

HAMBLETON DISTRICT COUNCIL

Report To: Licensing Committee
11 February 2016

From: Executive Director

Subject: **GAMBLING ACT 2005 STATEMENT OF PRINCIPLES**

All Wards
Scrutiny Committee

1.0 PURPOSE AND BACKGROUND

- 1.1 The purpose of this report is to ask Members to seek Full Council's approval of the revised Gambling Act 2005 Statement of Principles.

2.0 INFORMATION AND ANALYSIS

- 2.1 A revised Statement of Principles (attached at Annex A) was approved by the Licensing Committee on 24th November 2015.
- 2.2 In accordance with section 154(2)(c) of the Gambling Act 2005, the responsibility for formulating the Statement of Principles cannot be delegated to the Licensing Committee and any decision in this respect must be taken by Full Council.

3.0 RECOMMENDATIONS

- 3.1 Members are asked to recommend that Full Council approve the revised Gambling Act 2005 Statement of Principles.

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GAMBLING ACT 2005
DRAFT STATEMENT OF PRINCIPLES

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1.0 INTRODUCTION

1.1 HAMBLETON

- 1.1.1 Hambleton is a local government district situated in the County of North Yorkshire. The council area is mainly rural with five market towns. These areas are shown on the map at Annex 'A'.
- 1.1.2 Hambleton covers an area of 1,311.17 km² most of which, 1,254.90 km², is green space. In 2011, Hambleton had an estimated population of 89,140.
- 1.1.3 There are currently 12 licensed premises located within the district of Hambleton (11 betting premises and 1 track betting premises).
- 1.1.4 Authorisation is frequently sought for small society lotteries and for gaming machines to be made available in premises licensed to sell or supply alcohol.

1.2 CONSULTATION

- 1.2.1 Licensing Authorities are required by the Gambling Act 2005 to publish a statement of the principles which they propose to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from "time to time" and any amended parts re-consulted upon. The revised statement must then be re-published.
- 1.2.2 The Gambling Act requires that the following parties are consulted by Licensing Authorities:-
 - The Chief Officer of Police.
 - One or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the authority's area.
 - One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's functions under the Gambling Act 2005.
- 1.2.3 Hambleton District Council consulted widely upon this Statement prior to publication. A list of those persons consulted is attached as Annex B.
- 1.2.4 The consultation for this statement revision was for the period from ***** until *****. Copies of the statement were placed in the public libraries within the district as well as being available at the Civic Centre.
- 1.2.5 The full list of comments made and the consideration by the council of those comments is available upon request to: The Licensing Team, Hambleton District Council, Civic Centre, Stone Cross, Northallerton, North Yorkshire, DL6 2UU.
- 1.2.6 The statement was approved at a meeting of the full Council on ***** and was published on www.hambleton.gov.uk on *****.
- 1.2.7 It should be noted that this Statement of Gambling Policy 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.

1.3 DECLARATION

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

2.0 RESPONSIBLE AUTHORITIES AND INTERESTED PARTIES

2.1 RESPONSIBLE AUTHORITIES

- 2.1.1 Responsible authorities are public bodies that must be notified of applications and are entitled to make representations to the licensing authority in relation to applications for, and in relation to, premises licences.
- 2.1.2 Section 157 of the Act gives the council discretion to designate, in writing, a body which is competent and most appropriate to advise the authority about the protection of children from harm.
- 2.1.3 The council has had consideration of the following principles:
- The need for the body to be responsible for an area covering the whole of the licensing authority's area
 - The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group
- 2.1.4 In accordance with the Act, and with regard to the Guidance and the above principles, this authority designates the Local Safeguarding Children Board for this purpose.
- 2.1.5 The Responsible Authorities are:
- The council's Licensing Team
 - North Yorkshire Police
 - North Yorkshire Fire and Rescue Service
 - The council's Planning Team
 - The Gambling Commission
 - The Local Safeguarding Children Board
 - Her Majesty's Commissioners of Customs and Excise
 - The council's Environmental Health Team
- 2.1.6 The contact details of all the Responsible Authorities under the Act are available via the council's website.

2.2 INTERESTED PARTIES

- 2.2.1 Similarly to responsible authorities, interested parties can make representation to the licensing authority in relation to applications for, and in relation to, premises licences.
- 2.2.2 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 council:-
- the person lives sufficiently close to the premises to be likely to be affected by the authorised activities; or
 - has business interests that might be affected by the authorised activities; or
 - represents persons who satisfy either of the above bullet points.

- 2.2.3 When determining whether a person is an interested party, the council will apply the following principles:-
- Each case will be decided upon its merits;
 - The council will not apply a rigid rule to its decision making;
 - The council will consider the examples of considerations provided in the Guidance; and
 - The council will consider the Guidance that the term "business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.
- 2.2.4 Interested parties can be persons who are democratically elected such as Councillors and MPs. No specific evidence of being asked to represent an interested party will be required as long as the Councillor/MP represents the ward likely to be affected.
- 2.2.5 Likewise, Parish Councils likely to be affected will be considered to be interested parties.
- 2.2.6 Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate/relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities, and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.
- 2.2.7 If individuals wish to approach Councillors to ask them to represent their views then care should be taken that the Councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the Licensing Team.
- 2.2.8 Anyone wishing to make a representation concerning an application will be required to relate their objection to one or more of the Licensing Objectives, as specified in section 4.0 of this statement.

3.0 LICENSING AUTHORITY FUNCTIONS

3.1 RESPONSIBILITIES

3.1.1 The council is responsible for the licensing of premises where gambling activities are to take place.

3.1.2 The following functions are administered by the council:-

- Premises Licences (betting, bingo, gaming centres and casinos)
- Provisional Statements
- Club Gaming Permits and/or Club Machine Permits
- Licensed Premises Gaming Machine Permits
- Notifications from alcohol licensed premises for the use of two or fewer gaming machines
- Family Entertainment Centre Gaming Machine Permits
- Prize Gaming Permits
- Small Society Lottery Registrations
- Occasional Use Notices
- Temporary Use Notices
- the provision of information to the Gambling Commission regarding details of licences issued
- maintaining registers of the permits and licences that are issued under these functions

3.1.3 Licensing authorities are not responsible for licensing remote gambling. This is regulated by the Gambling Commission via operating licences.

3.2 EXCHANGE OF INFORMATION

3.2.1 The council will act in accordance with the provisions of the Act in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The council will also have regard to the Guidance on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Act.

3.2.2 Should any protocols be established as regards information exchange with other bodies then they will be made available.

3.3 DECISION MAKING

3.3.1 In making decisions about premises licences and temporary use notices, the council will, in accordance with section 153 of the Act, aim to permit the use of premises for gambling insofar as it considers it:-

- in accordance with any relevant code of practice issued by the 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.

- 3.3.2 Moral objections to gambling, as well as unmet demand, are not valid reasons to reject applications for premises licences (except as regards any 'no casino resolution' - see section 6.3 on Casinos).

3.4 COMMITTEE

- 3.4.1 The council has established a Licensing Committee to administer the wide range of licensing decisions and functions for which it is responsible.
- 3.4.2 Appreciating the need to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process, the Committee has delegated certain decisions and functions and has established a Sub-Committee to deal with them. A Licensing Sub-Committee of three Councillors will sit to hear applications where representations have been received from interested parties and/or responsible authorities.
- 3.4.3 Many of the decisions and functions will be purely administrative in nature and the grant of non-contentious applications, including for example those licences and permits where no representations have been made, will be delegated to officers. In these instances, a record of the decision will be available to view on the council's website. This form of delegation is without prejudice to officers referring an application to a Sub-Committee or full Committee, or full Council if considered appropriate in the circumstances of any particular case.
- 3.4.4 Ward Councillors will not sit on a Sub-Committee involving an application within their ward.
- 3.4.5 Where a Councillor who is a member of the Licensing Sub-Committee is making, or has made, representations regarding a licence on behalf of an interested party, in the interests of good governance they will disqualify themselves from any involvement in the decision-making process affecting the licence in question.
- 3.4.6 The Licensing Sub-Committee will also refer to the Licensing Committee any matter it is unable to deal with because of the number of its members who are unable to take part in the consideration or discussion of any matter or vote on any question with respect to it.
- 3.4.7 Every determination of a licensing decision by the Licensing Committee or a Licensing Sub-Committee shall be accompanied by clear, cogent reasons for the decision. The decision and the reasons for that decision will be sent to the applicant and those who have made relevant representations as soon as practicable. A summary of the decision shall also be posted on the council's website as soon as possible after the decision has been confirmed.
- 3.4.8 The council's licensing officers will deal with all other licensing applications either where no representations have been received, or where representations have been received and withdrawn, or it is agreed by the parties that a hearing is not necessary.
- 3.4.9 "Frivolous" or "vexatious" representations need not be taken into consideration by the council. Whether a representation is frivolous or vexatious is a matter of fact, however, matters which this licensing authority may consider in deciding whether a representation is frivolous or vexatious include the following:-

- Who is making the representation and whether there is a history of making applications that are not relevant;
- Whether it raises a relevant issue; or
- Whether it raises issues specifically to do with the premises that are the subject of the application.

3.4.10 Where representations are rejected, the person making the representation will be given written reasons as to why this is the case. There is no right of appeal against a determination that representations are not admissible.

4.0 LICENSING OBJECTIVES

4.1 OVERVIEW

4.1.1 In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:-

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

4.1.2 The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling.

4.2 PREVENTING GAMBLING FROM BEING A SOURCE OF CRIME OR DISORDER, BEING ASSOCIATED WITH CRIME OR DISORDER OR BEING USED TO SUPPORT CRIME

4.2.1 The Gambling Commission takes a leading role in preventing gambling from being a source of crime but licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable, such as the provision of door supervisors.

4.3 ENSURING THAT GAMBLING IS CONDUCTED IN A FAIR AND OPEN WAY

4.3.1 The Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is, however, more of a role for licensing authorities with regard to tracks which is explained in more detail in section 6.6 of this statement.

4.4 PROTECTING CHILDREN AND OTHER VULNERABLE PERSONS FROM BEING HARMED OR EXPLOITED BY GAMBLING

4.4.1 The Guidance explains that this objective means preventing children from taking part in gambling, as well as the restriction of advertising so that gambling products are not aimed at, or are particularly attractive to, children. The council 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. With regards to the location of premises, the council will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling.

4.4.3 As regards the term “vulnerable persons” it is noted that the Gambling Commission does not seek to offer a definition, for regulatory purposes, it will assume this group includes:-

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

5.0 PREMISES LICENCES

5.1 MEANING OF PREMISES

- 5.1.1 In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. A single building, however, 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. 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.
- 5.1.2 The Guidance states that: "In most cases the expectation is that a single building / plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises."
- 5.1.3 The council will take particular care when considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes, and will have regard to the following principles:-
- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating;
 - Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not "drift" into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit;
 - Customers should be able to participate in the activity named on the premises licence.
- 5.1.4 Other factors that may be taken into account when considering applications are:-
- Is there a separate registration for business rates for the premises?
 - Is the premises' neighbouring premises owned by the same person or someone else?
 - Can each of the premises be accessed from the street or a public passageway?
 - Can the premises only be accessed from any other gambling premises?

5.2 PREMISES 'READY FOR GAMBLING'

- 5.2.1 The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.
- 5.2.2 If the construction of any 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.
- 5.2.3 In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at any premises, this authority will determine applications on their merits, applying a two stage consideration process:-
- Whether the premises ought to be permitted to be used for gambling; and
 - 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.
- 5.2.4 Applicants should note that the council is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.
- 5.2.5 More detailed examples of the circumstances in which such a licence may be granted can be found in the Guidance.

5.3 PREMISES LICENCE CONSIDERATIONS

- 5.3.1 In determining applications the council has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to gambling and the licensing objectives.

5.4 CONDITIONS

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

5.4.4 The council will also ensure that where category C, or above, machines are on offer in premises to which children are admitted:-

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

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

5.4.6 This council is aware that tracks may be subject to more than one premises licence, provided each licence relates to a specified area of the track. The council will consider the impact upon the objective "protecting 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.

5.4.7 The council cannot attach to premises licences:-

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

5.4.8 The Secretary of State has set out conditions to be attached to all premises licences in the Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007. Conditions under these Regulations fall into two categories:

- mandatory conditions that must be attached to premises licences; and
- default conditions that attach to the premises licence unless the licensing authority decides to exclude them.

5.5 PLANS

5.5.1 Section 151 of the Act 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 coordinate future premises inspection activity.

5.5.2 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.

- 5.5.3 Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises.
- 5.5.4 In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the premises boundary does not need to be defined.
- 5.5.5 The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the “five times rule” (commonly known as betting rings) must be indicated on the plan.

5.6 LOCAL RISK ASSESSMENTS

- 5.6.1 The Licence Conditions and Codes of Practice (LCCP) were updated in April 2015, and have introduced significant new responsibilities for operators in relation to their premises.
- 5.6.2 From 6 April 2016 all non-remote licensees must assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises. These risk assessments should be submitted to the licensing authority when submitting applications for new premises licences and also when varying existing premises licences.
- 5.6.3 The licensing authority will expect operators to identify the local risk factors surrounding the premises and consider matters such as:-
- whether neighbouring facilities may present risks when located near gambling premises (e.g. schools, hospitals, community centres, homeless centres);
 - whether the premises is located in an area of deprivation;
 - whether the premises is located in an area which is subject to high levels of crime and/or disorder.
- 5.6.4 Operators should also include control measures to mitigate the risks that have been identified. Control measures could include:-
- Staff training with regards to excessive gambling;
 - Updated policies and procedures;
 - The use of security personnel;
 - Age verification schemes;
 - Installation of CCTV;
 - Provision of signage relating to gambling care;
 - The layout of the premises to ensure staff have, where possible, unobstructed views of persons using the premises.

5.7 PLANNING

5.7.1 When dealing with a premises licence application for finished buildings, the council will not take into account whether those buildings have, or comply with, the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and 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 a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building control.

5.8 REVIEWS

5.8.1 A request for a review of a premises licence can be made by interested parties or responsible authorities.

5.8.2 A request for review may be rejected if:

- The authority regards the request as frivolous or vexatious;
- The request does not raise any new grounds to those raised during the consideration of a previous application for the grant, variation or review of the licence;
- The request does not raise any issue which is relevant to the principles which the authority is required to consider in granting a premises licence application
- The authority is satisfied that any review resulting from the request would certainly not lead to the suspension, revocation or alteration of the licence.

5.8.3 In deciding whether to carry out a review, the council will have regard to the Guidance, this statement of principles and the relevance of the request with the licensing objectives.

5.8.4 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.

5.8.5 Once a valid application for a review has been received, representations can be made by responsible authorities and interested parties during a 28 day period. 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.

5.8.6 Reviews will be carried out as soon as possible after the 28-day period for making representations has passed. 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.

5.8.7 In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in section 153 of the Act, as well

as any relevant representations. In particular, the licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises.

5.8.8 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;
- The Commission;
- Any person who made representations;
- The chief officer of police or chief constable; and
- Her Majesty's Commissioners for Revenue and Customs.

6.0 PREMISES LICENCE TYPES

6.1 ADULT GAMING CENTRES

6.1.1 The holder of an adult gaming centre premises licence may make available for use gaming machines in accordance with Section 172(1) of the Act and regulations.

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

6.1.3 The council may consider measures to meet the licensing objectives such as:-

- Proof of age schemes;
- CCTV;
- Supervision of entrances / machine areas;
- Physical separation of areas;
- Location of entry;
- Notices / signage;
- Specific opening hours;
- Self-exclusion schemes;
- Provision of information leaflets/helpline numbers for organisations such as GamCare.

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

6.2 FAMILY ENTERTAINMENT CENTRES

6.2.1 The holder of a family entertainment centre premises licence may make available for use gaming machines in accordance with Section 172(2) of the Act and regulations.

6.2.2 In terms of accessing a family entertainment centre, no customer shall be able to access the premises directly from:-

- a casino;
- an adult gaming centre; or
- a betting premises, other than a track

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

6.2.4 This licensing authority may consider measures to meet the licensing objectives such as:-

- CCTV;
- Supervision of entrances/machine areas;
- Physical separation of areas;
- Location of entry;

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

6.2.5 This list is not mandatory, nor exhaustive, and is merely indicative of example measures. Where premises wish to provide category D gaming machines only, it may do so under the benefit of a Family Entertainment Centre Gaming Machine Permit (refer to section 7.1).

6.3 CASINOS

6.3.1 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.

6.3.2 In terms of accessing a casino premises:-

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

6.4 BINGO PREMISES

6.4.1 The council will need to be satisfied that bingo can be played in any bingo premises for which a premises licence is issued. 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 areas.

6.4.2 This authority notes the Guidance regarding the unusual circumstances in which the splitting of any pre-existing premises into two adjacent premises might be permitted.

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

6.4.4 In terms of accessing a bingo premises, no customer shall be able to access the premises directly from:-

- a casino;
- an adult gaming centre; or
- a betting premises, other than a track.

6.4.5 Where category B and/or category C machines are available in premises to which children are admitted, applicants will be expected to ensure that:-

- All such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- Only adults are admitted to this area where the machines are located;
- Access to the area where the machines are located is supervised;
- The area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
- At the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

6.5 BETTING PREMISES (OTHER THAN TRACKS)

6.5.1 Some betting premises may make available for use machines that accept bets on live events, such as a sporting event, as a substitute for placing a bet over the counter. When considering the number/nature/circumstances of betting machines an operator wants to offer, the council will take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people.

6.5.2 In terms of accessing betting premises:-

- Access must be from a street or from another premises with a betting premises licence; and
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services.

6.6 TRACK BETTING PREMISES

6.6.1 The council is aware that tracks may be subject to more than one premises licence, provided each licence relates to a specified area of the track. The council 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.

6.6.2 The council 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.

6.6.3 The council may consider measures to meet the licensing objectives such as:-

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

- Provision of information leaflets/helpline numbers for organisations such as GamCare.
- 6.6.4 This list is not mandatory, nor exhaustive, and is merely indicative of example measures.
- 6.6.5 Where the applicant holds a pool betting operating licence and intends to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.
- 6.6.6 The council will take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator proposes to offer.
- 6.6.7 In terms of general access to a track betting premises, no customer shall be able to access the premises directly from a casino or an adult gaming centre.

7.0 OTHER AUTHORISATIONS

7.1 FAMILY ENTERTAINMENT CENTRE GAMING MACHINE PERMITS

7.1.1 Where an operator wishes to provide gaming machines at any premises that does not hold a premises licence, he/she may apply to the licensing authority for this permit. The applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.

7.1.2 The council will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures/training for staff as regards suspected truant school children on the premises, measures/training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on/around the premises. This licensing authority will also expect, as per Gambling Commission Guidance, that applicants demonstrate:-

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed Family Entertainment Centres;
- that the applicant has no relevant convictions (those that are set out in Schedule 7 to the Act); and
- that staff are trained to have a full understanding of the maximum stakes and prizes.

7.1.3 It should be noted that a licensing authority cannot attach conditions to this type of permit.

7.2 AUTOMATIC ENTITLEMENT FOR UP TO 2 GAMING MACHINES ON PREMISES LICENSED TO SELL ALCOHOL

7.2.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically be entitled to make available 2 gaming machines of categories C and/or D. The holder of the premises licence (issued under the Licensing Act 2003) merely needs to notify the licensing authority in writing, pay the prescribed fee and comply with any relevant codes of practice.

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

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the 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.

7.3 LICENSED PREMISES GAMING MACHINE PERMIT

7.3.1 If the holder of a premises licence (issued under the Licensing Act 2003 to authorise the sale of alcohol for consumption on the premises) wishes to make available more

than 2 gaming machines, an application will need to be made for a permit. The licensing authority must consider the application based upon:-

- the licensing objectives;
- any guidance issued by the Gambling Commission issued under Section 25 of the Act; and
- such matters as they think relevant.

7.3.2 The council 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 can monitor that the machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets and helpline numbers for organisations such as GamCare.

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

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

7.3.5 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.

7.4 PRIZE GAMING PERMITS

7.4.1 In applying for a Prize Gaming Permit, the applicant should set out the types of gaming that he or she is intending to offer and should be able to demonstrate:-

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

7.4.2 In making its decision on an application for a prize gaming permit, the licensing authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

7.4.3 It should be noted that there are conditions in the Gambling Act 2005 with 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.

7.5 CLUB GAMING AND CLUB MACHINE PERMITS

7.5.1 Members' Clubs and Miners' Welfare Institutes (but not Commercial Clubs) may apply for a Club Gaming Permit to enable the premises to provide:-

- 3 gaming machines of categories B, C or D;
- equal chance gaming; and
- games of chance as set out in regulations.

7.5.2 Members' Clubs, Miners' Welfare Institutes and Commercial Clubs may apply for a Club Machine Permit to enable the premises to provide:-

- 3 gaming machines of categories B, C or D.

Note: Commercial Clubs may not make category B3A gaming machines available for use.

7.5.3 Gambling Commission Guidance states: "Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulation and these cover bridge and whist clubs, which replicates the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations".

7.5.4 The Guidance also notes 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;
- an objection has been lodged by the Commission or the police.

7.5.5 There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003. Under the fast-track procedure there is no opportunity for objections to be made by the Gambling Commission or the police, and the grounds upon which the council can refuse a permit 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.

7.5.6 There are statutory conditions imposed on club gaming permits to ensure 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.

7.6 SMALL SOCIETY LOTTERIES

7.6.1 A lottery promoted wholly on behalf of a non-commercial society whose proceeds do not exceed £250,000 in a calendar year is referred to as a small society lottery (Schedule 11, Part 4 of the Act defines a small society lottery in more detail). Small Society Lotteries are exempt from registration with the Gambling Commission, but are required to be registered with the local authority.

7.7 TEMPORARY USE NOTICES

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

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

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

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

7.7.5 As recommended in the Gambling Commission's Guidance to Licensing Authorities, the council would expect to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.

7.8 OCCASIONAL USE NOTICES

- 7.8.1 The council has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. The council will, however, consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

7.9 TRAVELLING FAIRS

- 7.9.1 Where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the council is responsible for deciding whether the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 7.9.2 The council will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 7.9.3 There is a statutory maximum period of 27 days per calendar year for land being used as a fair. This 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. The council will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

7.10 PROVISIONAL STATEMENTS

- 7.10.1 Developers may wish to apply for provisional statements before entering into a contract to buy, or lease, property or land, to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.
- 7.10.2 Section 204 of the Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:-
- expects to be constructed;
 - expects to be altered; or
 - expects to acquire a right to occupy.
- 7.10.3 The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.
- 7.10.4 In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.
- 7.10.5 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The council will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of

a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:-

- they concern matters which could not have been addressed at the provisional statement stage, or
- they reflect a change in the applicant's circumstances.

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

- which could not have been raised by objectors at the provisional statement stage;
- which in the authority's opinion reflect a change in the operator's circumstances; or
- where the premises has not been constructed in accordance with the plan submitted with the application*.

*Note: 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.

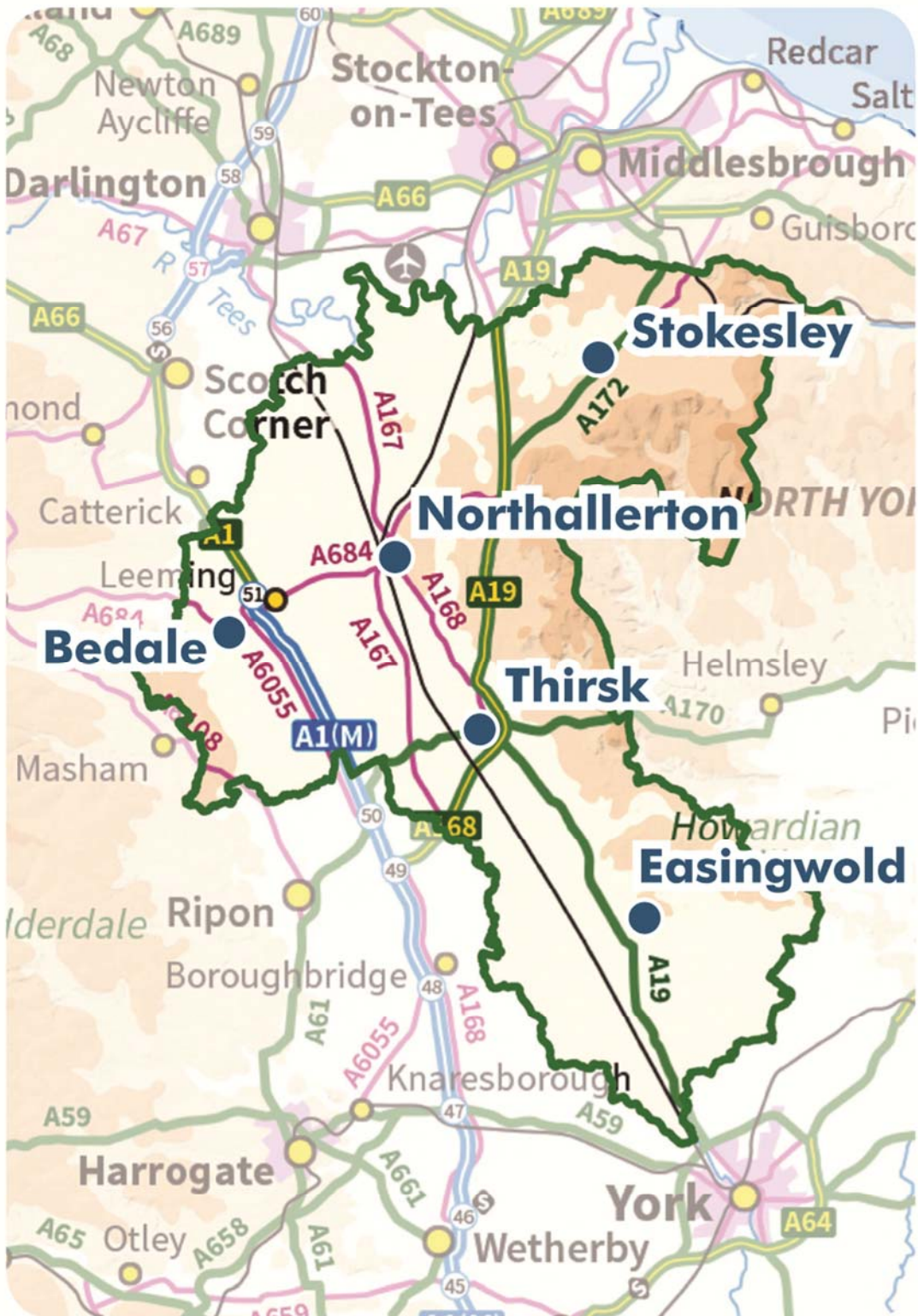
8.0 ENFORCEMENT

8.1 EXERCISE OF POWERS

- 8.1.1 Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.
- 8.1.2 The council recognises that regulatory activities should be carried out in a way which is transparent, accountable, proportionate, and consistent and should be targeted only at cases in which action is needed. The council has regard to these principles in relation to its responsibilities and also has regard to the requirements of the Regulators' Code (to promote efficient and effective approaches to regulatory inspection and enforcement which improve regulatory outcomes without imposing unnecessary burdens on business).
- 8.1.3 The main enforcement and compliance role for the council is to ensure compliance with the authorisations for which it is responsible. The Gambling Commission is the enforcement body for operator and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are also the responsibility of the Gambling Commission.

8.2 COMPLAINTS

- 8.2.1 The council will investigate complaints against premises for which it has responsibility in relation to matters relating to gambling. In the first instance, complainants are encouraged to raise the complaint directly with the licence holder or business concerned to seek a local resolution.
- 8.2.2 Where an interested party has made either a valid representation about licensed premises or a valid application for a licence review, the licensing authority may initially arrange a conciliation meeting to address and clarify the issues of concern. This process will not override the right of any interested party to ask that the Licensing Committee consider their valid objections. Similarly, it will not override the right of any licence holder to decline to participate in a conciliation meeting.

MAP OF HAMBLETON

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PERSONS AND BODIES CONSULTED

Chief Constable
County Fire and Rescue Officer
North Yorkshire Children Safeguarding Board
Director of Public Health
Local Planning Authority
North York Moors National Park
North Yorkshire Trading Standards Service
Environmental Health Service, Hambleton District Council
Hambleton District Council's Ward Councillors
HM Customs and Excise
Bedale Town Council
Easingwold Town Council
Northallerton Town Council
Stokesley Town Council
Thirsk Town Council
Existing Licence Holders
Hambleton Citizens' Advice Bureau
Barnados North East
NSPCC
Association of British Bookmakers
Bingo Association
British Amusement Catering Trade Association
British Casino Association
Remote Gambling Association
British Horseracing Authority
British Greyhound Racing Board
Carousel Games
Casino Operators Association
Business in Sport and Leisure
Gambling Commission
Independent Betting Adjudication Service
The Lotteries Council
GamCare
Gam-anon
Gamestec Leisure Ltd
National Casino Industry Forum
The Racecourse Association
Responsible Gambling Trust
The Jockey Club
Gamblers Anonymous