Report to Executive

Meeting Date:	**20th December 2021**
Portfolio:	Finance, Governance and Resources
Key Decision:	Yes
Within Policy and Budget Framework	YES
Public / Private	Public

Title:	GAMBLING ACT 2005 - DRAFT STATEMENT OF PRINCIPLES
Report of:	Director of Governance and Resources
Report Number:	GD.86/21

Purpose / Summary:

The Gambling Act 2005 came into effect on 7th September 2007. There is a requirement that Licensing Authorities must prepare and publish a licensing policy statement. This document will last for a maximum of three years.

The Licensing Committee agreed a reviewed policy to be consulted upon at their meeting on 18th August 2021. The consultation period ended on 8th October 2021. The Committee considered the response to the consultation and note that no amendments were made to the policy. The Executive are requested to approve the draft policy for consideration by Council on 4th January 2022.

Recommendation:-

1. Consider the responses to the consultation.
2. Consider the amended draft Gambling Policy with a view to adoption by Council on 4th January 2022.

Tracking

Licensing Committee	**18th August 2021 & 1st December 2021**
Executive:	**31st August 2021 & 20th December 2021**
Scrutiny:	
Council:	**4th January 2022**

1. BACKGROUND

1.1 Section 349 of the Gambling Act 2005 ("the Act") requires all licensing authorities to prepare and publish a Statement of Principles that they propose to apply in exercising their functions under the Act during the three year period to which the policy applies. A Statement of Principles will last for a maximum of three years, but can be reviewed by an authority at any time.

1.2 Members of the Licensing Committee approved the revised policy to be consulted upon at its meeting on 18th August 2021. The consultation period closed took place from 23rd August 2021 – 8th October 2021.

1.3 Consultation took place with the list of organisations included at Appendix 1 of the draft policy alongside those with a direct interest, eg Council Members and current licence holders.

1.4 A press release was prepared and issued to local media and details of the consultation were published on the Council's website.

1.5 The Council received no responses.

2 PROPOSALS

2.1 As no responses were received to the consultation no amendments have been made to the draft policy.

3 RISKS

3.1 Failure to publish a revised Statement of Principles with the required timescale would leave Carlisle City Council in breach of its statutory obligations. This could lead to legal challenges, costs to the council and adversely affect the Council's reputation.

4 CONSULTATION

4.1 The Act requires the Council to consult. The report's recommendation is specifically aimed at providing Members with the responses to the formal consultation.

5 CONCLUSION AND REASONS FOR RECOMMENDATIONS

5.1 Consider the responses to the consultation.

5.2 Consider the amended draft Gambling Policy with a view to adoption by Council on 4th January 2022.

Contact Officer: **Nicola Edwards** **Ext: 7025**

Appendices attached to report: **Appendix 1 – Draft Statement of Gambling Policy 2022-2025**

Note: in compliance with section 100d of the Local Government Act 1972 the report has been prepared in part from the following papers:

- Gambling Commission Guidance to Licensing Authorities, 5th Edition, September 2015 (updated September 2016)
- Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006
- Report GD.48/18 Gambling Act 2005 - Draft Statement Of Principles

CORPORATE IMPLICATIONS:

LEGAL – Included within report

FINANCE – There are no financial implications arising from this report

EQUALITY – The public sector Equality Duty and Equality Policy have been considered by the service manager in preparing this draft policy. The policy clearly states how it will protect children and whether any special considerations apply in relation to the protection of vulnerable persons, on a case by case basis, through a Local Area Profile.

INFORMATION GOVERNANCE – The Policy states it will work without the boundaries of the legislation

Gambling Licensing Policy

2022-2025

CARLISLE CITY COUNCIL

www.carlisle.gov.uk

Table of Contents

Part **A - Overview**

1. The Licensing Objectives 5
2. Authorised Activities 5
3. Introduction 6
4. Declaration 8
5. Responsible Authorities 8
6. Interested Parties 9
7. Exchange of Information 10
8. Enforcement 11
9. Local Risk Assessments 12
10. Local Area Profile 13
11. Licensing Authority Functions 13

Part B Premises Licences

12. General Principles 15
13. Licensing Objectives 20
14. Conditions 21
15. Adult Gaming Centres 23
16. (Licensed) Family Entertainment Centres 24
17. Casinos 26
18. Bingo Premises 28
19. Betting Premises 30
20. Tracks 32
21. Travelling Fairs 34
22. Provisional Statements 35
23. Review 36
24. Rights of Appeal and Judicial Reviews 39

Part C Permits/Temporary & Occasional Use Notices/Small Society Lotteries

25. Unlicensed Family Entertainment Centre Gaming Machine Permits 40

26. Alcohol Licensed Premises Gaming Machine Permits 41
27. Prize Gaming Permits 42
28. Club Gaming and Club Machine Permits 43
29. Temporary Use Notices (TUN) 44
30. Occasional Use Notices 47
31. Small Society Lotteries 48
32. Rights of Appeal 49

Appendices

Appendix 1 List of Consultees 50
Appendix 2 Categories of Gaming Machines 51
Appendix 3 Delegate of Functions 52
Appendix 4 Local Area Profile 53

This Statement of Gambling Licensing Policy was approved by Full Council on (Date to be inserted)

All references to the "Guidance" refers to the Gambling Commission's Guidance to Local Authorities published 1st April 2021

PREFACE

The Gambling Act 2005 ('the act) contains the regulatory system to govern the provision of all gambling in Great Britain, other than the National Lottery and spread Betting. It received Royal Assessment on 7th April 2005.

The Gambling Commission (the Commission) is the unified regulator for gambling in Great Britain.

The Commission does not regulate spread betting, which remains the responsibility of the Financial Services Authority; nor the National Lottery, which is regulated by the National Lottery Commission. However the National Lottery Commission has been co-located with the Gambling Commission since 2013 and the Public Bill includes legislation to merge the two Commissions.

The Commission has responsibility for granting operating and personal licences for commercial gambling operators and personnel working in the industry. It also regulates certain lottery managers and promoters. The Act sets out different types of operating licence that cover the full range of commercial gambling activities conducted in Great Britain. It also makes provision for the Commission to have powers of entry and inspection to regulate gambling, with safeguards for those subject to the powers.

Licensing Authorities license gambling premises within their area, as well as undertaking functions in relation to lower stake gaming machines in club and miner's welfare institutes. The Act also provides a system of temporary and occasional use notices. These authorised premises that are not licensed generally for gambling purposes to be used for certain type of gambling, for limited periods.

Allerdale Borough Council, Barrow Borough Council, Carlisle City Council, Copeland Borough Council, Eden District Council and South Lakeland District Council continue to work together to share best practice in an effort to ensure, so far as practicable, consistency of approach across Cumbria. This statement of policy sets out the principles that Carlisle City Council propose to apply in exercising its functions under the Gambling Act 2005, in particular for managing the expectations in relation to operators with premises in the locality.

Under the Gambling Act 2005, each local authority is required to prepare and publish their statement of policy every three years which must be consulted on. A list of consultees is shown at Appendix 1.

PART A. Overview

1. The Licensing Objectives

1.1 In exercising most of their functions under the Gambling Act 2005, Licensing Authorities must have regard to the licensing objectives as set out in Section 1 of the Act. These are

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

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

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

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

2 Authorised Activities

2.1 'Gambling' is defined in the Act as either gambling, betting or taking part in a lottery:

- 'gaming' means playing a game of chance for a prize;
- 'betting' means making or accepting a bet on the outcome of a race, competition, or any other event; the likelihood of anything occurring or not occurring; or whether anything is true or not true;
- A 'lottery' is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance.

2.2 Private gaming in private dwellings and on domestic occasions is exempt from licensing or registration providing that no charge is made for participating; only equal chance gaming takes place; and it does not occur in a place to which the public have access. Domestic

betting between inhabitants of the same premises or between employees of the same employer is also exempt.

2.3 Non-commercial gaming and betting (where no parts of the proceeds are for private gain) may be subject to certain exemptions. Further advice should be sought from the Council's Licensing Team where appropriate.

3 Introduction

3.1 The district of Carlisle is situated within the county of Cumbria which contains 6 district Councils in total. The council area covers approximately 1,042 sq km and has a population of 108,524[1]

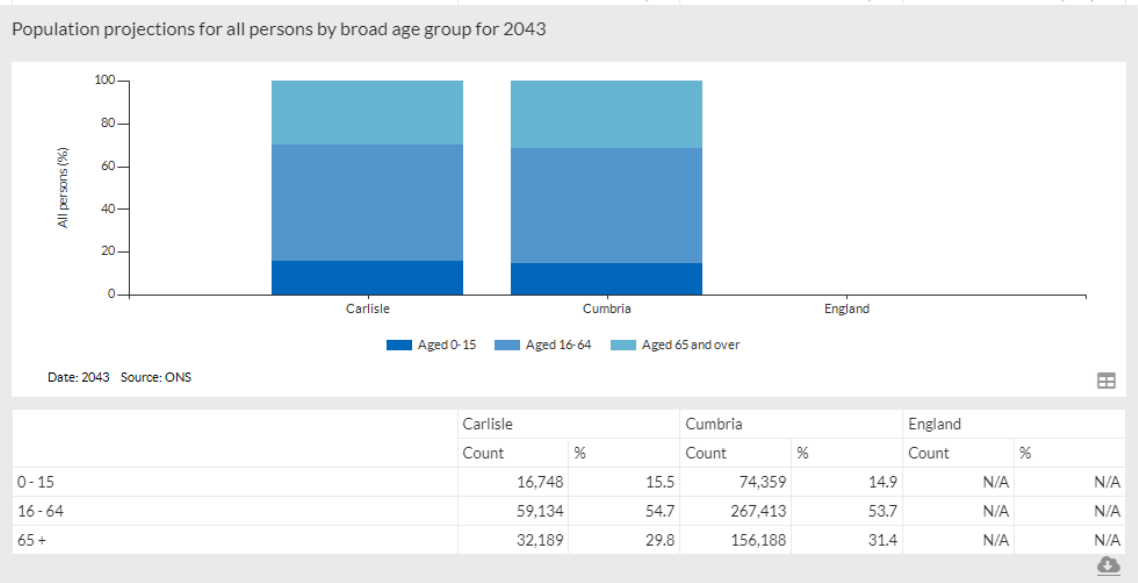
3.2 The estimated population profile percentage for residents in 202 is as illustrated below[2]:

Broad Age Group	% of total
0-14	16.7
15-29	15.9
30-44	17
45-59	21.3
60-74	18.9
75 +	10.2

[1] Office of National Statistics 2020, population estimate

[2] https://www.cumbriaobservatory.org.uk/population/report/view/32e912dc0fc8438f932399b24b848bea/E07000028

1



	Carlisle		Cumbria		England	
	Count	%	Count	%	Count	%
0 - 15	16,748	15.5	74,359	14.9	N/A	N/A
16 - 64	59,134	54.7	267,413	53.7	N/A	N/A
65 +	32,189	29.8	156,188	31.4	N/A	N/A

3.3 In line with national trends, the most notable change is the decline in working age population and increase in the number of older people, projected to be 29.8% of the Carlisle population by 2043.

3.4 Approximately 68% of the population currently live within the urban area of Carlisle. In the rural areas a key feature is the sparse distribution of residents; on average there are 97 people per hectare in Carlisle's rural areas (compared to 477 regionally and 378 nationally).[3]

3.5 A map of the Council's area is included at Appendix 4. The key provided identifies the urban/rural areas

3.6 Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they proposed to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from "time to time" and any amended parts re-consulted upon. The statement must be then re-published.

3.7 Carlisle City Council consulted widely upon this statement before finalising and publishing. A list of those persons this authority consulted is provided at Appendix 1.

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

- The Chief Officer of Police;
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area;

[3] Carlisle District Local Plan 2015 - 2030

- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.

3.9 Our consultation took place between 23rd August and 8th October 2021.

3.10 The full list of comments made and the consideration by the Council of those comments is available by request to the person named below.

3.11 The policy was approved at a meeting of the Full Council on (date to be inserted). It was published on our website on and advertised in a local newspaper. Copies have been sent to the public libraries in the District as well as being available in the Council Offices.

3.12 Should you have any queries regarding this policy statement please send them via e-mail or letter to the following contact:

Licensing Manager
Carlisle City Council
Civic Centre
Carlisle
CA3 8QG

E-mail: licensing@carlisle.gov.uk
Tel: 01228 817523

3.13 It should be noted that this policy statement will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

4 Declaration

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

5 Responsible Authorities

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

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

5.2 In accordance with the suggestion in the Gambling Commission's Guidance to local authorities, this authority has consulted with both the Cumbria Safeguarding Children Board and Cumbria County Council Children's Services. This Authority considers that Cumbria County Council Children's Services is best able to fulfil the role of advising the Authority about the protection of children from harm for the purposes of Section 157(b) of the Act.

5.3 The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the Council's website at: www.carlisle.gov.uk and are listed at Appendix 2.

6 Interested Parties

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

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

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

b) has business interests that might be affected by the authorised activities, or

c) represents persons who satisfy paragraph (a) or (b)"

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

6.3 This authority will not apply a rigid rule to its decision making and each case will be decided upon its merits. It will consider the examples of considerations provided in the Gambling Commission's Guidance for local authorities at Paragraphs 8.11 to 8.18.

6.4 It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

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

6.6 Interested parties can be persons who are democratically elected such as Councillors and MP's. No specific evidence of being asked to represent an interested person will be required

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

6.7 If individuals wish to approach Councillors to ask them to represent their views then care should be taken that the Councillors are not a Member of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the Council's Licensing Department.

7 Exchange of Information

7.1 Licensing Authorities are required to include in their statements the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

7.2 The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the data protection law will not be contravened. The licensing authority will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

7.3 Should any protocols be established as regards information exchange with other bodies then they will be made available. This authority will normally share the information it holds about licensed premises with the following persons or bodies:

- A constable or police force
- an enforcement officer
- another Licensing Authority
- HMRC
- The Gambling Appeal Tribunal
- The Secretary of State
- Scottish Ministers

The Licensing Authority will also exchange information as per section 13 of the Guidance issued to Local Authorities.

8 Enforcement

8.1 Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers in the Act to institute criminal proceedings in respect of the offences specified.

8.2 This licensing authority's principles are that it will be guided by the Gambling Commission's Guidance for local authorities and will endeavour to be:

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

8.3 As per the Gambling Commission's Guidance to Licensing Authorities, this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

8.4 This licensing authority has adopted and implemented a risk-based inspection programme, based on;

- The licensing objectives
- Relevant codes of practice
- Guidance issued by the Gambling Commission, in particular at Part 36
- The principles set out in this statement of licensing policy

8.5 This may include test purchasing activities to measure the compliance of licensed operators with aspects of the Gambling Act. When undertaking test purchasing activities, this licensing authority will undertake to liaise with the Gambling Commission and the operator to determine what other, if any, test purchasing schemes may already be in place. Irrespective of the actions of an operator on their overall estate, test purchasing may be deemed to be an appropriate course of action.

8.6 The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the licensing authority but should be notified to the Gambling Commission.

8.7 This licensing authority also keeps itself informed of developments as regards the work of the Office for Product Safety and Standards (OPSS) in its consideration of the Regulatory functions of local authorities.

8.8 Bearing in mind the principle of transparency, this licensing authority's enforcement policy is available upon request to the licensing department.

9 Local Risk assessments

9.1 The Commission's Licence Conditions and Code of Practice (LCCP) formalise the need for operators to consider local risks.

9.2 Social Responsibility (SR) code 10.1 requires licensees to assess the local risk to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In undertaking their risk assessments, they must take into account relevant matters identified in this policy statement.

9.3 Licensees are required to undertake a local risk assessment when applying for a new premises licence. Their risk assessment must also be updated:

- When applying for a variation of a premises licence
- To take account of significant changes in local circumstances, including those identified in this policy statement
- Where there are significant changes at a licensee's premises that may affect their mitigation of local risks.

9.4 The Council will expect the Local Risk Assessment to consider as a minimum:

- The location of services for children and young people such as schools, colleges, playgrounds, leisure/community centres and other areas where children will gather
- The demographics of the area in relation to vulnerable groups
- Whether the premises is in an area subject to high levels of crime and/or disorder
- Local risk assessments should show how vulnerable people, including people with gambling dependencies are protected.

9.5 The SR provision is supplemented by an ordinary code provision that requires licensees to share their risk assessment with the licensing authority when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise at the request of the Licensing Authority.

9.6 Where concerns do exists, perhaps promoted by new or existing risks, the Licensing Authority will request that the licensee share a copy of its own risk assessment which will set out the measures the licensee has in place to address specific concerns. This practice should

reduce the occasions on which a premises review and the imposition of license conditions are required.

9.7 Where this policy statement sets out its approach to regulation with clear reference to local risks, the licensing authority will facilitate operators being able to better understand the local environment and therefore proactively mitigate risks to the licensing objectives. In some circumstances, it might be appropriate to offer the licensee the opportunity to volunteer specific conditions that could be attached to the premises licence.

10 Local area profile

10.1 The Licensing Authority have found it useful to complete their own assessment of the local environment as a means of "mapping out" local areas of concern, which will be reviewed and updated to reflect changes to the local landscape. Such an assessment is known as the local area profile. There is no statutory duty on the Licensing Authority to complete an area profile, but there are significant benefits for both the Licensing Authority and Operators, in having a better awareness of the local area and risks. Importantly, risk in this context includes potential and actual risk, thereby taking into account possible future emerging risks, rather than reflecting current risks only.

10.2 To identify areas of concern the Licensing Authority mapped premises requiring permits and licences under the Gambling Act 2005 against vulnerable premises such as homeless shelters, education establishments and community centres. There are shown in Appendix 4 which shows there are no areas of concern; however this will be reviewed every 3 years in line with the review of this policy.

11 Licensing Authority Functions

Local Authorities

11.1 Licensing Authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences
- Issue Provisional Statements
- Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue Club Machine Permits to Commercial Clubs
- Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres

- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- Register small society lotteries below prescribed thresholds
- Issue Prize Gaming Permits
- Receive and Endorse Temporary Use Notices
- Receive Occasional Use Notices
- Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange)
- Maintain registers of the permits and licences that are issued under these functions
- Exercise its powers of compliance and enforcement under the Act, in partnership with the Gambling Commission and other relevant responsible authorities.

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

The Gambling Commission

11.2 The Gambling Commission regulates gambling in the public interest. It does so by keeping crime out of gambling; by ensuring that gambling is conducted in a fair and open way; and by protecting children and vulnerable people. The Commission provides independent advice to the Government about the matter in which gambling is carried out, the effects of gambling and the regulations of gambling generally.

11.3 The Commission has issued guidance under Section 25 of the Act about the manner in which licensing authorities exercise their licensing functions under the Act and, in particular, the principles to be applied.

11.4 The Commission has also issued Codes of Practice under Section 24 about the way in which facilities for gambling is provided, which may also include provisions about the advertising of gambling facilities.

11.5 The Gambling Commission can be contacted at:

Gambling Commission
Victoria Square House
Victoria Square
Birmingham
B2 4BP

Website: www.gamblingcommission.gov.uk
Email: info@gamblingcommission.gov.uk

PART B. Premises Licences

12 General Principles

12.1 Premises licences are subject to the requirements set out in the Act and regulations, as well as specific mandatory and default conditions which will be detailed in regulations issued by the Secretary of State. The licensing authority is able to exclude default conditions and also attach others, where it is believed to be appropriate

12.2 This Licensing Authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:

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

12.3 This authority will not regard moral objections to gambling as a valid reason to reject applications for premises licences (except as regards any 'no casino resolution' - see section on Casinos below) and also acknowledges that unmet demand is not a criterion for a licensing authority to consider. Further the authority is under a duty not to take other irrelevant matters into consideration eg; the likelihood of an applicant obtaining Planning Permission (see 11.11)

12.4 This licensing authority also notes the Gambling Commission guidance on ensuring that betting is the primary activity of a premises that only holds a betting premises licence. Gaming machines may be available for use in licensed betting premises only at times when there are also sufficient facilities for betting available. Operators will need to demonstrate that betting will continue to be the primary activity of the premise when seeking variations to licenses.

In making this determination, this licensing authority will have regard to the six indicators of betting as a primary gambling activity.

- the offer of established core products (including live event pictures and bet range)
- the provision of information on products and events
- the promotion of gambling opportunities and products
- the actual use made of betting facilities
- the size of premises
- the delivery of betting facilities

12.5 ***Definition of "premises"*** – In the Act, premises is defined as including "any place". Section 152 therefore prevents more than one premises license applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

12.6 The Gambling Commission states in the fifth edition of its Guidance to Licensing Authorities that: "in the Act, 'premises' is defined as any building including 'any place'. S125 therefore prevents more than one premises licence applying to any place. But, there is no reason in principle why a single building could not be subject to more than one premises licence, provided they are for different parts of the building, and the different parts of the building can reasonably be regarded as being different premises. This approach has been taken to allow large, multiple unit premises. This approach has been taken to allow large multiple unit premises such as pleasure parts, tracks or shopping malls to obtain discrete premises licence, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-division of a single building or plot and should ensure that mandatory conditions relating to access between the premises are observed.

12.7 In most cases the expectation is that a single building/plot will be the subject of an application for a licence, for example, 32 High Street. That does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing authority.

12.8 The set out that the type and number of high-stake gaming machines allowable in a premise are restricted according to the type of licence or permit granted. For example, a converted casino licence allows for 20 gaming machines in categories B, C or D. With exception of AGCs and FECs, premises are not permitted to be used exclusively for making available gaming machines, but rather to provide the gaming facilities corresponding to the premises licence type. The Licence Conditions and Codes of Practice (LCCP), sets out in full the requirements on operators.

12.9 With exception of bingo clubs, tracks on race-days, and licensed family entertainment centres, children will not be permitted to enter licensed gambling premises. Therefore businesses will need to consider carefully how they wish to configure their buildings if they are seeking to develop multi-purpose sites.

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

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gaming where they are prohibited from participating.
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so the separation of different premises is not compromised and people do not 'drift' into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers should be able to participate in the activities named on the premises licence.

12.11 The Guidance also gives a list of factors which the licensing authority should be aware of, which may include:

- Do the premises have a separate registration for business rates
- Is the premises' neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from other gambling premises?

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

12.12 **The Gambling Commission's relevant access provisions for each premises type are reproduced below:**

Casinos

- The principal access entrance to the premises must be from a street (as defined at 7.21 of the Guidance).
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons.
- No customer must be able to enter a casino directly from any other premises which hold a gambling premises licence.

Adult Gaming Centre

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

Betting Shops

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

Tracks

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

Bingo Premises

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

Family Entertainment Centre

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

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

12.13 In determining applications, the Licensing Authority has the duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, in effect those not related to gambling and licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulation approval for their proposal. Bearing in mind that once a premises licence comes into effect it authorises the premises to be used for gambling, a licence can only be issued once the Licensing Authority is satisfied that the premises is ready to be used for gambling in the reasonably near future.

12.14 If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead. See section 19 of this policy for further guidance.

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

- First, whether the premises ought to be permitted to be used for gambling
- Second, 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.

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

12.17 **Location** - This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. As per the Gambling Commission's Guidance to Licensing Authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits.

12.18 **Planning** – The Gambling Commission Guidance to Licensing Authorities states:
(para 7.58) In determining applications, the Licensing Authority should not take into consideration matter that are not related to gambling and the licensing objectives. One example would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.

This authority will not take into account irrelevant matters as per the above guidance. In addition this authority notes the following excerpt from the guidance:

(para 7.65) When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have to comply with the necessary planning or building consents. Not should fire or health and safety risks be taken into account. Those matters should be dealt with under relevant planning control, building and other regulations and must not form part of the consideration for the premises licence. Section 210 of the Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally, the grant of gambling premises licence does not prejudice or prevent any action that may be appropriate under

law relating to planning or building.

12.19 **Duplication with other regulatory regimes** - This licensing authority will seek to avoid any duplication with other statutory/regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

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

13 Licensing Objectives

13.1 Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission's Guidance to local authorities and some comments are made below.

13.2 **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** - This licensing authority is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, if an area should have known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction. This licensing authority is also aware that issues relating to nuisance are dealt with under separate legislation and not under the Gambling Act 2005.

13.3 **Ensuring that gambling is conducted in a fair and open way** - This licensing authority has noted that the Gambling Commission states that it generally does not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences issued by the Gambling Commission. There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section below at Paragraph 17.

13.4 **Protecting children and other vulnerable persons from being harmed or exploited by gambling** - With limited expectations, the intention of the Gambling Act is that children and

young persons should not be permitted to gamble and should be prevented from entering those gambling premises which are adult-only environments. The objective refers to protecting children from being 'harmed or exploited by gambling'. That means preventing them from taking part in gambling and for there to be restrictions on adverting so that gaming products are not aimed at children or adverting in such a way that makes them particularly attractive to children, excepting Category D gaming machines. The licensing authority will therefore consider, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances/ machines, segregation of areas etc.

13.5 This licensing authority is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.

13.6 The Act does not seek to prohibit particular groups of adults from gambling in the same way that it prohibits children. The Commission does not seek to define 'vulnerable persons', but it does for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to mental health needs, learning disability or substance misuse relating to alcohol or drugs. This licensing authority will consider, in relation to a particular premises, whether any special considerations apply in relation to the protection of vulnerable persons, on a case by case basis.

14 Conditions

14.1 Any conditions attached to licences will be proportionate and will be:

- relevant to the need to make the proposed building suitable as a gambling facility;
- directly related to the premises and the type of licence applied for
- fairly and reasonably related to the scale and type of premises;
- reasonable in all other respects

14.2 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a perceived need, such as the use of door supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This licensing authority will also expect the licence applicant to offer his/her own suggestions as to the way in which the licensing objectives can be met effectively. It must be made clear that additional conditions will only be imposed where there is clear evidence of risk to the licensing objectives that requires that the mandatory and default conditions be supplemented.

14.3 This licensing authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by

children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.

14.4 This authority will also ensure that where category D (for information about the different categories of machine, please see appendix 3) or above machines are on offer in premises to which children are admitted:

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

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

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

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

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

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

14.8 Section 178 of the Gambling Act 2005 sets out a definition of 'door supervisor', and provides that where a person employed in such a role is required to hold a licence issued by the Security Industry Authority (SIA), that requirement will have force as though it were a condition on the premises licence.

14.9 It should be noted that the above paragraphs relate to door supervisors only in relation to premises licences granted under the Gambling Act 2005. Where a premises licence has also been granted under the Licensing Act 2003 in relation to the same premises, there may also be conditions on that licence which relate to door supervisors. The premises licence holder should ensure compliance with those conditions.

14.10 The requirement for SIA licence door supervisors is relaxed when applied to door supervisors at casino or bingo premises. Where 'contract' staff are employed as door supervisors at casino or bingo premises, such staff will need to be licensed by SIA. However 'in- house' employees working as door supervisors at casino and bingo premises are exempt from these requirements.

15 Adult Gaming Centres

15.1 Persons operating an Adult Gaming Centre (AGC) must hold a gaming machines general operating licence (Adult Gaming Centre) from the Commission and must seek a premises licence form the licensing authority. They will be able to make category B, C and D gaming machines available to their customers.

15.2 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.

15.3 This licensing authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures/licence conditions may cover issues such as:

- Proof of age schemes
- CCTV – this should be of sufficient quality that it will be of use in evidence
- Supervision of entrances/machine areas
- Physical separation of areas

- Location of entry
- Notices/signage
- Specific opening hours
- Self-exclusion schemes – these are schemes whereby individuals who acknowledge they have a gambling problem ask to be barred from certain premises.
- Provision of information leaflets/helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures which applicants can consider implementing.

15.4 The following mandatory conditions will be attached to adult gaming centre premises licences:

- A notice must be displayed at all entrances to AGCs stating that no person under the age of 18 years will be admitted to the premises.
- There can be no direct access between an AGC and any other premises licensed under the Act or premises with a Family Entertainment Centre, club gaming, club machine or licensed premises gaming machine permit. There is no definition of 'direct Access' in the Act or regulations. However, it could be said that there should be an area separating the premises concerned (for example, a street or café), which the public go to for purposes other than gambling, for there to be shown to be no direct access.
- Any ATM made available for use on the premise shall be located in place that requires any customer who wishes to use it to cease gambling at any gaming machine in order to do so.
- The consumption of alcohol in AGCs is prohibited at any time during which facilities for gambling are being provided on the premises. A notice stating this should be displayed in a prominent place at every entrance to the premises.

15.5 **Self Exclusion** – Social Responsibility Code Provision 3.5.6 requires that all non-remote casino (and bingo and betting licences except those at a track) and holders of machine general operating licences for adult gaming centres, must offer self exclusion schemes to customers requesting such a facility.

16 (Licensed) Family Entertainment Centres (FEC)

16.1 The Act creates two classes of Family Entertainment Centres (FEC). This section of the policy concerns licenced FECs. Persons operating a licensed FEX must hold a gaming machine general operating licence (Family Entertainment Centre) from the Commission and must seek a premises licence from the Licensing Authority. They will be able to make category C and D gaming machines available to their customers. Unlicensed FECs provide category D machines only and are regulated through FEC gaming machine permits (see Section B of this policy).

16.2 This Licensing Authority will specifically have regard to the need to protect children and young persons. Children and young persons will be permitted to enter an FEX and may play on the category D machines. They are not permitted to play on a category C machines, and it is a requirement that there must be clear segregation between the two types of machines, so that children do not have access to category C machines.

16.3 This licensing authority will refer to the Gambling Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. It will normally impose conditions on granting licences which accord with the above. This licensing authority will also make itself aware of and impose any mandatory or default conditions on these premises licences.

16.4 This Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures/licence conditions may cover issues such as:

- Proof of age schemes
- CCTV – this should be of sufficient quality that it will be of use in evidence
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- Self-exclusion schemes– these are schemes whereby individuals who acknowledge they have a gambling problem ask to be barred from certain premises
- Provision of information leaflets/helpline numbers for organisations such as GamCare.
- Measures/training for staff on how to deal with suspected truant school children on the premises

This list is not mandatory, nor exhaustive, and is merely indicative of example measures which applicants can consider implementing.

16.5 Mandatory conditions attached to FEC premises licences:

- The summary of the terms and conditions of the premises licence issued by the Licensing Authority under section 164(1) (c) of the Act must be displayed in a prominent place within the premises.
- The layout of the premises must be maintained in accordance with the plan.

- The premises must not be used for sale of tickets in a private lottery or customer lottery, or the National Lottery.
- No customer shall enter the premises directly from a casino, an adult gaming centre or betting premises (other than a track). There is no definition of 'direct Access' in the Act or regulations. However, it could be said that there should be an area separating the premises concerned (for example, a street or café), which the public got for purposes other than gambling, for there to be no direct access.
- Any ATM made available for use on the premises must be located in a place that requires any customer who wishes to use it to cease gambling at any gaming machine in order to do so.
- Over-18 areas within FECs that admit under-18s must be separated by a barrier with prominently displayed notices at the entrance stating that under -18s are not allowed in that area and with adequate supervision in place to ensure that children and young persons are not able to access these areas or the category C machines. Supervision may be done either by placing the terminals within the line of sight of an official of the operator or via monitored CCTV.
- The consumption of alcohol in licensed FECs is prohibited at any time during which facilities for gambling are being provided. A notice stating this should be displayed in a prominent position on the premises.

17 Casinos

17.1 Section 7(1) of the Act states that 'a casino is an arrangement whereby people are given an opportunity to participate in one or more casino games'. Casinos games are defined by the Act to mean a game of chance which is not equal chance gaming. Equal chance gaming is gaming which does not involve playing or staking against a bank, and where the chances are equally favourable to all participants.

17.2 Protection of children and young persons – No-one under the age of 18 is permitted to enter a casino and operators are required to display notices to this effect at all entrances to a casino. Children and young persons are not allowed to be employed at premises with a casino premises licence.

17.3 *No Casinos resolution* - This licensing authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should this licensing authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution. Any such decision will be made by the Full Council.

17.4 *Casinos and competitive bidding* - This licensing authority is aware that where a licensing authority area is enabled to grant a premises licence for a new style casino (i.e. the Secretary of State has made such regulations under Section 175 of the Gambling Act 2005) there are likely to be a number of operators who will want to run the casino. In such situations the local authority will run a 'competition' under Schedule 9 of the Gambling Act 2005. This

licensing authority will run such a competition in line with the Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008, as well as following the procedure set out in Part 17 of the Guidance.

- *Licence considerations/conditions* – This licensing authority will attach conditions to casino premises licences according to the principles set out in the Gambling Commission's Guidance at paragraph 9, bearing in mind the mandatory conditions listed in paragraph 17 of the Guidance, and the Licence Conditions and Codes of Practice published by the Gambling Commission. The mandatory conditions attached to all casino premises are as follows: Access to the premises is regulated to add additional safeguards for both the public and industry. Mandatory conditions that must be attached to all casino premises licences require that the principal entrance to the casino should be from a street. A street is defined as including any bridge, road, lane, footway, subway, square, court, alley or passage (including passages through enclosed premises such as shopping centres), whether it is a thoroughfare or not.
- A mandatory condition requires that no customer must be able to enter the casino from any other premise holding a casino, bingo, AGC, FEC or betting premises licence, or from premise where a FEC, club gaming and club machine, or licensed premises gaming machine permit, has effect.
- There should be no access to a casino from premises wholly or mainly used by children and young persons.
- No other gambling equipment may be situated within two meters of any ordinary gaming table. For the purpose of these conditions an ordinary gaming table means one which is not wholly or partially automated.
- A maximum of 40 separate player positions may be made available for use in relation to wholly automated gaming tables at any time.
- All casinos must display the rules of each type of casino game that can be played on the premises in a prominent place within both the table gaming area and other gambling areas to which customers have unrestricted access. Licensees may do this either by displaying clear and legible signs or by making available to customers leaflets or other written material setting out the rules.
- ATMs must be positioned so that customers must cease to gamble at tables or gaming machines in order to use them.
- The default opening hours of all casinos are noon to 6am.

17.5 There are mandatory conditions relating to small casinos, large casinos, and converted casinos premises licence which are detailed in section 17 of the guidance.

17.6 *Betting machines* - This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable

people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

18 Bingo Premises

18.1 This licensing authority notes that the Gambling Commission's Guidance states: 15.1 Licensing Authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration 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 premises licence, or multiple licences, for that or those excluded premises

18.2 Under the Act, children and young persons (anyone under the age of 18) cannot be employed in providing any facilities for gambling or bingo premises, and children (under 16) cannot be employed, in any capacity at a time when facilities for playing bingo are being offered. However, young persons, aged 16 and 17, may be employed in bingo premises (while bingo is being played), providing the activities on which they are employed is not connected with the gaming or gaming machines.

18.3 Children and young people are allowed into bingo premises; however they are not permitted to participate in bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.

18.4 Section 172(7) provides that the holder of a bingo premises licence may make available for use a number of category B machines not exceeding 20% of the total number of gaming machines which are available for use on the premises. Premises in existence before 13th July 2011 are entitled to make available eight category B gaming machines or 20% of the total number of gaming machines, whichever is the greater. There are no restrictions on the number of category c and D machines that can be made available. . Regulations state that category B machines at bingo premises should be restricted to sub-category B3 and B4 machines, but not B3A lottery machines.

For the purpose of calculating the category B machine entitlement in gambling premises, gaming machines should only be counted if they can be played simultaneously by different players without physical hindrance. This include tablets.

Electronic Bingo Terminals (EBTs) that offer gaming machine content in addition to bingo content are gaming machines and subject to adherence the above. An EBT must only allow participation in one gabling activity at a time and and should not contain functionality which allows participation in bingo and gaming machine activity simultaneously.

18.5 The gaming machines must remain within the licensed area covered by the premises licence. In the unusual circumstances that an existing bingo premises covered by one premises licence applies to vary the licence and acquire additional bingo premises licences (so that the area that was the subject of a single licence will become divided between a number of

separate licenced premises) is not permissible for all the gaming machines to which each of the licence brings an entitlement to be grouped together within one of the licensed premises.

18.6 Self Exclusion – Social Responsibility Code Provision 3.5.6 requires that all non-remote casino (and bingo and betting licences except those at a track) and holders of machine general operating licences for adult gaming centres must offer self-exclusion schemes to customers requesting such a facility.

Bingo in clubs and alcohol-licensed premises

18.7 Bingo is a class of equal chance gaming permitted on alcohol-licensed premises, and in clubs and miners' welfare institutes, under the allowances for exempt gaming in Part 12 of the Act. There are regulations setting controls on this form of gaming, to ensure that it remains low stakes and prize activity.

18.8 Where the level of bingo played in these premises reaches a certain threshold (i.e. bingo played during any seven day period exceeds £2,000 either in money in taken or prizes awarded once in a year), there is a legal duty on the Licensee or club to inform the Commission as soon as is reasonably practicable. Stakes or prizes above that limit will require bingo operators' licence and corresponding personal and premises licence.

Conditions

18.9 The following mandatory conditions must be attached to a bingo premises licence:

- A notice stating that no person under the age of 18 years is permitted to play bingo on the premises shall be displayed in a prominent place at every entrance to the premises.
- No customer shall be able to enter bingo premises directly from casino, an adult gaming centre or betting premises (other than a track).
- Over 18 areas within bingo halls that admit under-18s must be separated by a barrier with prominently displayed notices stating that under-18s are not allowed in that area and with adequate supervision in place to ensure that children and young people are not able to access these areas or the category B or C machines. Supervision may be done either by placing the terminals within the line of sight of an official of the operator or via monitored CCTV.
- Any admission charges, the charges for playing bingo games and the rules of bingo must be displayed in a prominent position on the premises. Rules can be displayed on a sign, by making available leaflets or other written material containing the rules, or running an audio-visual guide to the rules prior to any bingo game being commenced.
- Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling in order to do so.

Default conditions to attach to bingo premises licence:

- Bingo facilities in bingo premises may not be offered between the hours of midnight and 09:00hours. However, there are no restrictions on access to gaming machines in bingo premises.

19 Betting Premises

19.1 Anyone wishing to operate a betting office will require a betting premises licence from the Council. Children and young persons will not be able to enter premises with a betting premises licence, although exemptions apply to tracks. Children and young persons are not allowed to be employed at premises with a betting premises licence.

19.2 Betting premises will be able to provide up to four gaming machines of category B, C or D. Regulations state that category B machines at betting premises are restricted to sub-category B2, B3 and B4 machines (the terminals commonly in use are able to provide both B2 and B3 content).

19.3 *Betting machines* - This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

The following mandatory conditions will be attached to a betting premises licence

Mandatory conditions attaching to betting premises licences (other than track premises licences)

- The summary of the terms and conditions of the premises licence issued under section 164(1)(c) of the 2005 Act shall be displayed in a prominent place within the premises.
- The layout of the premises shall be maintained in accordance with the plan.
- The premises shall not be used for -

  (a) the sale of tickets in a private lottery or customer lottery, or

  (b) the sale of tickets in any other lottery in respect of which the sale of tickets on the premises is otherwise prohibited.

1. A notice stating that no person under the age of 18 years is permitted to enter the premises shall be displayed in a prominent place at every entrance to the premises.

2. (1) Access to the premises shall be from a street or from other premises with a betting premises licence.

(2) Without prejudice to sub-paragraph (1), there shall be no means of direct access between the premises and other premises used for the retail sale of merchandise or services.

3. Subject to anything permitted by virtue of the 2005 Act, or done in accordance with paragraphs 4, 5, 6 and 7 below, the premises shall not be used for any purpose other than for providing facilities for betting.

4. Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to leave any gaming machine or betting machine in order to do so.

5. No apparatus for making information or other material available in the form of sounds or visual images may be used on the premises, except for apparatus used for the following purposes-

(a) communicating information about, or coverage of, sporting events, including-

(i) information relating to betting on such an event; and

(ii) any other matter or information, including an advertisement, which is incidental to such an event;

(b) communicating information relating to betting on any event (including the result of the event) in connection with which betting transactions may be or have been effected on the premises.

6. No publications, other than racing periodicals or specialist betting publications, may be sold or offered for sale on the premises.

7. No music, dancing or other entertainment shall be provided or permitted on the premises, save for entertainment provided in accordance with paragraph 5.

8. (1) No alcohol shall be permitted to be consumed on the premises at any time during which facilities for gambling are being provided on the premises.

(2) A notice stating the condition in sub-paragraph (1) shall be displayed in a prominent place at every entrance to the premises.

9. A notice setting out the terms on which customers are invited to bet on the premises shall be displayed in a prominent place on the premises to which customers have unrestricted access.

Default conditions attaching to betting premises licences (other than in respect of tracks)

1. No facilities for gambling shall be provided on the premises between the hours of 10pm on one day and 7am on the next day.

The full set of conditions are contained within parts 1 and 2 of Schedule 5 of the Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007

20 Tracks

20.1 Only one premises licence can be issued for any particular premises at any time unless the premises are a 'track'. A track is a site or venues where sporting events do or could take place, and accordingly could accommodate the provision of betting facilities. Examples of track include: A horse racecourse (racecourses)

- A greyhound track
- A point-to-point horserace meeting
- Football, cricket and rugby grounds
- An athletics stadium
- A golf course
- Venues hosting darts, bowls, or snooker tournaments
- A premises staging boxing matches
- A section of river hosting a fishing competition
- A motor racing event

20.2 Track operators are not required to hold an 'operator's licence' granted by the Gambling Commission. Therefore, premises licences for tracks, issued by the Council are likely to contain requirements for premises licence holders about their responsibilities in relation to the proper conduct of betting. Indeed, track operators will have an important role to play, for example in ensuring that betting areas are properly administered and supervised.

20.3 Although there will, primarily be a betting premises licence for the track there may be a number of subsidiary licences authorising other gambling activities to take place. Unlike betting offices, a betting premises licence in respect of a track does not give an automatic entitlement to use gaming machines.

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

20.5 This authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

- This licensing authority will expect applicants to offer their own measures to meet the licensing objectives; however appropriate measures/licence conditions may cover issues such as: Proof of age schemes
- CCTV– this should be of sufficient quality that it will be of use in evidence
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- Self-exclusion schemes– these are schemes whereby individuals who acknowledge they have a gambling problem ask to be barred from certain premises.
- Provision of information leaflets/helpline numbers for organisations such as GamCare

20.6 This list is not mandatory, nor exhaustive, and is merely indicative of example measures which applicants can consider implementing.

20.7 **Gaming machines** - Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.

20.8 **Betting machines** - Licensing authorities have a power under the Gambling Act 2005 to restrict the number of betting machines, their nature and the circumstances in which they are made available, by attaching a licence condition to a betting premises licence.

Similar considerations apply in relation to tracks, where the potential space for such machines may be considerable, bringing with it significant problems in relation to the proliferation of such machines, the ability of track staff to supervise them if they are scattered around the track and the ability of the track operator to comply with the law and prevent children betting on the machines.

This licensing authority will, as per Part 6 of the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable

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

20.9 **Condition on rules being displayed** - A condition will normally be attached to track premises licences requiring the track operator to ensure that the rules relating to tracks which are contained in the Act are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office.

20.10 **Applications and plans** – The Act (s51) requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity (See Guidance, para 20.43).

20.11 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, para 20.44).

20.12 This authority appreciates 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 the track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the [plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the "five times rule" (commonly known as betting rings) must be indicated on the plan (See Guidance, para 20.46).

21 Travelling Fairs

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

21.2 The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair: For the purposes of this Act –

(a) "fair" means a fair consisting wholly or principally of the provision of amusements, and
(b) a fair held on a day in a calendar year is a "travelling fair" if provided-
    (i) wholly or principally by persons who travel from place to place for the purpose of providing fairs, and
    (ii) At a place no part of which has been used for the provision of a fair on more than 27 days in that calendar year.

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

22 Provisional Statements

22.1 Developers may wish to apply to this authority for 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. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

- S204 of the Act provides for a person to make application to the licensing authority for a provisional statement in respect of premises that he or she: Expects to be constructed;
- Expects to be altered; or
- Expects to acquire a right to occupy.

22.2 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.

22.3 In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

- The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from responsible authorities or interested parties can be taken into account unless they: concern matters which could not have been raised by objectors at the provisional licence stage; or
- Reflect a change in the operator's circumstances.

- In addition the licensing authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters: Which could not have been raised by objectors at the provisional statement stage;
- Which in the authority's opinion reflect a change in the operator's circumstances; or

- Where the premise has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

23 Review

23.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the Licensing Authority to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below:

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

23.2 The request for a review will also be subject to the consideration by the licensing authority as to whether the request is frivolous, vexatious, or whether it will certainly not cause this authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

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

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

23.4 The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.

23.5 The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:

- Add, remove or amend a licence condition imposed by the licensing authority;
- Exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
- Suspend the premises licence for a period not exceeding three months; and
- Revoke the premises licence.

23.6 In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in s153 of the Act, as well as any relevant representations.

23.7 In particular, the licensing authority may also initiate a review of the 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.

23.8 Once the review has been completed, the licensing authority must, as soon as possible, notify its decision to:

- The licence holder;
- The applicant for review (if any);
- The Gambling Commission;
- Any person who made representations;
- The Chief Officer of Police or Chief Constable;
- Her Majesty's Commissioners for Revenues and Customs.

24 Rights of appeal and judicial review – Premises Licences

24.1 This section deals only with appeals relating to premises licensing and other decisions by the Licensing Authority. The avenues of appeal against decisions the Licensing Authority are set out in sections 206 and 209 of the Act.

24.2 If an application under Part 8 of the Act is rejected, only the applicant may appeal. If an application under Part 8 of the Act is granted, the applicant and a person who made representations may appeal. It does not automatically follow that the person who made the representations will be appellant. It could be the licensee who is appealing, because he or she considers conditions attached to the licence too onerous. Similar arrangements will apply in appeals against a decision not to take action following a review, and in relation to the grant of temporary use notices. The Licensing Authority will choose who it has as its witness.

24.3 If the Licensing Authority takes action or determines to take no action (which may include revocation or suspension of the licence, or the removal or addition of licence conditions) after the review of a licence, any of the following may appeal:

- The licence holder
- A person who made representations in relation to the review
- Where relevant, the person who applied for the review
- The Commission.

24.4 Where the Licensing Authority makes a decision in relation to the transfer of a premises licence, which may involve amending licence conditions, the licence holder and the applicant for transfer have a right of appeal.

24.5 Notice of an appeal must be given within 21 days of notice of the decision being received by the appellant. During that period, and until any appeal that has been brought has been finally determined, a determination or the other action by the Licensing Authority under Part 8 of the Action will not have effect unless the authority so directs (see section 208 of the Act).

24.6 In many cases, it is a requirement of the Act that Licensing Authority gives clear and comprehensive reasons for rejection of an application. It will give reasons for all its decisions (see section 165 of the act, which is also applied in relation to other applications under Part 8 of the Act). A failure to give reasons may compel a person to appeal, and may suggest that the Licensing Authority did not make its decision with regard to all the information that it should have regard to, and in line with its obligation under section 153 (regardless of the decision that was reached).

24.7 Any appeal against the Licensing Authority is made to the Magistrates court. The Magistrates court is located at:

The Court House, Rickergate, Carlisle CA3 8QH Telephone 01228 518800

24.8 An appeal has to be commenced by giving of a notice of appeal by the appellant to the local magistrate's court within a period of 21 days, beginning with the day on which the appellant was notified by the Licensing Authority of the decision being appealed.

24.9 It should be noted that unless he is the appellant, the licence holder or a person who has made application for a licence, a transfer or reinstatement of a Licence or a provisional statement is a respondent in any appeal, in addition to the Licensing Authority.

24.10 On determining an appeal, the court may:

- Dismiss the appeal
- Substitute the decision appealed against with any other decision that could have been made by the Licensing Authority
- Remit the case to the Licensing Authority to dispose of het appeal in accordance with the direction of the court.

Provisional Statements

24.11 A provisional statement can be refused on exactly the same grounds as a premises licence. The applicant may appeal against the rejection of an application of a provisional statement under section 206(1); and a person who made representations or the applicant may appeal against the grant of an application.

Judicial review

24.12 Any party to a decision may apply for judicial review if they believe that the decision taken by the Licensing Authority is:

- Illegal – that is beyond the powers available to the Licensing Authority
- Subject to procedural impropriety or unfairness – which is failure in the process of reaching the decision, such as not observing the 'rules of natural justice'
- Irrational – where a decision is so unreasonable that no sensible person could have reached it (in effect 'perverse' or 'Wednesbury' unreasonable).

24.13 For an application to succeed, the application must show that:

- The applicant has sufficient standing to make that claim
- The actions of the reviewed Licensing Authority give grounds for review

But the remedy is a discretionary one and the Court may decline judicial review if, for example, it considers that the applicant has an alternative remedy which is more appropriate to pursue, such as right of appeal, or has a private law claim against the defendant.

24.14 The applicant can ask the Court to grant a number of orders. A mandatory order compels the reviewed body to do something; a prohibition order compels it to refrain from doing something; a 'declaration' sets out the court's view on the legality of particular course of action, the applicant can seek an injunction which is, in practice, similar to a mandatory or prohibition order.

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

25.1 Family Entertainment Centres (FECs) are commonly located at seaside resorts, in airports and motorway service stations, and cater for families, including unaccompanied children and young persons. Unlicensed FECs are able to offer only category D machines in reliance on gaming machine permit. Any number if category D machines can be made available with such permit subject to other considerations, such as fire regulations and health and safety. Permits cannot be issued in respect of vessels or vehicles.

25.2 If the operator of a family entertainment centre wants to make category C machines available in addition to category D machines, the operator will need to apply for a gaming machine general operating licence (Family Entertainment Centre) from the Commission and a premises licence from the Licensing Authority.

25.3 Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the Licensing Authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (s238 of the Act).

25.4 The Act states that a Licensing Authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25. The Gambling Commission's Guidance also states "In their three year licensing policy statement, Licensing Authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits, Licensing Authorities will want to give weight to child protection issues" (para, 24.6).

- Guidance also states: "... An application for a permit may be granted only if the Licensing Authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application. Licensing Authorities might wish to consider asking applications to demonstrate: a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act; and
- That staff are trained to have a full understanding of the maximum stakes and prizes.

25.5 It should be noted that a Licensing Authority cannot attach conditions to this type of permit.

25.6 This Licensing Authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to

harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures/training for staff as regards suspected truant school children on the premises, measures/training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on/around the premises.

25.7 This Licensing Authority will also expect, as per Gambling Commission Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (Schedule. 7 of the Act) and that staff are trained to have a full understanding of the maximum stakes and prizes.

26 (Alcohol) Licensed Premises Gaming Machine Permits - (Schedule 13 paragraph 4(1))

26.1 **Automatic entitlement: up to 2 machines** - There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The operator of the premises merely needs to notify the Licensing Authority and pay the prescribed fee. The Licensing Authority can remove the automatic authorisation in respect of any particular premises if:

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

26.2 **Permit: 3 or more machines** - If the operator of alcohol licensed premises wishes to have more than 2 machines, then an application must be made for a permit and the Licensing Authority must consider that application based upon the licensing objectives, any guidance and code of practice issued by the Gambling Commission issued under Section 24 & 25 of the Gambling Act 2005, and "*such matters as they think relevant*."

26.3 This Licensing Authority considers that "*such matters*" will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff that will monitor that the machines are not being used by those under 18.

Notices and signage may also be a help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

26.4 This Licensing Authority recognises that some operators of alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.

26.5 The Licensing Authority may decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

26.6 The holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

27 Prize Gaming Permits - (Principles on Permits - Schedule 14 paragraph 8 (3))

27.1 The Gambling Act 2005 states that a licensing authority may "prepare a statement of principles that they propose to apply in exercising their functions under this Schedule" which "may, in particular, specify matters that the licensing authority proposes to consider in determining the suitability of the applicant for a permit".

27.2 This Licensing Authority has prepared a Statement of Principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should demonstrate:

- that they understand the limits to stakes and prizes that are set out in Regulations;
- that the gaming offered is within the law;
- Clear policies that outline the steps to be taken to protect children from harm.

27.3 Prize gaming may be provided in bingo premises as a consequence of their bingo operating licence. Any type of prize gaming may be provided in adult gaming centres and licensed family entertainment centres. Unlicensed family entertainment centres may offer equal chance prize gaming under a gaming machine permit. Prize gaming without a permit may be provided by travelling fairs, providing that none of the gambling facilities at the fair amount to more than an ancillary amusement. Children and young people may participate in equal chance gaming only.23.4 In making its decision on an application for this permit the Licensing Authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance (Schedule. 14 para. 8(3) of the Act).

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

- the limits on participation fees, as set out in regulations, must be complied with;

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

28 Club Gaming and Club Machines Permits

28.1 Members Clubs and Miners' Welfare Institutes (but not Commercial Clubs) may apply for a Club Gaming Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B3A, B4, C or D), equal chance gaming and games of chance.

Members Clubs and Miner's Welfare Institutes – and also Commercial Clubs – may apply for a Club Machine Permit. A Club Machine Permit will enable the premises to provide gaming machines (up to 3 machines of categories B, C or D). N.B. Commercial Clubs may not site category B3A gaming machines offering lottery games in their club.

This licensing authority notes that the Gambling Commission's guidance (para 25.44) states:

> The licensing authority has to satisfy itself that the club meets the requirements of the Act to obtain a Club Gaming Permit. It is suggested that applicants for permits should be asked to supply sufficient information and documents to enable to the licensing authority to take account of the matters discussed in paragraphs 25.45 to 25.47, at the time they submit their applications to the licensing authority. Licensing authorities should be particularly aware that club gaming permits may be misused for illegal poker clubs.

The club must be conducted 'wholly or mainly' for the purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulations and these cover bridge and whist clubs.

28.2 The Guidance also states that licensing authorities may only refuse an application on the grounds that:

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

- an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- a permit held by the applicant has been cancelled in the previous ten years; or
- An objection has been lodged by the Gambling Commission or the police.

28.3 There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule. 12 paragraph 10). As the Gambling Commission's Guidance for local authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:

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

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

29 Temporary Use Notices (TUN)

29.1 The Gambling Act 2005 enables the holder of an operating licence to give a Temporary Use Notice in respect of premises.

The TUN authorises the premises to lawfully be used for short period to provide facilities for gambling without the appropriate premises licence. The gambling must be in accordance with the terms of the TUN.

TUNs can only be made by the holder of an operating licence authorising them to provide the gaming activity proposed under the TUN.

29.2 The holder of the operating licence must give notice to the Licensing Authority in whose area the premises are situated. The Secretary of State has prescribed the form of the notice which must specify information including:

- The type of gaming to be carried on
- The premises where it will take place
- The dates and times the gaming will take place
- Any periods during the previous 12 months that a TUN has had effect for the same premises.
- The date on which the notice is given

- The nature of the event itself.

29.3 The same set of premises may not be the subject of a TUN for more than 21 days in any 12-month period, but may be the subject of several notices provided that the total does not exceed 21 days.

29.4 If the premises have been the subject of one or more TUN for more than a total of 21 days in the past 12 months, the Licensing Authority will issue a counter- notice that has the effect of stopping the TUN coming into effect. Failure to comply with the counter-notice will be an offence. The Licensing Authority may issue a counter-notice which limits the number of days that the TUN comes into effect, bringing it within the 21-day limit. Such counter-notices require consultation with the applicant to ensure that the restrictions they impose do not result in an unworkable event.

29.5 As notices may be given by different operators in respect of the same premises, the Licensing Authority will always check whether a counter-notice is appropriate.

29.6 A notice may not be given in respect of a vehicle. A notice may be given in respect of a vessel, but only if it is a passenger vessel or a vessel that is situated at a fixed place. A vessel at a fixed place would include a structure on water that is not intended to be able to move (such as an oil rig, or an artificially constructed island in the middle of a lake). It should be noted that a notice can only be given in respect of a vessel that is moored permanently at place (i.e. it could move but it does not) if it is a passenger vessel.

29.7 A TUN must be lodged with the Licensing Authority not less than three months and one day before the day on which the gambling event will begin. The application, fee and counter-notices are specified by the Secretary of State. The application must be copied to:

- The Commission
- The Police
- HM Commissioners for Revenue and Customs
- If applicable, any other Licensing Authority in whose area the premises are situated

29.8 The person who is giving the TUN must ensure that the notice and the copies are with the recipients within seven days of the date of the notice. Where the premises are situated in the area covered by more than one authority, the person giving notice must send other notice to one authority and copy to the other(s).

29.9 Where the Licensing Authority receives a notice, it must send a written acknowledgement as soon as reasonably practicable. A written acknowledgement may include one sent by electronic mail.

29.10 The Licensing Authority and other bodies to which the notice is copied should consider whether they wish to give notice of objection. In considering whether to do so, they must have regard to the licensing objectives and if they consider that the gambling should not take place, or only with modifications, they must give a notice of objection to the person who gave the TUN. Such a notice must be copied to the Licensing Authority (unless it is

given by the Licensing Authority). The notice of objection and the copy to the Licensing Authority must be given within 14 days of the date of the TUN. An objection and the copy to the Licensing Authority must be given within 14 days of the date of the TUN. An objection may be withdrawn by giving written notice to those to whom the notice of objection was sent and copied.

29.11 The Licensing Authority has noted the timescales set out in the Act. The need to give a notice of objection within 14 days of the date of the TUN means that there must be procedures to ensure that such notices are considered without delay so that, where appropriate, the opportunity to lodge an objection is not missed.

29.12 If objections are received, the Licensing Authority must hold a hearing to listen to representations from the person who gave the TUN, all the objectors and nay person who was entitled to receive a copy of the notice. If all the participants agree that a hearing is unnecessary, it may be dispensed with.

29.13 Those who raise objections may offer modifications to the notice that will alleviate their concerns. Remedies may include a reduction in the number of days when gambling occurs or a restriction on the type of gambling is permitted. If the modifications are accepted by the applicant, a new TUN must be prepared and the original notice withdrawn. The three-month time limit and fee will not apply to the new notice. The person who made the original objection and proposed the modification may not object to the new notice, but others whom it is copied may object. If there are no new objections, there will be no need for a hearing.

29.14 If the Licensing Authority, after a hearing has taken place or has been dispensed with, considers that the TUN should not have effect, it must issue a counter-notice which may:

- Prevent the TUN from taking effect
- Limit the activities that are permitted
- Limit the time period of gambling
- Allow the activity to take place subject to a specified condition

29.15 If the Licensing Authority gives a counter-notice, it must give reasons for doing so and must copy the counter-notice to all those who receive copies of the TUN.

29.16 If the Licensing Authority decides not to issue a counter-notice, the TUN will take effect. The must give notice of its decision to the person who gave the TUN and others to whom it was copied.

29.17 An appeal against the Licensing Authority's decision may be made by the applicant, or any person entitled to receive a copy of the TUN, to the Magistrate's Court within 21 days of receiving notice of the Licensing Authority's decision. There is a further right of appeal to the High Court on a point of law.

29.18 If no objections are made within 14 days of the date of the notice, the Licensing Authority must endorse the notice as valid and return it to the person who gave it. If the endorsed

copy of the notice is list, stolen or damaged, the person who gave the notice may request a new endorsed copy from the Licensing Authority, subject to a payment of a fee.

29.19 Section 228 sets a time limit of six weeks for the completion of all proceedings on a TUN. This includes considering whether to give a notice objection; hold a hearing, if it is necessary; and giving a counter-notice or notice dismissing the objections.

29.20 The person who gives a TUN may notify the authority that it is withdrawn at any time up to and during the time it has effect. In those circumstances the notice will have no effect, and any un-lapsed period of time will not count towards the 21-day maximum for a TUN having effect on the premises.

29.21 While the gambling is taking place, a copy of the TUN must be displayed prominently on the premises. It is an offence not to produce the notice endorsed by the authority when request to do so by a constable, an officer of HM Revenue and Customs, an enforcement officer, or an authorised local authority officer.

30 Occasional Use Notices (OUN)

30.1 Section 38 of the Act provides that where there is betting on a track on eight days or less in a calendar year, betting may be permitted by an OUN without the need for a full premises licence.

30.2 While tracks are normally thought of as permanent racecourses, it should be noted that the meaning of 'track' in the Act covers not just horse racecourses or dog tracks, but also any other premises on any part of which a race or other sporting event takes place, or is intended to take place (section 353(1)).

30.3 This means that land which as a number of uses, one of which fulfils the definition of track, can qualify for the OUN provisions (for example agricultural land upon which a point-to – point meeting takes place). Land used temporarily as a track can qualify, provided races or sporting events take place or will take place there. The track need not be a permanent fixture.

30.4 The intention behind OUN is to permit licensed betting operators (with appropriate permission from the Commission) to use tracks for short periods for conducting betting, where the event upon which the betting is to take place is of a temporary, infrequent nature. The OUN dispenses with the need for a betting premises licence for the track in these circumstances.

30.5 OUN may not be relied upon for more than eight days in a calendar year. Note that the requirement relates to a calendar year (starting 1January) and not to any period of 12 months. The Secretary of State has the power to increase or decrease the number of OUN that are permitted, but there are currently no plans to use this power.

30.6 This Licensing Authority keeps a record of the number of notices served in relation to each track.

30.7 A notice must be served by a person who is responsible for the administration of events on the track or by an occupier of the track. The notice be served on the Licensing Authority and copied to the Chief Officer of Police for the area in which the track is located. The notice must specify the day on which it has effect. Notices may be given in relation to consecutive days, so long as the overall limit of eight days is not exceeded in the calendar year.

30.8 Provided that the notice will not result in betting facilities being available for more than eight days in a calendar year, there is no provision for counter-notices or objections to be submitted.

30.9 The Act does not require the applicant or the Licensing Authority to notify the Commission that an OUN has been given. However the Commission does require Licensing Authorities to submit returns showing how OUN may were received during each quarter.

30.10 It should be noted that betting operators cannot provide gaming machines at tracks by virtue of an OUN. Gaming machines may be made available by betting operators and this is reliant on a betting premises licence, which refers to a specific licensed area, but does not enable the operator to site gaming machines outside of that area.

31 Small Society Lotteries

31.1 A lottery is small if the total value of tickets put on sale in a single lottery is £20,000 or less and the aggregate value of the tickets put on sale in a calendar year is £250,000 or less.

31.2 Part four and five of Schedule 11 to the Act set out the requirements on both societies and licensing authorities with respect to the registration of small society lotteries.

31.3 This licensing authority will adopt the recommendation of the Commission that lottery tickets must not be sold to a person in any street. For these purposes "street" includes any bridge, road, lane, footway, subway, square, court, alley or passage (including passages throught enclosed premises such as shopping malls) whether a throughfare or not. Tickets, however, may be sold I na street from a static structure such as a kiosk or display stand. Tickets may also be sold door to door.

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

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

31 Rights of Appeal

Permits

31.1 The process of appeals in respect of permits is different to that for premises licences and is set out in the following Schedules of the Act:

- Schedule 10 – Family entertainment centre gaming machine permits (further explained in paragraphs 12.16 – 12.17 of the guidance).
- Schedule 11 (Parts 4 and 5) – Small society lotteries (further explained in paragraphs 12.18 – 12.19 of the guidance).
- Schedule 12 – Club gaming permits and club machine permits (further explained in paragraphs 12.20 – 12.26 of the guidance).
- Schedule 13 – Licensed premises gaming machine permits (further explained in paragraphs 12.27 – 12.28 of the guidance).
- Schedule 14 – Prize gaming permits (further explained in paragraphs 12.29 – 12.30 of the guidance).

Temporary use notices

31.2 Appeals in relation to temporary use notices are detailed with in section 226 of the Act. This section grants the right to appeal to the magistrates' court to both the applicant and any person entitled to receive a copy of the notice (that is the Commission, local chief of police and HM Revenue and Customs). Appeals must be made within 21 days of receiving the notice of the Licensing Authority's decision. If the appeal is against the decision of the authority not to issue a counter-notice, then the person giving notice must be joined with the Licensing Authority as a respondent in the case.

31.3 The magistrates' court may take the following action: dismiss the appeal, direct the authority to take specified action, remit it back to the authority to decide in accordance with a decision of the court, and make an order for costs. It should be noted that if the decision is remitted to the authority, the same rights of appeal will apply as for the original decision.

31.4 There is no stay of proceedings in relation to temporary use notices (as there are in relation to applications under Part 8 of the Act). However, the time limits are such that the Commission would expect proceedings on appeal to be heard before the temporary use notice would otherwise take effect

APPENDIX 1 List of Consultees

- **Responsible Authorities**
  - The Gambling Commission
  - Cumbria Constabulary
  - Cumbria Fire and Rescue Service
  - Cumbria Safeguarding Children Partnership (CSCP)
  - HM Revenue and Customs
  - Planning Services, Carlisle City Council
  - Environmental Services, Carlisle City Council

- Elected Members, Carlisle City Council
- Cumbria County Council Children's Services
- Cumbria Health and Wellbeing Board
- North Cumbria Community Safety Partnership
- Cumbria Chamber of Commerce
- William Hill
- Ladbrokes
- Bet Fred
- Paddy Power
- Gala Coral Group
- Association of British Bookmakers
- British Amusement Catering Trade Association
- Bingo Association
- Gamcare
- Gamblers Anonymous
- GambleAware
- Mencap
- NSPCC
- CAB
- Director of Public Health
- Carlisle College
- University of Cumbria

Note: This list is not intended to be exclusive. Comments and observations will be welcome from anyone who will be affected by this policy.

APPENDIX 2 Categories of Gaming Machines

Category of Machine	Maximum Stake	Maximum Prize
A	Unlimited – no category A gaming machines are currently permitted	
B1	£5	£10,000*
B2	£100	£500
B3A	£2	£500
B3	£2	£500
B4	£2	£500
C	£1	£100
D – non-money prize	30p	£50
D – non-money (crane grab machines only)	£1	£50
D – money prize	10p	£5
D – combined money and non-money prize	10p	£8 (of which no more than £5 may be a money prize)
D – combined money and non-money prize (coin pusher or penny fall machines only)	20p	£20 (of which no more than £10 may be a money prize)

* With option of maximum £20,000 linked progressive jackpot on premises basis only

** Stakes are subject to change

APPENDIX 3 Delegation of Functions

Matter to be dealt with	Full Council	Licensing Committee or Sub-committee	Officers
Final approval of three year licensing policy	X		
Policy not to permit casinos	X		
Fee setting (when appropriate)		X	
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Review of a premises licence		X	
Application for club gaming/club machine permits		Where objections have been made (and not withdrawn)	Where no objections made/objections have been withdrawn
Cancellation of club gaming/club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

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

APPENDIX 4 Local Area Profile

Image 1 – Overview of Premises is Carlisle District

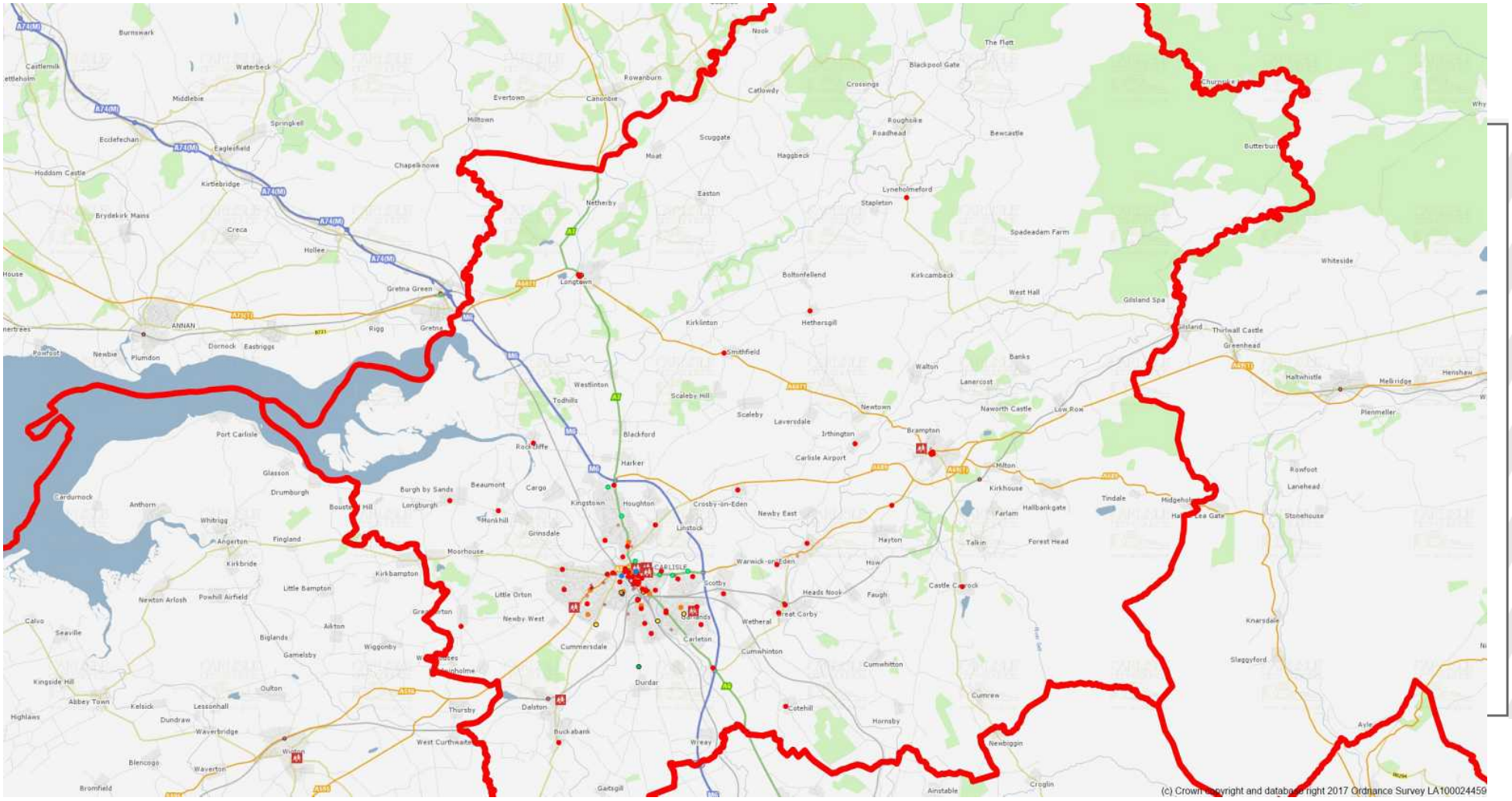


Image 2 – Gambling Premises in Carlisle

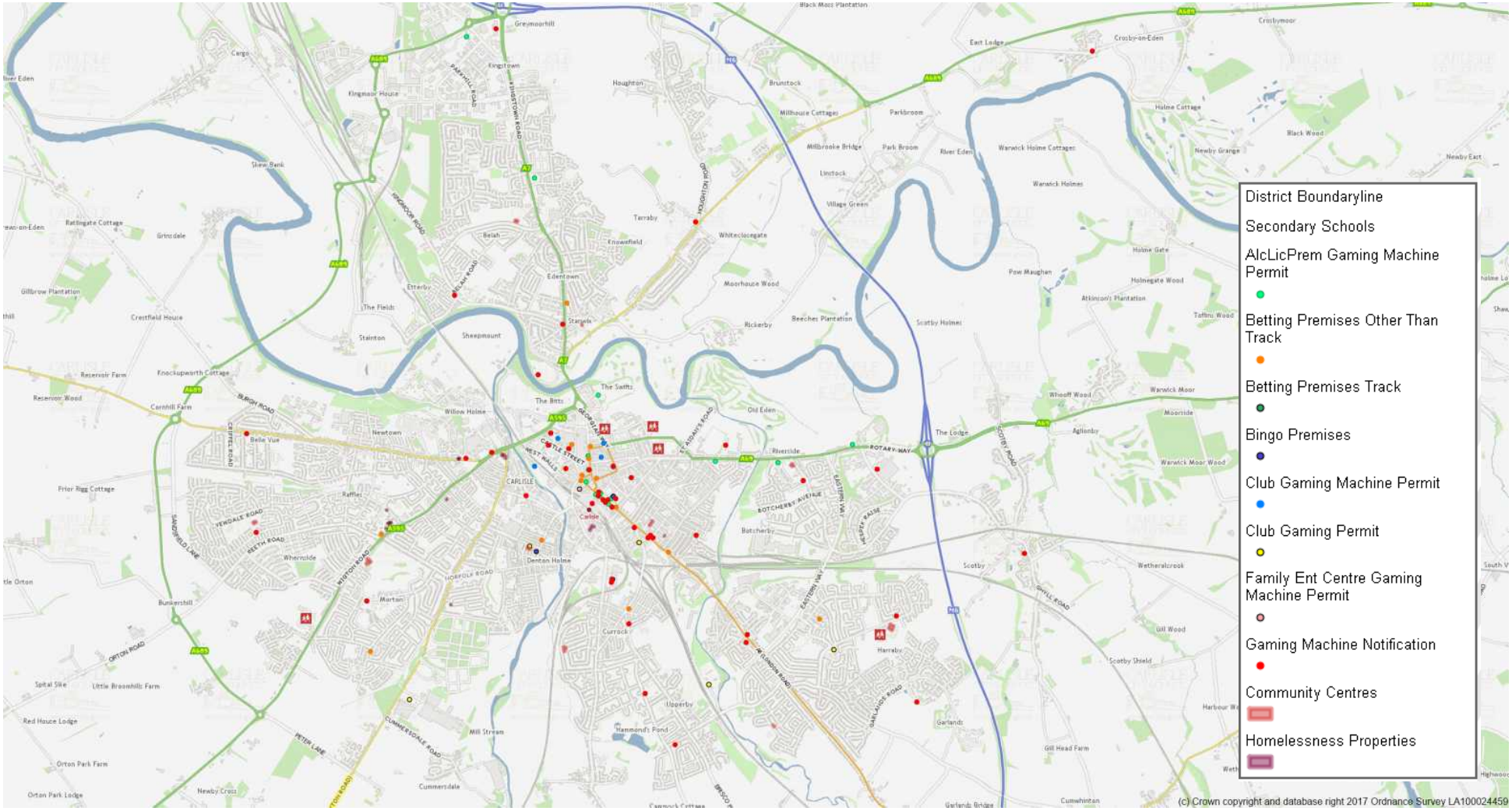


Image 3 – Gambling Premises in Carlisle city centre

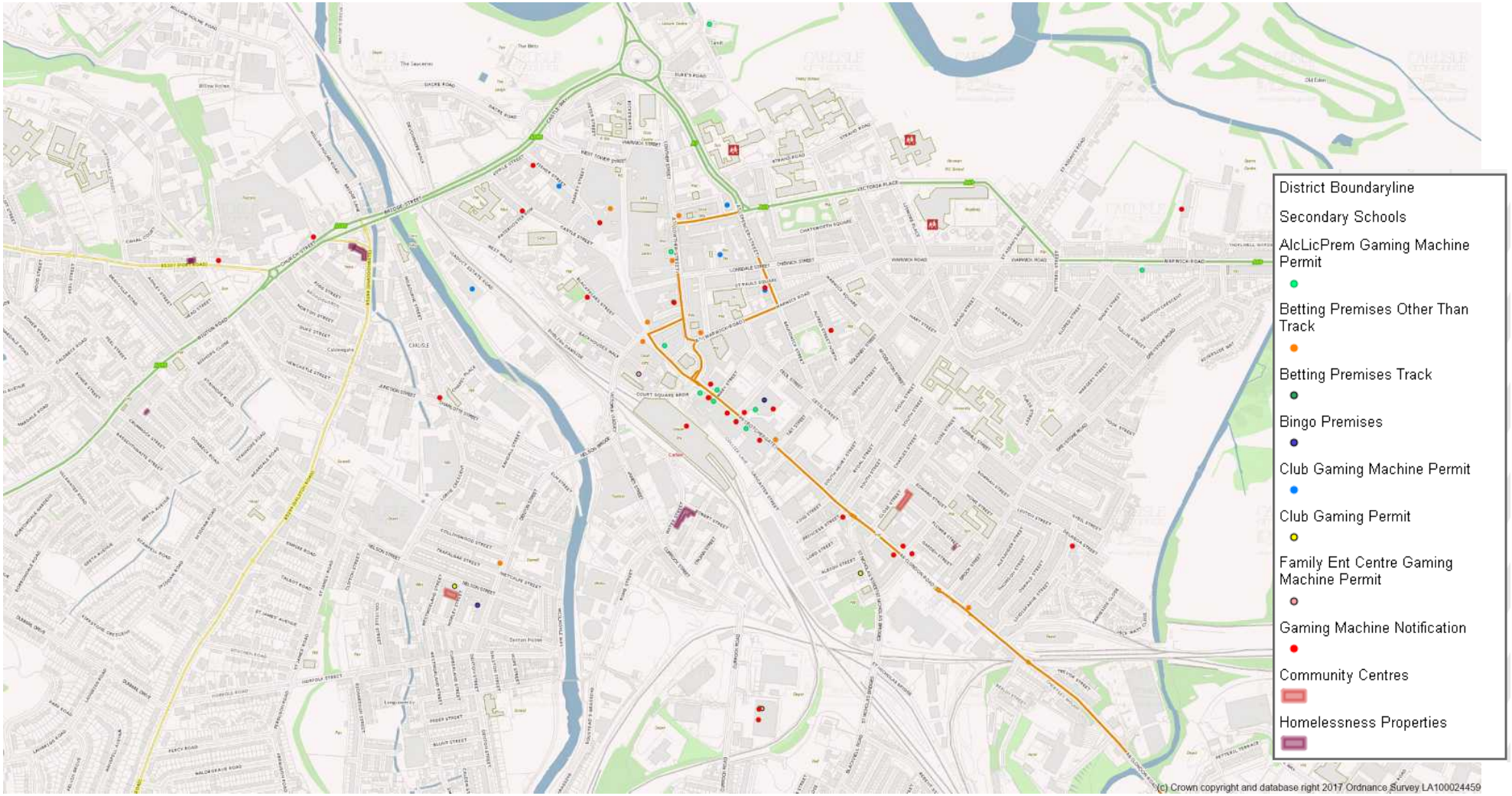


Image 4 – Gambling Premises in Brampton

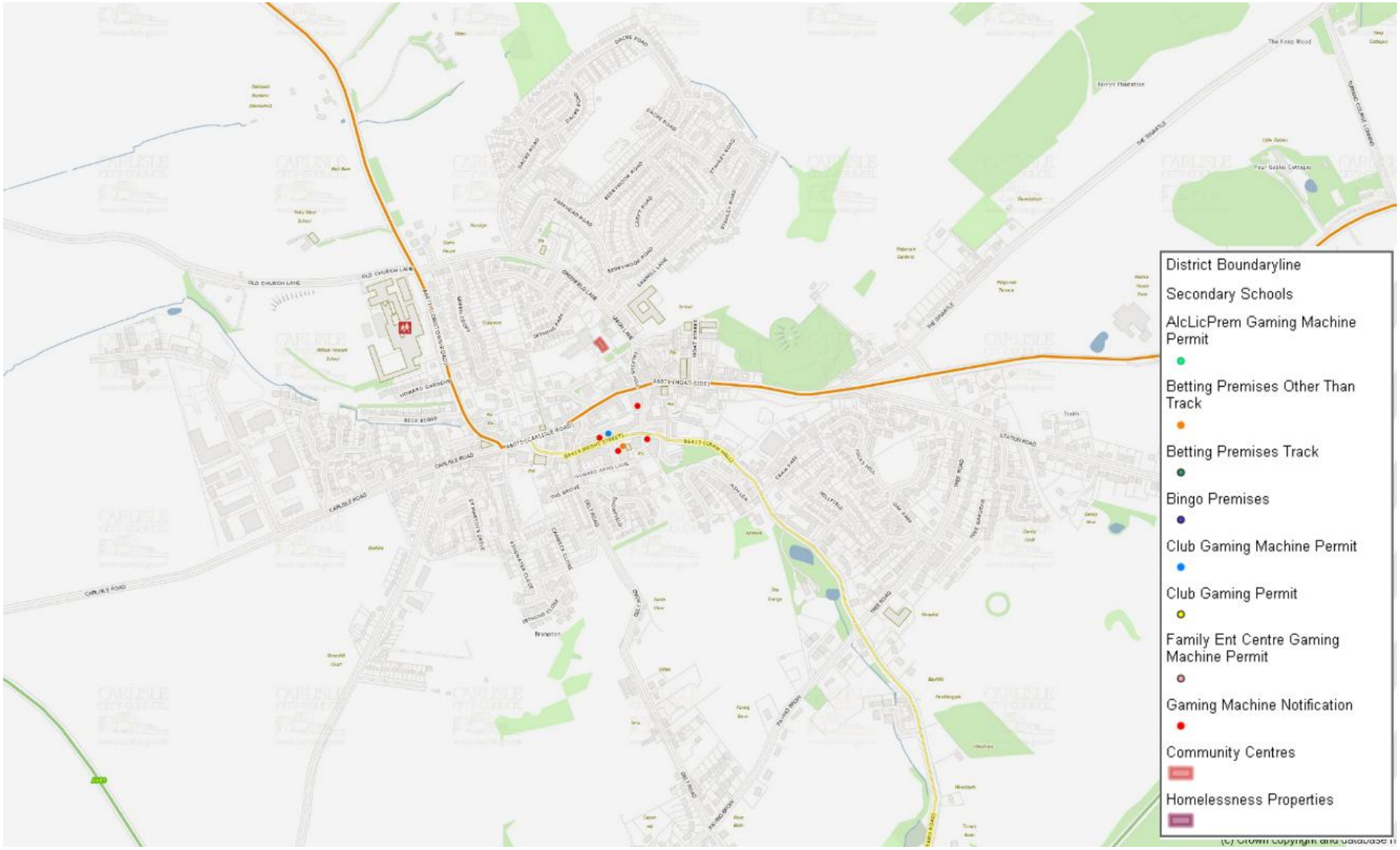


Image 5 – Gambling Premises in Longtown



EXCERPT FROM THE MINUTES OF THE SPECIAL LICENSING COMMITTEE HELD ON 1 DECEMBER 2021

LC.34/21 GAMBLING ACT 2005 - DRAFT STATEMENT OF PRINCIPLES

The Licensing Manager submitted the Draft Statement of Gambling Policy 2022-2027 for approval. (GD.85/21)

The Licensing Manager reminded the Committee that it had approved the revised Policy for consultation on 18 August 2021. The consultation period had taken place from 23 August to 8 October 2021. No responses had been received, therefore no amendments had been made to the Policy.

RESOLVED - That the final draft of the Statement of Gambling Licensing Policy 2022-2027 as attached to Report GD.85/21 be approved and recommended to the City Council for adoption.