gambling Act 2005, to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence.

7.6 Chesterfield Borough Council would prefer for all self-contained premises operated by off-course betting operators on track to be the subject of separate premises licences. This would ensure that there was clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

7.7 Chesterfield Borough Council will attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office.

8.0 **Gaming Machines** - Consideration will be given to the location of gaming machines at tracks, and applications for track premises licences will need to demonstrate that where the applicant holds a pool betting operating licence and is going to use his entitlement to four gaming machines, these machines are located in areas from which children are excluded. Children and young persons are not prohibited from playing category D machines on a track.

9.0 **Betting Machines** - Chesterfield Borough Council will take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

9.1 Chesterfield Borough Council may wish to restrict the number and location of such machines in respect of applications for track betting premises licences.

10.0 **Travelling Fairs**

10.1 It will fall to Chesterfield Borough Council to decide whether, where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

10.2 The Licensing Authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

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

11.0 **Provisional Statement**

11.1 An application for a provisional statement shall include such plans and other information in relation to the construction, alteration or acquisition as may be prescribed.

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

(a) which could not have been raised by objectors at the provisional licence stage;
or

(b) which, in the Authority's opinion, reflects a change in the operator's circumstances.

11.3 Chesterfield Borough Council will not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with planning or building legislation.

12.0 Reviews

12.1 A review of a premises licence may be made by interested parties or responsible authorities, however, it is for the Licensing Authority to decide whether the review is to be carried out.

12.2 Chesterfield Borough Council will consider if it is:

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives;
- in accordance with the Authority's Statement of Principles; and
- whether the request for a review is frivolous or vexatious.

12.3 The Licensing Authority can also initiate a review of a licence on the basis of any reason which it thinks is appropriate.

PERMITS/TEMPORARY AND OCCASIONAL USE NOTICES

1.0 Unlicensed Family Entertainment Centre Gaming Machine Permits (Statement of Principles on Permits - Schedule 10 Para 7)

1.1 Where a premise does not hold a premises licence but wishes to provide gaming machines, it may apply to the Licensing Authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.

1.2 An application for a permit may be granted only if Chesterfield Borough Council is satisfied that the premises will be used as an unlicensed Family Entertainment Centre, and if the Chief Officer of Police has been consulted on the application. Relevant considerations to take into account would be the applicant's suitability to operate a family entertainment centre and the suitability of the premises in relation to their location and issues about disorder.

1.3 Chesterfield Borough Council 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 CRB checks for staff, training covering how staff would deal with unsupervised children being on the premises, or children causing perceived problems on/around the premises.

Given that the premises will particularly appeal to children and young persons, in considering what to take into account in the application process and what information to request from the applicant.

- 1.4 The Licensing Authority has adopted a Statement of Principles. It is available from the Licensing Section Chesterfield Borough Council, Customer Service Centre, 85 New Square, Chesterfield, S40 1AH. A full copy of the Statement of Principles can be downloaded from Chesterfield Borough Council's web site, www.chesterfield.gov.uk.
- 1.5 With regard to renewals of these permits, a Licensing Authority may refuse an application for renewal of a permit only on the grounds that an authorised local authority officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with pursuit of the licensing objectives.

2.0 Alcohol Licensed Premises Gaming Machine Permits (Schedule 13 Para 4(1))

- 2.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have two gaming machines, of categories C and/or D. The premises need to notify the Council's Licensing Section of the Licensing Authority if they wish to take advantage of this provision. Chesterfield Borough Council may 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;
 - the premises are mainly used for gaming; or
 - an offence under the Gambling Act has been committed on the premises.
- 2.2 If a premises wishes to have more than two machines, then it needs to apply for a permit and Chesterfield Borough Council must consider that application based upon the licensing objectives and any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005. Chesterfield Borough Council will also consider 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 in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be of help. As regards the protection of vulnerable persons, the applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.
- 2.3 It is recognised that some local licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would need to be applied for and dealt with as an Adult Entertainment Centre premises licence.
- 2.4 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.

2.5 It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machines.

3.0 Prize Gaming Permits (Statement of Principles on Permits - Schedule 14 Para 8 (3))

3.1 The Licensing Authority has not prepared a Statement of Principles on Permits. Should it decide to do so, it will include details in a revised version of the Statement of Principles.

3.2 In making its decision on an application for a permit, the Licensing Authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission Guidance.

3.3 In the Gambling Act 2005 there are conditions the permit holder must comply with but that the Licensing Authority cannot attach as conditions. The conditions in the Act are:

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

4.0 Club Gaming and Club Machine Permits

4.1 Members' Clubs and Miners' Welfare Institutes (but not commercial and/or proprietary clubs) may apply for a Club Gaming Permit or a Club Gaming Machine Permit. The Club Gaming Permit will enable the premises to provide gaming machines (a maximum of three machines of categories B, C or D), equal chance gaming and games of chance.

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

4.3 Before granting the permit the Authority will need to satisfy itself that the premises meet the requirements of a members' club and may grant the permit if the majority of members are over 18.

- 4.4 Licensing authorities may only refuse an application on the grounds that:
- (a) the applicant does not fulfil the requirements for a members' club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
 - (b) the applicant's premises are used wholly or mainly by children and/or young persons;
 - (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
 - (d) a permit held by the applicant has been cancelled in the previous ten years; or
 - (e) an objection has been lodged by the Commission or the Police.
- 4.5 It should be noted that there is a 'fast-track' procedure available for premises which hold a Club Premises Certificate under the Licensing Act 2003. Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the Police, and the ground upon which an Authority can refuse a permit are reduced. The grounds on which an application under the process may be refused are:
- (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.

5.0. Temporary Use Notices

- 5.1 Part 9 of the Act sets out the position in relation to temporary use notices. These 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 would include hotels, conference centres and sporting venues.
- 5.2 A temporary use notice may only be granted to a person or company holding a relevant operating licence. For example, the holder of a betting operating licence could apply to provide betting facilities at a snooker tournament.
- 5.3 The Licensing Authority will decide what constitutes a 'set of premises' where Temporary Use Notices are received relating to the same building/site.
- 5.4 A set of premises may not be the subject of temporary use notification for more than 21 days in a period of 12 months.
- 5.5 A set of premises may be the subject of more than one temporary use notice in a period of 12 months (provided that the aggregate of the periods for which the notices have effect does not exceed 21 days).

6.0 Occasional Use Notices

- 6.1 The Licensing Authority has very little discretion as regards these notices aside from ensuring that the statutory limit of eight days in a calendar year is not exceeded. The Licensing Authority will need to consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

CONTACT INFORMATION

If you have any queries regarding any licensing matter contact:

Licensing Section
Environment Services
Chesterfield Borough Council
Customer Service Centre
85 New Square
Chesterfield
S40 1AH

Tel: 01246 345230

Fax: 01246 345235

E-mail: licensing@chesterfield.gov.uk

Website: www.chesterfield.gov.uk

Appendix 1

ADMINISTRATION, EXERCISE AND DELEGATION OF FUNCTIONS

The Powers and duties of the Council in respect of licensing may be carried out by the Licensing Committee, by a Sub-Committee or by the Head of Environment (or an officer duly delegated by the Head of Environment). In the interests of efficiency and cost effectiveness the Council will delegate routine matters to officer level.

Matter to be dealt with	Full Council	Licensing Committee or Licensing Sub-Committee	Officer
Final approval of 3 year Statement of Principles.	X		
Policy not to permit Casinos.	X		
Fee setting when appropriate.			X
Applications 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 have been 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	

Matter to be dealt with	Full Council	Sub-Committee of Licensing Committee	Officer
Application for club gaming/club machine permits.		Where objections have been made and not withdrawn.	Where no objections have been 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	
Decision on whether a representation is irrelevant, or falls within the categories defined within section 198 of the Act (frivolous, vexatious etc)			X

NOTICE OF PUBLICATION CONSULTATION.

GAMBLING ACT 2005

CHESTERFIELD BOROUGH COUNCIL

STATEMENT OF PRINCIPLES

The Gambling Act 2005 ('the 2005 Act') requires Chesterfield Borough Council, as the Licensing Authority for the Borough of Chesterfield, to have a Statement of Principles with respect to the exercise of its Licensing functions under the 2005 Act to determine the Statement every 3 years.

The Council now has to determine its Statement of Principles and publish it before 1st January 2014.

The Council has produced a draft Statement of Principles and wishes to invite Comments on it. Copies of the draft Statement are available for public inspection at the Town Hall, Rose Hill, Chesterfield and the Customer Service Centre, 85 New Square, Chesterfield on weekdays during normal office hours. Copies are also available at Chesterfield Library, New Beetwell Street, Chesterfield, The Tourist Information Centre at Rykneld Square, Chesterfield and the Staveley Area Housing Office, High Street, Staveley.

Copies of the draft Statement of Principles can be downloaded from www.chesterfield.gov.uk.

The public consultation on the draft Statement of Principles runs until Friday 18th October 2013. If you wish to make any representations concerning the draft Statement of Principles please make sure that they are put in writing and addressed to the Licensing Officer, Environment Services, Chesterfield Borough Council, Customer Services Centre, 85 New Square, Chesterfield, S40 1AH, or by email to licensing@chesterfield.gov.uk so that they arrive no later than Friday 18th October.

Darran West
Head of Environment
Chesterfield Borough Council
Town Hall
Rose Hill
Chesterfield
S40 1LP

September 2013

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The comments raised by the Community Safety partnership are listed in relation to the relevant paragraph in the Statement of Principles. The comment raised is in bold whilst the response is in normal type.

2.7 This appears to be an almost duplicate paragraph to the one preceding it. I'm not sure that it conveys a different message?

The statement of Principles was checked and paragraph 2.6 has been deleted as 2.6 and 2.7 were the same.

2.12.1 I'm interested in how Houses of Multiple Occupation (HMO's) would be viewed in relation to the exemption? They are viewed as different 'households' but may share some areas such as bathrooms and kitchens?

A 'House of Multiple Occupation' would be treated the same as any other private dwelling.

4.2/5.3/5.4

The Community Safety Partnership is not deemed a responsible body, which are clearly determined at Government Level. It also appears however that the Partnership is probably not an 'interested party' because of the 'member living close to the premises' test. If however the Partnership is approached by a resident under the 'community trigger' investigation duty, which looks set to go live by 2015, under the Police & Crime ASB Bill, would the CSP at that point be considered an 'interested party' without the need for a letter of representation? Or indeed would the trigger communication itself be the 'letter of representation.'

The Community Safety partnership isn't an interested party under the Act and couldn't act as a representative of an interested party but could refer an interested party to a Councillor or a Responsible Authority to make the representation on that persons behalf.

5.5 Would the licensing sub-committee be prohibited from consisting of 2 Members from the same ward? I.e. if both members sat on the panel the public would not be able to get Councillor Representation?

If a Councillor was approached and he/she was due to sit on the Committee they could refer the person to a Councillor from the same ward or a different ward.

6.2 I wonder whether this section could also include reference to section 115 of the Crime and Disorder Act (1998) to explain 'necessity disclosure' in the interests of reduction or prevention of Crime and Disorder? There is a clear link here to the licensing objectives.

There is an exemption from the general rule under the data protection law that we must not disclose personal information about an individual to a third party without the individual's consent. There is an exemption if the disclosure is necessary for the third party to prevent crime or take legal proceedings. For example, the Council sometimes received requests from DWP (Department of Working Pensions) for disclosure of information. The same principles would apply under the Gambling Act and we would deal with each request accordingly

6.3 There is a newly established County wide protocol that CBC endorses. It's the ECIN's ASB information exchange hub. Maybe something about this could be included at this point? In addition I think licensing officers would benefit from being connected to the multi agency system.

This isn't relevant as it isn't part of the Gambling Commissions remit.

Premises Licence Section

1.2 Is there any Council power similar to the Cumulative Impact assessment, if an area becomes subject to disorder related to gambling. I realise this may be stretching a point somewhat as it's something I have never witnessed.

Under the Gambling Commission there is nothing similar to that of the Cumulative Impact Assessment under the Licensing Act 2003 and it's unlikely to come in, so is not relevant at this time.