



Gambling Act 2005

Statement of Licensing Policy

Issue 2 January 2010

FOREWORD



Councillor N Smith
Chairman of the Licensing Committee



Councillor A Smith
Environment Portfolio Holder

The Gambling Act 2005 received royal assent in April 2005 and came fully into force in September 2007 overhauling the old system and introducing a new regime to control all gambling with the exception of the National Lottery and spread betting. Responsibility for the administration of the regime is shared between the Gambling Commission and Licensing Authorities.

Under the Act, a Licensing Authority is required to prepare and publish a Statement of Licensing Policy. Following a comprehensive local consultation process, the Licensing Policy was approved and came into force on 31st January 2007.

Since this date, the Policy has assisted in promoting the three licensing objectives detailed under the Act:

- 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.

As part of our requirements under the Act, the Statement of Licensing Policy has been reviewed. In reviewing the policy the Licensing Authority has considered and evaluated the effectiveness of the previous policy and with partners have decided which elements of the Policy should be retained.

Following a 12 week consultation, the reviewed Policy was adopted by full Council on 10th November 2009.

Unless reviewed in the intervening period, the Statement of Licensing Policy will remain in force until 31st January 2013.

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PART A

1. Introduction

North West Leicestershire District Council is the Licensing Authority under the Gambling Act 2005 (the Act). North West Leicestershire is a mixed urban and rural district covering approximately 279 square kilometres with a population of 88, 300 (2004 estimate). The main towns are Coalville, a former mining town and Ashby de la Zouch, a traditional market town. The area also encompasses East Midlands Airport and the site of Donington Park a grand prix circuit and site for music festivals. These areas are shown in the map below at Appendix A.

Licensing authorities are required by the Act 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 statement must then be re-published.

This licensing authority consulted widely upon this statement before finalising and publishing. The Act requires that the following parties be 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 Act.

A list of those persons consulted is provided below at Appendix B.

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

2. Declaration

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

3. The Licensing Objectives

In exercising most of their functions under the Act, licensing authorities must have regard to the licensing objectives as set out in 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

4. Responsible Authorities

The licensing authority is required to state the principles it will apply in exercising its powers to designate 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.

This licensing authority designates the Leicester, Leicestershire and Rutland Area Child Protection Committee for this purpose.

5. 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 Act as follows:

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

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- b) has business interests that might be affected by the authorised activities, or
- c) represents persons who satisfy paragraph (a) or (b)”

The licensing authority is required to state the principles it will apply in exercising its powers under the Act to determine whether a person is an interested party. The overriding principle is that each case will be decided upon its merits. The factors that this licensing authority may take into account when determining what ‘sufficiently close to the premises’ means (in each case) might include:

- The size of the premises;
- The nature of the premises;
- The distance of the premises from the location of the person making the representation;
- The potential impact of the premises; and
- The circumstances of the complainant.

In determining whether a person with business interests might be affected by the premises, the factors likely to be relevant include:

- The size of the premises;
- The catchment area of the premises; and
- Whether the person making the representation has business interests in that catchment area that might be affected.

This licensing authority may view trade associations, trade unions, residents’ and

tenants' associations as interested parties.

Interested parties can be persons who are democratically elected such as Councillors and Members of Parliament. No specific evidence of being asked to represent an interested person will be required as long as the Councillor or Members of Parliament represents the ward likely to be affected. Other than these however, this authority will generally require written evidence that a person or body '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.

6. Exchange of Information

This licensing authority adopts the principle of better regulation and will conduct itself in accordance with the provisions of the Act in its exchange of information which includes the provision that the Data Protection Act 1998 and other relevant legislation will not be contravened. The licensing authority will also have regard to the Guidance issued by the Gambling Commission to Local Authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Act.

7. Enforcement

The main enforcement and compliance role for this licensing authority in terms of the Act will be to ensure compliance with licences and permits issued by this authority and any conditions attached to them, including compliance with relevant codes of practice, dealing with temporary permissions and registration of small lotteries.

This licensing authority will act in accordance with the following principle for regulators:

- 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.

This licensing authority will endeavour to avoid duplication with other statutory or regulatory regimes so far as possible.

This licensing authority will have regard to the Regulators Compliance Code and will adopt a risk-based, proportionate and targeted approach to regulatory inspection and enforcement. This licensing authority shall comply with the codes of practices developed by the Crown Prosecution Service in the management of criminal cases.

8. Licensing Authority Functions

This licensing authority will:

- 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 by means of issuing Club Gaming Permits and/or Club Machine Permits;
- Issue Club Machine Permits to Commercial Clubs;
- Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres;
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines;
- Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines;
- Register small society lotteries below prescribed thresholds;
- Issue Prize Gaming Permits;
- Receive and endorse Temporary Use Notices;
- Receive Occasional Use Notices;
- Provide information to the Gambling Commission;
- Maintain registers of licences and permits that are issued and small society lottery registrations.

It should be noted that this licensing authority will not be involved in licensing remote gambling. This is the responsibility of the Gambling Commission by means of operating licences.

PART B **Premises Licence**

1. General Principles

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

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

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

In determining applications, this licensing authority will only take into consideration all

relevant matters and not take into consideration any irrelevant matters. This authority will not consider whether premises are likely to be awarded planning permission or building regulations approval. This licensing authority will not consider issues of public nuisance. There is legislation other than this Act that deals with public nuisance.

This licensing authority accepts the principle that moral objections to gambling are not a valid reason to reject applications for premises licences and also that unmet demand is not a criterion for a licensing authority.

This licensing authority will give particular consideration to applications:

- for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes; and
- applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed).

In respect of premises which still have to be constructed or altered, an operator can apply for a premises licence rather than a provisional statement. In these circumstances, this licensing authority will first decide whether, as a matter of substance after applying the principles in section 153 of the Act, the premises ought to be permitted to be used for gambling and secondly, in deciding whether or not to grant the application, this licensing authority will need to consider if 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.

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.

2. Licensing Objectives

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

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. Appropriate matters for consideration may include:

- disorder;
- the sale and distribution of controlled drugs;
- the laundering of the proceeds of drugs to support gambling.

Ensuring that gambling is conducted in a fair and open way

This licensing authority does not expect 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 which will be dealt with by the Gambling Commission.

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

This licensing authority will consider whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include:

- supervision of entrances / machines;
- location of machines including cash terminals;
- segregation of areas;
- signage/leaflets.

As regards the term “vulnerable persons” it is noted that the Gambling Commission is not seeking to offer a definition but states that “it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.” This licensing authority will consider this licensing objective on a case by case basis.

3. Adult Gaming Centres

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

Factors which this licensing authority may consider include:

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

This list is not mandatory, nor exhaustive, and is merely indicative of factors that may be taken into consideration.

4. (Licensed) Family Entertainment Centres

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.

Factors which this licensing authority may consider include:

- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entrance
- Notices / signage
- Specific opening hours
- Self-barring 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

This list is not mandatory, nor exhaustive, and is merely indicative of factors that may be taken into consideration.

5. Casinos

This licensing authority has not passed a 'no casino' resolution under the Act, 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. Bingo Premises

Gaming machines may be made available for use in licensed bingo premises only on those days when sufficient facilities for playing bingo are also available for use.

Where category C or above machines are available in premises to which children are admitted this licensing authority will wish to ensure that:

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

7. Betting Premises

It is not permissible to offer gaming machines on a premises which is licensed for betting but not to offer sufficient facilities for betting.

In deciding whether to restrict the number of betting machines, this licensing authority will take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of betting machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people.

8. Tracks

This authority will 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 are allowed to attend premises such as greyhound tracks or racecourses on event days, and children are permitted into areas where betting facilities are provided, such as the betting ring, where betting takes place. However, they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

Factors which this licensing authority may consider include:

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

This list is not mandatory, nor exhaustive, and is merely indicative of factors that may be taken into consideration.

Applications for track premises licences will need to demonstrate that, where the applicant holds a pool betting operating licence and is going to use his entitlement to four gaming machines, unless they are Category D machines, these machines are located in areas from which children are excluded.

This licensing authority will require detailed plans for the racetrack itself and the area that will be used for temporary “on-course” betting facilities (often known as the “betting ring”). In the case of dog tracks and horse racecourses fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities must be clearly indicated on the plans. The plans should also make clear what is being sought for authorisation under the track betting premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence.

9. Travelling Fairs

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 must be met.

This licensing authority will consider whether the applicant falls within the statutory definition of a travelling fair.

A site may not be used for fairs on more than 27 days per calendar year. The 27-day maximum applies to the piece of land on which the fairs are held, regardless of whether

it is the same or different travelling fairs occupying the land. This licensing authority will monitor the use of land and maintain a record of the dates on which land is used.

10. Provisional Statements

Applicants for premises licences must fulfil certain criteria. They must hold or have applied for an operating licence from the Gambling Commission (except in the case of a track), and they must have a right to occupy the premises in respect of which their premises licence application is made. These restrictions do not apply in relation to an application for a provisional statement.

The application for a provisional statement must be accompanied by plans and the fee. Responsible authorities and interested parties may make representations.

Once the premises are constructed, altered, or acquired the holder of a provisional statement can return to this licensing authority and submit an application for the necessary premises licence.

11. Reviews

Requests for a review of a premises licence can be made by interested parties or responsible authorities however, it is for this licensing authority to decide whether the review is to be allowed. An application for review may be rejected if the grounds of the review:

- are not relevant to the principles that must be applied by this licensing authority in accordance with the Act;
- are frivolous;
- are vexatious;
- 'will certainly not' cause this authority to revoke or suspend a licence or to remove, amend or attach conditions to the premises licence;
- are substantially the same as grounds stated in a previous application relating to the same premises;
- are substantially the same as representations made at the time the application for a premises licence was considered.

The Act provides that licensing authorities may initiate a review in relation to a particular class of premises licence or in relation to particular premises.

In relation to a class of premises, this licensing authority may review the use made of premises and, in particular, the arrangements that premises licence holders have made to comply with licence conditions.

In relation to particular premises, this licensing authority may review any matter connected with the use made of the premises if it has reason to suspect that premises licence conditions are not being observed, or for any other reason (such as a complaint from a third party) which gives it cause to believe that a review may be appropriate. A formal review will normally be at the end of a process ensuring compliance by the operator. If the operator does not meet requirements then after a formal review this licensing authority may impose additional conditions or revoke the premises licence.

PART C
Permits, Temporary Use Notice & Occasional Use Notice

1. Unlicensed Family Entertainment Centre Gaming Machine Permits

The application will be in the form and manner specified by this licensing authority. The application form must be accompanied by a plan of the premises indicating the location of the gaming machines and the fee.

This licensing authority considers that the applicant should have 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 policies and procedures may include:

- appropriate measures / training for staff as regards suspected truant school children on the premises;
- a proof of age policy;
- 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 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;
- that staff are trained to have a full understanding of the maximum stakes and prizes.

2. (Alcohol) Licensed Premises Gaming Machine Permits

The application will be in the form and manner specified by this licensing authority. Applications will be required to state the premises to which it relates and the number and category of gaming machines sought. The application form must be accompanied by a plan of the premises and the fee.

This licensing authority will consider each application 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. The permit holder must be capable of demonstrating compliance with the conditions detailed in the Gaming Machine's Code of Practice and this licensing authority would expect the permit holder to implement the best practice set out in the Code of Practice.

3. Prize Gaming Permits

The application will be in the form and manner specified by this licensing authority. The application form must specify the premises and be accompanied by a plan of the premises and the fee.

This licensing authority will require the applicant to set out the types of gaming that

he/she is intending to offer and the applicant should be able to demonstrate:

- that they understand the limits on stakes and prizes that are set out in regulations; and
- that the gaming offered is within the law.

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

4. 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 will enable the premises to provide gaming machines (3 machines of categories B3A (no more than one), B4, C or D), equal chance gaming and games of chance.

Members Clubs, Miners' welfare institutes and Commercial Clubs may apply for a Club Machine Permit. A Club Machine permit will only enable the premises to provide gaming machines (3 machines of categories B3A (no more than one), B4, C or D). Commercial clubs are not allowed to provide category B3A gaming machines.

This licensing authority may only refuse an application for either type of permit if:

- (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 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 Commission or the police and the grounds on which an application 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.

The permit holder must demonstrate compliance with the conditions detailed in the Gaming Machine's Code of Practice and this licensing authority would expect the permit holder to implement the best practice set out in the Code of Practice.

5. Temporary Use Notices

Temporary Use Notices (TUN) can only be used to permit the provision of facilities for equal chance gaming where the gaming is intended to produce a single overall winner.

The holder of a relevant operating licence must give notice to this licensing authority on the prescribed form.

This licensing authority will have regard to the licensing objectives when considering whether to object to any notice received.

6. Occasional Use Notices

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

PART D **Lotteries**

This licensing authority is responsible for the registration of small society lotteries. These are non-commercial societies as defined in the Act as being established and conducted:

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

This licensing authority will exercise its functions under this Act in relation to lotteries in accordance with the principles contained in the guidance issued by the Gambling Commission.

FURTHER INFORMATION

Anybody wishing to contact the Licensing Authority with regard to this Statement of Licensing Policy, the Gambling Act 2005 or the application process can do so as follows:

In writing to	The Licensing Team Environmental Health North West Leicestershire District Council Council Offices Coalville Leicestershire LE67 3FJ
By email to	licensing@nwleicestershire.gov.uk
By fax to	01530 454574
By telephone on	01530 454545

Appendix A
Map of North West Leicestershire District



Appendix B
List of bodies consulted.

Leicestershire Constabulary
Association of British Bookmakers
British Amusement Catering Association
British Casino Association
Bingo Association
British Horse Racing Board
British Greyhound Racing Board
Club and Institute Union
British Beer & Pub Association
Gamcare
Gamblers Anonymous
Salvation Army and other faith groups
Citizens Advice Bureau
Local healthcare trusts
Trade unions
Leicestershire County Council
Community Welfare department of NWLDC
Holders of existing licences, permits and registrations who will be affected by the provisions of the Act
Responsible Authorities named in the Act
Responsibility in Gambling Trust
Town and Parish Councils

COUNCIL'S VISION

North West Leicestershire will be a place where people and businesses feel they belong and are proud to call home

North West Leicestershire District Council,
Council Offices, Whitwick Road, Coalville,
Leicestershire, LE67 3FJ.

This document is available in other formats on request