

Gambling Act 2005

Statement of Licensing Policy 2019 - 2022

[OFFICIAL]



South Tyneside Council

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PREFACE

All gambling in Great Britain, with the exception of the National Lottery and spread betting, is regulated by the Gambling Act 2005 (“the Act”), and is unlawful unless permitted by the provisions contained in or under the Act.

Permission can be in the form of a licence, permit, registration or exemption depending upon the type of gambling, the means by which it is conducted, or the persons by whom or to whom it is made available.

The Gambling Commission (“the Commission”) is the Unified Regulator for Gambling in Great Britain. It has responsibility for granting operating and personal licences, regulating certain lottery managers and promoters and it also has general powers of entry and inspection to regulate gambling.

In addition to the need for operating and personal licences, premises must also be licensed under the Act. Licensing authorities licence gambling premises in their area, both permanently and temporarily, and they also have functions in relation to lower stake gaming machines, clubs, and miners’ welfare institutes. Licensing authorities are also responsible for maintaining a register of small society lotteries, the requirements for which are also set out in the Act.

In England and Wales, local authorities are designated as licensing authorities and each such authority is required under section 349 of the Act to prepare a statement of the principles it will apply in exercising its functions under the Act in order to provide guidance to applicants and objectors on the approach the authority will usually take on licensing matters.

This Statement of Licensing Policy (“Statement”) is intended to provide guidance on the approach South Tyneside Council, as the licensing authority for South Tyneside, will adopt when exercising its functions under the Act and has been prepared in the light of specific guidance from the Commission.

PART A - GENERAL

1. Introduction

1.1 South Tyneside Council is the licensing authority for the Borough of South Tyneside ("the Authority"). This Statement applies to all the functions of the Authority under the Act and applies to the whole of South Tyneside.

1.2 South Tyneside sits within the former Tyne and Wear conurbation in the north east of England. It has a stunning coastline to the east, a strong connection to the River Tyne to the north and includes the towns and villages of South Shields, Jarrow, Hebburn, Whitburn, Boldon and Cleadon. South Tyneside covers an area of 64 square kilometres with a population of approximately 148,700 and just over 67,160 households.

1.3 In the preparation of this Statement, the Authority has had regard to its long term vision:

South Tyneside will be an outstanding place to live, invest and bring up families

1.4 The Authority consulted widely when preparing this Statement. Consultees included the following:-

- Local residents and businesses
- Local Councillors
- Local Members of Parliament
- Northumbria Police
- Tyne and Wear Fire and Rescue Service
- Local Environmental Health
- Local Safeguarding Children Board
- Local Safeguarding Adults Board
- Director of Public Health
- Local Planning Authority
- Her Majesty's Revenue and Customs
- Gambling Commission
- Local Community Safety Partnership
- Local Youth Justice Service
- Local Pubwatch
- Gambling trade representative bodies
- Gambling premises licence holders
- Organisations which support those with gambling problems
- Gaming machine suppliers

1.5 Consultation on this Statement took place between 23 July 2018 and 30 September 2018, with a minimum of 10 weeks being allowed for individual consultees to respond. In accordance with the Commission's guidance, the

Authority has given appropriate weight to the views of consultees. In deciding what weight to give, the following factors were taken into account:-

- the person making the representations, the nature of their interest and their expertise,
- the relevance of the representations to the licensing objectives,
- how many other persons have expressed the same or similar views, and
- how far the representations relate to matters that the Authority should be including in its Statement.

1.6 In preparing this Statement, the Authority has had regard to the Act and the licensing objectives specified therein, the Commission's 'Guidance to licensing authorities', 5th Edition issued September 2015 (Parts 17, 18 & 19 updated September 2016), legislation in force or in draft form at the time of publication and responses received from persons consulted on this Statement.

1.7 It should be noted that this Statement will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Act and any other information considered necessary or helpful.

1.8 This Statement forms the Authority's mandate for managing local gambling provision and sets out how the Authority views the local risk environment and the expectations it has in relation to operators with premises in South Tyneside.

1.9 Regard has been paid to the Authority's responsibilities under the Human Rights Act 1998 and Equality Act 2010 in the preparation of this Statement.

1.10 The Authority recognises the need to protect children and other vulnerable persons from any form of harm or exploitation by gambling.

1.11 Agencies such as the Police and the local authority cannot tackle exploitation without the help of the wider community. Therefore, if someone suspects a child, young person or adult at risk is in immediate danger then they should contact the Police and tell them of their concerns by telephoning 999. Where a child or young person does not appear to be in immediate danger, South Tyneside Council can be contacted on 0191 424 5010 (Mon-Fri 8.30am-5pm) or 0191 456 2093 (out-of-hours). Similarly, for concerns relating to adults at risk the Council's Lets Talk team can be contacted on 0191 424 6000.

1.12 This Statement was approved by South Tyneside Council on [17 January 2019] and was published on the Council's website www.southtyneside.gov.uk on [18 January 2019]. Copies are also available from the Licensing Team (see Part E below for contact details).

1.13 This Statement will come into force on 31 January 2019.

2. The Licensing Objectives

2.1 In exercising its functions under the Act, the Authority must have regard to the licensing objectives set out in section 1 of the Act. The three 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, and
- protecting children and other vulnerable persons from being harmed or exploited by gambling.

2.2 These licensing objectives differ from those specified in the Licensing Act 2003. In particular they do not include considerations in relation to public safety, the prevention of public nuisance or anti-social behaviour.

2.3 Factors which may be taken into account when considering the licensing objectives are set out in section 8 of Part B of this Statement.

3. Local Risk Assessments

3.1 In accordance with the Commission's Licence Conditions and Codes of Practice, the Authority requires licence holders and applicants to assess the local risks to the licensing objectives posed by the provision of gambling facilities at their premises, and to have policies, procedures and control measures in place to mitigate those risks. In carrying out local risk assessments, licence holders and applicants must take into account relevant matters identified in this Statement.

3.2 A local risk assessment template is available at www.southtyneside.gov.uk/licensing. Licence holders and applicants are; however, free to use their own documentation should they prefer to do so.

3.3 The matters to be taken into consideration by the licence holder or applicant when undertaking a local risk assessment should include:-

- the location of any educational establishment attended by persons under the age of 18 that is within 100 metres of their premises,
- the location of any establishment which children or vulnerable adults are known to attend regularly that is within 100 metres of their premises, such as accommodation or centres for vulnerable adults, residential children's homes, leisure centres, playgrounds and hostels providing accommodation for persons leaving care,
- the location of any establishment which persons addicted to gambling are known to attend regularly, such as treatment centres or other places where such persons meet, and

- the layout of the local area and the physical environment in which the premises are situated, including any crime and disorder hotspots.

3.4 Licence holders must review (and update as necessary) their local risk assessments:-

- when there have been significant changes in local circumstances, including those identified in the Authority's Statement,
- when there have been significant changes at a licence holder's premises that may affect their mitigation of local risks,
- when applying for a variation of a premises licence, and
- when applying for a new premises licence.

3.5 A 'significant change' includes but is not limited to the following circumstances:-

- an educational establishment attended by persons under the age of 18 being established within 100 metres of the premises,
- an establishment at which children, vulnerable adults or persons addicted to gambling are likely to attend regularly is established within 100 metres of the premises,
- there is a particular risk identified to premises offering gambling facilities in the location of the premises, or
- the Authority receives information that in the view of the Authority amounts to a significant change in local circumstances.

3.6 To assist licence holders and applicants in the preparation of local risk assessments, a map showing the location of educational and certain other relevant establishments as well as existing licensed gambling premises in South Tyneside appears as Appendix A.

3.7 The licence holder or applicant is also encouraged to consult the following sources when preparing a local risk assessment:

- Crime and policing information and maps (www.police.uk)
- Official labour market statistics (www.nomisweb.co.uk)
- Office for National Statistics data (www.ons.gov.uk)

3.8 Where concerns exist after a local risk assessment has been carried out, the Authority expects the licence holder or applicant to contact the most appropriate responsible authority (see section 7 below for further information about responsible authorities) for guidance before submitting an application for a licence or a variation to a licence, or where it is believed there has been a significant change in local circumstances.

3.9 A local risk assessment should be reviewed every 3 years (if not required earlier) and be made available to the Authority on completion and on request. To facilitate such requests it is recommended that a copy of the risk assessment be kept at the premises to which it relates.

4. Licensable Activities

4.1 Gambling is unlawful unless permitted by measures contained in or under the Act. It is a criminal offence to provide facilities for gambling or to use premises for gambling without the appropriate permission. This Statement relates to those activities which are controlled by the Act and bestowed by way of regulatory function to the Authority, namely gaming, betting and participating in a lottery.

“Gaming” means playing a game of chance for a prize but does not include a sport.

“Betting” means making or accepting a bet on the outcome of a race, competition or other event or process, the likelihood of anything occurring or not occurring or whether anything is true or not true.

“A lottery” is an arrangement whereby people pay to participate and win one or more prizes in a process which relies wholly or in the first instance on chance.

4.2 Permission to conduct gambling may come from a licence, a permit, registration granted in accordance with the Act or an exemption in or under the Act.

4.3 Except in certain specified instances, participating in the National Lottery is not gambling for the purposes of the Act and is therefore not an activity regulated by this Statement.

5. Types of Licence

5.1 There are 3 categories of licence available under the Act:-

- operating licences,
- personal licences, and
- premises licences.

5.2 Only premises licences are issued by the Licensing Authority. Operating licences and personal licences are issued by the Commission.

5.3 Operating licences are required by individuals and companies who intend to provide facilities for certain types of gambling. In general, such licences cover the principal commercial forms of gambling activity (see Table 1 below).

5.4 Operating licences may authorise remote or non-remote gambling, although a single licence cannot authorise both. Subject to certain restrictions, one operating licence may authorise more than one licensable activity.

Applicants should contact the Commission for an operating licence to cover the gambling activities they propose to engage in.

5.5 One of the mandatory conditions that the Commission must place on operating licences, except in the case of small scale operators, is to ensure that for each operating licence at least one person holds a specified management office and that that person holds a personal licence from the Commission. In addition, the Commission may require key staff in other management offices and those employed to carry out specified operational functions to hold a personal licence. Personal licences are granted to an individual and are not transferable. They cannot be held by a company. Any person requiring a personal licence must apply to the Commission.

5.6 A premises licence is a licence which authorises a premises to be used for specific types of gambling activity (see Table 1 below) and is granted by the licensing authority in whose area the relevant premises are situated.

5.7 Only persons who hold or have applied for an operating licence from the Commission authorising them to carry on the activities in respect of which the application is sought can apply for a premises licence. For example, in order to obtain a bingo premises licence an applicant must hold or have applied for a bingo operating licence. The applicant must also have the right to occupy the premises for which a licence is sought. The only exception to this rule is in relation to tracks where the person who occupies the track may not necessarily be the person offering gambling facilities at the premises.

5.8 Premises licences are transferable to another holder of a valid operating licence.

TABLE 1

Operating Licences (Issued by the Commission)	Premises Licences (Issued by the Authority)
A Casino Operating Licence	Casino Premises
A Bingo Operating Licence	Bingo Premises
A General Betting Operating Licence	Betting Premises (including Tracks)
A Pool Betting Operating Licence	Adult Gaming Centres
A Betting Intermediary Operating Licence	Family Entertainment Centres
A Gaming Machine General Operating Licence (for an Adult Gaming Centre Operator or for a Family Entertainment Centre)	
A Gaming Machine Technical Operating Licence (to manufacture, supply, install, adapt, maintain or repair a gaming machine or part of a gaming machine)	
A Gaming Software Operating Licence (to manufacture, supply, install or adapt gaming software)	
A Lottery Operating Licence	

6. Licensing Authority Functions

6.1 Licensing authorities are required under the Act to:-

- prepare and publish a statement of licensing policy and review the same every 3 years
- designate in writing a body as competent to advise the Authority about the protection of children from harm to be a responsible authority under section 157 of the Act
- be responsible for the licensing of premises where gambling activities are to take place by issuing premises licences (for types of licence issued see Table 1 above)
- issue provisional statements
- regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities by 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 under the Licensing Act 2003 from alcohol licensed premises for the use of two or fewer gaming machines
- issue licensed premises gaming machine permits for premises licensed to sell/supply alcohol for consumption on the premises under the Licensing Act 2003 where there are more than two gaming machines
- register small society lotteries below prescribed thresholds
- issue prize gaming permits
- receive and endorse temporary use notices
- receive occasional use notices for betting at tracks
- provide information to the Commission about licences issued
- maintain registers of the permits and licences issued in accordance with these functions

7. Responsible Authorities

7.1 Responsible authorities are public bodies that must be notified of any application. All responsible authorities have the right to make representations about an application or to apply for a review of a premises licence.

7.2 The bodies that act as responsible authorities are:-

- the licensing authority in whose area the premises are wholly/partly situated,
- the Commission,
- the chief officer of police for the area in which the premises is wholly/partly situated,
- the fire and rescue authority for the same area,
- the local planning authority,
- the local environmental health authority,

- a body designated in writing by the licensing authority as competent to advise about the protection of children from harm,
- Her Majesty's Commissioners of Customs and Excise, and
- any other person prescribed in Regulations by the Secretary of State for Digital, Media, Culture and Sport ('the Secretary of State')

In relation to a vessel, the list of responsible authorities also includes:-

- A navigation authority,
- The Environment Agency,
- The British Waterways Board or the Canal & River Trust (as appropriate), and
- The Secretary of State for Transport

7.3 In accordance with section 157(h) of the Act, this Authority hereby designates the South Tyneside Safeguarding Children Board (or its equivalent post-September 2019) as the body competent to advise it about the protection of children from harm. The principles applied by the Authority in exercising this power of designation are:-

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

7.4 The contact details of all of the responsible authorities relevant to South Tyneside are available at www.southtyneside.gov.uk/licensing

7.5 It should be noted that as the Authority is itself a responsible authority it can make representations about licence applications or apply for a review of an existing premises licence.

7.6 Where an application relates to a premises situated in close proximity to a neighbouring licensing authority, a copy of the application may be forwarded to that authority for its consideration.

8. Interested Parties

8.1 Interested parties can also make representations about premises licence applications, or apply for a review of an existing licence. The principles this Authority will apply in determining whether a person is an interested party are as stated in this section.

8.2 In accordance with section 158 of the Act, the Authority takes the view that an interested party can only be someone who:-

- lives sufficiently close to the premises to be likely to be affected by the authorised activities,

- has business interests that might be affected by the authorised activities, or
- represents persons in either of the above two groups.

8.3 Each case will be decided on its own merits and this Authority will not apply a rigid rule to its decision making. It will take all or any of the following factors into account in determining whether a person lives “sufficiently close to the premises” depending on the individual circumstances:-

- the size of the premises - larger premises may impact on a wider radius
- the nature of the activities taking place at 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)
- the circumstances of the complainant. For example, the activities at the premises may impact differently on a residential property, an educational establishment attended by persons under the age of 18 or a residential hostel for vulnerable adults.

8.4 The Authority will consider any appropriate representation from persons with “business interests”. It will be necessary to show that the business “is likely to be affected by the application”. In this respect the Authority will examine factors such as:

- the size of the premises,
- the catchment area of the premises (namely how far people travel to visit it), and
- whether the person making the representation has business interests in that catchment area which might be affected.

8.5 In the case of doubt the benefit will be given to the party claiming to have the right to make representations, unless the contrary can be shown.

8.6 The Authority believes that persons representing those living sufficiently close to a premises to be affected by it or those with business interests may include: trade associations, trades unions, residents’ and tenants’ associations, community groups, head teachers, school governors, Councillors and Members of Parliament (MPs). Other representatives will be considered on a case by case basis. Written evidence that a person is representing an interested party such as a letter from the interested party concerned may be required by the Authority.

8.7 In cases where a person representing an interested party is a Councillor or MP, no specific evidence of being asked to represent an interested party will be required providing the Councillor or MP represents the ward or constituency likely to be affected. If a person wishes to approach a Councillor to ask them to represent their views then care should be taken to ensure that the Councillor in question is not a member of the Licensing Committee / Sub Committee dealing with the licence application. If there are any doubts then the Licensing Team should be contacted for advice.

9. Representations

9.1 Any representation which is not from a responsible authority or interested party will not be relevant and the Authority will be obliged to treat it as inadmissible. All admissible representations must however also be relevant. In order to be relevant a representation must:

- relate to one or more of the licensing objectives,
- raise an issue under this Statement,
- raise an issue under the Commission's Guidance, or,
- raise an issue under any Code of Practice issued by the Commission.

9.2 In cases where the Authority is itself making a representation in its capacity as a responsible authority it will ensure that the tasks involved in making the representation and receiving and processing the same are allocated to different officers to ensure a proper separation of functions. The officer acting for the responsible authority will not be involved in the licensing decision process and will not discuss the merits of the case with those who are or with the officer acting for the Authority. Any communication regarding the representations made will be conducted professionally and in line with communications between the Authority and any other responsible authority.

10. Exchange of Information

10.1 The Authority will endeavour to comply with any proper and lawful requests for information and will pass on any information it considers necessary to enable it to comply with its functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the 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 (1) to the Act. The Authority will have regard to any guidance issued by the Commission and/or the Secretary of State on this matter.

10.2 In exchanging relevant information in accordance with its functions under the Act, the Authority will conform to the requirements of data protection legislation, including the General Data Protection Regulation, and freedom of information legislation in line with South Tyneside Council's existing policies.

10.3 Details of those persons making representations in connection with matters under the Act will ordinarily be made available to applicants to allow for negotiations/mediation to take place, if appropriate, and, in the event of a

hearing being held, will form part of the public documents. Anyone making representations or applying for a review of a licence will be informed that their details will be disclosed, save in exceptional circumstances.

10.4 The Authority shall act in accordance with the relevant legislation and Commission guidance and will adopt the principles of better regulation.

11. Partnership Working

11.1 The Authority works in partnership with the following in order to promote the licensing objectives:-

- The Commission
- Northumbria Police
- Tyne & Wear Fire and Rescue Service
- Safeguarding Children Board (or its equivalent post-September 2019)
- Other responsible authorities
- Safeguarding Adults Board
- Public Health
- Community Safety Partnership
- Town Centre managers
- Local businesses
- Local residents
- Relevant trade bodies and associations

12. Public Health Approach to Gambling

12.1 The Authority supports a public health approach to gambling.

12.2 A public health approach to gambling needs to address the effects of gambling on the families and close associates of gamblers, and on the wider community – as well as on those who suffer harm from their own gambling. It needs to recognise that a successful strategy cannot focus solely on individual gamblers but also needs to encompass products, environments and marketing and the wider context in which gambling occurs. It needs to understand that restrictions on, or interventions related to, any of these aspects can form part of a balanced approach, backed up by accurate, objective, accessible and understandable information. It should seek to ensure efficient distribution of resources for prevention and treatment based upon need.¹

12.3 A public health approach to gambling also needs to address its effects on young and vulnerable people. Children and young people are a specific focus among those potentially vulnerable. Their needs are different and they may need different approaches to reducing gambling-related harm. Primary prevention efforts can be targeted at young people, often aiming to reach them before they have gambled. Treatment for young people with gambling problems needs separate consideration to adult treatment. In most cases it is

¹ <http://www.rgsb.org.uk/PDF/Gambling-related-harm-as-a-public-health-issue-December-2016.pdf>

likely to require lower threshold intervention and to address other, co-occurring problematic behaviours.

12.4 A public health approach to gambling suggests that addressing gambling's effects on population health and wellbeing must involve a wider range of organisations than are currently engaged.

13. Regulatory Activities

13.1 The Authority will have regard to the provisions of the Regulators' Code when carrying out its regulatory activities under the Act. The code can be viewed at: www.gov.uk/government/publications/regulators-code

13.2 Part 15 of the Act grants authorised officers of the Authority various powers of inspection both prior to the grant of a premises licence or other permission and after issue.

13.3 Prior to any application an authorised officer may inspect for the purpose of assessing, having regard to the licensing objectives, the likely effects of activity carried on in reliance on a premises licence or other permission.

13.4 Once issued it is essential to ensure a licence or other permission is being maintained and operated so as to ensure the continued promotion of the licensing objectives and compliance with the Act and any conditions attached to the licence or permission.

13.5 In exercising its functions under Part 15 of the Act with respect to the inspection of premises and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified, the Authority is guided by the Statutory Guidance from the Commission and proposes to act in accordance with the principles stated in this section.

13.6 The Authority's use of its powers of inspection and enforcement will be:

- proportionate - the Authority will only intervene when necessary, remedies will be appropriate to the risk posed, and costs will be identified and minimised,
- accountable - the Authority will be able to justify its decisions and be subject to public scrutiny,
- consistent - rules and standards will be joined up and implemented fairly,
- transparent - the Authority will be open and keep requirements and conditions as simple and user friendly as possible, and
- targeted - the Authority will use its regulatory powers to focus on problems and minimise side effects.

The Authority employed the above criteria in the development of its Enforcement Policy which it will follow in the exercise of its functions under the Act. The policy can be viewed at: www.southtyneside.gov.uk

13.7 The Authority will adopt a risk-based inspection programme, which will involve targeting high risk premises which require greater attention, whilst applying a lighter touch in respect of low risk premises, so that resources are more effectively concentrated on problem premises.

13.8 The Authority will be guided by complaints from responsible authorities and interested parties when establishing the level of risk presented by any premises.

13.9 The main enforcement and compliance role for the Authority in terms of the Act is to ensure compliance with the premises licences and other permissions which it authorises. The above criteria are subject to any further guidance which the Authority may be required or recommended to follow by any person or body authorised to issue guidance in respect of the Authority's powers under the Act.

14. Application Forms and Fees

14.1 All applications to the Authority in relation to premises licences, permits and other permissions must be accompanied by the appropriate fee.

14.2 Application and other forms as well as details of the Authority's current fees are available at www.southtyneside.gov.uk/licensing

PART B - PREMISES LICENCES: CONSIDERATION OF APPLICATIONS

1. General Principles

1.1 Premises licences (casino, bingo, betting premises (including tracks), adult gaming centres and family entertainment centres) are subject to the requirements set out in Part 8 of the Act and Regulations as well as specific mandatory and default conditions which are detailed in Regulations issued by the Secretary of State, namely the Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007 (as amended). Codes of Practice and Statutory Guidance issued by the Commission are also relevant and will be considered in relation to all premises licence applications received by the Authority.

2. Decision Making

2.1 Upon receipt of a valid application this Authority is aware that, in accordance with section 153 of the Act, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling insofar as it considers it:

- in accordance with any relevant Code of Practice issued by the Commission,
- in accordance with any relevant guidance issued by the Commission.
- reasonably consistent with the licensing objectives, and
- in accordance with this Statement

2.2 If a representation about a licence application is received and it does not focus on the matters outlined at 2.1 above it will be unlikely to influence the Authority's determination of an application. It must also be noted that, as per the Commission's Guidance to Licensing Authorities, "moral objections to gambling are not a valid reason to reject applications" and also, as stated in the Act, that demand for a premises is no longer a relevant consideration. All applications will be considered on their own merits.

2.3 The Act states that all decisions relating to premises licences are delegated to the Licensing Committee of the Authority which was established under the Licensing Act 2003, except that:-

- a resolution not to issue casino licences can only be taken by Full Council,
- the adoption of a statement of licensing policy can only be done by Full Council, and
- the setting of fees must be done by Full Council unless it is delegated by them to the Licensing Committee. South Tyneside Council has made such a delegation.

2.4 A summary of the Authority's delegations permitted under the Act can be found in Appendix B.

2.5 The following matters have not been delegated to officer level and will be determined by a sub-committee of the Authority's Licensing Committee:-

- the determination of an application for a premises licence, where representations have been made and not withdrawn
- the determination of an application for variation of a premises licence, where representations have been made and not withdrawn
- the determination of an application for transfer, following representations by the Commission
- the determination of an application for a provisional statement, where representations have been made and not withdrawn.
- the review of a premises licence
- a decision to serve a counter notice in respect of a temporary use notice
- the determination of an application for a club gaming permit or club machine permit in respect of which representations have been made and not withdrawn
- the cancellation of a club gaming permit or a club machine permit

2.6 It should be noted however that if representations about an application are frivolous, vexatious or entirely concern matters which are not relevant to an application then the Authority may determine the application without a hearing in accordance with section 162(3) of the Act.

2.7 Examples of representations which are not relevant include those relating solely to the expected demand and competition occasioned by a new premises or those commenting on the reduction of value in a property likely to be occasioned by the proximity of new gambling premises.

2.8 If an applicant can show how licensing objective concerns can be overcome, the Authority will take that into account in making its decision.

3. Licences per Premises

3.1 This Authority takes the view, in accordance with the statutory guidance issued by the Commission that, with the exception of tracks, the Act generally prevents more than one licence applying to any premises. Any attempt to reconfigure premises so as to create two or more different and independent premises will be scrutinised very closely by the Authority who will examine all statutory guidance and other relevant factors in making a decision, including the following:

- whether each of the premises has a separate registration for business rates
- whether the premises' neighbouring premises is owned by the same person or someone else
- whether each of the premises can be accessed from the street or a public passageway
- whether the premises can only be accessed from any other gambling premises

3.2 The Authority will consider the above points and any other relevant factors in making a determination of any application, depending on the circumstances of the case. Every decision will also be made taking into consideration any mandatory or default conditions which will or currently do apply to the premises.

4. Premises “Ready for Use”

4.1 Once a premises licence comes into effect it authorises premises to be used for gambling. The Authority therefore accepts, in accordance with the statutory guidance, that a licence to use premises for gambling should only be issued if it is satisfied that the premises which is the subject of an application is going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

4.2 If construction of the premises is not yet complete, or if they need alteration, or the applicant does not yet have a right to occupy them, then an application for a provisional statement can be made instead (see section 18 below).

4.3 Any application for a premises licence in respect of a premises which has outstanding construction or alteration to be undertaken will be determined on its own merits applying the following two stage process:-

1. whether, after applying the principles in section 153 of the Act (see section 2 above), the premises ought to be permitted to be used for gambling, and
2. whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place

4.4 Applicants should note that the Authority is entitled to decide that it is appropriate to grant a licence subject to conditions but it is not obliged to grant such a licence.

5. Location

5.1 This Authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of licensing objectives are relevant to its decision-making as well as the other factors stated under section 153 of the Act. As per the Commission's Guidance to Licensing Authorities, the Authority will pay particular attention to the licensing objective regarding the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. An applicant will need to include a local risk assessment, as outlined in section 3 of Part A above. It should be noted that this position does not preclude any application being made and each application will be decided on its own merits, with the onus on the applicant to show how potential concerns can be overcome.

6. Planning

6.1 In determining applications the Authority acknowledges its duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, such as those not related to gambling and the licensing objectives. The Authority acknowledges that the likelihood of an applicant obtaining planning permission or building regulation approval for their proposal is irrelevant to any consideration of a gambling application. Equally, the Authority notes that the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building control.

7. Duplication with Other Regulatory Regimes

7.1 The Authority has a firm commitment to avoid duplication with other regulatory regimes. This means that the Authority will not usually consider it necessary to attach conditions to a licence which concern issues controlled by other legislation, for example planning, building control, health and safety at work and fire safety legislation. The Authority will carefully consider any concerns expressed about conditions which cannot be met by applicants because of restrictions imposed by other regulatory regimes.

8. Licensing Objectives

8.1 Premises licences must be reasonably consistent with the licensing objectives. In examining the objectives the Authority will have regard to the following:

A) Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime

8.2 Where a premises is located in an area noted for particular problems with crime or disorder, the Authority will give consideration to what, if any, controls it can impose by way of condition on the licence to prevent those premises from becoming a source of crime itself, for example a requirement to employ door supervisors.

8.3 The Authority recognises that in the case of gambling premises licences, “disorder” is intended to mean activity that is more serious and disruptive than mere nuisance. Factors which will be examined to establish whether activity amounts to disorder would include whether Police assistance has been required in relation to disturbances and how threatening the activity was to those who could see or hear it.

B) Ensuring that gambling is conducted in a fair and open way

8.4 The Authority acknowledges that generally the Commission does not expect it 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 a personal licence) both of which are dealt with by the Commission. However, in relation to the licensing of tracks where track operators do not have an operating licence, conditions may need to be imposed to ensure that the environment in which betting takes place is suitable. Where an application includes permission for betting machines, the ability of track staff to supervise them and of the track operator to comply with the law and prevent children betting will also be examined and, if necessary, dealt with by the attachment of conditions to the premises licence.

C) Protecting children and other vulnerable persons from being harmed or exploited by gambling

8.5 With limited exceptions the intention of the Act is that children and young persons should not be permitted to gamble and should be prevented from entering gambling premises which are adult-only environments. One application of this objective is to prevent children from taking part or being in close proximity to adult-only 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. The Authority will consider whether specific measures will be needed to protect children on particular categories of premises. This may include requirements such as supervision of entrances; the segregation of adult-only gambling from areas frequented by children, and the supervision of gaming machines in non-adult gambling specific premises. These considerations are particularly relevant on tracks (where children will be permitted in the betting area on race days).

8.6 Research now exists which gives a clearer picture of those who are likely to be more vulnerable to gambling harm². Amongst the groups where the evidence base for vulnerability is strongest are the following:

- ethnic groups
- youth
- low IQ
- substance abuse/misuse

² <https://www.geofutures.com/research-2/gambling-related-harm-how-local-space-shapes-our-understanding-of-risk/>

- poor mental health

Gambling is a legitimate leisure activity, however some individuals do experience significant harm as a result of their gambling. Gambling related harms are not necessarily health harms, however many of the harms, e.g. debt, are associated with poor health status.

8.7 The Authority will consider, in relation to particular premises, whether any special considerations apply in relation to the protection of vulnerable persons and will balance these considerations against its duty to aim to permit the use of premises for gambling.

8.8 The locality of a premises may also be relevant to this objective. For example, if the location of particular gambling premises is to be in close proximity to a school or a centre for gambling addicts the Authority will have to consider very carefully whether this objective is likely to be undermined if the licence is granted.

8.9 The Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant in relation to any premises licence application which excludes children or which contains an adult only area to satisfy the Authority that there will be sufficient measures in place to ensure that those under the age of 18 do not have access to the premises or to the adult only area as applicable.

D) General considerations

8.10 Measures the Authority may consider necessary to ensure the licensing objectives are met at a premises include but are not restricted to:

- closed circuit television (CCTV)
- staff supervision of entrances/machine areas
- physical separation of areas
- location of entry
- notices/signage
- specific opening hours;
- self-exclusion schemes;
- the provision of information leaflets/help-line numbers for organisations such as Gamcare
- training for staff on how to report any concerns about children or other vulnerable persons being harmed or exploited by gambling

8.11 Despite the above general intentions in relation to each of the licensing objectives (and the general assistance given in the Statutory Guidance), each case will be decided on its own merits so that the Authority will always take into account any evidence provided by an applicant showing how they might overcome licensing objective concerns.

9. Conditions

9.1 Conditions may be attached to premises licences in one of three ways:-

- automatically, being set out in the Act,
- through Regulations made by the Secretary of State, or
- by the Authority.

9.2 Conditions may sometimes be general in nature, attaching to all licences, or to all licences of a particular class, or they may be specific to a particular premises.

9.3 The Authority has no discretion to exclude conditions which fall within the first category in 9.1 above.

9.4 The second category of conditions may be either “mandatory” or “default”. There is no discretion for mandatory conditions set out in Regulations to be excluded from a licence, and default conditions apply to a licence unless the Authority decides to exclude them using its powers under the Act.

9.5 If a particular aspect of a licence is covered by mandatory conditions it is extremely unlikely that the Authority will consider it necessary to impose a more restrictive regime by including further conditions itself. This will only occur where the Authority has regulatory concerns of an exceptional nature.

9.6 The Authority has greater flexibility with default conditions. It can exclude a default condition and replace it with one that is more or less restrictive, although the Authority will need to have clear regulatory reasons for altering default conditions. Recognising that one of the Authority’s aims is to permit the use of premises for gambling, the Authority will only attach conditions that limit the use of premises for gambling where that is necessary as a result of the requirement upon the Authority to act in accordance with the principles specified in 2.1 above.

9.7 Conditions imposed by the Authority must be proportionate to the circumstances they are seeking to address, therefore the Authority will ensure that conditions:-

- are supported by evidence of a risk to the licensing objectives,
- are relevant to the need to make the proposed buildings suitable as a gambling facility,
- are directly related to the premises and the type of licence applied for,
- are fairly and reasonably related to the scale and type of premises, and
- are reasonable in all other respects.

9.8 The Authority cannot make conditions which:-

- would make it impossible to comply with an operating licence condition,

- relate to gaming machine categories, numbers or methods of operation,
- restrict equal chance gaming,
- provide that membership of a club or body is necessary to gamble at a premises, or
- relate to stakes, fees, winnings or prizes.

9.9 Gaming machines are categorised by the amount of stake needed to play them and the value and nature of the prizes which can be won from them. The categorisations of each type of machine are established by Regulations and a summary of these is set out in Appendix C.

9.10 The entitlement of each type of premises in terms of the number and category of machines which may be provided within them is also established by Regulations and is set out in Appendix D.

10. Door Supervisors

10.1 In accordance with the Statutory Guidance, if the Authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access, for example by children, it may require that the entrances to the premises are controlled by a door supervisor, and it is entitled to impose a condition on the premises licence to this effect.

10.2 Where it is determined that supervision of entrances/machines is appropriate for particular cases, consideration as to whether door supervisors need to be Security Industry Authority- licensed or not will be necessary. It will not be automatically assumed that they need to be licensed as the statutory requirements for different types of premises vary. Applicants may wish to contact the Licensing Team for further advice.

11. Casino Licences

11.1 South Tyneside Council has not passed a resolution not to issue casino licences and has no intention at the present time of proposing any report to consider the passing of this type of resolution.

11.2 Should the Council be awarded permission to grant a casino licence in future it will issue criteria indicating the factors it will take into account in deciding how to determine which applicant to select for the granting of a licence. Any such criteria will be drawn up in accordance with any Regulations, Codes of Practice or Guidance issued.

12. Bingo

12.1 Where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new licence or multiple licences for that or those excluded areas, the Authority acknowledges the requirement placed upon it in the

Commission's Statutory Guidance to be satisfied that bingo can be played in any bingo premises for which it issues a premises licence.

12.2 In addition, where an application to vary a bingo licence for the purpose of extending the opening hours of the premises is submitted, the Authority will expect the applicant to be able to demonstrate that the extension is not designed solely to benefit from the machine entitlement and activity which is ancillary to the primary activity of the premises, namely bingo.

12.3 The Authority will have regard to the Commission's guidance on controlling where gaming machines may be played and ensure that the distinctions between the different types of licensed gambling premises are maintained and that gambling activities are supervised appropriately.

12.4 Measures the Authority may consider necessary to ensure the licensing objectives are met at a bingo premises include but are not restricted to:

- proof of age schemes
- CCTV
- door supervisors
- supervision of entrances/machine areas
- physical separation of areas
- location of entry
- notices/signage
- specific opening hours
- training for staff on how to report any concerns about children or other vulnerable persons being harmed or exploited by gambling

13. Betting Premises

13.1 Section 235 of the Act provides that a machine is not a gaming machine if it is designed or adapted for use to bet on future real events. Some betting premises make available machines that accept bets on live events. These "betting machines" are not regulated by or under the Act. There is, however, an express power in section 181 of the Act which allows licensing authorities to use licence conditions to restrict the number of betting machines (but not gaming machines - see Appendix D for restrictions on such machines in betting premises), their nature, and the circumstances in which they are made available in betting premises. When considering the number, nature or circumstances of betting machines an operator wants to offer in a particular premises, the Authority will, amongst other things, take into account the size of the premises, the number of counter positions available for person to person transactions and the ability of employees to supervise the use of the machines.

13.2 The Authority will have regard to the Commission's guidance on controlling where gaming machines may be played and ensure that the distinctions between the different types of licensed gambling premises are maintained and gambling activities are supervised appropriately.

13.3 Measures the Authority may consider necessary to ensure the licensing objectives are met at a betting premises include but are not restricted to:

- proof of age schemes
- CCTV
- door supervisors
- supervision of entrances/machine areas
- physical separation of areas
- location of entry
- notices/signage
- specific opening hours
- training for staff on how to report any concerns about children or other vulnerable persons being harmed or exploited by gambling

14. Adult Gaming Centres

14.1 No one under the age of 18 is permitted to enter an adult gaming centre (AGC) and the Authority will have particular regard to the location of and entry to AGCs to minimise the opportunities for children to gain access. This will be of particular importance where an AGC is located in an area where children may be in attendance unsupervised such as a shopping centre or airport.

14.2 Measures the Authority may consider necessary to ensure the licensing objectives are met at an AGC include but are not restricted to:

- proof of age schemes
- CCTV
- door supervisors
- supervision of entrances/machine areas
- physical separation of areas
- location of entry
- notices/signage
- specific opening hours
- training for staff on how to report any concerns about children or other vulnerable persons being harmed or exploited by gambling

15. Licensed Family Entertainment Centres

15.1 The Act allows for both licensed and unlicensed family entertainment centres (FECs). A permit is required for the latter (see section 1 of Part C below for further information).

15.2 Licensed FECs are able to make available category C and D gaming machines, however persons under the age of 18 are not permitted to use category C machines and there must be clear segregation between the two types.

15.3 The Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect an applicant to demonstrate that there will be sufficient measures in

place to ensure that persons under the age of 18 do not have access to Category C gaming machine areas.

15.4 Measures the Authority may consider necessary to ensure the licensing objectives are met at a licensed FEC include but are not restricted to:

- proof of age schemes
- CCTV
- door supervisors
- supervision of entrances / machine areas
- physical separation of areas
- location of entry
- notices / signage
- specific opening hours
- training for staff on how to report any concerns about children or other vulnerable persons being harmed or exploited by gambling

16. Tracks

16.1 Section 353 of the Act defines a track as “a horse race-course, dog track or other premises on any part of which a race or other sporting event takes place or is intended to take place”. The Authority recognises that a venue could be within the terms of this definition, although not commonly understood to be a track premises, and will consider any application for a premises licence or occasional use notice to permit facilities for betting in respect of a venue purporting to be a track on a case by case basis. It is for the Authority to determine what constitutes a sporting event or race.

16.2 The Authority is aware that tracks may be subject to more than one premises licence, provided each licence relates to a specified area of the track. In accordance with the Commission’s guidance, the Authority will, in considering an application for a licence at a track, 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.

16.3 Measures the Authority may consider necessary to ensure the licensing objectives are met at a track include but are not restricted to:

- proof of age schemes
- CCTV
- door supervisors
- supervision of entrances/machine areas
- physical separation of areas
- location of entry
- notices/signage
- specific opening hours
- training for staff on how to report any concerns about children or other vulnerable persons being harmed or exploited by gambling

16.4 The Authority recognises the commentary at paragraph 20.55 in the Commission's Guidance to Licensing Authorities which corrects an anomaly within the Act and remedies the situation to allow children and young people to work on tracks in roles which do not involve any form of gambling, such as jockeys, stable lads or dog handlers. The Authority implements this Statement subject to any change in the law which addresses this issue, or any other matters, as and when they become effective.

16.5 Section 151 of the Act requires applicants to submit plans of the premises with their application in order to ensure that the Authority has the necessary information to make an informed judgement about whether the premises is fit for gambling. The plan will also be used by the Authority to plan its future premises inspection activity (see Guidance to Licensing Authorities, paragraph 20.43).

16.6 Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by Regulations (see Guidance to Licensing Authorities, paragraph 20.44).

16.7 Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point race tracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises.

16.8 In the rare cases where the outer perimeter of the track cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined.

16.9 The Authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information so that the Authority can satisfy itself that the plan shows the main areas where betting might take place. For racecourses in particular, any betting areas subject to the "five times rule" (commonly known as betting rings) must be indicated on the plan.

17. Travelling Fairs

17.1 The Authority recognises its responsibility to determine whether category D machines and/or equal chance gaming without a permit may be made available for use at a travelling fair within South Tyneside, it being a statutory requirement that the facilities for gambling must amount to no more than an ancillary amusement at the fair.

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

18. Provisional Statements

18.1 Section 204 of the Act allows a person to make an application to the Authority for a provisional statement in respect of premises they:

- expect to be constructed,
- expect to be altered, or
- expect to acquire a right to occupy.

18.2 A developer may wish to apply to the Authority for a provisional statement before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence.

18.3 It is important to note that the Commission's Guidance states that a premises licence application may be made instead of a provisional statement in respect of premises which have yet to be constructed or altered.

18.4 The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.

18.5 The Authority will consider all applications for provisional statements on their own merits, applying the two stage process described in paragraph 4.3 above, and, in determining an application, will not take into account the likelihood of an operating licence being granted by the Commission for the premises, or whether planning or building approval would be successful.

18.6 If a provisional statement is granted, the Authority recognises the constraints which will apply to the representations which can be made when an application is subsequently made for a premises licence. No further representations from responsible authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances.

18.7 In addition, the Authority may only refuse the premises licence (or grant it on terms different to those attached to the provisional statement) by reference to matters:

- which could not have been raised by objectors at the provisional statement stage,

- which, in the Authority's opinion, reflect a change in the operator's circumstances, or
- where the premises has not been constructed in accordance with the plan submitted with the provisional statement application. (This must be a substantial change to the plan and the Authority notes that it can discuss any concerns it has with the applicant before making a decision.)

19. Reviews

19.1 The Act provides that a premises licence may be reviewed at any time by class of premises or in relation to an individual premises in response to a written application from a responsible authority or interested party, or on the initiation of the Authority or the Commission.

19.2 Class reviews take place to assess the use of those premises, or to ensure compliance with licence conditions. Individual reviews occur where there is suspicion that licence conditions are not being complied with or for any other appropriate reason.

19.3 A review cannot take place unless the Authority is satisfied that the request for the review is:

- relevant to any Code of Practice issued by the Commission,
- relevant to appropriate guidance issued by the Commission,
- reasonably consistent with the licensing objectives, or
- in accordance with this Statement.

19.4 As well as being relevant, a request for a review is subject to consideration by the Authority as to whether it is:

- frivolous,
- vexatious,
- substantially the same as previous representations or requests for review; or,
- certainly not one to cause the Authority to wish to alter/revoke/suspend the licence.

19.5 A review must be considered by the Authority's Licensing Committee or Sub-Committee after giving appropriate notice.

19.6 Once a valid application for a review has been received, representations can be made by responsible authorities and interested parties during a 28 day period. The period begins 7 days after the application was received by the Authority, who will publish notice of the application within 7 days of receipt.

19.7 The Authority must carry out the review as soon as possible after the 28 day period for making representations has passed.

19.8 The purposes of the review will be to determine whether the Authority should take any action in relation to the premises licence. If action is justified, the options open to the Authority are:-

- to add, remove or amend a licence condition imposed by the Authority,
- to exclude a default condition imposed by the Secretary of State or remove or amend such an exclusion,
- to suspend the premises licence for a period not exceeding 3 months, or
- to revoke the premises licence.

19.9 The Authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

19.10 Once the review has been completed, the Authority must, as soon as possible, notify the decision to:

- The licence holder,
- The applicant for review (if any),
- The Commission,
- Any person who made representations,
- The Chief Officer of Police Chief Constable, and
- Her Majesty's Revenue and Customs

20. Appeals

20.1 There is a right of appeal to the local Magistrates' Court against a decision of the Authority within 21 days of receipt of that decision as follows:

- if an application has been refused, only the applicant can appeal.
- if an application is granted, applicants and third parties can appeal.
- following a review, the licence holder, the person who made representations requesting the review, persons making representations about the review and the Commission can appeal.
- in relation to the transfer of a licence, the licence holder and the applicant for transfer can appeal.

20.2 Unless the applicant is the appellant they will also be the respondent to any appeal along with the Authority.

PART C - PERMITS, TEMPORARY USE NOTICES AND OCCASIONAL USE NOTICES

1. Unlicensed Family Entertainment Centre Gaming Machine Permits

1.1 These permits may be granted to premises catering for families and unaccompanied children and young persons which contain only category D gaming machines. They are regulated by Schedule 10 of the Act. An applicant must show that the premises will be used wholly or mainly for making gaming machines available for use and applications must be accompanied by a plan of the premises. In exercising its functions under Schedule 10, the Authority will have regard to all of the matters contained in this section.

1.2 Conditions cannot be attached to this type of permit but the Authority can and will consider the following issues in relation to any application:

- the suitability of the applicant to hold the permit, and
- the policy and procedures the applicant has in place to protect children from harm

1.3 “Harm” in this context is not limited to harm from gambling, but includes wider child welfare considerations. The effectiveness of the policy and procedures an applicant has in place to protect children from harm will be considered on a case-by-case basis, but as examples of good practice they may include:

- measures/training for staff on how to deal with suspected school truants or unsupervised very young children on the premises
- measures/training for staff on how to report any child welfare concerns
- the ability of the applicant to demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed family entertainment centres and whether staff are trained to have such an understanding
- whether the applicant has any relevant convictions as set out in Schedule 7 of the Act.

2. Gaming Machine Permits in Alcohol Licensed Premises

2.1 A premises which is licensed under the Licensing Act 2003 to sell alcohol for consumption on the premises can automatically have two gaming machines of categories C and/or D on the same premises providing the Authority is notified. The automatic authorisation can be removed by the Authority upon making an appropriate order to that effect if:

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

2.2 Before the Authority makes such an order it will give the licence holder at least 21 days' notice of its intention to do so. The Authority will consider any representations made by the licence holder and hold a hearing before its Sub-Committee if the licence holder requests this.

2.3 If a premises wishes to have more than 2 machines then it needs to apply for a permit. Such permits are regulated by Schedule 13 of the Act. The Authority must consider an application based upon:-

- the licensing objectives,
- any guidance issued by the Commission under section 25 of the Act, and
- such matters as it considers relevant.

2.4 The Authority believes that "such matters" will be decided on a case-by-case basis, but generally it will be appropriate to have regard to the need to protect children and vulnerable persons from harm or from being exploited by gambling. Applicants will be expected to satisfy the Authority that there will be sufficient control measures in place to ensure that those under 18 years of age do not have access to any adult only gaming machines. Control measures may include: machines being in sight of the bar or in sight of staff who will monitor their use, the provision of notices and signage and the provision of information leaflets/help-line numbers for organisations such as Gamcare in relation to the protection of vulnerable persons.

2.5 Where alcohol licensed premises operators apply for a gambling premises licence for their non-alcohol licensed areas, such applications will be dealt with in the same way as an adult gaming centre for which a full premises licence will be required.

2.6 The Authority can decide to grant a permit with a smaller number of machines and/or a different category of machines than that applied for. It should be noted that the holder of any permit must comply with any Code of

Practice issued by the Commission about the location and operation of the machines.

3. Prize Gaming Permits

3.1 Prize gaming occurs when the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming but by the operator before play commences.

3.2 A prize gaming permit is required to authorise the provision of facilities for gaming with prizes on specified premises. Such permits are regulated by Schedule 14 of the Act.

3.3 Premises which do not require prize gaming permits are:

- casinos, which are able to offer any form of prize gaming other than bingo.
- holders of bingo premises licences which specifically permit prize gaming in respect of unequal games of chance as well as equal games of chance.
- adult gaming centres and licensed family entertainment centres, which can provide any type of prize gaming.
- unlicensed family entertainment centres but which may only offer equal chance prize gaming under the auspices of their gaming machine permit.
- travelling fairs, which are limited to offering equal chance prize gaming providing the facilities for gambling are an ancillary amusement at the fair

3.4 Children and young persons may participate in equal chance prize gaming only.

3.5 The categories of premises licence referred to at 3.3 above and all prize gaming permit holders must comply with the following four conditions as set out in the Act in order to lawfully offer prize gaming:-

- 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 the 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 (if a money prize) or the prescribed value (if a non-monetary prize) set out in Regulations
- participation in the gaming must not entitle the player to take part in any other gambling.

3.6 When considering applications for prize gaming permits the Authority will wish to take into account the following matters:

- the type of gaming that the applicant is intending to offer
- whether the applicant can demonstrate that they understand the limits to stakes and prizes that are set out in Regulations
- that the gaming offered is within the law
- that the applicant has clear policies that outline the steps to be taken to protect children from harm

3.7 In making its decision on an application for this type of permit the Authority will have regard to the licensing objectives and any Commission guidance.

3.8 The Authority may only grant a permit if they have consulted with the Chief Officer of Police about the application and will take account of any objections the Police may wish to raise which are relevant to the licensing objectives, i.e.:

- the suitability of the applicant in terms of any convictions they may have that would make them unsuitable to operate prize gaming
- the suitability of the premises in relation to their location
- issues concerning disorder.

3.9 A prize gaming permit lasts for 10 years, unless it lapses, is surrendered or is forfeited.

4. Club Gaming Permits and Club Machine Permits

4.1 Club gaming permits and club machine permits are regulated under Schedule 12 of the Act.

4.2 The terms “members’ club”, “commercial club” and “miners’ welfare institute” are defined in sections 266, 267 and 268 of the Act respectively.

4.3 Club gaming permits may be issued to members’ clubs and miners’ welfare institutes but not to commercial clubs. A club gaming permit authorises the provision of up to three gaming machines of category B3A, B4, C or D (but only one category B3A machine can form part of that entitlement) as well as equal chance gaming and certain other games of chance as specified in Regulations, namely pontoon and *chemin de fer*.

4.4 Club machine permits may be issued to commercial clubs as well as members' clubs and miners' welfare institutes. A club machine permit authorises the provision of up to three gaming machines of categories B3A, B4, C or D (although only one category B3A machine can form part of the entitlement of member's clubs and miners' welfare institutes and category B3A machines are not permitted in commercial clubs) as well as equal chance gaming and certain other games of chance as specified in Regulations, namely pontoon and *chemin de fer*.

4.5 The Authority may only refuse an application for a club gaming permit or a club machine permit on the following grounds:

- the applicant does not fulfil the requirements for a members' club or miners' welfare institute and is therefore not entitled to receive the type of permit applied for,
- the applicant's premises are used wholly or mainly by children and/or young persons,
- an offence under the Act or a breach of permit has been committed by the applicant while providing gaming facilities,
- a permit held by the applicant has been cancelled in the previous 10 years, or
- an objection has been made by the Commission or the Police.

4.6 There is also a "fast track" procedure available in cases where a premises holds a club premises certificate under section 72 of the Licensing Act 2003, which gives no opportunity for objections to be made by the Commission or the Police because the premises has already been through the club premises application procedure under the Licensing Act. In these circumstances the grounds on which the Authority may refuse an application are that:

- the club is established primarily for gaming other than gaming prescribed under Schedule 12,
- in addition to the prescribed gaming, the applicant provides facilities for other gaming, or
- a club gaming permit or club machine permit issued to the applicant in the last 10 years has been cancelled.

4.7 The gaming entitlements of clubs, miners' welfare institutes and alcohol licensed premises can be found in the table in Appendix D.

5. Temporary Use Notices

5.1 Temporary use notices allow the use of premises for gaming in circumstances where there is no premises licence but a gambling operator

wishes to use a premises temporarily for providing facilities for gambling, for example at a hotel conference centre or sporting venue.

5.2 They can only be granted to a person or company holding a relevant operating licence. The Gambling Act 2005 (Temporary Use Notices) Regulations 2007 state that temporary use notices can only be used to permit the provision of facilities for equal chance gaming where the gaming is intended to produce a single winner, which in practice means poker tournaments.

5.3 There are a number of statutory limits as regards temporary use notices. There is a maximum limit of 21 days per annum for which temporary use notices may be granted to a set of premises in any period of 12 months. The Act specifies that a set of premises includes “any part” of the premises which is the subject of the notice. It is the responsibility of the Authority to decide what constitutes a set of premises. In so doing, the Authority will look at matters including the ownership, occupation and control of the premises.

6. Occasional Use Notices

6.1 Where there is betting on a track for 8 days or less in a calendar year, betting may be permitted by an occasional use notice without the need for a full premises licence. The intention behind occasional use notices is to permit licensed betting operators to use tracks for short periods for conducting betting where the event upon which the betting is to take place is of a temporary or infrequent nature.

6.2 The Authority has very little discretion in regard to these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded.

6.3 The Authority will consider the definition of a “track” and whether the applicant is permitted to avail him/herself of such a notice on a case-by-case basis.

PART D - SMALL SOCIETY AND OTHER LOTTERIES

1. Small Society Lotteries

1.1 A lottery is illegal under the Act unless it is registered with the Commission or it is an “exempt lottery”. The National Lottery is governed separately by the National Lottery Act 1993.

1.2 The Authority does not have any functions with respect to licensed lotteries, which are regulated by the Commission through the provision of an Operating Licence, but within the category of exempt lotteries are “small society lotteries”. Societies running such lotteries are required to be registered with the local authority in whose area their principal offices are situated. The Authority is therefore the local authority with whom any small society lottery in the borough needs to be registered and this function is administered by the Licensing Team.

1.3 Schedule 11 of the Act sets out the legal provisions governing small society lotteries.

1.4 In determining lottery registration applications and all other matters involving lotteries the Authority will have regard to the Act and its licensing objectives, guidance and codes of practice issued by the Commission and this Statement.

1.5 To qualify for registration, a society must be “non-commercial”. To be considered non-commercial the society must be established and conducted for:

- charitable purposes,
- the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity, or
- any other non-commercial purpose other than that of private gain.

1.6 A small society lottery is further defined by the value of its dealings. If the total value of tickets that a society puts on sale in any one lottery exceeds £20,000, or tickets in separate lotteries in one calendar year are to exceed £250,000 in aggregate, the lottery is a large lottery and the society will require an operating licence from the Commission.

1.7 The promoting society of a small lottery must be registered throughout the period the lottery is promoted. Details of the society will be kept in a register maintained by the Authority and, in accordance with a recommendation of the Commission; the Authority will make the register available for inspection by the public on request. Once a society is registered, the society will be notified by the Authority accordingly and the Authority will also inform the Commission of the registration.

1.8 An application by a society to register a small lottery must be refused if in the period of 5 years ending with the date of the application:

- an operating licence held by the applicant for registration has been revoked under section 119(1), or
- an application for an operating licence made by the applicant for registration has been refused.

1.9 The Authority may refuse an application for registration if it considers that:

- the applicant is not a non-commercial society,
- a person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence, or
- information provided with or in the application for registration is false or misleading.

1.10 The Authority may revoke a registration if it considers that it would be obliged or able to refuse an application for registration if it were being made anew.

1.11 An applicant for registration which is refused has a right of appeal to the Magistrates' Court within 21 days of the decision. Where revocation of a registration takes place, the society has the same right of appeal.

1.12 Within three months of any small society lottery draw, the promoting society must send the Authority a return signed by two members of the society that gives the prescribed information set out in the Act. If, after receipt of the return, it is apparent that the ticket sales are above the permitted limits for a small society lottery, the Authority will notify the Commission. A copy of that notification will be provided to the society.

2. Other Lotteries

2.1 In addition to small lotteries, there are three other types of exempt lottery: an incidental non-commercial lottery, a private lottery and a customer lottery. If a person is unsure as to the nature of the lottery they intend to promote they should contact a member of the Licensing Team.

3. Offences

3.1 If for any reason the Authority suspects that an offence has been committed under the Act in relation to a lottery, the Authority may commence an investigation and, along with the Commission and the Police, has the authority to prosecute any suspected offender.

PART E - ADDITIONAL INFORMATION

1. Inconsistency/Ambiguity in this Statement

1.1 In the event of any inconsistency or ambiguity in this Statement in relation to the Act or the Statutory Guidance then the reader is referred to the relevant section of the Act for clarification. If the point is not addressed in the Act then the reader is referred to the Statutory Guidance issued under section 25 of the Act for further clarification.

2. Further information

2.1 For further information, assistance or advice, please contact:

Licensing Team
South Tyneside Council
Town Hall and Civic Offices
Westoe Road
South Shields
Tyne and Wear
NE33 2RL

Telephone 0191 424 7695

Email licensing@southtyneside.gov.uk

Website www.southtyneside.gov.uk/licensing

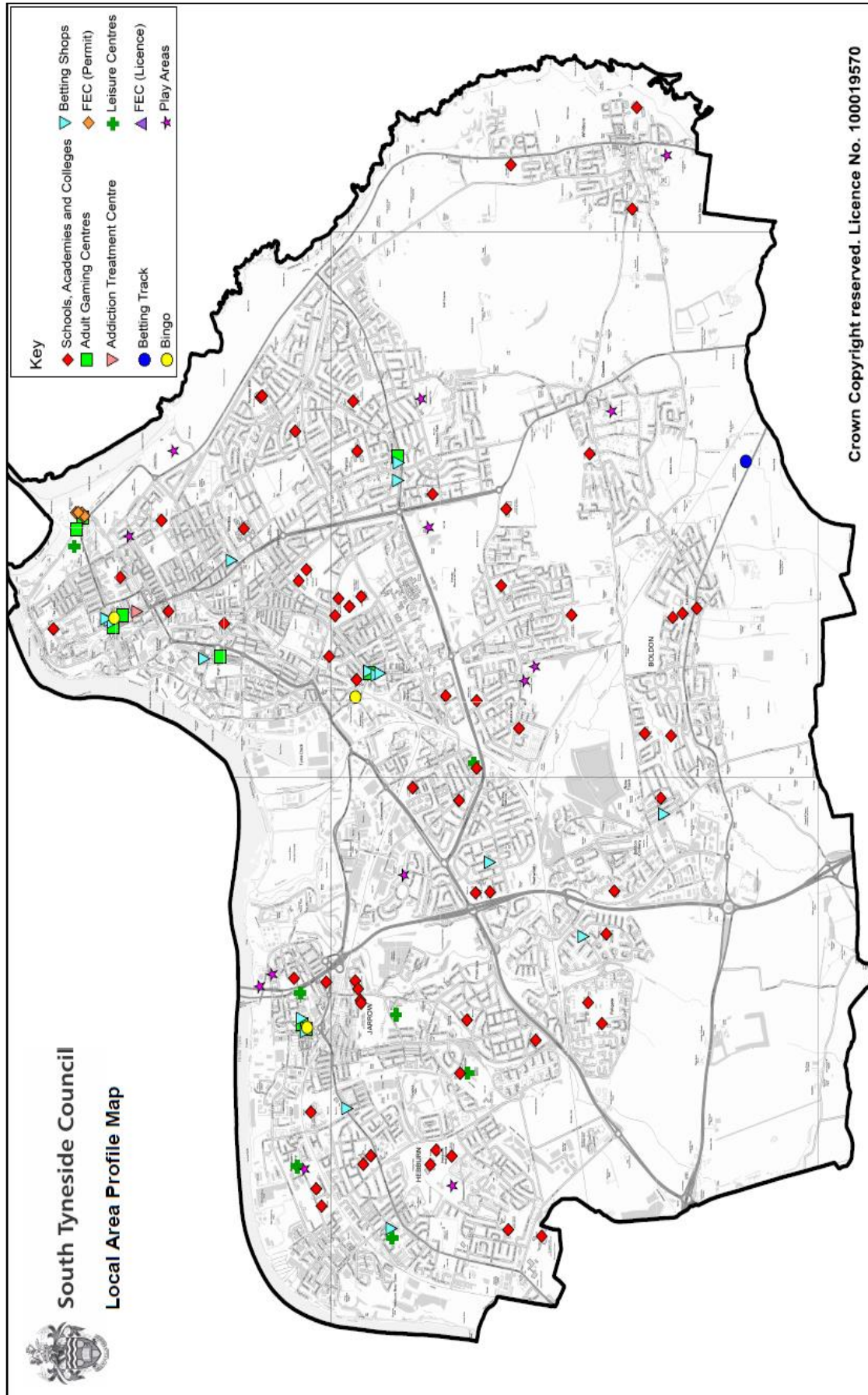
2.2 Other sources of information:

Gambling Commission: www.gamblingcommission.gov.uk.

Department for Digital, Culture, Media and Sport:

www.gov.uk/government/organisations/department-for-digital-culture-media-sport

APPENDIX A: Local area profile map



APPENDIX B: Delegations

Column entries indicate the lowest level to which a decision can be delegated.

Matter under consideration	Full Council	Sub-Committee of the Licensing Committee	Officers
Statement of licensing policy	X		
Resolution not to permit casinos	X		
Fee setting (when appropriate)		X	
Application for a premises licence		Where representations have been received and not withdrawn	Where no representations have been received / representations have been withdrawn
Application for a variation to a premises licence		Where representations have been received and not withdrawn	Where no representations have been received / representations have been withdrawn
Application for a transfer of a premise 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 have been received / representations have been withdrawn
Review of a premises licence		X	
Application for a club gaming / club machine permit		Where objections have been made and not withdrawn	Where no objections have been made / objections have been withdrawn
Cancellation of a club gaming / club machine permit		X	
Applications for other permits			X
Cancellation of a licensed premises gaming machine permit			X
Consideration of a temporary use notice			X
Decision to issue a counter notice to a temporary use Notice		X	

APPENDIX C: Summary of gaming machine categories

Category of Machine	Maximum Stake	Maximum Prize	Permitted Premises
A	Unlimited	Unlimited	No Category A gaming machines are currently permitted
B1	£5	£10,000 (with the option of a maximum of £20,000 linked progressive jackpot on a premises basis only)	Large Casino, Small Casino, Pre 2005 Act casino and Regional Casinos
B2	£100 ³	£500	Betting premises and tracks occupied by pool betting and all of the above
B3	£2	£500	Bingo premises, adult gaming centre and all of the above
B3A	£2	£500	Members' club or miners' welfare institute only
B4	£2	£400	Commercial club and all of the above.
C	£1	£100	Licensed family entertainment centre, qualifying alcohol licensed premises (without additional gaming machine permit), qualifying alcohol licensed premises (with additional gaming machine permit) and all of the above.
D - money prize	10p	£5	Travelling fair, unlicensed (with permit) family entertainment centre and all of the above.
D - non-money prize (other than a crane grab machine)	30p	£8	All of the above
D - non-money prize (crane grab machine)	£1	£50	All of the above
D - combined money and non-money prize (other than a coin pusher or penny falls machine)	10p	£8 (of which no more than £5 may be a money prize)	All of the above
D - combined money and non-money prize (coin pusher or	20p	£20 (of which no more than £10 may be a money prize)	All of the above

³ Following the Government's response to the 'Consultation on proposals for changes to Gaming Machines and Social Responsibility Measures' and, subject to Parliamentary approval, the Gaming Machine (Miscellaneous Amendments and Revocation) Regulations 2018 will come into force on 1st April 2019. This will reduce the maximum stake for category B2 gaming machines from £100 to £2. Premises licence holders or applicants may wish to consult the Gambling Commission's website, www.gamblingcommission.gov.uk, or contact the Licensing Team for further information.

penny falls machine)			
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APPENDIX D: Summary of gaming machine provision by premises type

Premises type	Gaming machine category						
	A	B1	B2	B3	B4	C	D
Large casino (machine/table ratio of 5-1 up to maximum)		Maximum of 150 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine/table ratio)					
Small casino (machine/table ratio of 2-1 up to maximum)		Maximum of 80 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine/table ratio)					
Pre-2005 Act casino (no machine/table ratio)		Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead					
Betting premises and tracks occupied by pool betting			Maximum of 4 machines categories B2 to D (except B3A machines)				
Bingo premises⁴				Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4**		No limit on category C or D machines	
Adult gaming centres⁵				Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4**		No limit on category C or D machines	
Licensed family entertainment centre⁶						No limit on category C or D machines	
Family entertainment centre (with permit)⁶							No limit on category D machines
Clubs or miners' welfare institute (with permit)⁷					Maximum of 3 machines in categories B3A or B4 to D*		
Qualifying alcohol licensed premises						1 or 2 machines of category C or D automatic upon notification	
Qualifying alcohol licensed premises (with gaming machine)						Number of category C-D machines as specified on the permit	

⁴ Bingo premises are entitled to make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines on the premises. Where a premises licence was granted before 13 July 2011, they are entitled to make available eight category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. Category B machines at bingo premises are restricted to sub-category B3 and B4 machines, but not B3A machines.

⁵ Adult gaming centres are entitled to make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises and any number of category C or D machines. Where a premises licence was granted before 13 July 2011, they are entitled to make available four category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. Category B machines at adult gaming centres are restricted to sub-category B3 and B4 machines, but not B3A machines.

⁶ Only premises that are wholly or mainly used for making gaming machines available may hold an unlicensed family entertainment centre (FEC) gaming machine permit or an FEC premises licence. Category C machines may only be sited within licensed FECs and where an FEC permit is in force. They must be in a separate area to ensure the segregation and supervision of machines that may only be played by adults. There is no power for the licensing authority to set a limit on the number of machines under the FEC permit.

⁷ Members' clubs and miners' welfare institutes with a club gaming permit or with a club machine permit, are entitled to site a total of three machines in categories B3A to D but only one B3A machine can be sited as part of this entitlement. Commercial clubs with club machine or gaming permits are entitled to a total of three machines in categories B4 to D.

permit)							
Travelling fair							No limit - D only

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