



**SOUTH DERBYSHIRE DISTRICT COUNCIL**

## **Gambling Act 2005**

# **STATEMENT OF LICENSING POLICY**

**Version 5:  
2019-2022**

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## **PART A**

### **1. The Licensing Objectives**

In exercising their functions under the Gambling Act 2005 (“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.

The Licensing Authority is aware that, as per Section 153, in making decisions it should aim to permit the use of premises for gambling in so far as it thinks 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 Licensing Authority’s statement.

### **2. Introduction**

South Derbyshire is situated in the County of Derbyshire which includes 8 other local authorities. South Derbyshire is a mixed urban and rural district covering approximately 338 square kilometres with a population of 100,300 (2016 estimate). The town of Swadlincote is the main focus for employment, shopping and services in South Derbyshire. Hilton and Melbourne are the District’s next largest centres of population. The District includes a number of villages and settlements, such as the historically significant Repton and Shardlow and larger villages like Hatton and Willington. A large part of the District has been included within the designated area of the National Forest. This major environmental initiative is creating a new and attractive landscape for work, recreation and wildlife.

These areas are shown in the map at Appendix A.

Licensing authorities are required by the Act to publish a statement of principles which they propose to apply when exercising their functions. This Statement of Licensing Policy (“Statement”) must be published at least every three years. The Statement must also be reviewed from “time-to-time” and any amended parts re-consulted upon. The Statement must be then re-published.

The Licensing Authority consulted widely upon this Statement before finalising. 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 Licensing Authority to represent the interests of persons carrying on gambling businesses in the Licensing Authority’s

- area;
- One or more persons who appear to the Licensing Authority to represent the interests of persons who are likely to be affected by the exercise of the Licensing Authority's functions under the Act.

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

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

This Statement details how the Licensing Authority will apply the principles detailed within the Act, how applications will be determined, the local area profile to assist applicants and existing licence holders in the completion of their own local risk assessments, and the documentation required for each different type of licence, permit or notification.

### **3. Declaration**

In producing the final Statement, the Licensing Authority declares that it has had regard to the licensing objectives in the Act, the guidance issued by the Gambling Commission and any responses from those consulted on the Statement.

### **4. Local Area Profile**

As part of the Social Responsibility Code, from April 2016, licensees are required to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises and have policies, procedures and control measures in place to mitigate those risks.

the Licensing Authority

The Licensing Authority initially produced a local area profile plan in 2016 to assist applicants and licensees with their own local risk assessments. The plan has been updated in 2018 following a review of the local risks that exist that could undermine the licensing objectives. This plan is available as a separate document on the Council's website.

### **5. Responsible Authorities**

Responsible authorities are public bodies that must be notified of applications and that are entitled to make representations to the Licensing Authority in relation to applications for, and in relation to, premises licences.

Responsible authorities under the Act are:

- Licensing Authority;
- Gambling Commission;
- Chief Officer of Police;
- Fire and Rescue Authority;

- Local Planning Authority;
- Environmental Pollution Department;
- Anybody designated in writing by the Licensing Authority as competent to advise about the protection of children from harm;
- HM Revenue and Customs.

In exercising its powers to designate a body which is competent to advise about the protection of children from harm, the Licensing Authority has applied the following principles:

- the need for the body to be responsible for 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.

The Licensing Authority designates the Derbyshire Safeguarding Children Board for this purpose.

## **6. 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 persons who, in the opinion of the Licensing Authority:

- a) live sufficiently close to the premises to be likely to be affected by the authorised activities,
- b) have business interests that might be affected by the authorised activities, or
- c) represent persons who satisfy paragraph (a) or (b).

In determining whether a person is an interested party, the overriding principle is that each case will be decided upon its own merits and the Licensing Authority will not apply a rigid rule to its decision making. The factors that the Licensing Authority will take into account when determining what 'sufficiently close to the premises' means might include:

- The size of the premises;
- The nature of the premises;
- The nature of the activities at the premises;
- The distance of the premises from the location of the person making the representation;
- The potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment);
- The circumstances of the complainant.

The factors that the Licensing Authority will take into account in determining whether a person with business interests might be affected by the premises might include:

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

The Licensing Authority considers that interested parties could include bodies such as trade associations, trade unions, residents' and tenants' associations. The Licensing Authority will interpret the types of organisations that may be considered to have business interests broadly to include for example partnerships, charities, faith groups and medical practices.

Interested parties can be persons who are democratically elected such as Councillors and MPs. No specific evidence of being asked to represent an interested person will be required as long as the Councillor or 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 persons, however, the Licensing Authority will require written evidence that a person '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.

Any representation made in relation to a licence application must be relevant. The Licensing Authority will determine whether a representation is relevant or not. Representations are likely to be deemed relevant if they relate to one or more of the licensing objectives, this Statement or the Gambling Commission's Guidance or Codes of Practice.

The following examples are unlikely to be deemed to be a relevant representation:

- there are already too many gambling premises in the locality (although it may be relevant if it points, as a result, to rising problems in crime, disorder, underage gambling or problem gambling);
- the proposed premises are likely to be a fire risk;
- the location of the premises is likely to lead to traffic congestion;
- the premises will cause crowds of people to congregate in one location leading to noise thereby causing a nuisance.

The Licensing Authority will not deem representations to be relevant if they are frivolous or vexatious. In deciding whether a representation is frivolous or vexatious, the Licensing Authority will consider:

- who is making the representation and whether there is a history of making irrelevant representations;
- whether it raises issues specifically to do with the premises that are subject of the application.

The above lists are by no means exhaustive and each representation will be decided on its own merits.

The Licensing Authority will notify the person making the representation of the decision that a representation is not relevant as soon as practicably possible in order to provide that person with the opportunity to make a relevant representation before the end of the 28 days representation period. This will depend when the initial representation was received as there may not be the chance to provide an

opportunity to make a relevant representation if the representation was received towards the end of the representation period.

The Licensing Authority is required to provide the applicant with copies of any relevant representations that have been made. This will include the name and address of the person making representations. The Licensing Authority will only consider withholding some or all of the person's personal details if the circumstances justify the action i.e. a genuine and well-founded fear of intimidation. The personal details of any person making a representation will then be redacted in the report that is prepared for the Licensing and Appeals Sub-Committee held to determine the application.

## **7. Exchange of Information**

The Licensing Authority will exchange information with the Gambling Commission under Section 29 and Section 30 of the Act providing that it:

- forms part of the register maintained under the Act;
- is in the Licensing Authority's possession in connection with a provision of the Act.

The Licensing Authority will exchange information with other persons or bodies under Section 350 of the Act for use in the exercise of functions under the Act.

The Licensing Authority will have regard to the Council's Data Protection Act Guidance in the exchange of information. Information can be assessed by data subjects by contacting the Council's FOI Officer.

The Licensing Authority will also have regard to any Guidance issued by the Gambling Commission to local authorities on this matter, as well as any relevant regulations issued by the Secretary of State.

With regards to representations received, the representation including the name and address will be forwarded to the applicant for consideration prior to a hearing to determine the application. The disclosure of the name and address is for the applicant to be satisfied that the person/body making the representation falls within the definition of an interested person. The report produced for the hearing will have the personal details of the person making a representation redacted as the report is a public document.

## **8. Compliance and Enforcement**

The main enforcement and compliance role for the Licensing Authority in terms of the Act will be to ensure compliance with licences and permits issued by the Licensing Authority and any conditions attached to them, including compliance with relevant codes of practice, dealing with temporary permissions and small lottery registrations.

In ensuring compliance with the Act and undertaking enforcement action, the Licensing Authority will 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.

The Licensing Authority will endeavour to avoid duplication with other regulatory regimes as far as possible.

The Licensing Authority will carry out regular inspections of premises to enable the Authority to have the knowledge and reassurance that all gambling premises in the locality are fulfilling their duty and protecting the public, in particular those that are young and/or vulnerable. Regular inspections will also assist in the identification of unlicensed operators and illegal gambling activity. The Licensing Authority

The Licensing Authority will have regard to the Regulators' Code when carrying out regulatory inspection. The Licensing Authority will promote efficient and effective regulatory approaches which improve outcomes without imposing unnecessary burdens on the business.

The Licensing Authority requires that the operators' local risk assessment is available during any inspection of the premises. As part of an inspection, the Licensing Authority would expect the operator to provide details of the number of self-exclusions and underage attempts to gamble.

The Licensing Authority will take appropriate action against any unlicensed operator or illegal gambling taking place within any premises within the District. The Licensing Authority would expect any operator to share data in relation to the source of any illegal gaming machines found on premises' and any data regarding potential illegal betting on any unlicensed premises i.e. betting intermediaries within an alcohol licensed premises.

The Licensing Authority shall comply with the Codes of Practices developed by the Crown Prosecution Service in the management of criminal cases.

Bearing in mind the principle of transparency, the Licensing Authority's Corporate Enforcement Policy is available on the Council's website.

## **9. Licensing Authority's Functions**

The 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 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 the permits, licences and registrations that are issued under these functions.

It should be noted that the Licensing Authority will not be involved in licensing remote gambling which is regulated by the Gambling Commission via operating licences.

## **PART B PREMISES LICENCES**

### **1. General Principles**

In determining an application for a premises licence, the Licensing Authority will only take into consideration relevant matters and will not take into consideration any irrelevant matters. The Licensing Authority will not consider if a premises is likely to obtain planning permission or building regulations approval for their proposal.

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

The Licensing Authority will request as much information as it requires to satisfy itself that all requirements set out in the Act are met. If an applicant can demonstrate how any licensing objectives concerns can be overcome, the Licensing Authority will take that into account when reaching a decision. Where concerns remain, the Licensing Authority may choose to attach appropriate conditions to the premises licence.

Each application will be decided on its own merits.

The Licensing Authority will 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; and
- Where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed).

In considering the above types of applications, the Licensing Authority will 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, the premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not 'drift' into a gambling area. In this context, it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers should be able to participate in the activity named on the premises licence.

The Licensing Authority will ask the following questions in making their decision when considering whether two or more proposed premises are truly separate:

- 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?

The Licensing Authority will also consider the relevant access provisions for each type of premises licence.

## **2. Conditions**

Premises licences are 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.

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, the 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, the Licensing Authority will 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 a premises licence 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 (including the locality and any identified risks) and the type of licence applied for;
- Fairly and reasonably relate to the scale and type of premises;
- Reasonable in all other aspects.

Decision on conditions will be made on a case-by-case basis. However, there will be a number of measures the Licensing Authority will consider utilising should there be a perceived need, such as the use of door supervisors, appropriate signage for adult only areas etc.

### **3. Operators' Local Risk Assessments**

Any applicant applying for the grant or variation of a premises licence must include a local risk assessment in addition to their application. In undertaking the local risk assessment, the applicant must take into account relevant matters identified in this Statement. The local risk assessment must assess the local risks to the licensing objectives posed by the provision of the applicant's proposed gambling facilities at the premises. The applicant must have policies, procedures and control measures to mitigate the risks identified in the assessment. These policies and procedures must be submitted with the application.

The Licensing Authority would expect the local risk assessment to cover the following areas:

- The premises' building;
- Location of the premises;
- Protecting children;
- Demographics of the area in relation to vulnerable groups;
- Protecting vulnerable people;
- whether the premises is in an area subject to high levels of crime and disorder;
- Vicinity of schools, playgrounds, leisure and community centres and other areas where children will gather;
- Vicinity of gambling or addiction support or treatment centres, residential care homes, medical facilities or Council housing offices where vulnerable groups will gather;
- Gaming trends that may reflect benefit payments or pay days;
- Information held by the licensee regarding self-exclusion and incidences of underage gambling.

This list is not exhaustive.

The Licensing Authority expects that the local risk assessment is kept on the individual premises and is available for inspection. The Authority expects that all members of staff are aware of the local risk assessment and are encouraged to assist in the production and review of the local risk assessment. Staff should also be aware of and implement any control measures identified in the local risk assessment.

The Licensing Authority will require the operator to provide their local risk assessment where there are concerns in relation to the premises in order for the Licensing Authority to assess the measures in place to address the specific concerns.

The Licensing Authority would expect the local risk assessment to be reviewed following any significant changes in local circumstances, significant changes at the premises and any substantiated complaint in relation to the premises. The local risk assessment must be submitted to the Licensing Authority following any such review.

Examples of significant changes in local circumstances include:

- Any substantial building development or conversion of existing premises in the local area which may increase the number of vulnerable persons in the area;
- An increase in educational facilities in the area;
- Any vulnerable groups identified by the Licensing Authority or venues relating to those vulnerable groups opened in proximity to the premises.

The Licensing Authority would expect the operator to work with the Licensing Authority to improve any areas of the local risk assessment that do not adequately mitigate the risks identified, have inadequate measures to reduce risks or fail to identify all of the local risks.

#### **4. 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 is noted for particular problems with disorder or organised criminal activity, the Licensing Authority will consider carefully whether gambling premises should be located in this area and whether conditions may be appropriate to prevent those premises being associated with or used to support crime. Appropriate conditions may be a requirement for door supervisors.

The Licensing Authority is aware of the distinction between disorder and nuisance and will consider factors so as to make that distinction.

##### **Ensuring that gambling is conducted in a fair and open way**

The 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 are dealt with by the Gambling Commission.

If the Licensing Authority suspects that gambling is not being conducted in a fair and open way, the Licensing Authority will bring this to the attention of the Gambling Commission.

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

The 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;
- segregation of areas;
- location of machines including cash terminals;
- age verification policies including 'Think 21' and 'Think 25'.

The Licensing Authority will consider if there are adequate staff levels in place to adequately supervise the premises in addition to the staffs' other duties.

The Licensing Authority will work with the operator to consider how any impediments to the supervision of premises might be most appropriately remedied. Remedies may include the positioning of staff or CCTV, the use of floor walkers and the relocation of the staff counter to enable a direct line of sight of the door. The Licensing Authority will consider the proportionality of changes to the physical layout in relation to other measures that could be put in place. However, if the operator fails to satisfy the Licensing Authority that the risks are sufficiently mitigated, it may be appropriate to place conditions on the premises licence or conduct a review of the premises licence.

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

The Licensing Authority will also ensure that where Category C or above machines are on offer in premises to which children are admitted:

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only 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.

The Licensing Authority is aware that tracks may be subject to one or more premises licence, provided each licence relates to a specified area of the track. The Licensing Authority will consider the impact upon this licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

With regards to test purchasing, the Licensing Authority will require the larger operators, who are required to carry out independent test purchasing, to share their results with the Licensing Authority at inspection and on request. With regards to smaller operators, who are not required to carry out their own test purchasing, the Licensing Authority may require the operator to carry out independent test purchasing if it is appropriate to do so i.e. if the operator fails a test purchase.

## **5. Adult Gaming Centres**

The 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 Licensing Authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.

The 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 entrances;
- 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. The Licensing Authority would expect an operator's local risk assessment to cover the measures listed above.

In addition to the above, the applicant must provide the Licensing Authority with details of their proposed gaming machine supplier. Checks will be carried out by the Licensing Authority to ensure that the proposed supplier is licensed with the Gambling Commission to supply gaming machines. The Licensing Authority will inform the Gambling Commission if there are any concerns over potential unlicensed suppliers.

## **6. (Licensed) Family Entertainment Centres**

The 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 Licensing 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.

The Licensing Authority may consider measures to meet the licensing objectives such as:

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

This list is not mandatory, nor exhaustive, and is merely indicative of example measures. The Licensing Authority would expect an operator's local risk assessment to cover the measures listed above.

The Licensing Authority will expect any applicant to provide details of how they will supervise the family entertainment centre. The Licensing Authority will expect the supervising staff to be fully trained in order to ensure that none of the licensing objectives are undermined i.e. the staff member should be able to adequately deal with any young or vulnerable person within the premises.

In addition to the above, the applicant must provide the Licensing Authority with details of their proposed gaming machine supplier. Checks will be carried out by the Licensing Authority to ensure that the proposed supplier is licensed with the Gambling Commission to supply gaming machines. The Licensing Authority will inform the Gambling Commission if there are any concerns over potential unlicensed suppliers.

## **7. Casinos**

The Licensing Authority has not passed a 'no casino' resolution under the Act but is aware that it has the power to do so. Should the Licensing Authority decide in the future to pass such a resolution, it will update this Statement with details of that resolution. Any such decision will be made by the Full Council.

## **8. Bingo premises**

When considering any application for a bingo premises, the Licensing Authority will satisfy themselves that bingo can be played in the premises to which the application relates. 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 licence from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.

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

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. To ensure that children and young people do not have access to gaming machines, the Licensing Authority will 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 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.

## **9. Betting premises**

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

In considering whether to restrict the number of betting machines, the 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 the machines by children and young persons or by vulnerable people.

## **10. Tracks**

Tracks are defined in the Act as ‘a horse racecourse, greyhound track or other premises on any part of which a race or other sporting event takes place or is intended to take place.’ Examples of a track are football, cricket and rugby grounds, a motor racing event and venues hosting darts, bowls or snooker tournaments. This list is by no means exhaustive as betting could take place at any venue where a sporting or competitive event is occurring.

The Licensing Authority will expect applicants 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.

Factors which the 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-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. The Licensing Authority would expect an operator's local risk assessment to cover the measures listed above.

Where the applicant holds a pool betting licence and is going to use the entitlement to

four gaming machines, applicants should demonstrate that machines (other than category D machines) will be located in areas from which children are excluded.

In considering whether to restrict the number of betting machines, the Licensing Authority 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 or by vulnerable people.

The Act requires applicants to submit plans of the premises with their application, in order to ensure that the Licensing Authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. 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. The proposed gambling facilities must be clearly indicated on the plan. A precise location will not be required; however the plan should indicate the main areas that betting might take place. 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.

## **11. 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.

The Licensing Authority will consider whether the applicant falls within the statutory definition of a travelling fair.

A site must not be used for fairs on more than 27 days per calendar year. The 27 day statutory 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. The Licensing Authority will monitor the use of land and maintain a record of the dates on which the land is used. In addition, the Licensing Authority will work with its neighbouring authorities to ensure that land, which crosses our boundaries, is monitored so that the statutory limits are not exceeded.

## **12. Provisional Statements**

Applicants for premises licence 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 the right to occupy the premises in respect of which their premises licence application is made. However, these restrictions do not apply in relation to an application for a provisional statement.

Developers may wish to apply to the Licensing Authority for a provisional statement before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

The Act provides for a person to make an application to the Licensing Authority for a provisional statement in respect of premises that he or she expects to:

- Be constructed;
- Be altered; or
- Acquire a right to occupy.

The process for considering an application for a provisional statement is the same as 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 is a right of appeal.

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

### **13. 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 allowed.

The request for the review will be subject to the consideration by the Licensing Authority as to whether the request:

- is relevant to the principles that must be applied by the Licensing Authority in accordance with the Act;
- is frivolous;
- is vexatious;
- 'will certainly not' cause the Licensing Authority to wish to alter, revoke, or suspend the licence
- is substantially the same as previous representations or requests for review.

The Licensing Authority can also initiate a review of a particular premises licence, or a particular class of premises licence.

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

In relation to a particular premises, the 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 the Licensing Authority cause to believe that a review may be appropriate. A formal review would normally be at the end of the process of ensuring compliance by the licence holder. If the licence holder does not meet the requirements then, after a formal review, the Licensing Authority may impose additional conditions or revoke the licence.

## **PART C**

## **Permits, Registrations, Temporary & Occasional Use Notice**

### **1. Unlicensed Family Entertainment Centre Gaming Machine Permits**

The application will be in the form and manner as specified by the Licensing Authority. The application form must be accompanied by the relevant fee and a plan of the premises indicating the location of the gaming machines. The application must be served on this Licensing Authority only.

The application for a permit can only be made by a person who occupies or plans to occupy the premises to be used as an unlicensed family entertainment centre. Applications for a permit cannot be made if a premises licence is in effect for the same premises.

The 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:

- staff training to ensure that staff have a full understanding of the maximum stakes and prizes permitted under the permit;
- appropriate measures and training for staff as regards suspected truant school children on the premises;
- measures and training covering how staff would deal with unsupervised very young children being on the premises;
- children causing perceived problems on or around the premises; or
- social responsibility policies.

The above policies and procedures must be submitted with the application and be available on request at inspection.

The Licensing Authority will expect any applicant to provide details of how they will supervise the family entertainment centre. The Licensing Authority will expect the supervising staff to be fully trained in order to ensure that none of the licensing objectives are undermined i.e. the staff members should be able to adequately deal with any young person or vulnerable person within the premises. Staff should be easily identifiable.

In addition to the above, the applicant must provide the Licensing Authority with details of their proposed gaming machine supplier. Checks will be carried out by the Licensing Authority to ensure that the proposed supplier is licensed with the Gambling Commission to supply gaming machines. The Licensing Authority will inform the Gambling Commission if there are any concerns over potential unlicensed suppliers.

### **2. (Alcohol) Licensed Premises Gaming Machine Permits**

The application will be in the form and manner specified by the Licensing Authority. The application form must be accompanied by the relevant fee. The application must be served on the Licensing Authority only.

The 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 harmed or being exploited by gambling, and will expect the applicant to satisfy the Licensing 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 Code of Practice issued by the Gambling Commission and the Licensing Authority would expect the permit holder to implement the best practice set out in the Code of Practice. The Licensing Authority will ensure adherence to the Code of Practice through inspections at the premises. The Licensing Authority may carry out test purchase exercises to ensure that the Code of Practice is being complied with.

### **3. Prize Gaming Permits**

The application will be in the form and manner as specified by the Licensing Authority. The application form must be accompanied by the relevant fee. The application must be served on the Licensing Authority only.

The permit can only be applied for by a person who occupies or plans to occupy the premises and any individual applicant must be over 18 years of age.

The Licensing Authority will require the applicant to set out the types of gaming that they intend 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 gaming offered is within the law;
- clear policies that outline the steps to be taken to protect children from harm.

The above policies and procedures must be submitted with the application and be available on request at inspection.

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 Machine Permits**

The application form must be accompanied by the relevant fee and the existing permit if the application is a renewal application. The application must be served on the Gambling Commission and the Police, in addition to the Licensing Authority, unless the applicant is applying under the fast track procedure. The application must be served on the Gambling Commission and Police within 7 days of submitting the application to the Licensing Authority.

If the applicant is not applying under the fast track procedure, the applicant must submit the following documents in addition to the application form to assist the Licensing Authority in determining whether the club meets the requirements of the Act:

- club rules and constitution;
- copy of the membership list;
- annual accounts for the past two years; and
- details of the committee members and proof of their election.

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.

The Licensing Authority 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 Gambling 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 Gambling Commission or the Police, and the grounds upon which the Licensing Authority can refuse a permit are that:

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

The permit holder must be capable of demonstrating compliance with the conditions detailed in the Code of Practice issued by the Gambling Commission and the Licensing Authority would expect the permit holder to implement the best practice set out in the Code of Practice. The Licensing Authority will ensure adherence to the Code of Practice through inspections at the premises. The Licensing Authority may carry out test purchase exercises to ensure that the Code of Practice is being complied with.

## **5. 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.

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

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.

With regards to Temporary Use Notices, the Act refers to a 'set of premises' and provides that a set of premises is the subject of a Temporary Use Notice if 'any part' of the premises is the subject of a notice. The reference to a 'set of premises' prevents one large premises from having a Temporary Use Notice in effect for more than 21 days in a year by giving notification in relation to different parts of the premises. In considering whether a place falls within the definition of "a set of premises", the Licensing Authority will consider the ownership and/or occupation and control of the premises.

The holder of a relevant operating licence must give notice to the Licensing Authority on the prescribed form with the relevant fee. The notice must be submitted to the Licensing Authority not less than 3 months and one day before the proposed event. The notice must be submitted with the relevant fee. The notice must also be served on:

- The Police;
- The Gambling Commission; and
- HMRC

The above responsible authorities must receive the notice within 7 days of the date of the notice.

On receipt of the notice, the Licensing Authority will acknowledge the notice as long as no objection notice is received within the 14 day representation period. If a relevant representation is received, the Licensing Authority will hold a hearing to consider the notice and representation(s). An applicant will be provided with more information of the hearing procedure at the time.

The Licensing Authority shall consider objecting 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.

## **6. Occasional Use Notices**

Initially, the applicant is advised to contact the Licensing Authority who will advise whether they can authorise their planned provision of gambling facilities by way of an occasional use notice.

The notice must be served on the Licensing Authority and the Police by the person responsible for the administration of events on the track i.e. the event organiser or the occupier of the track. The notice must state the address and location details of the track, the proposed event, the date and time of the event and the details of the licensed operator.

Provided that the event will not exceed the statutory eight days in a calendar year and there are no issues with the proposed licensed operator, the Licensing Authority will acknowledge the notice on receipt.

The Licensing Authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This Licensing Authority will consider the definition of a 'track' and whether the applicant is permitted to serve the notice.

## **7. Small Society Lotteries**

The 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 supporting, sport, athletics, or a cultural activity; or
- For any other non-commercial purposes other than that of private gain.

To apply for registration, the application form and relevant fee must be served on the Licensing Authority only. The promoter must apply to the Licensing Authority in whose area their principal office is located. In addition to the application form and fee, the Licensing Authority may require the applicant to submit their terms and conditions and their constitution to assist the Licensing Authority in establishing that they are a non-commercial society.

As the purpose of the small society lottery is to raise money for the small society, it is a requirement that a minimum proportion of the money raised by the lottery is used by the small society to achieve their goals. If a small society lottery does not comply with the following limits it will be in breach of the Act's provisions:

- At least 20% of the lottery proceeds must be applied to the purposes of the small society;
- No single prize may be worth more than £25,000;
- Rollovers are only permitted where the lottery is promoted by the same small society and the maximum single prize is £25,000;
- Every ticket must cost the same and payment must be taken before entry in the draw is permitted.

To check the limits, the promoter must submit a return after each lottery held; no more than 3 months after the date of the lottery draw. The return must be signed by two members of the society who are over 18 years of age, are appointed for that purpose by the society and be accompanied by a copy of their letter of appointment.

The Licensing Authority requires that tickets must not be sold in a street where a street includes any bridge, road, lane, footway, subway, square, court or passage (including passages through enclosed premises such as shopping malls). Tickets may be sold in a street from a kiosk, in a shop or door-to-door.

The small society must keep written records of all unsold and returned tickets for a period of one year from the date of the lottery draw.

The Licensing Authority will adopt a risk based approach towards its processing and enforcement responsibilities for small society lotteries in accordance with the principles contained in the Gambling Commission's Guidance. The Licensing Authority considers that the following list, although not exclusive, could affect the risk status of the operator:

- a) submission of late returns (returns must be submitted no later than three months after the date on which the lottery draw was held);
- b) submission of incomplete or incorrect returns;
- c) breaches of the limits for small society lotteries.

### **FURTHER INFORMATION**

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

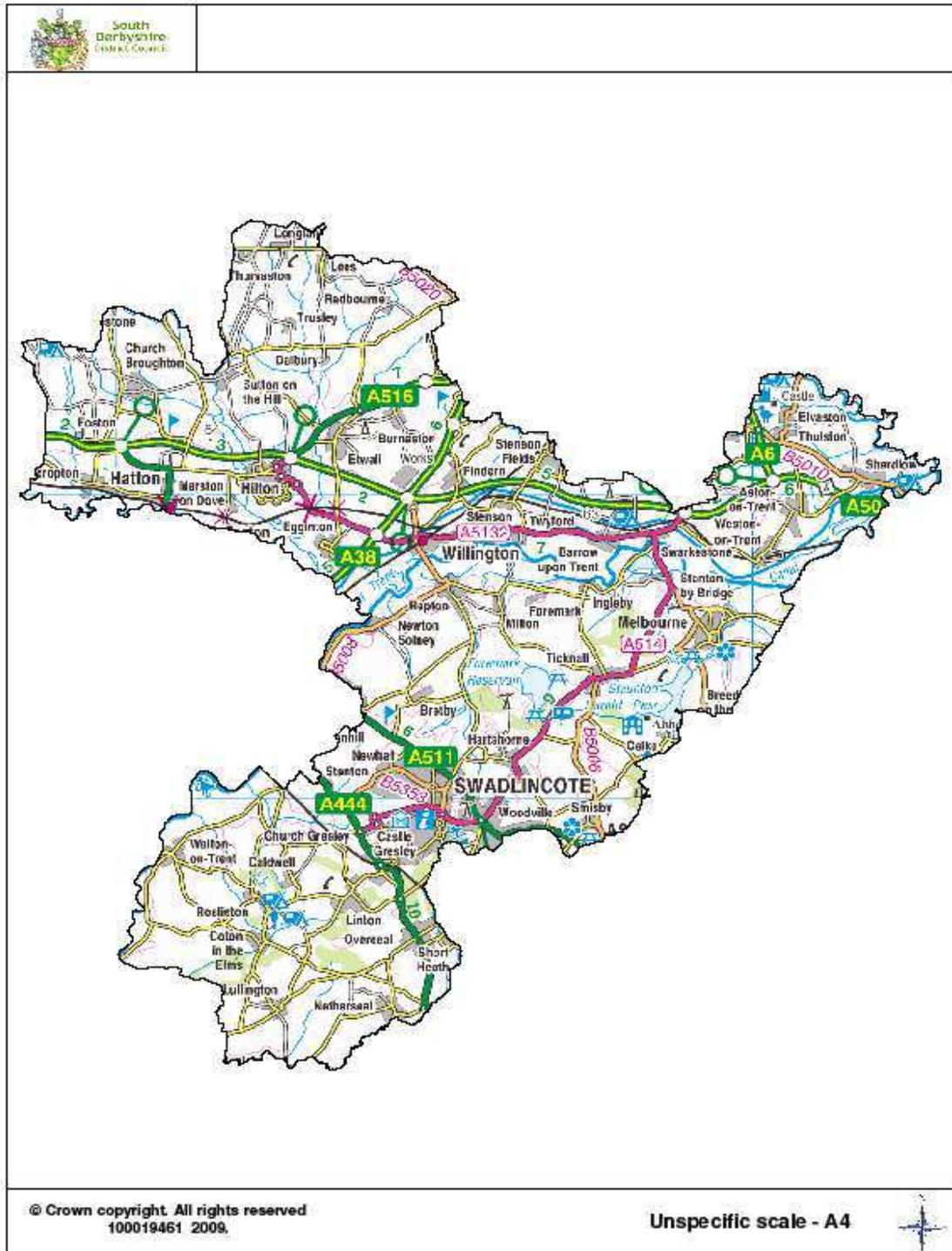
In writing                      South Derbyshire District Council  
   Licensing Department  
   Civic Way  
   Swadlincote  
   Derbyshire  
   DE11 0AH

By email                        [licensing@south-derbys.gov.uk](mailto:licensing@south-derbys.gov.uk)

By telephone                01283 595 716/890

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# Appendix A - Map of Area South Derbyshire District Council



## **Appendix B - Persons / Bodies Consulted on Statement**

Elected Members, South Derbyshire District Council  
Town and Parish Councils in South Derbyshire

### Responsible Authorities

Derbyshire Constabulary  
Derbyshire Fire and Rescue Service  
Derbyshire Safeguarding Children Board South Derbyshire District Council Pollution Control Team  
Gambling Commission  
HM Revenue and Customs  
South Derbyshire District Council Planning  
South Derbyshire District Council Licensing Authority

### Others

Southern Staffordshire Building Control Partnership  
South Derbyshire District Council Legal and Democratic Services  
South Derbyshire District Council Environmental Health  
Gam Care  
British Amusement Catering Trade Association (BACTA)  
Gamblers Anonymous  
Gamble Aware  
Salvation Army  
Racecourse Association  
British Holiday and Home Parks Association  
Bingo Association  
British Beer and Pub Association  
Working Men's Club & Institute Union  
Greyhound Board of Great Britain  
Association of British Bookmakers  
Lotteries Council  
Hospice Lotteries Association  
National Casino Forum  
Representatives of the holders of the various licences for premises in the District who will be affected by this policy

## Appendix C - Responsible Authorities Contact List

<p style="text-align: center;"><u>Licensing Authority</u></p> <p>South Derbyshire District Council Civic Offices Civic Way Swadlincote Derbyshire DE11 0AH</p> <p>licensing@south-derbys.gov.uk</p>	<p style="text-align: center;"><u>Police</u></p> <p>Derbyshire Constabulary Licensing Section Derby Divisional HQ St. Mary's Wharf Prime Park Way Chester Green Derby DE1 3AB</p> <p>derby.licensing@derbyshire.pnn.police.uk</p>
<p style="text-align: center;"><u>Fire And Rescue</u></p> <p>Derbyshire Fire &amp; Rescue Service South Area Office Ascot Drive Community Fire Station Ascot Drive Derby DE24 8GZ</p> <p>SouthAreaAdmin@derbys-fire.gov.uk</p>	<p style="text-align: center;"><u>Gambling Commission</u></p> <p>Victoria Square House Victoria Square Birmingham B2 4BP</p> <p>info@gamblingcommission.gov.uk</p>
<p style="text-align: center;"><u>Planning</u></p> <p>Head of Planning Services Planning Service South Derbyshire District Council Civic Offices Civic Way Swadlincote Derbyshire DE11 0AH</p> <p><a href="mailto:planning@south-derbys.gov.uk">planning@south-derbys.gov.uk</a></p>	<p style="text-align: center;"><u>Environmental Health - Pollution</u></p> <p>Environmental Health Division South Derbyshire District Council Civic Offices Civic Way Swadlincote Derbyshire DE11 0AH</p> <p>environmental.health@south-derbys.gov.uk</p>
<p style="text-align: center;"><u>Customs &amp; Excise</u></p> <p>HM Revenue &amp; Customs National Registration Unit Port Cullis House 21 India Street Glasgow G2 4PZ</p> <p>nrubetting&amp;gaming@hmrc.gsi.gov.uk</p>	<p style="text-align: center;"><u>Derbyshire Safeguarding Children Board</u></p> <p>Chatsworth Hall Chesterfield Road Matlock Derbyshire DE4 3FW</p> <p><a href="mailto:trading.standards@derbyshire.gov.uk">trading.standards@derbyshire.gov.uk</a></p>

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