

# Public Document Pack



**Enter Corporate Service**  
Westfields, Middlewich Road  
Sandbach, Cheshire  
CW11 1HZ

Tel: 01270 686465  
email: [katie.smith@cheshireeast.gov.uk](mailto:katie.smith@cheshireeast.gov.uk)

DATE: 19 October 2012

Dear Councillor

## **SUSTAINABLE COMMUNITIES SCRUTINY COMMITTEE - THURSDAY, 25TH OCTOBER, 2012**

I am now able to enclose, for consideration at next Thursday, 25th October, 2012 meeting of the Sustainable Communities Scrutiny Committee, the following reports that were unavailable when the agenda was printed.

**Revised Statement of Gambling Principles** – additional item to be considered

**CCTV Camera Review** - confidential item which was marked to follow on that agenda

Yours sincerely  
Democratic Services Officer  
Encs

This page is intentionally left blank

## CHESHIRE EAST COUNCIL

### Sustainable Communities Scrutiny Committee

---

**Date of Meeting:** 25<sup>th</sup> October 2012  
**Report of:** Mr J Hopper, Licensing Officer  
**Subject/Title:** Revised Statement of Gambling Principles

---

#### 1.0 Report Summary

- 1.1 The Gambling Act 2005 requires local authorities to prepare and publish a statement of the principles that they propose to apply when exercising their functions under the Act during the three year period to which the statement applies.
- 1.2 The Council is required to review its existing statement of principles and publish the revised version by no later than 31<sup>st</sup> January 2013. In preparing a revised statement the Council must undertake a consultation exercise with stakeholders.
- 1.3 The purpose of this report is to an opportunity for the Overview and Scrutiny process to pass comment on the comment of the Statement of Principles in accordance with the Council's Budget and Policy Framework Procedure Rules

#### 2.0 Recommendation

- 2.1 That the Committee resolves to support the content of the Statement of Principles as set out in appendix A.

#### 3.0 Reasons for Recommendations

- 3.1 The Statement of Principles under the Gambling Act 2005 forms part of the Council's Policy Framework. Therefore, in accordance with the Budget and Policy Framework Procedure Rules, the Overview and Scrutiny process should consider the content of the Statement.
- 3.2 In addition to this any comments or views express by an Overview and Scrutiny Committee should be considered by the Cabinet prior to a final proposal being made to the Council.

#### 4.0 Wards Affected

- 4.1 All

#### 5.0 Local Ward Members

5.1 All

## **6.0 Policy Implications**

6.1 The decision within 2.0 seeks approval for a draft policy following consultation having taken place with relevant stakeholders.

## **7.0 Financial Implications (Authorised by the Director of Finance and Business Services)**

7.1 No financial implications have been identified.

## **8.0 Legal Implications (Authorised by the Borough Solicitor)**

8.1 By virtue of section 349 of the Gambling Act 2005 ('the 2005 Act') the Licensing Authority is required to prepare and publish a statement of the principles that it proposes to apply in exercising its functions under the 2005 Act during the three year period to which the policy applies. Whilst statements must usually be revised and published in respect of every period of three years, by virtue of the Local Government (Structural Changes) (Transitional Arrangements) (No 2) Regulations 2008 the statement of principles approved in 2009 was satisfied the requirements of the Gambling Act 2005 as regards the three year period commencing on 31<sup>st</sup> January 2010. For this reason the Council's statement must be reviewed and republished by no later than 31<sup>st</sup> January 2013.

8.2 The Statement of Principles forms part of the Council's Policy Framework. As such, the final decision to approve a statement of principles or a revision of the statement rests with full Council. In addition, in developing a revised statement of principles, the Authority must comply with its Budget and Policy Framework Procedure Rules (as set out within the Constitution).

8.3 Sub-section 349(3) of the 2005 Act prescribes that in preparing a revision of a statement a licensing authority is required to consult:

- (a) the chief officer of police for the authority's area;
- (b) one or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area; and
- (c) 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 2005 Act.

8.4 The drafting of the Statement of Principles must take into account the requirements of The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 ('the 2006 Regulations'). In addition, the Gambling Commission's Guidance to Licensing Authorities ('the Guidance') prescribes that in determining its policy, the Licensing Authority must have regard to the Guidance and give appropriate weight to the views of those it has consulted.

8.5 Regulation 7 of the 2006 Regulations prescribes that before a revised statement comes into effect the authority must advertise the publication of the statement by way of a notice published on the authority's website and in one or more of the following places: (i) a local newspaper circulating in the area covered by the statement; (ii) a local newsletter, circular or similar document circulating in the area covered by the statement; (iii) a public notice board in or near the principal office of the authority; (iv) a public notice board on the premises of public libraries in the area covered by the statement.

8.6 Consideration has been given to the application of the 'public sector equality duty' (as per section 149 Equality Act 2010) to the decision requested within paragraph 2.0 above. It is suggested that the decision requested would have a neutral impact in terms of its impact on those individuals with 'protected characteristics.'

### **9.0 Risk Management**

9.1 It is suggested that (a) compliance with the provisions of section 349 of the 2005 Act and the 2006 Regulations; (b) having regard to the provisions of the Guidance; (c) compliance with the Budget & Police Framework Procedure Rules; and (d) giving appropriate weight and consideration to any consultation responses received will mitigate the risk of a successful challenge of the final Statement of Principles.

### **10.0 Background and Options**

10.1 As set out above, the Gambling Act 2005 requires licensing authorities to prepare and publish a statement of principles that it proposes to apply in exercising its functions under the Act. The current statement of principles was approved in 2009 and was based on the policies then in force in the areas of the three predecessor district Councils and took into account the requirements of the Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 in terms of its form and content.

10.2 The draft statement, a copy of which is attached as Appendix 1, incorporates some minor amendments, but in essence remains substantially the same as the original statement. The Licensing Section has not received any comments about the drafting of the current statement from stakeholders in the period since it came into force, i.e. 1<sup>st</sup> April 2009. Similarly, the Council has not been challenged on the current Statement.

10.3 Following a review of the revised Statement of Gambling Principles on the 16<sup>th</sup> July 2012 and a subsequent decision of the Cabinet Member for Safer & Stronger Communities the Council has been consulting upon the revised Statement in accordance with the statutory requirements set out in the Legal Implications section of this report. The full list of consultees is set out within the Statement.

10.4 The period of the consultation ran from \*\*\*\* to 19<sup>th</sup> October 2012. No comments on the content have been received. In total three responses have

been received confirming that the organisations they represent have no comments to make.

#### **11.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer:

Appendix A - Draft Revised Statement of Gambling Principles

Name: Mr J Hopper  
Designation: Licensing Officer  
Tel No: 0300 123 5015  
Email: [jim.hopper@cheshireeast.gov.uk](mailto:jim.hopper@cheshireeast.gov.uk)



## **STATEMENT OF PRINCIPLES**

### **GAMBLING ACT 2005**

#### **1 Introduction**

- 1.1 This Statement of Principles ('the Statement') is published by Cheshire East Council ('the Council') as the Licensing Authority in accordance with section 349 of the Gambling Act 2005 ('the Act').
- 1.2 The Council has produced this Statement of Principles in accordance with the provisions of the Act and having regard to the provision of the Guidance issued by the Gambling Commission under Section 25 of the Act.
- 1.3 This Statement of Principles will come into effect on the date of publication by the Council and will be reviewed from time to time as necessary. This statement will be published at least every three years from the date of publication. Statutory consultation shall take place whenever amendments are proposed to the Statement of Principles, before it is republished.
- 1.4 This Statement of Principles deals with the approach the Council, as Licensing Authority, will take in relation to the following matters@:
  - (a) Licensing objectives;
  - (b) Licensable functions;
  - (c) General principles;
  - (d) Responsible Authorities;
  - (e) Interested Parties;
  - (f) Consideration of applications;
  - (g) Reviews;
  - (h) Gambling Premises Licences;
  - (i) Provisional Statements;
  - (j) Casino resolution;
  - (k) Permits;
  - (l) Temporary Use Notices;
  - (m) Occasional Use Notices;
  - (n) Information Exchange;
  - (o) Enforcement;
  - (p) Declaration (of matters to which the Licensing Authority has had regard);
  - (q) Scheme of delegation; and
  - (r) Sources of information

- 1.5 The persons and organisations consulted in relation to this revised Statement of Principles are listed below:

**Responsible Authorities**

The Gambling Commission;  
Cheshire Constabulary;  
Cheshire Fire & Rescue Service;  
Local Planning Authority;  
Environmental Health Department;  
Local Safeguarding Children Board;  
HM Revenue and Customs.

**Persons representing the interests of persons carrying on gambling businesses in the authority's area**

British Holiday and Home Parks Association  
Business in Sport & Leisure  
Casino Operators Association of the UK  
Racecourse Association Lts  
BACTA  
British Casino Association  
Association of British Bookmakers  
The Bingo Association  
British Beer and Pub Association  
PubWatch Groups within the Borough  
Chambers of Commerce & Enterprise

**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**

Parish and Town Councils within the Borough  
East Cheshire NHS Primary Care Trust  
GamCare  
Samaritans  
Gamblers Anonymous  
Citizens Advice Bureau  
Local Service Delivery Committee for Crewe  
Local Service Delivery Committee for Macclesfield  
Adult Safeguarding Board

**2 Cheshire East**

- 2.1 Cheshire East has a population of 370,100 and covers an area of 116,638 hectares. Cheshire East's administrative area contains the industrial town of Crewe, the old mill towns of Macclesfield, Bollington and Congleton, the market towns of Alsager, Nantwich, Knutsford and Sandbach, the salt town of Middlewich, the town of Wilmslow as well as the smaller settlements of Holmes Chapel and Poynton.



A plan showing the geographical area within which the Council exercises functions as Licensing Authority is shown below.



### 3 Licensing Objectives

3.1 The Gambling Act 2005 requires the Council as Licensing Authority to carry out its various licensing functions with a view to promoting the three 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

3.2 The licensing authority shall aim to permit the use of the premises for gambling as set out in section 153 of the Act, that is so far as the Authority think it:

- (a) in accordance with any relevant code of practice under section 24 of the Act;
  - (b) in accordance with any relevant guidance issued by the Gambling Commission under section 25 of the Act;
  - (c) reasonably consistent with the licensing objectives (subject to (a) and (b) above);
- and
- (d) in accordance with this statement of principles (subject to (a) and (c) above).

### 4 Licensable functions

The licensing functions within the Act include the following:

- the grant of premises licences and the issue of provisional statements in respect of premises where gambling activities are to take place;

- to receive notifications from premises licensed for the sale of alcohol (under the Licensing Act 2003) for the use of either one or two Category C or D gaming machines;
- to grant licensed premises gaming machine permits for premises licensed to sell/supply alcohol for consumption on the premises where there are more than two gaming machines;
- to grant club gaming permits and club gaming machine permits for members' clubs;
- to grant club machine permits for commercial clubs;
- to grant permits for unlicensed family entertainment centres for the use of certain lower stake gaming machines;
- to grant permits for prize gaming;
- to receive and endorse notices for the temporary use of premises for gambling;
- to consider occasional use notices for betting at tracks;
- to register small societies' lotteries;
- to provide information and statistics to the Gambling Commission; and
- to maintain registers of licences and permits issued.

## **5 General Principles**

- 5.1 The Licensing Authority recognises the need to avoid, so far as possible, duplication of existing legislation and other regulatory regimes that place obligations on employers and operators such as the Health and Safety at Work Act 1974, the Disability Discrimination Act 1995 and the fire safety regime.
- 5.2 The Licensing Authority recognises that it may only consider matters within the scope of the Guidance issued by the Gambling Commission, the Act and the Codes of Practice. It is also recognised that there may be issues raised, such as the likelihood of the applicant obtaining planning permission, which are not relevant for the purposes of the Act.
- 5.3 The Licensing Authority makes a commitment to regulating gambling in the public interest.
- 5.4 Nothing in this Statement of Principles will undermine the rights of any person to make an application under the Act and have the application considered on its individual merits; or undermine the right of any person to make representations on any application or seek a review of a licence or permit where provision has been made for them to do so within the Act.
- 5.5 In determining its Statement of Principles, the licensing authority will have regard to the Guidance issued by the Gambling Commission, and will give appropriate weight to the views of those it has consulted. In determining what weight to give particular representations, the factors to be taken into account will include:
- who is making the representations (what is their expertise or interest);
  - what their motivation may be for their views;
  - how many other people have expressed the same or similar views;
  - how far the representations relate to matters that the licensing authority should be including in its statement of principles.

- 5.6 The Licensing Authority recognises that unmet demand is not a criterion for it when considering an application for a premises licence under the Act. Each application will be considered on its merits without regard to demand.
- 5.7 The Licensing Authority recognises that the location and proximity of premises to be used for gambling to other premises such as, for example, schools and other premises used by vulnerable persons, may be a relevant consideration with respect to the objective of protecting children and other vulnerable persons from being harmed or exploited by gambling. The type of gambling which is to be offered will also be relevant.

Each application will be considered on its merits and the Licensing Authority will take into account any proposals by the applicant or licence holder which show how the licensing objectives may be satisfied.

## **6 Responsible Authorities**

- 6.1 A 'Responsible Authority' may make representations about an application for a premises licence or may request a review of a premises licence.
- 6.2 For the purposes of sections 157 and 349 of the Gambling Act 2005, the following are responsible authorities in relation to premises in the area of Cheshire East:
- (i) The licensing authority in whose area the premises are wholly or mainly situated (Cheshire East Council)
  - (ii) The Gambling Commission
  - (iii) Cheshire Constabulary as the police authority
  - (iv) Cheshire Fire & Rescue Service as the fire and rescue authority
  - (v) The Local Planning Authority (Cheshire East Council)
  - (vi) Environmental Health Service (Cheshire East Council)
  - (vii) Local Safeguarding Children Board
  - (viii) Her Majesty's Revenue and Customs
  - (ix) Any other person prescribed, for the purposes of Section 157 of the Act, by regulations made by the Secretary of State.
- 6.3 In exercising this licensing authority's 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 following principles have been applied:
- the need for the body to be responsible for an area covering the whole of the licensing authority's area
  - the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group etc
- 6.4 In accordance with the Gambling Commission's Guidance for local authorities this authority designates the Local Safeguarding Children Board for this purpose.
- 6.5 The contact details of all the responsible authorities under the Gambling Act 2005 are available via the Council's website at: [www.cheshireeast.gov.uk](http://www.cheshireeast.gov.uk) or on request from the Licensing Section.

## 7 Interested Parties

7.1 In addition to Responsible Authorities, 'Interested parties' can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in Section 158 of 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 application 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)"

7.1.1 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Act to determine whether a person is an interested party. The principles are as set out below.

7.1.2 Each case will be decided upon its merits.

7.1.3 This authority will not apply a rigid rule to its decision making, however it will consider the following as per the Gambling Commission's Guidance to local authorities:

- 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
- the nature of the complainant. 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. For example, it could be reasonable for an authority to conclude that "sufficiently close to be likely to be affected" could have a different meaning for (a) a private resident (b) a residential school for children with truanting problems and (c) residential hostel for vulnerable adults.
- 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.

7.1.4 Representations made on the grounds that an applicant would be in competition with an existing business or that there is allegedly no demand for additional gambling premises will not be considered to be relevant.

7.1.5 The Gambling Commission has also recommended that the licensing authority states that interested parties include trade associations and trade unions, and 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 i.e. lives sufficiently close to the premises to be likely to be affected by the authorised activities.

## 8 Consideration of applications

- 8.1 The licensing authority is mindful of the Commission's Guidance which provides that the authority should set out in its statement what factors it may take into account when considering applications for premises licences, permits and other permissions and matters that it will consider relevant when determining whether to review a licence.
- 8.2 The licensing authority has determined to set out a number of factors, linked to the licensing objectives, which it may consider when considering applications. It should be noted that each case will be decided on its merits, so if an applicant can show how they might overcome licensing objective concerns, then that will be taken into account.
- 8.3 Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- 8.3.1 In considering licence applications, the Licensing Authority will particularly take into account the following:-
- The location of the premises – for example if an application for a licence or permit is received in relation to premises that are in an area noted for particular problems with organised crime.
  - The design and layout of the premises;
  - The training given to staff in crime prevention measures appropriate to those premises;
  - Physical security features installed in the premises. This may include matters such as the position of cash registers or the standard of CCTV that is installed;
  - Where premises are subject to age restrictions, the procedures in place to conduct age verification checks;
  - The likelihood of any violence, public order or policing problem if the licence is granted.
- 8.3.2 This licensing authority notes the Commission's Guidance in relation to the meaning of disorder in the context of gambling premises, namely activity that is more serious and disruptive than mere nuisance, and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it.
- 8.3.3 Applicants are encouraged to discuss the crime prevention procedures in their premises with the Licensing Officers of Cheshire Constabulary before making a formal application.
- 8.4 Ensuring that gambling is conducted in a fair and open way

- 8.4.1 This licensing authority has noted that the Commission's Guidance states: *"Generally the Commission would not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be a matter for either the management of the gambling business, and therefore subject to the operating licence, or will be in relation to the suitability and actions of an individual and therefore subject to the personal licence."*
- 8.4.2 This licensing authority also notes, however, that the Gambling Commission also states *"in relating to the licensing tracks the licensing authorities' role will be different from other premises in that track operators will not necessarily have an operating licence. In those circumstances the premises licence may need to contain conditions to ensure that the environment in which betting takes place is suitable."* It is recognised that because the track operator does not need to have an operating licence (although he may have one), the licensing authority may have to consider placing requirements on the premises licence holder about his responsibilities in relation to the proper conduct of betting.

## 8.5 Protection of children and other vulnerable persons

- 8.5.1 It is noted that, with limited exceptions, the intention of the Gambling Act is that children and young persons should not be permitted to gamble and should be prevented from entering those gambling premises which are adult-only environments.
- 8.5.2 This licensing authority has noted that the Gambling Commission Guidance to local authorities states that "The objective talks of protecting children from being "harmed or exploited by gambling", but in practice that often means preventing them from taking part in gambling and for there to be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children
- 8.5.3 The Licensing Authority will judge the merits of each separate application before deciding whether to impose conditions to protect children on particular categories of premises. This may include consideration of issues such as:-
- Supervision of entrances;
  - Segregation of gambling areas from areas frequented by children;
  - Supervision of gaming machines in non-adult gambling specific premises.
- 8.5.4 The Licensing Authority recognises the Commission's Guidance which states that Licensing authorities should 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 area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

8.5.5 It is noted that in relation to casinos, the Act provides for a code of practice on access to casino premises by children and young persons. In accordance with section 176 of the Act, adherence to the code will be a condition of a casino premises licence.

8.5.6 The Council does not seek to prohibit particular groups of adults from gambling in the same way that it seeks to prohibit children, but it will assume for regulatory purposes, that “vulnerable persons” include:

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

## 8.6 Conditions

8.6.1 The Act provides licensing authorities with:

- The ability to exclude from the premises licence any default conditions that have been imposed under section 168; and
- The power to impose conditions on the premises licence

8.6.2 The Licensing Authority recognises its duty to act in accordance with the principles within section 153 of the Act and will not attach conditions which limit the use of premises for gambling except where to do so is necessary as a result of the requirement to act:

- In accordance with the Commission’s Guidance, the Commission’s Codes of Practice, or this statement of licensing principles; or
- In a way that is reasonably consistent with the licensing objectives.

The Licensing Authority will not turn down applications for premises licences where relevant objections can be dealt with through the use of conditions.

8.6.3 Any condition imposed by the licensing authority will be proportionate to the circumstances which it seeks to address. In particular, the licensing authority will ensure that premises licence conditions are:

- 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.

8.6.4 Decisions on individual conditions will be taken on a case-by-case basis, although this will be against the background of general policy set out in the Commission’s Guidance and this statement of principles.

8.6.5 There are conditions which the Licensing Authority cannot attach to premises licences which are:

- any condition 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
- conditions in relation to stakes, fees, winning or prizes.

8.6.5 Where a condition is attached to a premises licence requiring door supervisors, the Licensing Authority will normally require those door supervisors to be Security Industry Authority (SIA) registered. Door supervisors at casinos or bingo premises are exempt from being registered by the SIA but the Licensing Authority considers that it is best practice for door supervisors working at casinos or bingo premises to have SIA training or similar.

## 9 Reviews

9.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities (including the Licensing Authority itself). The Licensing Authority will carry out the review unless it determines that a review should not be carried out based on whether the request for the review is relevant to the matters listed below, and with consideration as to whether the request is frivolous, vexatious, 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.

- 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

## 10. Gambling Premises Licences

### 10.1 Adult Gaming Centres

10.1.1 The Licensing Authority will expect applicants to demonstrate that there will be sufficient measures in place to meet the licensing objectives, for example, to ensure that those under eighteen years of age do not have access to the premises.

10.1.2 Appropriate licence conditions may cover issues such as:

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



- Self-barring 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.

## 10.2 (Licensed) Family Entertainment Centres

10.2.1 The Licensing Authority will expect applicants to demonstrate that there will be sufficient measures in place to meet the licensing objectives, for example, to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

10.2.2 Appropriate licence conditions may cover issues such as:

- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-barring schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare, Gamblers Anonymous, the Gordon House Association, National Debtline and local Citizens Advice Bureaux.
- 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.

## 10.3 Bingo Premises

10.3.1 It is important that, if children are allowed to enter premises licensed for bingo, they do not participate in gambling, other than on category D machines.

10.3.2 Where category C or above machines are available in premises to which children are admitted the Licensing Authority will expect applicants to consider measures to ensure that:

- all such machines are located in an area of the premises separate 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 the machines are located;
- access to the area where the machines are located is supervised;
- the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
- at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

10.3.3 Further Guidance will be issued by the Gambling Commission about the particular issues which should be taken into account in relation to the suitability and layout of bingo premises. The Licensing Authority will take account of that Guidance when it is made available.

## 10.4 Betting Premises

#### 10.4.1 The Licensing Authority will take into account

- the size of the premises;
- the number of counter positions available for person-to-person transactions; and
- the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people
- when considering the number, nature and circumstances of betting machines an operator wants to offer.

10.4.2 The Licensing Authority will consider making door supervision a requirement in circumstances where 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.

10.4.3 The Licensing Authority is mindful of the conditions which may be attached to betting premises licences, which may include those relating to the restriction of the number of betting machines, their nature and the circumstances in which they are made available. The Authority will consider limiting the number of machines in circumstances where there is clear evidence that such machines have been or are likely to be used in breach of the licensing objectives. In these circumstances the Authority may take into account the ability of staff to monitor the use of such machines from the counter.

10.4.4 The Licensing 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.

#### 10.5 Tracks

10.5.1 Tracks may be subject to one or more than one premises licence, provided that each licence relates to a specified area of the track.

10.5.2 The Licensing Authority will expect applicants to demonstrate that there will be sufficient measures in place to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas and do not have access to adult only gaming facilities.

10.5.3 It should be 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.

10.5.4 Appropriate licence conditions may cover issues such as:

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

- Notices / signage
- Specific opening hours
- Self-baring 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.

10.5.6 Where the applicant holds a pool betting operating licence and is going to use his entitlement to four gaming machines, if these machines are above category D, the applicant must demonstrate that they will be located in areas from which children are excluded. Children and young persons are not prohibited from playing category D gaming machines on a track.

10.5.7 The Licensing Authority will consider restricting the number and location of betting machines in respect of applications for track premises licences.

10.5.8 When considering the number, nature and circumstances of betting machines an operator wants to offer, the Licensing Authority will take into account

- the size of the premises;
- 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

10.5.9 The Licensing Authority will normally 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.

## 10.6 Travelling Fairs

10.6.1 A travelling fair is defined as a fair consisting wholly or principally for the provision of amusements and is provided by persons who travel from place to place and is held at a place which has been used for the provision of fairs on no more than 27 days per calendar year.

10.6.2 Category D gaming machines or equal chance gaming may be provided without a permit provided that facilities for gambling amount to no more than ancillary amusement at the fair.

## 11 **Provisional Statements**

11.1 An applicant cannot obtain a full premises licence until the premises are ready to be used for gambling. An applicant may apply for a provisional statement in respect of premises expected to be constructed, altered or acquired.

11.2 Where a provisional statement is granted and an application subsequently made for a premises licence, the Licensing Authority will disregard any representations made which address matters that could have been addressed when the provisional

statement was considered unless there has been a change of circumstances.

- 11.3 A premises licence will be granted in the same terms as the provisional statement unless:
- representations are received which address matters that could not have been addressed when the provisional statement was considered;
  - there has been a change of circumstances; or
- the premises have been constructed or altered otherwise than in accordance with the plans and information included with the application for the provisional statement

## 12 Casino resolution

- 12.1 The Council may make a resolution to not grant premises licences for casinos. In doing so, it may take into account any principle or matter.
- 12.2 The Council has not passed a resolution not to grant premises licences for casinos.

## 13 Permits

### 13.1 (Alcohol) Licensed Premises Gaming Machine Permits

- 13.1.1 Premises licensed to sell alcohol are automatically entitled to have 2 gaming machines of categories C or D provided that:

- the requisite notice has been served on the Licensing Authority;
- the appropriate fee has been paid; and
- any code of practice relating to the location and operation of gaming machines is complied with.

- 13.1.2 The Licensing Authority can remove the automatic authorisation 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.

- 13.1.3 If a licensed premises wishes to have more than 2 machines, then a permit is required.

- 13.1.4 The Licensing Authority must take account of the licensing objectives and any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005 when considering an application for a permit. The Licensing Authority may also consider such matters as it thinks are relevant. 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 being harmed or exploited by gambling.

13.1.5 The Licensing Authority will expect the applicant to demonstrate that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Such measures may include notices and signage, adult machines being in sight of the bar or in sight of staff who will monitor that the machines are not being used by those under 18. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare, Gamblers Anonymous, the Gordon House Association, National Debtline and local Citizens Advice Bureaux.

### 13.2 Unlicensed Family Entertainment Centre gaming machine permits

13.2.1 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 CRB checks for staff, training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises.

### 13.3 Prize Gaming Permits

13.3.1 Prize gaming is a form of gaming where the size of the prize is determined by the operator and is not based on the number of persons playing or the total value of the stakes raised.

13.3.2 Premises which have a Premises Licence can provide prize gaming without the need for a separate Prize Gaming Permit issued by the Local Authority. Premises licensed as a casino\* or a betting shop, or for bingo or for an adult gaming centre or as an FEC do not need a Prize Gaming Permit in order to offer prize gaming. In addition, an unlicensed FEC may provide prize gaming without a permit provided that a gaming machine permit has been issued and the gaming is equal chance gaming, and, finally a travelling fair may provide prize gaming provided that it is equal chance gaming.

\* except for prize bingo which would require a permit/bingo operating licence

13.3.3 In exercising its functions in respect of prize gaming permits, the Licensing Authority need not, but may, have regard to the licensing objectives and must have regard to any guidance issued by the Gambling Commission.

13.3.4 There are conditions in the Act which a permit holder must comply with which 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.

13.3.5 Applicants should set out the types of gaming intended to be offered and should 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.

The Licensing Authority will consider these matters when determining the suitability of an applicant for a permit.

#### 13.4 Club Gaming and Club Gaming Machine Permits

13.4.1 Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Club Gaming machines permit.

13.4.2 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 in accordance with regulations made under the Act.

13.4.3 A Club Gaming Machine Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).

13.4.4 Members Clubs must:

- have at least 25 members;
- 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 include bridge and whist clubs.);
- be permanent in nature;
- not be established to make commercial profit;
- be controlled by its members equally.

Examples include working men's clubs, branches of the Royal British Legion and clubs with political affiliations.

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

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

- 13.4.6 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).
- 13.4.7 Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which an authority can refuse a permit are reduced.
- 13.4.8 The only grounds upon which an application under the fast-track process may be refused are:
- that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
  - that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
  - that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

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.

## **14 Temporary Use Notices**

- 14.1 A temporary use notice may only be given by the holder of an operator’s licence. A set of premises may not be the subject of temporary use notices for more than 21 days within a 12 month period.
- 14.2 A set of premises will be considered to be the subject of a temporary use notice if any part of the premises is the subject of a notice. Consequently, operators cannot extend the limits on temporary use notices in respect of large premises by giving separate notices for different parts of the premises.
- 14.3 The Licensing Authority will object to temporary use notices where it appears that they are being used to permit regular gambling in a set of premises.
- 14.4 In determining whether a place falls within the definition of “a set of premises” the Licensing Authority will take into consideration ownership/occupation and control of the premises. For example, a large exhibition centre will normally be regarded as one set of premises and will not be allowed separate temporary use notices for each of its exhibition halls. Individual units in a shopping centre may be regarded as different sets of premises if they are occupied and controlled by different people.

## **15 Occasional Use Notices**

- 15.1 Where betting takes place on a track on eight days or less in a calendar year, betting may be permitted by an occasional use notice without the need for a full premises licence.
- 15.2 A track includes a horse racing course, a dog track or any other premises on any part of which a race or other sporting event takes place or is intended to take place. This could include, for example, agricultural land upon which a point-to-point meeting takes place. The track need not be a permanent fixture. Those giving

occasional use notices will be expected to demonstrate that the premises fall within the definition of a track.

## **16 Information exchange**

- 16.1 Licensing authorities are required to include in their statement the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.
- 16.2 In fulfilling its functions and obligations under the Gambling Act 2005 the Licensing Authority will exchange relevant information with other regulatory bodies and will establish protocols in this respect. In exchanging such information, the Licensing Authority will conform to the requirements of data protection and freedom of information legislation in accordance with the Council's existing policies. In addition, the Licensing Authority will act in accordance with guidance from the Commission and adopt the principles of better regulation.
- 16.3 Details of those persons making representations will be made available to applicants to allow for negotiation unless the individual notifies the Licensing Authority to the contrary within seven days of a request for confirmation of this. In the event of a hearing being held, the representation will form part of a public document. Anyone making representations will be informed that their details will be disclosed unless they advise to the contrary.
- 16.4 Data subjects may make requests for information held by the Licensing Authority about themselves to the Data Protection Officer, Cheshire East Council.

## **17 Enforcement**

- 17.1 The Act requires licensing authorities to state the principles that they will apply when exercising their functions under Part 15 of the Act (inspection of premises) and the powers under section 346 (power to institute criminal proceedings in respect of offences specified).
- 17.2 The Council is a signatory to the Regulator Compliance Code and will follow the principles set out in it. The Code is based around the principles of consistency, transparency and proportionality. These principles are reflected within Cheshire East Borough Council's Enforcement Policy (available on request).
- 17.3 The Licensing Authority will be guided by the Gambling Commission's Guidance for local authorities and in accordance with both this Guidance and the Better Regulation principles will base its approach on the following:
- 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

17.4 The Code (available upon request) proposes that a graduated response is taken where offences against legislation are found or where licence conditions have been contravened. An isolated administrative offence, such as failing to maintain certain records, may be dealt with by way of a written warning. More serious offences may result in a referral to a Sub-Committee for a review, the issue of a Formal Caution or a referral for prosecution.

17.5 The Licensing Authority will adopt a risk-based programme of inspections; this will include targeting high-risk premises which require greater attention, whilst operating a lighter touch in respect of low-risk premises, so that resources are more efficiently concentrated on problem premises.

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

## **18 Declaration**

In producing this statement of principles the authority has had regard to the licensing objectives of the Gambling Act 2005, and the guidance issued by the Gambling Commission. In producing the final statement the licensing authority will also have regard to any responses from those consulted on the statement.

## **19 Scheme of delegation**

19.1 The Committee has delegated certain decisions and functions and has established a Sub-Committee to deal with them.

19.2 Many of the decisions and functions will be purely administrative in nature and the grant of non-contentious applications, including for example those licences and permits where no representations have been made, will be delegated to Licensing Authority Officers. The table shown at Appendix A sets out the agreed delegation of decisions and functions to the Licensing Committee, Sub-Committee and Officers. This form of delegation is without prejudice to Officers referring an application to a Sub-Committee or Full Committee if considered appropriate in the circumstances of any particular case.

## **20 Sources of information**

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

Licensing Section  
Cheshire East Council – Westfields, Middlewich Road, Sandbach CW11 1HZ

[www.cheshireeast.gov.uk](http://www.cheshireeast.gov.uk)

[licensing@cheshireeast.gov.uk](mailto:licensing@cheshireeast.gov.uk)

Information is also available from:-

Gambling Commission  
Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP

Tel: 0121 230 6666  
e-mail [info@gamblingcommission.gov.uk](mailto:info@gamblingcommission.gov.uk)  
Website: [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

## APPENDIX A

TABLE OF DELEGATION OF LICENSING FUNCTIONS

MATTER TO BE DEALT WITH	FULL COUNCIL	SUB-COMMITTEE	OFFICERS
Three year licensing policy	X		
Policy not to permit casinos	X		
Fee Setting - when appropriate		X (Full Committee)	
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 representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Cancellation of club gaming/ club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice and occasional use notices			X
Decision to give a counter notice to a temporary use notice		X	

**APPENDIX B****GLOSSARY OF TERMS**

Licensing Objectives: Council:	As defined in section 1.3 below Cheshire East Council
Borough:	The area of Cheshire administered by Cheshire East Borough Council
Applications:	Applications for licences and permits as defined in section 4 above
Notifications:	Means notification of temporary and occasional use notices
Act:	The Gambling Act 2005
Regulations:	Regulations made under the Gambling Act 2005
Premises:	Any place, including a vehicle, vessel or moveable structure
Code of Practice:	Means any relevant code of practice under section 24 of the Gambling Act 2005
Mandatory Condition:	Means a specified condition provided by regulations to be attached to a licence
Default Condition:	Means a specified condition provided by regulations to be attached to a licence, unless excluded by Cheshire East Council
Responsible Authority:	For the purposes of this Act, the following are responsible authorities in relation to premises: <ol style="list-style-type: none"> <li>1. The Licensing Authority in whose area the premises are wholly or mainly situated (“Cheshire East Council”);</li> <li>2. The Gambling Commission;</li> <li>3. Cheshire Constabulary;</li> <li>4. Cheshire Fire &amp; Rescue Service;</li> <li>5. Local Planning Authority, Cheshire East Council;</li> <li>6. Environmental Health Department, Cheshire East Council;</li> <li>7. Local Safeguarding Children Board;</li> <li>8. HM Customs and Excise.</li> </ol>
Interested Party:	For the purposes of this Act, a person is an interested party in relation to a premises licence if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, the person:- <ol style="list-style-type: none"> <li>a) Lives sufficiently close to the premises to be likely to be affected by the authorised activities;</li> <li>b) Has business interests that might be affected by the authorised activities;</li> <li>c) Represents persons who satisfy a) or b) above.</li> </ol>

By virtue of paragraph(s) 7 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank

By virtue of paragraph(s) 7 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank



Document is Restricted

This page is intentionally left blank