

# **BOROUGH COUNCIL OF PENDLE**

## **STATEMENT OF PRINCIPLES GAMBLING ACT 2005**

### **Consultation Statement**



# STATEMENT OF PRINCIPLES

## Gambling Act 2005

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*All references to the Guidance refer to the Gambling Commission's Guidance to Licensing Authorities, 4<sup>th</sup> Edition, published July 20012.*

## Section 1

### 1.1 Introduction and Declaration

The Gambling Act 2005 (“the Act”) has provided a new regime for regulating gambling and betting throughout England and Wales from 1st September 2007. Apart from the National Lottery and spread betting, gambling and betting is regulated by the Gambling Commission.

Pendle Borough Council (“The Council”) along with other Local Licensing Authorities, is required, under the 2005 Act, to licence premises where gambling is taking place. The Council is also required to licence certain other activities (such as registering small society lotteries). This document sets out how we intend to approach this task.

Licensing Authorities are required by Section 349 of the 2005 Act to publish a statement of the principles that they propose to apply when exercising their functions in accordance with the legislation. This statement must be published at least every 3 years and this is the fourth revision. It is a “living” document that must be regularly reviewed. If any part of the document is amended, further consultation and re-publication is required.

Pendle Borough Council will consult widely in relation to this draft statement before adopting and publishing the final version. The Gambling Act 2005 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; and
- 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.

A full list of those persons/organisations consulted is provided in full on page 27.

**DECLARATION: In producing the Final Statement, Pendle Borough Council as the Licensing Authority will declare that it has had regard to the licensing objectives of the Gambling Act 2005, the Guidance issued by the Gambling Commission and any responses from those consulted on this statement.**

(date of adoption to be inserted)

It should be noted that this Policy Statement does 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.

## 1.2 The Licensing Objectives

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

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

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

We are aware that, as per Section 153, in making decisions about premises licences and temporary use notices we should aim to permit the use of premises for gambling in so far as we think it is:

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

We particularly note the Gambling Commission’s Guidance (5.28) to local authorities that:

*“In deciding to reject an application, a licensing authority should rely on reasons that demonstrate that the licensing objectives are not being, or are unlikely to be, met. Licensing authorities should be aware that other considerations such as moral or ethical objections to gambling are not a valid reason to reject applications for premises licences. This is because such objections do not relate to the licensing objectives. An authority’s decision cannot be based on dislike of gambling, or a general notion that it is undesirable to allow gambling premises in an area (with the exception of the casino resolution powers).”*

### 1.3 The Borough of Pendle

The borough of Pendle is situated in north east Lancashire on the edge of the Pennines. It was formed following local government re-organisation in 1974 and takes its name from Pendle Hill, which dominates the skyline in the west. It comprises the former municipal boroughs of Colne and Nelson, the former urban districts of Barnoldswick, Barrowford, Brierfield, Earby and Trawden, together with various parishes previously administered by Burnley and Skipton Rural District Council.

Around 90,000 people currently live in the borough with the Council working in partnership with other organisations such as Liberata, Pendle Leisure Trust and Housing Pendle to provide services.

The towns and villages of Pendle all share in the history and culture of the Pennine borders. They are set in a dramatic landscape, which ranges from rich pasture to open moorland, dominated by the historic Pendle Hill. Covering 169 sq. km, it is a largely rural setting with several lively towns as well as many idyllic and quaint villages. The borough is divided up into 20 separate wards and 57 super output areas, each with their own identity and unique qualities.

Immediately neighbouring Pendle you will find the boroughs of Ribble Valley (west), Burnley (south), Craven (north) and Calderdale (east). The map below illustrates the breakdown of towns and villages within the borough.



## **1.4 Responsible Authorities**

We are required by regulations to state the principles it will apply in exercising our 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.

In accordance with the suggestion in the Gambling Commission's Guidance to Licensing Authorities, this authority designates the Lancashire Safeguarding Children Board for this purpose.

The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the Council's website at: [www.pendle.gov.uk](http://www.pendle.gov.uk)

## **1.5 Authorised activities**

'Gambling' is defined in the 2005 Act as either gaming, 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.

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.

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.

## **1.6 Licences under the 2005 Act**

The 2005 Act provides for 3 categories of licence as follows:

- Operating licences
- Personal licences
- Premises licences

## **1.7 The Gambling Commission**

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 manner in which gambling is carried out, the effects of gambling and the regulation of gambling generally.

The Commission has issued guidance in accordance with Section 25 of the 2005 Act about the manner in which Licensing Authorities exercise their licensing functions under the Act and, in particular, the principles to be applied.

The Commission will also issue 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.

The Gambling Commission can be contacted at:

Gambling Commission, Victoria Square House, Victoria Square, Birmingham, B2 4BP

Website: [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

Email: [info@gamblingcommision.gov.uk](mailto:info@gamblingcommision.gov.uk)

## **1.8 Interested parties**

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)”*

We are required by regulations to state the principles we will apply in exercising our powers under the Gambling Act 2005 to determine whether a person is an interested party. The principles are:

- Each case will be decided upon its merits. We will not apply a rigid rule to our decision making. We will consider the examples of considerations provided in the Gambling Commission's Guidance to Licensing Authorities at 8.11 to 8.19.
- We will also consider the Gambling Commission's Guidance that "business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

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 sufficient.

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 Service.

## **1.9 Exchange of Information**

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 the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

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 Act 1998 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.

Should any protocols be established as regards information exchange with other

bodies then they will be made available.

## 1.10 Enforcement

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.

This licensing authority's principles are that:

It will be guided by the Gambling Commission's Guidance to Licensing 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.

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.

We have 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

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

We also keep ourselves informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of

local authorities.

### **1.11 Licensing Authority Functions**

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 licenced premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- Issue Licenced Premises Gaming Machine Permits for premises licenced to sell/supply alcohol for consumption on the licenced 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

***NB*** *The National Lottery is regulated by the National Lottery Commission, Remote Gambling is dealt with by the Gambling Commission and Spread Betting is regulated by the Financial Services Authority.*

## Section 2

### PREMISES LICENCES: CONSIDERATION OF APPLICATIONS

#### 2 General Principles

Premises licences are subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. When issuing licences licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

##### 2.1 Decision-making

We are aware that in making decisions about premises licences we should aim to permit the use of premises for gambling in so far as we think it is:

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

It is appreciated that as per the Gambling Commission's Guidance to Licensing Authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos) and also that unmet demand is not a criterion for a licensing authority.

We also note the Gambling Commission's guidance on ensuring that betting is the primary activity of a licensed premise. Gaming machines may be made available for use in licenced 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 licences.

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

## 2.2 Definition of “Premises”

In the Act, "premises" is defined as including "any place". Section 152 prevents more than one premises licence 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.

The Gambling Commission states, in the fourth edition of its Guidance to Licensing Authorities, 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.”*

We take 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 relating 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 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 licenced premises or premises with a permit.

We will take into account the following factors in deciding whether to issue a licence:

- 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 any other gambling premises?

### **2.3 Issues to be Taken into Account in Looking at Access provisions to Premises**

#### **Casinos**

- The principal access entrance to the premises must be from a street (as defined at 7.24 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 holds a gambling premises licence

#### **Adult Gaming Centre**

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

#### **Betting Shops**

- Access must be from a street (as per para 7.23 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 café – the whole area would have to be licenced.

#### **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.

### **2.4 Premises "Ready for Gambling"**

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.

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.

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.

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.

## **2.5 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. 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, with the onus upon the applicant showing how potential concerns can be overcome.

## **2.6 Planning**

In determining applications we have 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. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.

We will not take into account irrelevant matters taking on board the following advice in the Guidance:

*“7.67 - When dealing with a premises licence application for finished buildings, the licensing authority should 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 not form part of the consideration for the premises licence. Section 210 of the 2005 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.*

## **2.7 Duplication with Other Regulatory Regimes**

We will seek to avoid any duplication with other statutory / regulatory systems where possible, including planning.

## **2.8 Licensing Objectives**

Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, we have considered the Gambling Commission’s Guidance to Licensing Authorities and our objectives are as follows:

**i Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** - We are aware that the Gambling Commission takes 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. Where an area has known high levels of organised crime we 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. We are aware of the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction.

**ii Ensuring that gambling is conducted in a fair and open way** – We note that 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.

**iii Protecting children and other vulnerable persons from being harmed or exploited by gambling** –

One of our principal objectives is preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). We will therefore consider whether specific measures are required at particular premises to prevent children from gambling. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

As regards the term “vulnerable persons” we will, for regulatory purposes, assume that this group includes people who gamble more than they want to; people who gambling 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. This licensing authority will consider this licensing objective on a case by case basis.

## **2.9 Licence Conditions**

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.

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures we 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. We will also expect the licence applicant to offer his/her own suggestions as to way in which the licensing objectives can be met effectively.

We 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.

We will ensure that where category C or above machines are on offer in premises to which children are admitted:

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

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

There are conditions which a 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.

## **2.10 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 to this effect. We will take this into account in any licence application.

Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether these need to be SIA licenced or not will be necessary. It will not be automatically assumed that they need to be licenced, as the statutory requirements for different types of premises vary (as per the Guidance, Part 33).

## **Considerations for Categories of Premises**

### **2.11 Adult Gaming Centres**

We 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.

This licensing authority 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.

This list is not mandatory, nor exhaustive, but is indicative of the type of measures we will consider.

### **2.12 (Licenced) Family Entertainment Centres**

We 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.

We may, according to specific circumstances, 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.
- Measures / training for staff on how to deal with suspected truant school children on the premises

As with 3.1 this list is not mandatory, nor exhaustive, but is indicative of the type of measures we will consider.

We will, in accordance with the Gambling Commission's guidance, refer to the 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. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

### **2.13 Casinos**

We have not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but are 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.

*Licence considerations / conditions* – We 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.

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

## **2.14 Bingo Premises**

We will satisfy ourselves that bingo can be played in any bingo premises for which we 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 and then applies for a new premises licence, or multiple licences, for that or those excluded areas. We will refer to the Gambling Commission's advice for any proposal to split premises.

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.

## **2.15 Credit/ATMs**

Section 177 of the Act requires, in relation to casino and bingo premises licences, that a condition be placed on the licence prohibiting the provision of credit in connection with gambling authorised by the licence or any involvement with the provision of credit.

Section 177 does not, however, prevent the licensee from permitting the installation of cash dispensers (ATMs) on the premises. Such machines may accept credit cards (and debit cards) providing the arrangement is subject to a requirement that the licensee has no other commercial connection with the machine provider in relation to gambling (aside from the agreement to site the machines) and does not profit from the arrangement, nor make any payment in connection with the machines.

## **2.16 Betting Premises**

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

## **2.17 Tracks**

We are 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. We 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.

We 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.

As relevant to the application we will 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

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

*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.

*Betting machines* - We 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.

## **2.18 Licence Applications and Plans**

The Gambling Act (s51) requires applicants to submit plans of the premises with their application, in order to ensure hawse have 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.

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.

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. This does not override any requirements there may be for planning permission.

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 boundary premises do not need to be defined.

We appreciate that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information so that we can satisfy ourselves 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.

## **2.19 Travelling Fairs**

We are 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.

We will also consider whether the applicant falls within the statutory definition of a travelling fair.

A 27-day statutory maximum for the land being used as a fair applies on a per calendar year basis, and 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.

## **2.20 Provisional Statements**

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.

S204 of the Act provides for a person to make an application 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.

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.

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 is 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.

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. 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.

## **2.21 Reviews**

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;
- reasonably consistent with the licensing objectives; and
- in accordance with the authority's statement of principles.

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

We can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which we think is appropriate.

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.

We will carry out the review as soon as possible after the 28 day period for making representations has passed.

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

- (a) add, remove or amend a licence condition imposed by the licensing authority;
- (b) exclude a default condition imposed by the Secretary of State or Scottish Ministers (e.g. opening hours) or remove or amend such an exclusion;
- (c) suspend the premises licence for a period not exceeding three months; and
- (d) revoke the premises licence.

In determining what action, if any, should be taken following a review, we will 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. This is to prevent people from applying for licences in a speculative manner without intending to use them.

Once the review has been completed we will, as soon as possible, notify our decision to:

- the licence holder
- the applicant for review (if any)
- the Commission
- any person who made representations
- the chief officer of police or chief constable; and
- Her Majesty's Commissioners for Revenue and Customs

## Section 3

### Permits / Temporary & Occasional Use Notice

#### 3.1 Unlicensed Family Entertainment Centre (“FEC”) Gaming Machine Permits (Statement of Principles on Permits - Schedule 10 paragraph 7)

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

The Gambling Act 2005 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. In preparing this statement, and/or considering applications, it need not 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 to Licensing Authorities 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.” (24.6)*

The 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. (24.7)”*

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

#### 3.2 Statement of Principles

We 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. 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.

We 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 (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.

### **3.3 (Alcohol) Licenced premises gaming machine permits - (Schedule 13 paragraph 4(1)) Automatic entitlement: 2 machines**

There is provision in the Act for premises licenced to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority and pay the prescribed fee.

We 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.

### **3.4 Permit: 3 or more machines**

If a premises wishes to have more than 2 machines, then a permit must be applied for and we must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*”

“Such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and we will expect the applicant to satisfy us 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 us that there will be

no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as Gam-Care.

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

We 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.

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.

### **3.5 Prize Gaming Permits**

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”*.

We have 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 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
- that there are clear policies that outline the steps to be taken to protect children from harm.

In making our decision on an application for this permit we do not need to have regard to the licensing objectives but must have regard to any Gambling Commission Guidance. (Gambling Act 2005, Schedule 14 paragraph 8(3)).

There are conditions in the Gambling Act 2005 which the permit holder must comply with. We cannot however attach conditions.

The conditions in the Act are:

- 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
- 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.

### **3.6 Club Gaming and Club Machines Permits**

Members Clubs and Miners' welfare institutes (but **not** commercial clubs) may apply for a Club Gaming Permit. The Club Gaming Permit enables the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in regulations.

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 (3 machines of categories B, C or D). NB Commercial Clubs may not site category B3A gaming machines offering lottery games in their club.

The Gambling Commission's Guidance states:

*"25.46 The LA has to satisfy itself that the club meets the requirements of the Act to obtain a club gaming permit. In doing so it will take account a number of matters as outlined in sections 25.47-25.49 of the Gambling Commission's Guidance. These include the constitution of the club, the frequency of gaming, and ensuring that there are more than 25 members.*

*"The club must be conducted 'wholly or mainly' for 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."*

The Commission Guidance also notes that *"licensing authorities may only refuse an application on the grounds that:*

- (a) 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;*

- (b) the applicant's premises are used wholly or mainly by children and/or young persons;*
- (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;*
- (d) a permit held by the applicant has been cancelled in the previous ten years;*  
*or*
- (e) an objection has been lodged by the Commission or the police.*

There is 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). Commercial clubs cannot hold club premises certificates under the Licensing Act 2003 and so cannot use 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.

The grounds on which an application under the process may be refused are:

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

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.

### **3.7 Temporary Use Notices**

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, according to the Gambling Commission, would include hotels, conference centres and sporting venues.

We 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.

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.

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", we will look at, amongst other things, the ownership/occupation and control of the premises.

We will normally 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, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

### **3.8 Occasional Use Notices**

We have little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. We will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice. We will also ensure that no more than 8 OUNs are issued in one calendar year in respect of any venue.

### **3.9 Small Society Lotteries**

We will adopt a risk based approach towards our enforcement responsibilities for small society lotteries. We consider that the following list, although not exclusive, could affect the risk status of the operator:

- submission of late returns (returns must 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

Non-commercial gaming is permitted if it takes place at a non-commercial event, either as an incidental or principal activity at the event. Events are non-commercial if no part of the proceeds is for private profit or gain. The proceeds of such events may benefit one or more individuals if the activity is organised:

- by, or on behalf of, a charity or for charitable purposes
- to enable participation in, or support of, sporting, athletic or cultural activities.

Charities and community groups should contact the licensing section further advice. Full contact details are available at [www.pendle.gov.uk](http://www.pendle.gov.uk).

## Categories of Gaming Machines

Machine category	Maximum stake (from January 2014)	Maximum prize (from January 2014)	Allowed premises
<b>A</b>	Unlimited	Unlimited	Regional Casino
<a href="#">B1</a>	£5	£10,000 (with the option of a maximum £20,000 linked progressive jackpot on a premises basis only)	Large Casino, Small Casino, Pre-2005 Act casino and Regional Casinos
<a href="#">B2</a>	£100	£500	Betting premises and tracks occupied by pool betting and all of the above
<a href="#">B3</a>	£2	£500	Bingo premises, Adult gaming centre and all of the above
<b>B3A</b>	£2	£500	Members' club or Miners' welfare institute only
<a href="#">B4</a>	£2	£400	Members' club or Miners' welfare club, commercial club and all of the above.
<a href="#">C</a>	£1	£100	Family entertainment centre (with Commission operating licence), Qualifying alcohol licenced premises (without additional gaming machine permit), Qualifying alcohol licenced

<b>Machine category</b>	<b>Maximum stake (from January 2014)</b>	<b>Maximum prize (from January 2014)</b>	<b>Allowed premises</b>
			premises (with additional LA gaming machine permit) and all of the above.
<a href="#">D money prize</a>	10p	£5	Travelling fairs, unlicensed (permit) Family entertainment centre and all of the above
<a href="#">D non-money prize (other than crane grab machine)</a>	30p	£8	All of the above.
<a href="#">D non-money prize (crane grab machine)</a>	£1	£50	All of the above.
<a href="#">D combined money and non-money prize (other than coin pusher or penny falls machines)</a>	10p	£8 (of which no more than £5 may be a money prize)	All of the above.
<a href="#">D combined money and non-money prize (coin pusher or penny falls machine)</a>	20p	£20 (of which no more than £10 may be a money prize)	All of the above.

## **GAMBLING ACT 2005 – STATEMENT OF PRINCIPLES** **CONSULTEES**

Gambling Commission  
Policy Section  
Victoria Square House  
Victoria Square  
Birmingham B2 4BP.

Mr Neil A. Walsh,  
Gambling Commission Inspector,  
Northern Regional Office,  
13<sup>th</sup> Floor, West Point,  
501 Chester Road,  
Old Trafford.

Chief Constable,  
Lancashire Constabulary,  
PO Box 77  
Hutton,  
Preston,  
Lancashire,  
PR4 5SB.

Lancashire Fire and Rescue Service H.Q.  
Garstang Road,  
Fulwood,  
Preston  
PR2 3LH.

Lancashire County Council  
Safeguarding Children's Manager  
Room 503/504  
East Cliff County Offices JDO  
Preston  
Lancashire  
PR1 3JT

H.M Revenue and Customs  
Stone Cross House  
21-27 Churchgate  
BOLTON  
BL1 1YA.

Blackburn with Darwen Council,  
King William Street,  
Town Hall, Blackburn  
BB1 7DY.

Hyndburn Borough Council,  
Scaitcliffe House,  
Ormerod Street  
Accrington  
Lancashire  
BB5 0PF.

Ribble Valley Borough Council,  
Council Offices  
Church Walk,  
CLITHEROE,  
Lancashire.  
BB7 2RA.

Rossendale Borough Council  
PO BOX 74  
Bacup  
OL13 0WU.

The British Casino Association  
38, Grosvenor Gardens  
London  
SW1W 0EB.

Casino Operators Association of the UK.  
PO Box 55,  
Thorncombe,  
Chard,  
Somerset  
TA20 4YT.

Business In Sport and Leisure  
46 Fieldsend Road  
Cheam  
Surrey SM3 8NR.

The Racecourse Association Ltd.  
Winkfield Road  
Ascot

Berkshire  
SL5 7HX.  
BACTA  
Alders House  
133 Aldersgate Street  
London  
EC1A 4JA.

BH&HPA,  
6 Pullman Court,  
Great Western Road,  
Gloucester,  
GL1 3ND.

Association of British Bookmakers Ltd  
Regency House  
1-4 Warwick Street  
London W1B 5LT.

Clubs and Institute Union,  
253/254 Upper Street  
London  
N1 1RY.

The Society of Independent Brewers  
The SIBA Office  
PO Box 101  
Thirsk  
YO7 4WA.

## **Glossary of Terms**

The Act	Gambling Act 2005
FEC	Family Entertainment Centre
The Guidance	Gambling Commission: Guidance to Licensing Authorities (Fourth edition) <a href="http://www.gamblingcommission.gov.uk/Licensing-authorities/Information-for-licensing-authorities/Guidance-to-licensing-authorities.aspx">http://www.gamblingcommission.gov.uk/Licensing-authorities/Information-for-licensing-authorities/Guidance-to-licensing-authorities.aspx</a>
Licensing Authority	Pendle Borough Council
OUN	Occasional Use Notice