



**South Hams
District Council**

Statement of Principles

UNDER THE GAMBLING ACT 2005
For the period 31st January 2007 to 30th January 2010

[Version Updated 17 10 06](#)

(Approved by Full Council XXth XXXXXXXX 2006)
Responsible Authorities updated 17th October 2006

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DRAFT STATEMENT OF PRINCIPLES

Text in the shaded boxes within this Statement of Principles are advisory only intended to give assistance to applicants, interested persons and responsible authorities.

Part A

1 The Licensing Objectives

1.1 The Licensing Authority has a duty under the Gambling Act 2005 to carry out its licensing functions in a manner which is consistent with three licensing objectives. The relevant licensing objectives are:

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

Applicants are also advised to note Part B of this Statement of Principles:-
Premises Licences – General Principles

2 Introduction

2.1 This Statement of Principles is written to conform with the provisions of the Gambling Act 2005, the Regulations and the Guidance issued under s.25 of the Act by the Gambling Commission. It outlines the way the licensing authority will deal with applications for a range of premises licenses, permits and enforcement of the Act.

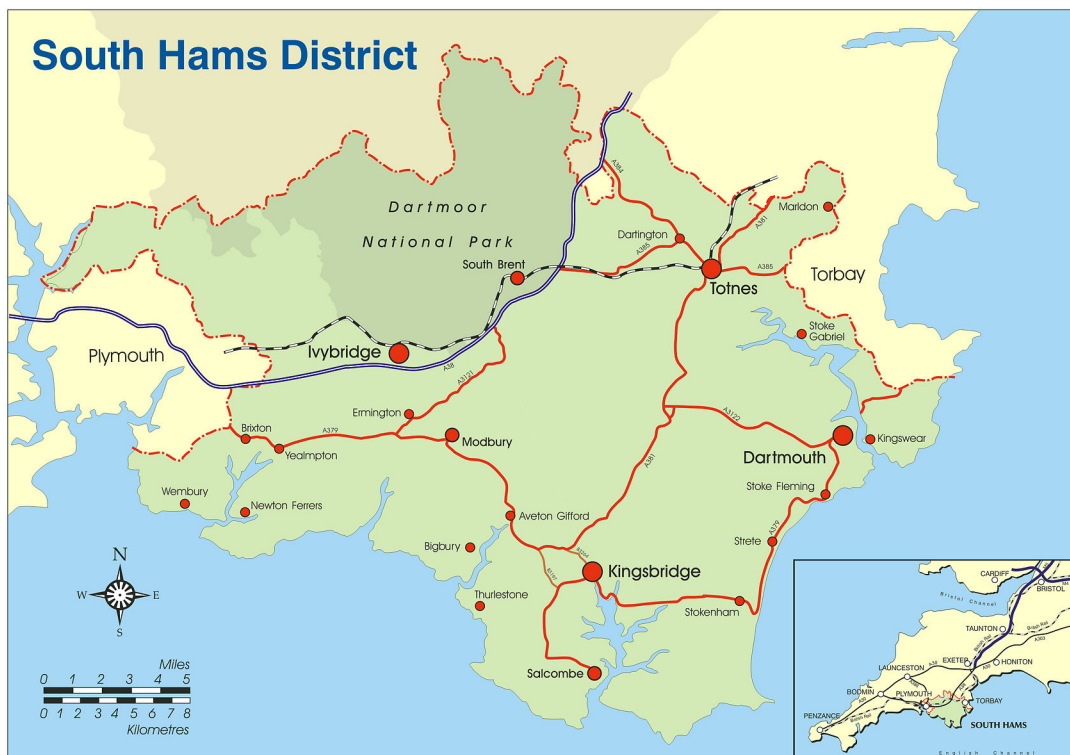
2.2 The Statement takes effect on 31 January 2007.

The Statement of Principles was approved at a meeting of the Full Council on **XXXXXX** date and was published via our website on **XXXXXX** date. Copies have been placed in the public libraries of the area as well as being available for viewing at the District Council Offices, Follaton House, Plymouth Road, Totnes, TQ9 5NE

Should you have comments regarding this Statement of Principles please write to the above address or email licensing@southhams.gov.uk

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 will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

3 The Geographical Area



- 3.1 The South Hams reaches into the Dartmoor hills to the north and enjoys some 60 miles of magnificent coast to the south. The City of Plymouth lies to the west and the urban area of Torbay to the east. Within the South Hams there are no conurbations. It has a population of about 87,000 with about one third of the population living in the four towns of Dartmouth, Ivybridge, Kingsbridge and Totnes, with some 57,000 people living in the villages, hamlets and isolated cottages spread across the 350 square miles of rich, natural beauty.
- 3.2 The unitary authorities of Plymouth to the west and Torbay to the east have between them three established casinos and a number of bingo halls which were all granted gaming licenses prior to the Gambling Act 2005. The South Hams has approximately 550 licensed premises, the majority of which are authorised to sell alcohol. Of these 20% will be traditional style pubs or members clubs with gaming machines. There is also a licensed bingo club in the town of Kingsbridge.
- 3.3 A significant number of residents are over 60 years of age (27% compared with 21% nationally). Between 1991 and 2001 there was an increase of 46% in the number of people over 85 years. The high proportion of second homes (12%) keeps property prices well above the national average.
- 3.4 Apart from the A38 trunk road linking the M5 motorway with Cornwall, the vast majority of the district's roads are slow and public transport is limited. Some roads have 20mph limits in force.
- 3.5 There are almost 4,000 businesses in the South Hams of which 65% employ five people or fewer. Levels of entrepreneurship are second highest in the South West with 48 VAT-registered firms per 1,000 population (compared with the UK average of 40).

- 3.6 Unemployment in the area is low at 1.3% (national average 3.2%) but the area's appearance conceals the statistic that wages are among the lowest in England and higher wage occupations are underrepresented in the region.
- 3.7 The entertainment industry is a major contributor to the economy of the South Hams. It attracts tourists and local residents, makes for vibrant communities and is a major employer. Tourism makes a significant contribution to the South Hams economy accounting for 8% of employment. The South Hams Council has a duty to protect both the amenity and the prosperity of its residential population. That population doubles in the summer months with tourists and international visitors who are, in the main, families with young children and retired people.

4 Consultation

- 4.1 The Gambling Act requires that the following parties are consulted by Licensing Authorities:
- The Chief Officer of Police;
 - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area;
 - One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.
- 4.2 List of persons this authority consulted:
- Citizen's Advice Bureau
 - Devon and Cornwall Constabulary
 - Devon County Council Children and Young Peoples Services
 - Devon Fire and Rescue Service
 - Environmental Health
 - Gamblers Anonymous
 - Gambling Commission
 - Gamcare
 - Local businesses and their representatives
 - Local faith groups
 - Local residents and their representatives
 - Mencap
 - NSPCC
 - Primary Care Trust
 - Representatives of existing licence-holders
 - South Hams Community Safety Partnership
 - Voluntary & Community organisations working with children & young people
- 4.3 Proper weight has been given to the views of all those who have been consulted prior to the date of implementation of the Statement of Principles.

Our consultation took place between 5th June and 31st August 2006 and we followed the Revised Code of Practice (which came into effect in April 2004) and the Cabinet Office Guidance on consultations by the public sector.

5 Declaration

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

6 The Overriding Principle

- 6.1 In exercising its functions under the Act, this licensing authority will aim to permit the use of premises for gambling in so far as it thinks that the practice will:
- be in accordance with the Gambling Act & associated legislation;
 - be in accordance with any relevant Code of Practice under section 24;
 - have regard to the relevant guidance issued by the Gambling Commission under section 25;
 - be reasonably consistent with the licensing objectives; and
 - have regard to this Statement of Principles under section 349.
- 6.2 Each case will be considered on its merits.
- 6.3 In deciding whether or not to grant a licence, this authority does not have regard to the expected demand for the facilities that are subject to the application.
- 6.4 The overriding principle does not, however, apply to the consideration of an application for a casino licence if this authority resolves not to issue casino premises licenses.

7 Relationship with other legislation

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

Applicants for Premises Licences for Casinos, Bingo Halls, Adult or Family Entertainment Centres (licensed or unlicensed) or Permits are advised to speak to the Planning Department of this Council before making a formal application to the Licensing Authority. Please quote the 'General Policies of the Local Plan'. Shopping development within the main towns (Use Class A1) will generally be permitted but there are conditions concerning non-shopping use.

Applications for Entertainment Centres (formerly known as amusement arcades) will be the

subject of particularly stringent examination by the Planning Authority. The Town Centres are for the most part Conservation Areas with special character and qualities to protect. The Planning Authority will therefore apply rigorous criteria to its judgement of any proposal and applicants will generally not be granted unless certain criteria set out in Policy SHDC 23.1.b is met. The Planning Department can be contacted at The South Hams District Council, Follaton House, Plymouth Road, Totnes, TQ9 5NE. Tel: 01803 861234 or email:- development.control@southhams.gov.uk

8 Responsible Authorities

- 8.1 Responsible authorities are those public bodies, as specified by the Gambling Act, which must be notified of applications for premises licence. Such bodies are entitled to make representations to the licensing authority in relation to the applications. The Responsible Authorities are detailed in Appendix A.
- 8.2 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:
- the need for the body to be responsible for an area covering the whole of the licensing authority's area; and
 - the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.
- 8.3 In accordance with the suggestion in the Gambling Commission's Guidance for local authorities, this authority designates the Local Safeguarding Children Board for this purpose.

9 Interested Parties

- 9.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows: "For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the applications is made, the person-
- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
 - b) has business interests that might be affected by the authorised activities, or
 - c) represents persons who satisfy paragraph (a) or (b)"
- 9.2 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. The principles are:
- 9.3 Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance to local authorities.
- 9.4 The Gambling Commission has recommended that the licensing authority states that interested parties include trade associations and trade unions, and residents' and tenants' associations (Gambling Commission Guidance for local authorities 8.17).

This authority will not however generally view these bodies as interested parties unless they have a member who can be classed as an interested person under the terms of the Gambling Act 2005 i.e. lives sufficiently close to the premises to be likely to be affected by the activities being applied for.

- 9.5 Interested parties can be persons who are democratically elected such as councillors and MP's. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, parish councils likely to be affected, will be considered to be interested parties. Other than these, however, this authority will generally require written evidence that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the licensing department: South Hams District Council, Follaton House, Plymouth Road, Totnes, TQ9 5NE. Tel: 01803 861234 or email:- licensing@southhams.gov.uk

10 Exchange of Information

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

- 10.1 The principle that this Licensing Authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The Licensing Authority will also have regard to any Guidance issued by the Gambling Commission to Local Authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.
- 10.2 Should any protocols be established as regards information exchange with other bodies then they will be made available.

11 Conditions

- 11.1 Conditions may be attached to licences issued under the Gambling Act in a number of ways. They may be attached automatically by the Act, or by Regulation, or attached to operating and personal licences by the Gambling Commission. Additionally this licensing authority has the discretion to attach conditions to premises licences. This latter discretion extends also in certain circumstances to excluding default conditions from premises licences, and may replace them with either more, or less, restrictive conditions.
- 11.2 In exercising its discretion in relation to the grant of premises licences, this authority will not attach conditions that limit the use of premises for gambling except where that is necessary as a result of the requirement to act in accordance with the Codes of Practice and having regard to the Gambling Commission's guidance, this Statement of Principles and in a way that is reasonably consistent with the licensing objectives.
- 11.3 In imposing conditions, this authority will ensure that:
- they are proportionate to the circumstances;
 - they are relevant to the need to make the premises suitable for gambling;
 - they are directly related to the premises and the type of licence applied for; and
 - they are reasonable in all other respects.
- 11.4 This authority, when exercising its discretion, treats each application on its merits, and does not impose standard conditions.

This licensing authority will not attach:-

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

12 Enforcement

Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

- 12.1 This licensing authority's principles are that it will be guided by the Gambling Commission's Guidance for local authorities and in line with the Regulatory Compliance Code:
- 12.2 This licensing authority's principles are that enforcement should 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.

12.3 In line with the Gambling Commission's Guidance for local authorities this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

12.4 This licensing authority will also adopt a risk-based inspection programme.

12.5 This authority recognises that certain bookmakers have a number of premises within its area. In order to ensure that anti compliance issues are recognised and resolved at the early stage, operators are requested to give the authority a single named point of contact, who should be a senior individual, and whom the authority will contact first should ant compliance queries or issues arise.

The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 will be to ensure compliance with the Premises Licences and other permissions which it authorises.

Whilst the Gambling Commission's Guidance suggests that the criteria the authority will utilise in this respect are included in this statement, this has not been possible. At the time of writing, the Gambling Commission has not published its risk criteria, nor are regulations such as mandatory / default conditions published, nor Codes of Practice. Licensing Authorities are working with the Gambling Commission to produce a risk model for premises licences and this authority will consider that model once it is made available.

This licensing authority will also keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

The main enforcement and compliance role for this authority under the Gambling Act 2005 is to ensure compliance with the terms of premises licences and other permissions which have been granted.

13 Licensing Authority functions

- 13.1 Licensing Authorities are required under the Act to:
- Be responsible for the licensing of premises where gambling activities are to take place by issuing *Premises Licences*
 - Issue *Provisional Statements*
 - Regulate *members' clubs* and *miners' welfare institutes* who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
 - Issue *Club Machine Permits* to *Commercial Clubs*
 - Grant permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*
 - Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
 - Issue *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
 - Register *small society lotteries* below prescribed thresholds
 - Issue *Prize Gaming Permits*
 - Receive and Endorse *Temporary Use Notices*
 - Receive *Occasional Use Notices*
 - Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
 - Maintain registers of the permits and licences that are issued under these functions

It should be noted that this Licensing Authority will not be involved in licensing remote gambling. This being the responsibility of the Gambling Commission via Operator Licences.

14 The Licensing Process

- 14.1 A Licensing Committee, a Sub-Committee, or the Licensing Manager acting under delegated authority may carry out the powers of the authority under the Gambling Act.
- 14.2 Many of the licensing procedures are largely administrative in nature. In the interests of efficiency, non-contentious procedures are carried out by licensing officers.
- 14.3 The Licensing Authority ensures that all Licensing Officers and Members of the Licensing Committee have received adequate training for their role under the Gambling Act.
- 14.4 Where admissible and relevant representations are received in relation to an application for a premises licence, or in relation to the review of a premises licence, a Sub-Committee is delegated to hear the matter.
- 14.5 Applicants for premises licences are required to copy their applications in full to the responsible authorities as listed in Appendix A.

Part B - Premises Licences

1 General Principles

- 1.1 Premises Licences will be subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.
- 1.2 This licensing authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:
- in accordance with any relevant code of practice issued by the Gambling Commission
 - in accordance with any relevant guidance issued by the Gambling Commission
 - reasonably consistent with the licensing objectives and
 - in accordance with the authority's Statement of Principles.
- 1.3 It is appreciated that as per the Gambling Commission's Guidance for local authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos below) and also that unmet demand is not a criterion for a licensing authority.
- 1.4 **Definition of "premises"** - Premises is defined in the Act as "any place". Different premises licences cannot apply in respect of a single premises at different times. However, it is possible for a single building to be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. Whether different parts of a building can properly be regarded as being separate premises will always be a question of fact in the circumstances. However, the Gambling Commission does not consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.
- 1.5 This licensing authority takes particular note of the Gambling Commission's Guidance for local authorities which states that:
- licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware that entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area.
 - licensing authorities should pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). Clearly, there will be specific issues that authorities should consider before granting such applications, for example, whether children can gain access; compatibility of the two establishments; and ability to comply with the requirements of the Act. But, in addition an overriding consideration should be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act.

- 1.6 It should also be noted that an applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed. The Gambling Commission has advised that reference to "the premises" are to the premises in which gambling may now take place. Thus a licence to use premises for gambling will only be issued in relation to premises that are ready to be used for gambling. This authority agrees with the Gambling Commission that it is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence. The Gambling Commission emphasises that requiring the building to be complete ensure that the authority can, if necessary, inspect it fully, as can other responsible authorities with inspection rights.
- 1.7 **Location** - This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. As per the Gambling Commission's Guidance for local authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.
- 1.8 **Duplication with other regulatory regimes** - This licensing authority will seek to avoid any duplication with other statutory / regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.
- 1.9 **Licensing objectives** - Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission's Guidance to local authorities and some comments are made below.
- 1.10 **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** - This licensing authority is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, 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. This licensing authority is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction. Issues of nuisance cannot be addressed via the Gambling Act provisions.
- 1.11 **Ensuring that gambling is conducted in a fair and open way** - This licensing authority has noted that the Gambling Commission in its Guidance for local authorities has stated that "Generally the Commission would not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be a matter for either the management of the gambling business, and therefore subject to the operating licence, or will be in relation to the suitability and actions of an individual and therefore subject to the personal licence. " This licensing authority also notes, however, that the Gambling Commission also

states “in relating to the licensing of tracks the licensing authorities’ role will be different from other premises in that track operators will not necessarily have an operating licence. In those circumstances the premises licence may need to contain conditions to ensure that the environment in which betting takes place is suitable.” This licensing authority understands that there may be further guidance from the Gambling Commission on this issue which it will have regard to, when available.

- 1.12 **Protecting children and other vulnerable persons from being harmed or exploited by gambling** - This licensing authority has noted the Gambling Commission's Guidance for local authorities states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.
- 1.13 This licensing authority will also make itself aware of the Codes of Practice which the Gambling Commission issues as regards this licensing objective, in relation to specific premises such as casinos.
- 1.14 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.
- 1.15 *Conditions* - Any conditions attached to licences will be proportionate and will be:
- relevant to the need to make the proposed building suitable as a gambling facility
 - directly related to the premises and the type of licence applied for;
 - fairly and reasonably related to the scale and type of premises: and
 - reasonable in all other respects.
- 1.16 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This licensing authority will also expect the licence applicant to offer his/her own suggestions as to way in which the licensing objectives can be met effectively.
- 1.17 This licensing authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.
- 1.18 This 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.
- These considerations will apply to premises including buildings where multiple premises licences are applicable.

- 1.19 This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will consider the impact upon the third 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.
- 1.20 It is noted that there are conditions which the licensing authority cannot attach to premises licences. There are:
- conditions on the premises licence which makes it impossible to comply with an operating licence condition;
 - conditions relating to gaming machine categories, numbers, or method of operation;
 - conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs) and this provision prevents it being reinstated; and
 - conditions in relation to stakes, fees, winning or prizes.
- 1.21 **Door Supervisors** - The Gambling Commission advises in its Guidance for local authorities that licensing authorities may consider whether there is a need for door supervisors in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime.
- 1.22 There is no evidence that the operation of casinos, bingo halls or betting shops in the region has required door supervisors for the protection of the public. This authority will make a door supervisory requirement only if there is clear evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and that door supervisors is both necessary and proportionate.

2 Adult Gaming Centres

- 2.1 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 ensure that under 18 year olds do not have access to the premises. Appropriate licence conditions may cover issues such as:
- CCTV
 - Door supervisors
 - Location of entry

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

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

3 (Licensed) Family Entertainment Centres

- 3.1 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 ensure that under 18 year olds do not have access to the adult only gaming machine areas.
- 3.2 This licensing authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures / licence conditions may cover issues such as:
- CCTV
 - Door supervisors
 - Location of entry
 - Measures / training for staff on how to deal with suspected truant school children on the premises
 - Notices / signage
 - Physical separation of areas
 - Proof of age schemes
 - provision of information leaflets / helpline numbers for organisations such as GamCare.
 - self-barring schemes
 - Specific opening hours
 - Supervision of entrances / machine areas

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

- 3.3 This licensing authority will, as per the Gambling Commission’s guidance, refer to the Commission’s website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

Applicants should be aware of the changes for ‘amusement with prizes’ permits (ie. issued under the Gaming Act 1968 for low stake prizes (typically £5 cash or £8 in cash & prize) and the new permits issued under the Gambling Act 2005. The typical equivalent under the new Act being called ‘Category D machines’.

Whereas under Schedule 9 of the Gaming Act 1968 this Council made a Resolution not to grant permits for 'amusement with prizes machines' in certain categories of premises, under the new Gambling Act, machines may only be allowed in premises which are 'wholly or mainly' used for making gaming machines available for use. The intentions under the new act is that gaming machines in certain non-gambling premises should be removed. i.e. taxi cab offices, cafes, take aways, shops etc. Permits previously granted under the old act will generally be allowed to run their time to the expiry date before having to be removed.

Permits cannot be issued to vessels or vehicles.

The position of premises holding an alcohol licence is dealt with in Part C below.

Applicants for Permits for Adult or Family Entertainment Centres (licensed or unlicensed) (formerly known as 'Amusement Arcades') are advised to speak to the Planning Department of this Council before making a formal application to the Licensing Authority. Please quote the 'General Policies of the Local Plan'.

Shopping development within the main towns (Use Class A1) will generally be permitted but there are conditions concerning non-shopping use.

Applications for Entertainment Centres (formerly known as amusement arcades) will be the be subject of particularly stringent examination by the Planning Authority. The Town Centres are for the most part Conservation Areas with special charter and qualities to protect. The Planning Authority will therefore apply rigorous criteria to its judgement of any proposal and will generally not be granted unless certain criteria set out in Policy SHDC 23.1.b is met. The Planning Department can be contacted at The South Hams District Council, Follaton House, Plymouth Road, Totnes, TQ9 5NE. Tel: 01803 861234 or email:- development.control@southhams.gov.uk

4 Casinos

Casino – Local Policy

- 4.1 This South Hams District Council has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should this licensing authority decide in the future to pass such a resolution, it will update this Statement of Principles with details of that resolution.
- 4.2 *Casinos and competitive bidding* - This licensing authority is aware that where a licensing authority area is enabled to grant a premises licence for a new style casino (i.e. the Secretary of State has made such regulations under Section 175 of the Gambling Act 2005) there are likely to be a number of operators which will want to run the casino. In such situations the local authority will run a 'competition' under Schedule 9 of the Gambling Act 2005. This licensing authority will run such a competition in line with any regulations / codes of practice issued under the Gambling Act 2005.
- 4.3 *Licence considerations / conditions* - The Gambling Commission has stated that "further guidance will be issued in due course about the particular issues that licensing authorities should take into account in relation to the suitability and layout of casino premises" (Gambling Commission Guidance for local authorities - 17.30) This guidance will be considered by this licensing authority when it is made available.

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

5 Bingo premises

- 5.1 This licensing authority notes that the Gambling Commission's Guidance states:
- 5.2 It is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted licensing authorities should 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.
- 5.3 This licensing authority is also aware that the Gambling Commission is going to issue further guidance about the particular issues that licensing authorities should take into account in relation to the suitability and layout of bingo premises. This guidance will be considered by this licensing authority once it is made available.

6 Betting premises

- 6.1 *Betting machines* - Section 181 contains an express power for licensing authorities to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence or to a casino premises licence (where betting is permitted in the casino). When considering whether to impose a condition to restrict the number of betting machines in particular premises, the licensing authority, amongst other things, will take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable persons."
- 6.2 This authority recognised that operators may wish to relocate to provide improved facilities for customers. The licensing authority will give such applications consideration to re-site and will consider such applications on its individual merits.

7 Tracks

- 7.1 This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As

per the Gambling Commission's Guidance, this licensing authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

- 7.2 This authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.
- 7.3 This licensing authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures / licence conditions may cover issues such as:
- CCTV
 - Location of entry
 - Notices / signage
 - Physical separation of areas
 - Proof of age schemes
 - Provision of information leaflets / helpline numbers for organisations such as GamCare
 - Self-barring schemes
 - Specific opening hours
 - Supervision of entrances / machine areas

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

- 7.4 *Gaming machines*.-Further guidance from the Gambling Commission is awaited as regards where such machines may be located on tracks and any special considerations that should apply in relation, for example, to supervision of the machines and preventing children from playing them. This licensing authority notes the Commission's Guidance that licensing authorities therefore need to consider the location of gaming machines at tracks, and 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, these machines are located in areas from which children are excluded. Children and young persons are not prohibited from playing category D gaming machines on a track.
- 7.5 *Betting machines* - This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer. It will also take note of the Gambling Commission's suggestion that licensing authorities will want to consider restricting the number and location of such machines in respect of applications for track betting premises licences.
- 7.6 *Condition on rules being displayed* - The Gambling Commission has advised in its Guidance for local authorities that "...licensing authorities should attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken

to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office.”

7.7 *Applications and plans* - This licensing authority awaits regulations setting-out any specific requirements for applications for premises licences but is in accordance with the Gambling Commission's suggestion "To ensure that licensing authorities gain a proper understanding of what they are being asked to license they should, in their Statement of Principles, set out the information that they will require, which should include 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”) and 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." and that "Plans should 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."

7.8 This licensing authority also notes that in the Commission's view, it would be preferable for all self-contained premises operated by off-course betting operators on track to be the subject of separate premises licences, to ensure that there is clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

Only one premises licence may be issued for any particular premises at any time....There is one exception to this rule, namely a track (i.e. a horse race course, dog track or other premises where races or sporting events take place), which may be subject to more than one premises licence, provided each licence relates to a specified area of the track... The Act sets out that there will be a main (betting premises) licence for the track, and in addition subsidiary premises licences for other gambling activities may be issued. The normal limitations in terms of access by children and young persons will apply, although in relation to a premises licence in respect of a track, 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. This is subject to the rule that children and young persons may not enter any areas where gaming machines (other than category D machines) are provided...In principle there is no reason why all types of gambling should not co-exist upon a track, however this licensing authority will want to think about how the third licensing objective is delivered by the co-location of premises. As with the granting of multiple licences in a single building, this licensing authority will 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. Premises licences in relation to tracks are unusual in that, because the track operator does not need to have an operating licence (although may have one), the particular establishment will need to contain requirements on the premises as to the responsibilities in relation to the proper conduct of betting. The conduct of the betting on tracks will be regulated primarily through the operating licences that the persons offering betting on the track will need to hold (whether a general betting operating licence or a pool betting operating licence). But the track operator will have a role to play in ensuring, for example, that the betting areas are properly administered, and licensing authorities will have an important role in regulating tracks, because of the particular rules surrounding on-course betting, and the sub-division of the track into different areas.

Special rules apply to applicants for a premises licence in relation to a track. Most importantly, as noted above, the applicant need not hold an operating licence. That is because, unless the occupier of the track wishes to offer pool betting (or general betting)

facilities himself (for which he will need a licence), the betting that is provided upon the track will not be provided by him, but will be provided by other operators who come on-course. Since those people will require the necessary operating licences, the Act allows the track operator to obtain a premises licence without also having to hold an operating licence. This track premises licence then authorises anyone upon the premises with an operating licence to offer betting facilities.

The secondary aspect to this rule is that each individual operator who comes onto the track on race days does not need to hold a premises licence. Instead, he will be covered by the umbrella of the premises licence held by the track operator.

Applicants are advised to consult the Gambling Commission's Guidance on where gaming machines may be located on tracks and any special considerations that should apply in relation, for example, to supervision of the machines and preventing children from playing them. This licensing authority will take note of this guidance. This licensing authority will also, as per the Gambling Commission's Guidance, consider the location of gaming machines at tracks. Children and young persons are not prohibited from playing category D gaming machines on a track.

Applicants 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, these machines are located in areas from which children are excluded.

This licensing authority has power under the Gambling Act 2005, to restrict the number of betting machines, their nature and the circumstances in which they are made available, by attaching a licence condition to a betting premises licence. In relation to betting premises away from tracks, this licensing authority will take into account the size of the premises and the ability of staff to monitor the use of the machines by vulnerable people when determining the number of machines permitted. Similar considerations apply in relation to tracks, where the potential space for such machines may be considerable, bringing with it significant problems in relation to the proliferation of such machines, the ability of track staff to supervise them if they are scattered around the track and the ability of the track operator to comply with the law and prevent children betting on the machine. This licensing authority will generally consider restricting the number and location of betting machines, in the light of the circumstances of each application for a track betting premises licence.

This licensing authority also notes that, as per the Gambling Commission's Guidance: The Commission has issued guidance about how such premises should be delineated, both to make it clear to the public that they are entering a "betting office" and to keep children and young persons out.

As the betting premises licence for a track could authorise the entire premises to be used for providing betting facilities, this could mean that no separate betting premises licence would be necessary for the self-contained premises. The effect of this approach would be that the track operator was responsible for premises licence issues relating to the self-contained premises, rather than accountability resting with the betting operator providing facilities within it.

If the self-contained premises were the subject of a separate premises licence, that licence would have its own, directly imposed conditions. It would also allow the premises to use up to four gaming machines (in categories B2 to D), as described in Part 19.

In the Commission's view, it would be preferable for all self-contained premises operated by off-course betting operators on track to be the subject of separate premises licences. This would ensure that there was clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

8 Travelling Fairs

- 8.1 It will fall to this licensing authority to decide whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 8.2 The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 8.3 It has been noted that the 27-day statutory maximum for the land being used as a fair, is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

9 Provisional Statements

- 9.1 This licensing authority notes the Guidance for the Gambling Commission which states that “It is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence” and that “Requiring the building to be complete ensures that the authority could, if necessary, inspect it fully”.
- 9.2 Terms of representations about premises licence applications, following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant’s circumstances. In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:
(a) which could not have been raised by objectors at the provisional licence stage; or
(b) which is in the authority’s opinion reflect a change in the operator’s circumstances.
- 9.3 This authority has noted the Gambling Commission’s Guidance that “A licensing authority should not take into account irrelevant matters.... One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal.”

An applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed. The intention behind part 8 of the Act is the reference to “the premises” is to premises in which gambling may now take place. Thus a licence to use premises for gambling should only be issued in relation to premises that are ready to be used for gambling. This is why the Act allows an operator to apply for a provisional statement if the building is not yet complete, needs alteration, or he does not yet have a right to occupy it

Once an operator has completed a building, the licensing authority will be able to consider a premises licence application for it.

Requiring the building to be complete ensures that the authority can inspect it fully, as can other responsible authorities with inspection rights under Part 15 of the Act. Inspection will

allow authorities to check that gambling facilities comply with all necessary legal requirements. For example, Category C and D machines in a licensed family entertainment centre are situated so that people under 18 do not have access to the category C machines. The physical location of the machines will be an important part of this, and inspection will allow the authority to check that the layout complies with the operator's proposals and the legal requirements." (in relation to Provisional Licences)

10 Reviews

- 10.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities, however, it is for the licensing authority to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below, as well as consideration as to whether the request is frivolous, vexatious, will certainly not cause this authority to wish alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review;
- in accordance with any relevant code of practice issued by the Gambling Commission;
 - in accordance with any relevant guidance issued by the Gambling Commission;
 - reasonably consistent with the licensing objectives; and
 - in accordance with the authority's Statement of Principles.
- 10.2 The licensing authority can also initiate a review of a licence on the basis of any reason which it thinks is appropriate.

PART C

Permits / Temporary & Occasional Use Notice

Unlicensed Family Entertainment Centre (Unlicensed Family Entertainment Centre gaming machine permits Statement of Principles on Permits – Schedule 10 Para 7)

- 1.1 Where a premises does not hold a Premises Licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).
- 1.2 The Gambling Act 2005 states that a licensing authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25. The Gambling Commission's Guidance for local authorities also states: "In their three year Statement of Principles, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits....., licensing authorities will want to give weight to child protection issues." (24.6)
- 1.3 Guidance also states: "...An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application..." This Licensing Authority will require the applicant to demonstrate:
 - a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
 - that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act; and
 - that staff are trained to have a full understanding of the maximum stakes and prizes. (24.7)
- 1.4 It should be noted that a licensing authority cannot attach conditions to this type of permit
- 1.5 This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises. This licensing authority will also expect, as per Gambling Commission Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

Applicants should be aware of the changes for ‘amusement with prizes’ permits (ie. issued under the Gaming Act 1968 for low stake prizes (typically £5 cash or £8 in cash & prize) and the new permits issued under the Gambling Act 2005. The typical equivalent under the new Act being called ‘Category D machines’.

Whereas under Schedule 9 of the Gaming Act 1968 this Council made a Resolution not to grant permits for ‘amusement with prizes machines’ in certain categories of premises, under the new Gambling Act, machines may only be allowed in premises which are ‘wholly or mainly’ used for making gaming machines available for use. The intentions under the new act is that gaming machines in certain non-gambling premises should be removed. i.e. taxi cab offices, cafes, take aways, shops etc. Permits previously granted under the old act will be allowed to run their time to the expiry date before having to be removed.

Permits cannot be issued to vessels or vehicles.

The position of premises holding an alcohol licence is dealt with below.

Applicants for Permits for Adult or Family Entertainment Centres (licensed or unlicensed) (formerly known as ‘Amusement Arcades’) are advised to speak to the Planning Department of this Council before making a formal application to the Licensing Authority. Please quote the ‘General Policies of the Local Plan’.

Shopping development within the main towns (Use Class A1) will generally be permitted but there are conditions concerning non-shopping use.

Applications for Entertainment Centres (formerly known as amusement arcades) will be the subject of particularly stringent examination by the Planning Authority. The Town Centres are for the most part Conservation Areas with special character and qualities to protect. The Planning Authority will therefore apply rigorous criteria to its judgement of any proposal and will generally not be granted unless certain criteria set out in Policy SHDC 23.1.b is met. The Planning Department can be contacted at The South Hams District Council, Follaton House, Plymouth Road, Totnes, TQ9 5NE. Tel: 01803 861234 or email:- development.control@southhams.gov.uk

2 (Alcohol) Licensed premises gaming machine permits – (Schedule 13 Para 4(1))

- 2.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority. The licensing authority can remove the automatic authorisation in respect of any particular premises if:
- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
 - gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with)
 - the premises are mainly used for gaming; or
 - an offence under the Gambling Act has been committed on the premises
- 2.2 If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “other such matters as the Authority think

relevant.” This licensing authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in site of the bar, or in the sight of staff that will monitor that the machines are not being used by those under 18. Notices and signage may also be helpful. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

- 2.3 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.
- 2.4 It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.
- 2.5 It should also be noted that the holder of a permit to must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

Applicants should be aware that only those premises which have a ‘bar’ (servery) at which alcohol is sold for consumption on the premises will be eligible for a machine in the bar area of the premises. This means that premises such as restaurants which do not have a bar for serving drinks or can only sell alcoholic drinks as an ancillary to food (the old Part IV restaurant licences under the former Licensing Act 1964) will fall outside the scope to which this section (s.279 – 284) of the Gambling Act 2005 applies.

3 Prize Gaming Permits – (Statement of Principles on Permits - Schedule 14 Para 8 (3))

- 3.1 The Gambling Act 2005 states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority propose to consider in determining the suitability of the applicant for a permit”.
- 3.2 This licensing authority will expect the applicant to set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:
 - that they understand the limits to stakes and prizes that are set out in Regulations;
 - and that the gaming offered is within the law.
- 3.3 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.
- 3.4 It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but that the licensing authority cannot attach conditions.

The conditions in the Act are:

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

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

4 Club Gaming and Club Machines Permits

- 4.1 Members Clubs (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in forthcoming regulations. A Club Gaming machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).
- 4.2 Gambling Commission Guidance states: "Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations."
- 4.3 The Commission Guidance also notes that "licensing authorities may only refuse an application on the grounds that:
- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
 - (b) the applicant's premises are used wholly or mainly by children and/or young persons;
 - (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
 - (d) a permit held by the applicant has been cancelled in the previous ten years; or
 - (e) an objection has been lodged by the Commission or the police.
- 4.4 There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). As the Gambling Commission's Guidance for local authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:
- (a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
 - (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
 - (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."

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

5 Temporary Use Notices

- 5.1 Temporary Use Notices (TUN) allow the use of premises for gambling on a temporary basis where there is no premises licence.
- 5.2 There are a number of statutory limits as regards temporary use notices. Gambling Commission Guidance is noted that "The meaning of "premises" in part 8 of the Act is discussed in Part 7 of this guidance. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place". In considering whether a place falls within the definition of "a set of premises", licensing authorities will need to look at, amongst other things, the ownership/occupation and control of the premises...This is a new permission and licensing authorities should be ready to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises."

6 Occasional Use Notices

- 6.1 Occasional Use Notices enable betting on a track for up to eight days a year without a premises licence.
- 6.2 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 though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

7 Vessels

- 7.1 The licensing authority when considering applications for premises licences in respect of vessels will give particular weight to the views of the Maritime and Coastguard Agency in respect of promoting the licensing objectives. Where in the opinion of the licensing authority any of the three objectives are undermined, and this cannot be resolved through the imposition of conditions, the application will be refused.

Where a premises licence is sought in connection with a vessel which will be navigated whilst licensable activities take place, the licensing authority will be concerned following the receipt of relevant representations, with the promotion of the licensing objectives on-board the vessel. The licensing authority will not focus on matters relating to safe navigation or operation of the vessel, the general safety of passengers or emergency provisions, all of which are subject to regulations which must be met before the vessel is issued with a Passenger Certificate and Safety Management Certificate. It is expected that if the Maritime and Coastguard Agency is satisfied that the vessel complies with Merchant Shipping standards for a passenger ship, the premises will normally be accepted as meeting the public safety objectives. In respect of other public safety aspects, representations made to the licensing authority by the Maritime and Coastguard Agency will be given particular weight.

Appendix A

Responsible Authorities Contacts (non emergency calls only):-

1) The Licensing Authority

The Licensing Manager
South Hams District Council
Follaton House
Plymouth Road
Totnes
TQ9 5NE

Tel: 01803 861336
E-mail: licensing@southhams.gov.uk

2) The Gambling Commission

Victoria Square House
Victoria Square
Birmingham
B2 4BP

Tel: 0121 233 1058
Email:- info@gamblingcommission.gov.uk

3) Her Majesty's Commissioners of Customs & Excise

Machine & Licensing Department
Greenock Accounting Centre
Custom House
Custom House Quay
Greenock
PA15 1EQ

Tel: 01475 881300
Email:

4) Child Protection

The Children's Safeguarding Board
Social Services Directorate
Foxhole
Totnes
Devon
TQ9 6ET

Tel: 01392 386601
Email: CPChecks@devon.gov.uk

5) Devon & Cornwall Police

The Licensing Office
Devon & Cornwall Constabulary
Ashburton Road
Totnes
TQ9 5JY

Tel: 01803 860421
Email: licensing.totnes@devonandcornwall.pnn.police.uk

6)(a) Devon Fire & Rescue Service
(For Kingsbridge, Salcombe, Ivybridge and areas West of);

The Fire Safety Officer
Devon Fire & Rescue
Glenn Road
Plympton
Plymouth
PL7 3XT
Tel: 01752 333600
Email: westfiresafety@devfire.gov.uk

6)(b) Devon Fire & Rescue Service

(For Dartmouth, Totnes and areas East of);

The Fire Safety Officer
Devon Fire & Rescue
Newton Road
Torquay
TQ2 7AD
Tel: 01803 653700
Email: araddon@devfire.gov.uk

7) Environmental Health Department (Control)

South Hams District Council
Follaton House
Plymouth Road
Totnes
TQ9 5NE
Tel: 01803 861234
E-mail: environmental.health@southhams.gov.uk

8) Planning & Building Control

Planning Department
South Hams District Council
Follaton House
Plymouth Road
Totnes
TQ9 5NE
Tel: 01803 861280
E-mail: development.control@southhams.gov.uk

9) Maritime & Coastguard Agency (Boats only)

The Safety Policy Coordinator for Inland Waterways
Maritime & Coastguard Agency
Southampton Marine Office
Spring Place
105 Commercial Road
Southampton
SO15 1EG
Tel: 023 8032 9329
Email: helen.sharples@mcga.gov.uk

GLOSSARY

DCMS - Department of Culture, Media, and Sport

An Interested Party – is a person, in the opinion of the Licensing Authority who:

- 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).

Responsible Authority –

- (i) The Licensing Authority
- (ii) The Gambling Commissioner
- (iii) The Chief Officer of Devon & Cornwall Constabulary
- (iv) The Devon Fire & Rescue Service
- (v) The local planning authority within the meaning given by the Town and Country Planning act 1990 (c.8) for any area in which the premises are wholly or partly situated
- (vi) The local authority by which statutory functions are exercisable in any area in which the premises are wholly or partly situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health
- (vii) A body which is designated in writing for the purpose of this paragraph, by the licensing authority for an area in which the premises are wholly or partly situated, as competent to advise the authority about the protection of children from harm:
- (viii) And any other person prescribed by regulations by the Secretary of State.

DCMS - Department for Culture Media and Sport

http://www.culture.gov.uk/alcohol_and_entertainment/default.htm

Licensing Documents...

Gambling Act 2005

Guidance under Section 25 of the Act