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GAMBLING ACT 2005

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STATEMENT OF PRINCIPLES

**Burnley Borough Council
Gambling Act 2005
Statement of Principles**

THE LICENSING OBJECTIVES

- 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

Table of Contents

Item		Page
	PART A	
1.	Introduction	4
2.	A Profile of Burnley	6
3.	The Statement of Licensing Principals and Consultation	7
4.	Declaration	7
5.	Responsible Authorities	8
6.	Interested parties	8
7.	Exchange of information	10
8.	Enforcement	10
9.	Licensing Authority functions	11
	PART B	
10.	Premises licences	13
11.	Adult Gaming Centres	18
12.	(Licensed) Family Entertainment Centres	19
13.	Casinos	19
14.	Bingo premises	20
15.	Betting premises	21
16.	Tracks	21
17.	Travelling fairs	22
18.	Provisional Statements	22
19.	Reviews	23
	PART C	
20.	Unlicensed Family Entertainment Centre gaming machine permits	24
21.	Alcohol Licensed premises gaming machine permits	25
22.	Prize Gaming Permits	26
23.	Club Gaming and Club Machines Permits	27
24.	Temporary Use Notices	28
25.	Occasional Use Notices	28
	APPENDICES	
	Appendix A - CONSULTEES	29
	Appendix B - RESPONSIBLE AUTHORITIES	31
	Appendix C - SUMMARY OF DELEGATION	32

1. Introduction

- 1.1 This statement of principles has been published as a consequence of:
- It being a requirement for this Statement of Principles to be approved by the Executive and the Full Council of Burnley Borough Council
 - The requirement for it to be published and available by 3rd January 2016.
- 1.2 All references to the Gambling Commission's Guidance for local authorities refer to the Guidance published in September 2015, A copy of the current guidance is available on the Gambling Commission website.
- 1.3 The Gambling Act 2005 (the Act) has appointed Burnley Borough Council as a Licensing Authority. We will regulate gambling with integrity in the public interest.
- 1.4 We are committed to avoiding duplication with other legislation and regulatory regimes as far as possible, and will not replicate issues in this statement of principles, which are already legal requirements under other legislation such as health and safety and fire precautions.
- 1.5 This statement of principles has been developed after having regard to the statutory guidance from the Gambling Commission and having given appropriate weight to the views of persons and organisations consulted.
- 1.6 The Council will delegate all functions under the Act to the Licensing Committee, except those functions, which by law must be dealt with by the Council as a whole such as fee levels and the approval of this policy statement.
- 1.7 Section 349 of the Act requires the Licensing Authority to publish a statement of principles that we will apply in exercising our functions under the Act. This statement fulfils that statutory requirement.
- 1.8 This statement of Principles will be applied during the 3-year period from 3rd January 2016 until 31st December 2019 and during that time will be kept under review and revised when and if appropriate.
- 1.9 This document should be read in conjunction with the Act, Regulations made under the Act and Guidance issued by the Gambling Commission. This statement is designed to be a strategic gambling policy, not an operational guide to the Act.
- 1.10 In exercising our functions under the Gambling Act 2005, Burnley Borough Council as a licensing authority will have regard to the statutory licensing objectives, which 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**

1.11 We are aware that Section 153 of the Act requires us, in making decisions concerning premises licences and temporary use notices, to aim to permit the use of premises for gambling in so far as we think it is-

- In accordance with any relevant code of practice issued by the Gambling Commission
- In accordance with any relevant guidance issued by the Gambling Commission
- Reasonably consistent with the statutory licensing objectives and
- In accordance with this statement of principles

1.12 Nothing in this policy will override the right of any person to make an application under the Act and have that application considered on its individual merits. Equally, nothing in this policy will undermine the right of any person to make representations on an application, or seek a review of a licence where there is a legal power to do so.

1.13 Previous legislation required that the grant of certain gambling permissions should take account of whether there was an unfulfilled demand for gambling facilities. We acknowledge that under the Act, unmet demand is not a criterion for a Licensing Authority in considering an application.

1.14 We appreciate that gambling can be an emotive subject but acknowledge that, in accordance with Gambling Commission Guidance for Local Authorities, “considerations such as moral or ethical nuisance, objections to gambling are not a valid reason to reject applications for premises licences “. Except in respect of a Casino resolution under Section 166 of the Act, and also that unmet demand is not a criterion for a Licensing Authority.

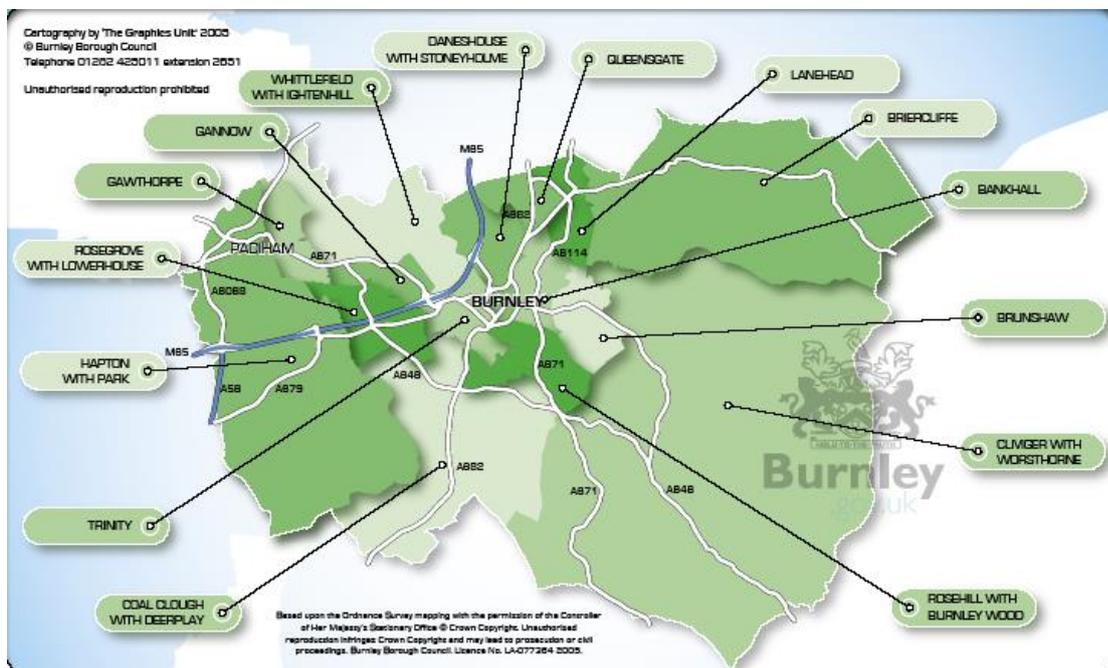
1.15 We will therefore consider any application in accordance with the Act, on its individual merits without regard to demand or moral objections to gambling in general.

2. A Profile of Burnley

2.1 Burnley Borough Council is situated in the County of Lancashire and is one of 14 Councils within the County. Burnley has an estimated population of 91,000 contained within an area of 43 square miles. (Information from Census 2011)

2.2 The population profile is illustrated below;

Years of Age	0-14	15-24	25-44	45-64	65+
Percentage of Population	18.4%	12.9%	26.1%	26.3%	16.3%



2.3 The lifeblood of the area is its industry, which is concentrated in the urban cores of Burnley and Padiham.

In post-war years there has been a diversification away from textiles to engineering and the newer technology industries. Much of the Borough is rural in character, and there are 7 parish councils.

The M65 motorway provides easy access to the Lancashire coast, the Lake District, as well as the cities of Manchester, Leeds and Liverpool.

2.4 The Council wants to make the borough a place of choice. It will be a place where businesses want to invest, because of its skilled workforce and its competitive, modern economy. It will be a place where people want to live because of its clean and safe neighbourhoods, its reputation as a centre of educational excellence, and its beautiful parks and wild countryside.

3. The Statement of Licensing Principles and Consultation

- 3.1 Burnley Borough Council is required by the Gambling Act 2005 to publish a statement of the principles, which we propose to apply when exercising our functions. This statement must be published at least every three years. The statement must also be reviewed from “time to time” and any amended parts re-consulted upon. The statement must be then re-published.
- 3.2 This statement of principles has been published following extensive consultation. A list of the persons we have sent this document to is attached at **Appendix A**.
- 3.3 The Gambling Act requires that the following parties be consulted by Licensing Authorities:
- The Chief Officer of Police
 - One or more persons who appear to the authority 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
- 3.4 Our consultation took place between July and October 2015 and we have followed best practice as set out by the Department for Business, Innovation and Skills, available at:
www.gov.uk/government/uploads/system/uploads/attachment_data/file/255180/Consultation-Principles-Oct-2013.pdf
- 3.5 The full schedule of comments and amendments consequential to these comments will be available by request to the Licensing Office, Burnley Borough Council.
- 3.6 This statement of principles 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.

4. Declaration

- 4.1 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 of principles.

5. Responsible Authorities

5.1 Burnley Borough Council is required by regulations to state the principles that we will apply in exercising our powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm.

5.2 The principles we will use are:

- the need for the body to be responsible for an area covering the whole of the licensing authority's area
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group etc

5.3 In accordance with the Gambling Commission's Guidance for Licensing Authorities, we intend to designate the Lancashire Safeguarding Children Board, Lancashire County Council for this purpose.

5.4 This body has countywide responsibility, is subject to democratic accountability and is currently the body that has become a responsible authority under the Licensing Act 2003.

5.5 The Responsible Authorities under the Gambling Act 2005 are:

- Burnley Borough Council Licensing Authority
- The Gambling Commission;
- The Chief Constable, Lancashire Constabulary
- Lancashire Fire and Rescue Service Authority
- Burnley Borough Council Planning and Environmental Services Unit
- Lancashire Safeguarding Children Board, Lancashire County Council
- H.M. Revenue & Customs

Subject to any other person being prescribed in Regulations made by the Secretary of State. The contact addresses for these authorities are attached at **Appendix B**.

6. Interested Parties

6.1 S.158 of the Act defines interested parties. To accept a representation from an interested party, we must take the view that the person:

- lives sufficiently close to the premises to be likely to be affected by the authorised activities

- has business interests that might be affected by the authorised activities
- represents persons in either of these two groups.

We will have regard to anything an interested party says about their status to make representations.

The approach taken by us in determining who is an interested party is dealt with in this statement of policy.

- 6.2 The following gives further advice on how we can determine whether someone is an interested party.

People living close to the premises

There are a number of factors that we will take into account when determining whether a person 'lives sufficiently close to the premises'. These might include:

- the size of the premises
- the nature of the premises
- the distance of the premises from the location of the person making the representation
- the potential impact of the premises such as the number of customers, routes likely to be taken by those visiting the establishment
- the circumstances of the person who lives close to the premises. This is not their personal characteristics, but their interests which may be relevant to the distance from the premises.

- 6.3 Relevant factors will depend on the particular application. For example, we believe it is reasonable for us to consider that living sufficiently close to premises to likely be affected could have a different meaning for (a) a private resident, (b) a residential school for children with truanting problems and (c) a residential hostel for vulnerable adults.

The nature and scope of business interests that could be affected

- 6.4 It could be argued that any gambling business could be affected by another gambling business expanding into any part of Great Britain. But that is unlikely to be enough to satisfy the test of being 'a person with business interests that might be affected by the premises' under consideration. For example, an operator in a particular sector be it casino, bingo, betting etc, should not be able to lodge representations on every application put in by a rival operator anywhere in the country, simply because they are in competition within the same gambling sector. Specifically, we recognise that the 'demand test' from previous gambling legislation does not apply under the Act

- 6.5 We should be satisfied that the relevant business is likely to be affected. Factors that are likely to be relevant include:
- the size of the premises
 - the 'catchment' area of the premises, that is, how far people travel to visit the premises
 - whether the person making the representation has business interests in that catchment area that might be affected.

People representing those in the above categories

- 6.6 Interested parties can be people who are democratically elected such as councillors and MPs, as persons representing individuals in the other categories. This would include county, parish and town councillors. Other representatives might include bodies such as trade associations and trade unions, and residents' and tenants' associations. A school head or governor might act in representing the interests of pupils or parents and a community group might represent vulnerable people living near to the proposed premises.
- 6.7 Save for democratically elected persons, We will satisfy ourselves on a case by case basis that a person does represent interested parties, and request written evidence where necessary. A letter from the interested person(s) they are representing would be sufficient.
- 6.8 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. Applicants should contact the Principal Licensing Officer, Burnley Borough Council in the first instance rather than approach their Councillor directly.

7. Exchange of Information

- 7.1 We are required to include 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 ourselves 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.
- 7.2 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.
- 7.3 We will also have regard to the Guidance issued by the Gambling Commission to Licensing Authorities, as well as any future relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.
- 7.4 Should any protocol on information exchange be established in the future, such protocols will be publicly available.

8. Enforcement

- 8.1 Licensing authorities are required by regulations under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.
- 8.2 This licensing authority's principles are that we will be guided by the Gambling Commission's Guidance for local authorities and our policy will endeavour to be :
- Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;

- Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
- Consistent: rules and standards must be joined up and implemented fairly;
- Transparent: regulators should be open, and keep regulations simple and user friendly; and
- Targeted: regulation should be focused on the problem, and minimise side effects

8.3 This licensing authority will also, as recommended by the Gambling Commission's Guidance for local authorities, adopt a risk-based approach to the compliance process where the main determinant is the risk posed to the three licensing objectives. The authority will have regard to the 'Regulators Code' in accordance with Section 22 of the Legislative and Regulatory Reform Act 2006.

8.4 The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 will be to ensure compliance with the three licensing objectives, including compliance with general licensing conditions (including mandatory and default conditions), specific licence conditions and any applicable codes of practice.

8.5 The Gambling Commission will be the enforcement body for Operator and Personal Licences. Concerns about manufacture, supply or repair of gaming machines will not be dealt with by the licensing authority but will be notified to the Gambling Commission for investigation.

8.6 Any prosecution will only be commenced in accordance with the sufficiency of evidence and public interest.

8.7 Any such prosecution will be commenced and conducted by the Head of Governance, Law and Regulation in accordance with the powers delegated to him by the Council.

9. Licensing Authority functions

9.1 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) of the use of two or fewer gaming machines
- Grant Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required
- 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 7 above on 'information exchange')
- Maintain registers of the permits and licences that are issued under these functions

9.2 We as the licensing authority will not be involved in licensing remote gambling. Regulation of such activity will be the responsibility of the Gambling Commission via Operator Licences.

9.3 In accordance with the Act and Guidance, this authority will:

- Refer the decision whether to make a resolution not to issue casino licences within the Borough to Full Council.
- Refer approval of this three-year licensing policy to Full Council
- Refer any delegated power under forthcoming Regulations to set fees to Executive.
- Delegate all decisions relating to premises licences to the Licensing Committee where representations have been received and not withdrawn.
- Further delegate decision making to officers in accordance with the law and guidance, attached at Appendix C.

PART B

10 Premises Licences

General Principles

- 10.1 Premises Licences will be subject to the permissions/restrictions set out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions that will be detailed in regulations issued by the Secretary of State.
- 10.2 We, as the licensing authority, will be able to exclude default conditions and also attach other conditions, where we believe it to be appropriate.
- 10.3 This licensing authority is aware that in making decisions about premises licences we should aim to permit the use of premises for gambling in so far as we think it is:
- in accordance with any relevant code of practice issued by the Gambling Commission
 - in accordance with any relevant guidance issued by the Gambling Commission
 - reasonably consistent with the licensing objectives and
 - in accordance with this statement of licensing policy
- 10.4 We appreciate that gambling can be an emotive subject but acknowledge that, in accordance with Gambling Commission Guidance for Local Authorities, “moral or ethical objections to gambling are not a valid reason to reject applications for premises licences.” Except in respect of a Casino resolution and also that unmet demand is not a criterion for a Licensing Authority.
- 10.5 Premises are defined in the Act as “includes any place”. Different premises licences cannot apply in respect of single premises at different times. It is however possible for a single building to be subject to more than one premises licence, providing that each licence is for a different part of the building and such different parts can reasonably be regarded as different premises.
- 10.6 We will judge each case on its individual merits to decide as a matter of fact, whether different parts of a building can be properly regarded as being separate premises.
- 10.7 We note that the Gambling Commission, in their guidance, do not consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises. We support this view.
- 10.8 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 premises licences for a building and those relating to a discrete part of a building used for other (non gambling) purposes in particular they should be aware of the following:

- The third licensing objective seeks to protect children from being harmed or exploited by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to, or closely observe gambling where they are prohibited from participating.

- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not 'drift' into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- 10.9 We also note that in relation to premises which are still to be constructed, under construction or alteration that following case law operators may apply for a premises licence, albeit they are not ready to be used for gambling. This authority will determine such applications on their own merits.
- 10.10 This licensing authority is aware that demand issues cannot be considered in relation to the location of premises but that considerations made in terms of the licensing objectives can be considered
- 10.11 We will, in accordance with the Gambling Commission's Guidance for local authorities, 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.
- 10.12 This authority has not adopted any specific policy in relation to areas where gambling premises should not be located. Should any such policy be decided upon, this policy statement will be updated.
- 10.13 It should be noted that any such future policy will not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant to show how any potential concerns can be overcome.
- 10.14 This authority will seek to avoid any duplication with other statutory / regulatory systems where possible, including the statutory planning regime.
- 10.15 This Council acting as a licensing authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval in its consideration of an application for a Premises Licence.
- 10.16 We will though, carefully consider any concerns about licensing conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.
- 10.17 The Planning Department are a responsible authority under this Act and have the opportunity to make representations should they desire, otherwise the two regimes will be properly separated.
- 10.18 Premises licences granted must be reasonably consistent with the licensing objectives. Having regard to these objectives, we have considered the Gambling Commission's Guidance to local authorities and make the following observations:

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

- 10.19 This licensing authority is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. Their guidance does however envisage that the licensing authority should pay attention to the proposed location of gambling premises in terms of this licensing objective.
- 10.20 Therefore, where an area has known high levels of organised crime, we will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable, such as the provision of door supervisors. Responsible authorities would however have the right to make representations with regard to such premises.
- 10.21 We are aware that there is not a clear line between nuisance and disorder 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. It should be noted that public nuisance is not a Gambling Act licensing objective and issues of nuisance are not relevant considerations under the Gambling Act 2005.
- 10.22 In considering licence applications, the Council will particularly take into account the following:
- The design and layout of the premises;
 - The training given to staff in crime prevention measures appropriate to those premises;
 - Physical security features installed in the premises. This may include matters such as the position of cash registers or the standard of CCTV that is installed;
 - Where premises are subject to age-restrictions, the procedures in place to conduct age verification checks;
 - The likelihood of any violence, public order or policing problem if the licence is granted.

Ensuring that gambling is conducted in a fair and open way

- 10.25 This licensing authority is aware that the Gambling Commission has stated that it would generally not expect licensing authorities to become concerned frequently with ensuring that gambling is conducted in a fair and open way as this will be addressed by the operator and personal licensing system. It is acknowledged that there is a greater role for the Licensing Authority in track gambling which is explained in Section 16 below.

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

- 10.26 We note the Gambling Commission Guidance to local authority's states that this objective relates to 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.
- 10.27 We will therefore consider, as suggested by the Gambling Commission's Guidance, whether specific measures are required at individual premises to promote the licensing objectives.

- 10.28 Appropriate measures may include supervision of access points, segregation of areas etc.
- 10.29 We will also take account of the Codes of Practice regarding this objective in relation to specific types of premises.
- 10.30 In reference to the term “vulnerable persons” we note that the Gambling Commission or statute law is not seeking to offer a definition but the Commission 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, for example, mental health, a learning disability or substance misuse relating to alcohol or drugs.
- 10.31 This licensing authority will consider promotion of this licensing objective on a common sense, case by case basis.

Conditions on Premises Licences

- 10.32 Any conditions we attach 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.
- 10.33 The Authority is aware that the mandatory and default conditions imposed by the Gambling Commission will normally be sufficient to regulate gambling premises. In exceptional cases where there are specific risks or problems associated with a particular locality, specific premises or class of premises, the authority may consider attaching individual conditions related to the licensing objectives.
- 10.34 This Authority takes note of the Gambling Commission’s guidance in relation to Local Risk Assessments for operators. The Gambling Commission’s ‘Licence Conditions and Codes of Practice’ supplemented by a new ‘Social Responsibility Code’ formalise the need for operators to consider local risks and have policies, procedures and control measures to mitigate those risks. Account must be taken by operators of relevant matters identified in this Authority’s statement of policy.
- 10.35 This Authority takes note of Gambling Commission’s guidance requiring a licence applicant to undertake a local risk assessment when applying for a new premises licence. Their risk assessment must also be updated:
- When applying for a variation of a premises licence

- To take account of significant changes in local circumstances, including those identified in this council's statement of policy
 - When there are significant changes at the licensee's premises that may affect their mitigation of local risks
- 10.36 Applicants may wish to refer to this council's Community Safety Partnership Strategic Assessment to obtain a local profile of the Borough along with highlighted and emerging threats to the Borough when preparing risk assessments. From April 2016 the Social Responsibility Code supplemented by the ordinary code (LCCP) requires that licensees share their risk assessment with licensing authorities when applying for a premises licence or varying an existing licence, or otherwise at the request of the Authority for example when carrying out inspections.
- 10.37 We will, where considered necessary, consider specific measures for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances, segregation of gambling and non-gambling areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises to promote the licensing objectives, in accordance with Gambling Commission Guidance.
- 10.38 We will also ensure that where Category A to C gaming machines are on offer in premises to which children are admitted, other than premises licensed for the supply of alcohol under the Licensing Act 2003,
- 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 these 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 years of age.
- 10.39 These considerations will apply to premises including buildings where multiple premises licences are applicable.
- 10.40 We are aware that tracks may be subject to one or more than one premises licence, provided that each licence relates to a specified area of the track.
- 10.41 We will, in accordance with the Gambling Commission's Guidance, consider the impact upon the third licensing objective and the need to ensure that the entrances to each type of premises are distinct from each other and that children are excluded from gambling areas where they are not permitted by law or condition, to enter
- 10.42 It is noted that there are conditions which the licensing authority cannot by law attach to premises licences which are:

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

10.43 The Gambling Commission advises in its Guidance that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts at authorised access (for example by children and young persons) then it may require that entrances to premises are controlled by a door supervisor, and is entitled to impose conditions to that effect. Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration as whether or not these supervisors need to be licensed by the Security Industry Authority will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary (as per guidance)

11 Adult Gaming Centres

11.1 Adult gaming centres (AGCs) premises licences allow the holder of the licence to make gaming machines available for use on the premises. Persons operating an AGC must hold a gaming machines general operating licence from the Commission and must seek a premises licence from the licensing authority. Gaming machines are a form of gambling which is attractive to children and AGC's will contain machines of a similar format to the Category D machines on which children are allowed to play. However, no-one under the age of 18 is permitted to enter an AGC and applicants must be aware of the location of and entry to AGC's to minimise the opportunities for children to gain access. 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 persons under 18 years of age do not have access to the premises.

11.2 Because gaming machines provides opportunities for solitary play and immediate payouts, they are more likely to engender repetitive and excessive play. The council in considering premises licences and will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds are not attracted to, or gain access to, the premises.

12 (Licensed) Family Entertainment Centres

12.1 We will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to

satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

12.2 We will expect applicants as part of their application to initially offer their own measures to promote the licensing objectives; however appropriate measures / licence conditions may cover issues such as:

- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self Barring Schemes
- Provision of information leaflets / helpline numbers for support organisations such as GamCare
- Measures / training for staff on how to deal with suspected truant school children on the premises

12.3 We will, in accordance with the Gambling Commission's guidance, refer to the Commission, and be aware of any conditions that apply to operating licences covering the way in which the area containing the Category C or higher machines, should be delineated.

12.4 This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

13 Casinos

13.1 This licensing authority does not have an existing licensed casino within the Borough. (Licences granted under the 1968 Act, granted under grandfather arrangements). There are two types of new casino premises licences, large and small casinos. The Borough of Burnley is not an area chosen for the issue of casino licences.

No casino resolution

13.2 This licensing authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so.

Betting machines

13.3 It is desirable that the difference between a gaming machine and betting machine is understood. A machine is not a gaming machine if it is designed or adapted for use to bet on future real events.

13.4 Some betting premises may make available machines that accept bets on live events, such as horse racing, as a substitute for placing a bet over the counter. These "betting machines" are not gaming machines and therefore neither count towards the maximum permitted number of gaming machines, nor have to comply with any stake or prize limits.

- 13.5 Such betting machines merely automate the process which can be conducted in person and therefore do not require regulation as a gaming machine.
- 13.6 However, where a machine is made available to take bets on virtual races, that machine is a gaming machine and does count towards the maximum permitted number of gaming machines, and must meet the relevant category limitations for the premises.
- 13.7 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).
- 13.8 In accordance with the Gambling Commission's Guidance for local authorities, when considering the number / nature / circumstances of betting machines that a casino operator wishes to offer, we will take into account;
- the size of the premises
 - the number of counter positions available for person-to-person transactions, and,
 - the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable persons."

14 Bingo Premises

- 14.1 This licensing authority notes that that the Gambling Commission Guidance states;
- "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. Social Responsibility (SR) code 3.2.5(3) states that 'licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises' in order to prevent underage gambling.
- 14.2 We note that under the Act, children and young persons (anyone up to the age of 18) cannot be employed in providing any facilities for gambling on bingo premises, and children (under 16) cannot be employed, in any capacity, at a time when facilities for playing bingo are being offered. However, young persons, aged 16 and 17, may be employed in bingo premises (while bingo is being played), provided the activities on which they are employed are not connected with the gaming or gaming machines.
- 14.3 We will consider restrictions that apply to such premises in the current Licence conditions and codes of practice published on the Gambling Commission's website.

15 Betting Premises

- 15.1 We note that the Act contains a single class of licence for betting premises. However, within this single class of licence, there will be different types of premises which

require licensing. This Section of our policy discusses off-course betting, that is betting that takes place other than at a track in what is currently known as a licensed betting office. Tracks are discussed in the following Section. It should be noted that there are also betting offices on tracks, that have a separate premises licence from the track licence.

- 15.2 It is noted that the Gambling Commission's Guidance for local authorities states "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).
- 15.3 It is noted that the Gambling Commission's Guidance for local authorities states S.235(2)(c) provides that a machine is not a gaming machine by reason only of the fact that it is designed or adapted for use to bet on future real events. Some betting premises may make available for use machines that accept bets on live events, such as a sporting event, as a substitute for placing a bet over the counter. These SSBTs are not gaming machines and therefore neither count towards the maximum permitted number of gaming machines, nor have to comply with any stake or prize limits. Such betting machines merely replicate and automate the process that can be conducted in person, and therefore do not require regulation as gaming machines. S.181 of the Act contains an express power for licensing authorities to restrict the number of SSBTs, 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). Part 19 of this Guidance provides further details.
- 15.4 This licensing authority will give sympathetic consideration to re-sites within the same locality and extensions in order to enhance the quality of the facility provided for the benefit of the betting public

16 Tracks

- 16.1 Tracks are sites (including horse racecourses and dog tracks) where races or other sporting events take place. Tracks are different from other premises in that they may be subject to one or more Premises Licences, provided that each Licence relates to a specific area of the track.
- 16.2 This licensing authority will have particular regard to the protection of children and other vulnerable persons from being harmed or exploited by gambling and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter. We would expect Premises Licence applicants to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities.
- 16.3 We are aware that tracks are different from other premises in that there may be more than one premises licence in effect, each covering a specified area of the track. In accordance with the Gambling Commission guidance, this authority will especially consider the impact of the third licensing objective.
- 16.4.1 The licensing authority notes the Commission's comments that it "may be considered that it is disproportionate and unnecessary to insist that betting rules are displayed at

each distinct betting location; rather the rules should be made available at suitable central locations. The track premises licence holder should make the necessary arrangements to ensure that betting rules are accessible to all customers, regardless of which area of the track they are in” and that the requirement “could also be met by making a copy of the rules available in leaflet form from the main track office, and customers could be given a copy if they request one”.

17. Travelling Fairs

- 17.1 We note that we as the licensing authority are required 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.
- 17.2 The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 17.3 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 other departments of the Council and its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

18. Provisional Statements

- 18.1 Section 204 of the Act provides for a person to make an application to the Authority for a Provisional Statement in respect of premises that s/he:
- Expects to be constructed;
 - Expects to be altered; or
 - Expects to acquire a right to occupy.
- 18.2 Developers may wish to apply for Provisional Statements before they enter into a contract to buy or lease property or land to judge whether or not a development is worth taking forward in light of the need to obtain a Premises Licence. It is also possible for an application for a Provisional Statement to be made for premises that already have a Premises Licence (either for a different type of gambling or for the same type).
- 18.3 This authority has noted the Gambling Commission’s Guidance that “A licensing authority must not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with planning or building law.

19. Reviews

- 19.1 A premises licence may be reviewed by the licensing authority of its own volition or following the receipt of an application for a review, which is essentially a request by a third party to the licensing authority to review a particular licence.

- 19.2 Section 200 of the Act provides that licensing authorities may initiate a review in relation to a particular class of premises licence or in relation to particular premises. Officers may be involved in the initial investigations of complaints leading to a review, or may try informal mediation or dispute resolution techniques prior to a full-scale review being conducted, but the review itself, if necessary will be heard by elected members.
- 19.3 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.
- 19.4 An application for a review may be (but need not be) rejected if the licensing authority thinks that the grounds on which the review is sought:

- (a) are not relevant to the principles that must be applied by the licensing authority in accordance with section 153.

If the application raises issues that are not relevant to the Commission guidance/codes of practice, this policy statement, or the licensing objectives, then we may reject it. In addition, if the application raises general objections to gambling as an activity, that is likely to be irrelevant to the principles in section 153, given that we are required to permit the use of premises for gambling in so far we think that permission is in accordance with the matters set out in that section.

Examples that are likely to be irrelevant include demand for gambling premises, issues relating to planning, public safety, and traffic congestion;

- (b) the grounds are frivolous;
- (c) the grounds are vexatious;
- (d) the grounds “will certainly not” cause the authority to revoke or suspend a licence or to remove, amend or attach conditions on the premises licence;
- (e) are substantially the same as the grounds cited in a previous application for review relating to the same premises. In these circumstances we will take into account how much time has passed since the earlier application in reaching a judgement about whether it is reasonable to rely on this as a reason not to review the licence; or
- (f) are substantially the same as representations made at the time the application for a premises licence was considered. In these circumstances we will take into account the period of time that has passed since the representations were made, but the underlying requirement is that we should not review the licence on the basis of the same arguments considered on the grant of the premises licence.

PART C

20. Unlicensed Family Entertainment Centre gaming machine permits

- 20.1 Family entertainment centres (FECs) will perhaps be most commonly located at seaside resorts, in airports and at motorway service centres, and will cater for families, including unaccompanied children and young persons.

- 20.2 Unlicensed FECs will be able to offer only category D machines in reliance on a gaming machine permit. Any number of category D machines can be made available with such a permit. Permits cannot be issued to vessels or vehicles.
- 20.3 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 as required by Section 238.
- 20.4 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 FEC and, if the applicant is an individual, he must be aged 18 or over. Applications for a permit cannot be made if a premises licence is in effect for the same premises.
- 20.5 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.
- 20.6 The Gambling Commission's Guidance for local authorities also states: "In their three year licensing policy statement, licensing authorities should 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."
- 20.7 The Guidance also states: "...An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application....Licensing authorities may also consider asking applications to demonstrate:
- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
 - that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and
 - that employees are trained to have a full understanding of the maximum stakes and prizes. (24.7)
- 20.8 We note that a licensing authority can grant or refuse a licence but cannot attach conditions to this type of permit.
- 20.9 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.
- 20.10 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

21. (Alcohol) Licensed premises gaming machine permits

- 21.1 There is provision in the Act for premises licensed under the Licensing Act 2003 for the sale of alcohol for consumption on the premises, that have a bar at which alcohol is served, without a requirement that alcohol is only served with food to automatically have 2 gaming machines, of categories C and/or D. Licence holders merely need to notify the licensing authority.
- 21.2 The licensing authority can remove the automatic authorisation in respect of any particular premises if:
- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
 - gaming has taken place on the premises that breaches a condition of section 282 of the 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.
- 21.3 If a premises licence holder wishes to have more than 2 machines, then they need 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 under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*”
- 21.4 This licensing authority considers that “such matters” will be decided on a case by case individual basis, but generally there will be regard to the need to protect children and vulnerable persons from being harmed or exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under18 year olds do not have access to the adult-only gaming machines.
- 21.5 Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage on the machines or in the premises may also be help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.
- 21.6 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would normally need to be applied for, and dealt with, as an Adult Gaming Centre premises licence.
- 21.7 It should be noted that we as 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 to a permit.

21.8 It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

22. Prize Gaming Permits

22.1 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”.

22.2 This licensing authority has prepared a Statement of Principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:

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

22.3 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.

22.4 It should be noted that there are conditions in the Gambling Act 2005 with which the permit holder must comply, but that the licensing authority cannot attach conditions. The conditions in the Act are :

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

23 Club Gaming and Club Machines Permits

23.1 Bona Fide Members Clubs and Miners’ welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines permit.

- 23.2 The Club Gaming Permit will enable the premises to provide 3 gaming machines of categories B, C or D, equal chance gaming and games of chance.
- 23.3 The Act 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 restricted to bridge and whist.
- 23.4 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."
- 23.5 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.
- 23.6 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).
- 23.7 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 grounds 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."

23.8 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.

24. Temporary Use Notices

- 24.1 Part 9 of the Act sets out the position in relation to temporary use notices. These allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a temporary use notice would include hotels, conference centres, and sporting venues.
- 24.2 Regulations state that the only activities permitted under a TUN are the provision of facilities for any form of equal chance gaming where those participating in the gaming are taking part in a competition which is intended to produce a single, overall winner (this does not include providing such facilities in circumstances where any person participating in the gaming does so by means of a gaming machine).
- 24.3 In relation to premises we will apply the Gambling Commission Guidance which states:
- “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. A large exhibition centre, for example, would be likely to come within the definition as it is properly one premises, and should not be granted a temporary use notice for 21 days in respect of each of its exhibition halls. But in relation to other covered areas, such as shopping centres, the licensing authority will need to consider whether different units are in fact different “sets of premises”, given that they may be occupied and controlled by different people. 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.”

25. Occasional Use Notices:

- 25.1 We have 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, however, consider the definition of a ‘track’ and whether the applicant is permitted to avail him/herself of the notice. Provided that the Notice will not result in betting facilities being available for more than eight days in a calendar year, there is no provision for counter-notices or objections to be submitted.

APPENDIX A

SCHEDULE OF CONSULTEES TO THIS DRAFT POLICY STATEMENT

- All Elected Councillors, Burnley Borough Council

- The Head of Planning and Environment, Burnley Borough Council
- The Head of Legal Services, Burnley Borough Council
- The Environment and Licensing Manager, Burnley Borough Council
- The Gambling Commission Headquarters Policy Section
- The Gambling Commission Regional Inspector for Lancashire and Cumbria
- The Chief Constable, Lancashire Constabulary
- Lancashire Fire and Rescue Service Authority
- Lancashire Area Child Protection Committee, Lancashire County Council
Social Services Section
- H.M. Revenue & Customs
- Blackburn and Darwen Council
- Hyndburn Borough Council
- Ribble Valley Borough Council
- Rossendale Borough Council
- Pendle Borough Council
- Calderdale Borough Council
- The British Casino Association
- Casino Operators' Association of the UK
- Business In Sport & Leisure
- Racecourse Association Limited
- British Amusement Catering Trade Association
- British Holiday & Home Parks Association
- Community Trade Union
- Association of British Bookmakers
- All persons who hold Betting Office and Bookmakers Permits in Burnley
- All persons who hold Bingo Licences or Bingo Certificates in Burnley
- Representatives of persons who hold Society Lottery Registrations in Burnley
- All persons who hold Amusement Arcade Permits in Burnley

- Clubs and Institute Union
- Gaming Machine Suppliers who regularly apply for Gaming Permits in Burnley
- Society of Independent Brewers
- Representatives of Premises Licence Holders in Burnley
- Representatives of Club Premises Certificate holders in Burnley
- Lancashire County Council Trading Standards
- GamCare
- Responsibility in Gambling Trust
- Gam – Anon
- Residents Associations and Tenant Groups.

APPENDIX B

SCHEDULE OF RESPONSIBLE AUTHORITIES GAMBLING ACT 2005

1. Burnley Borough Council Licensing Authority
First Floor Parker Lane Offices, Parker Lane, Burnley, BB11 2DT
2. The Gambling Commission, Victoria Square House, Victoria Square
Birmingham, B2 4BP
3. The Chief Constable, Lancashire Constabulary C/O Divisional Licensing
Unit, Burnley Police Station, Parker Lane, Burnley, BB11 2BT
4. Lancashire Fire and Rescue Authority C/O Fire Safety Department,
Burnley Community Fire Station, Ormerod Road, Burnley, BB10 3AA
5. Burnley Borough Council Planning Services, Parker Lane, Burnley, BB11
2DT
6. Burnley Borough Council Environmental Protection, Parker Lane,
Burnley, BB11 2DT
7. Lancashire Safeguarding Children Board, Room B52, PO Box 61,
County Hall, Preston, PR1 8RJ
8. H.M. Revenue and Customs, National Registration Unit (Betting &
Gaming) Portcullis House, 21 India Street, Glasgow, G2 4PZ

APPENDIX C

SUMMARY OF THE DELEGATION OF POWERS UNDER THE GAMBLING ACT 2005

All to licensing committee except these to officers:

To undertake the following functions in relation to the Gambling Act 2005:

- To determine applications for premises licences where no representations received or representation have been withdrawn
- To determine applications for a variation to a licence where no representations received or representations have been withdrawn
- To determine applications for the transfer of licences where no representations have been received from the Commission or responsible authority
- To determine applications for provisional statements where no representations received or representation have been withdrawn
- To determine applications for club gaming/club machine permits where no representations have been made
- To determine applications for other permits
- To determine the cancellation of licensed premises gaming machine permits
- To determine requests for temporary use notices