ARGYLL & BUTE LICENSING BOARD POLICY STATEMENT
Gambling Act 2005
Published 2022

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FOREWORD

This Policy Statement is published by the Argyll and Bute Licensing Board as required in terms of the Gambling Act 2005.

Consultation on the draft Policy Statement took place during the period from 8 September to 17 October 2022.

A report providing details of comments received from consultees was considered at the meeting of the Argyll and Bute Licensing Board which was held on 8th November 2022.

The Policy Statement will be in force for a period of three years. It will be kept under review and revised if appropriate during the three year period.

PART A

1.The Licensing Objectives

In exercising most of their functions under the Gambling Act 2005 ("The Act"), licensing authorities must have regard to the Licensing Objectives as set out in Section 1 of the Act. The Licensing Objectives are:

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

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

This Licensing Authority is aware that, as per Section 153 of the Act, in making decisions about Premises Licences and Temporary Use Notices 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 Licensing Policy

2. Introduction

Argyll and Bute Licensing Board is the Licensing Authority for Argyll and Bute in terms of the Act. The Board area covers the same territory as the Argyll and Bute Council area. This area is shown in the map attached to this Policy in Appendix 2.

The authority to exercise certain functions in respect of some matters under the 2005 Act has been delegated to the Clerk/Depute Clerk or the Chair/Vice-Chair of the Licensing Board. The Board's Scheme of Delegation is attached at Appendix 3 and can also be accessed on Argyll and Bute Council's website, accessible from the 'Law and Licensing section'.

Licensing Authorities are required by the Act to publish a Policy Statement setting out the principles which they propose to apply when exercising their functions. This Statement must be published at least every three years. The Statement may also be reviewed from "time to time" and amended parts re-consulted upon. (N.B. if amendments are made, the whole Policy is not re-opened to consultation, only the amendments). The Statement must be then re-published and re-advertised in the same way as new statement.

The Argyll and Bute Licensing Board consulted a variety of persons upon this Statement before finalising and publishing. A list of those persons consulted is provided in appendix 1. A copy of the proposed amended policy was also available on the Council's website. It should be noted that where unsolicited comments were received from other persons we have not listed all of these.

The Act requires that the following parties are consulted by Licensing Authorities:

- The Chief Constable;
- One or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area;

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

A list of persons this Authority consulted is shown on appendix 1 to this policy and they were consulted by either email or by letter:

Should you have any comments as regards this Policy Statement please send them via e-mail or letter to the following contact:
Name: Clerk to the Licensing Board
Address: Argyll and Bute Licensing Board, Kilmory, Lochgilphead, PA31 8RT
E-mail: licensing@argyll-bute.gov.uk

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

3. Declaration

In producing the final Statement, 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.

4. Responsible Authorities

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.

In accordance with the suggestion in the Gambling Commission's Guidance for Local Authorities, this authority designates the Local Child Protection Committee for this purpose.

The contact details of all the Responsible Authorities under the Act are as follows:

The Gambling Commission:
Victoria Square House
Victoria Square
Birmingham B2 4BP
Tel: 0121 230 6666
Fax: 0121 233 1096
info@gamblingcommission.gov.uk

H M Revenue & Customs
Excise Processing Teams
BX9 1GL
United Kingdom
Tel: 0300 322 7072 Option 7.
Email: NRUbetting&gaming@hmrc.gsi.gov.uk

Police Scotland
Chief Constable
2 Clyde Gateway
French Street
Glasgow
G40 4EH

Fire and Rescue
Scottish Fire and Rescue Service
Bothwell Road
Hamilton
Lanarkshire
ML3 0EA
Tel: 01698 300999
Fax: 01698 338444

The Planning Authority
Development & Economic Growth
Department of Development and Infrastructure Services
Argyll and Bute Council
Kilmory
Lochgilphead, PA31
Phone: 01546 604172

Building Standards Authority
Planning & Regulatory Services
Argyll and Bute Council
Kilmory
Lochgilphead, PA31
Phone: 01436 658872

Environment Authority (usually Environmental Health)
Planning & Regulatory Services
Environmental Health
Argyll and Bute Council
Kilmory
Lochgilphead, PA31 8RT
Phone: 01546 604292

An authority for the protection of children (usually Children's Services)
Community Services
Head of Children & Families
Argyll and Bute Council
Kilmory
Lochgilphead, PA31 8RT
Phone.: 01546 604256

5. Interested parties

Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Act as follows:
"For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, the person-

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

The Licensing Authority is required 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:

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 for Licensing Authorities at 8.9 and 8.17 It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

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 Licensing Authorities 8.9-8.11. 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.

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 represent the ward likely to be affected. 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 Board dealing with the licence application. If there are any doubts then please contact the Licensing Department on 01546 604338.

6. Exchange of Information

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

The principle that this Licensing Authority applies is that it will act in accordance with the provisions of the Act 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 Licensing Authorities on this matter, as well as any relevant regulations issued by the Secretary of State and the Scottish Ministers under the powers provided in the Act.

Should any protocols be established as regards information exchange with other bodies then they will be made available.

7. Enforcement

In general, the Gambling Commission will take the lead in the investigation and, where necessary, prosecution of illegal gambling.

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

This Licensing Authority's principles are that:

It will be guided by the Gambling Commission's Guidance for Licensing Authorities and will endeavour to be:

- Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
- Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
- Consistent: rules and standards must be joined up and implemented fairly;
- Transparent: regulators should be open, and keep regulations simple and user friendly; and
- Targeted: regulation should be focused on the problem, and minimise side effects.

As per the Gambling Commission's Guidance for Local Authorities, this Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

This Licensing Authority will adopt and implement a risk-based inspection programme based on:-

- The Licensing Objectives
- Relevant Codes of Practice
- Guidance issued by the Gambling Commission, in particular at Part 36
- The principles set out in this Statement of Licensing Policy

This may include test purchasing activities to measure the compliance of licensed operators with aspects of the Gambling Act. When undertaking test purchasing activities, this Licensing Authority will undertake to liaise with the Gambling Commission and the operator to determine what other, if any, test purchasing schemes may already be in place. Irrespective of the actions of an operator on their overall estate, test purchasing may be deemed to be an appropriate course of action.

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. The Gambling Commission will be the enforcement body for the Operating and Personal Licences. It is also worth noting that 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. This Authority also understands that the Gambling Commission will be responsible for compliance as regards unlicensed premises.

For the purposes of s.304 of the Act, the licensing board in its role as licensing authority has resolved to delegate the designation of local authority officers as authorised persons to the clerk to the licensing board, such local authority officers being designated as required.

The Licensing Authority will continue to investigate complaints and conduct proactive enforcement activities to ensure that conditions attached to licences are complied with, and that unlicensed activity is dealt with as appropriate.

The Licensing Authority will exercise its powers under the Act to instigate criminal proceedings where circumstances require.

This Licensing Authority also keeps itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

Bearing in mind the principle of transparency, this Licensing Authority's enforcement/compliance protocols/written agreements will be available upon request to the Licensing Department, Kilmory, Lochgilphead, PA31 8RT Requests may also be made via e-mail at licensing@argyll-bute.gov.uk

8. Licensing Authority functions

Licensing Authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing *Premises Licences*
- Issue *Provisional Statements*
- Regulate *members' clubs* and *miners' welfare institutes* who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue *Club Machine Permits* to *Commercial Clubs*
- Grant permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*
- Receive notifications from alcohol licensed premises (under the Licensing (Scotland) Act 2005) for 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 premises licensed, under the Licensing (Scotland) Act 2005, 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 local Licensing Authorities will not be involved in licensing remote gambling at all. This will fall to the Gambling Commission via Operator Licences.

The Gambling Commission can be contacted at:

Gambling Commission
Victoria Square House
Victoria Square
Birmingham
B2 4BP

PART B
PREMISES LICENCES

1. General Principles

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 Scottish Ministers. In most cases licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

(i) Decision-Making

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 Licensing Policy.

It is appreciated that as per the Gambling Commission's Guidance for Licensing Authorities "moral objections to gambling are not a valid reason to reject applications for Premises Licences" (except as regards any 'no casino resolution' - see section on Casinos below) and also that in terms of Section 153(2) of the Act, in determining whether to grant a Premises Licence a Licensing Authority may not have regard to the expected demand for the facilities which it is proposed to provide.

This Licensing Authority also notes Gambling Commission guidance on ensuring that betting is the primary activity of a licensed premises. Gaming machines may be made available for use in licensed betting premises only at times when there are also sufficient facilities for betting available. Operators will need to demonstrate that betting will continue to be the primary activity of the premise when seeking variations to licenses.

In making this determination, this Licensing Authority will have regard to the six indicators of betting as a primary gambling activity.

- The offer of established core products (including live event pictures and bet range)
- The provision of information on products and events
- The promotion of gambling opportunities and products
- The actual use made of betting facilities
- The size of premises
- The delivery of betting facilities

(ii) Definition of "available for use"

Licensed premises are restricted by the 2005 Act to make "available for use" a number of gaming machines operating at each category from A-E. The Act does not provide a definition for gaming machines made "available for use" however the Gambling Commission states in its Guidance to Licensing Authorities at paragraph 16.17 that it considers "available for use" to mean "if a person can take steps to play it without the assistance of the operator".

The maximum number of machines permitted, and in the case of casinos the ratios between tables and machines, is set out by premises type in Appendix A of the 2005 Act. In calculating the number of gaming

machines made "available for use" on each licensed premises, the Licensing Authority considers the category they are operating on, as instructed in the Gambling Commission Guidance at paragraph 16.19 which states that:

"A machine that can operate at more than one category, which is operating at a lower category, does not contribute to the number of machines "available for use" at a higher category until it switches to that category. Licensees must ensure no more than the permitted number are available for use" at any one time.

The Gambling Commission Guidance also provides a specific note on calculating Category B gaming machine entitlement on gambling premises at paragraph 16.23 which states that such gaming macines "should only be counted if they can be played simultaneously by different players without physical hindrance".

The Licensing Authority will observe the aforementioned factors when deciding whether licensed gambling premises have met the statutory restrictions on maintaining gaming machines. Importantly, however, the onus is on licensees to demonstrate that no more than the permitted number are "available for use" at any one time".

(iii) 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. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. Whether different parts of a building can properly be regarded as being separate premises will always be a question of fact in the circumstances, and each application is taken on its own merits. The Licensing Authority will require to pay particular attention to issues about sub-division of a single building or plot in order to ensure that mandatory conditions relating to access between premises are observed.

The Gambling Commission states in its third edition of its Guidance to Licensing Authorities that "In most cases the expectation is that a single building/plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate Premises Licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises."

This Licensing Authority takes particular note of the Gambling Commission's Guidance to Licensing Authorities at paragraph 7.18 which states that: *"Licensing Authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non gambling) purposes. In particular, they should be aware of the following:*

- *The third Licensing Objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are*

not invited to participate in, have accidental access to or closely observe gaming 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 the separation of different premises is not compromised and people do not "drift" into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.*

- *Customers should be able to participate in the activities named on the Premises Licence."*

The Guidance also gives a list of factors which the Licensing Authority should be aware of, which may include:

- Do the premises have a separate registration for business rates?
- Is the premises' neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from another gambling premises?

This Authority will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

The Gambling Commission's relevant access provisions for each premises type are reproduced below:

Casinos

- The principal access entrance to the premises must be from a street (as defined at paragraph 7.21 of the Gambling Commission's Guidance.)
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons.
- No person must be able to enter a casino directly from any other premises which hold a gambling premises licence.

Adult Gaming Centre

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

Betting Shops

- Access must be from a street (as defined at paragraph 7.21 of the Gambling Commission's Guidance) or from another premises with a betting premises Licence.
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect, there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would require to be licensed.

Tracks

- No customer should be able to access the premises directly from:

(i) a casino
(ii) an adult gaming centre

Bingo Premises

- No customer must be able to access the premises directly from;

(i) a casino
(ii) an adult gaming centre
(iii) a betting premises, other than a track

Family Entertainment Centre

- No customer must be able to access the premises directly from;

(i) a casino
(ii) an adult gaming centre
(iii) a betting premises, other than a track

Part 7 of the Gambling Commission's Guidance to Licensing Authorities contains further guidance on this issue, which this Authority will also take into account in its decision-making.

Premises "ready for gambling"

The Gambling Commission's Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the Licensing Authority are satisfied will be ready to be used for gambling in the reasonably near future, considering the scale of the building works or alterations required before the premises are brought into use.

If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a **Provisional Statement** should be made instead.

In deciding whether a Premises Licence can be granted where there are outstanding construction or alteration works at a premises, this Authority will determine applications on their merits, applying a two stage consideration process:

- First, whether the premises ought to be permitted to be used for gambling.
- Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.
- As per the Gambling Commissions Guidance

Applicants should note that this Authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.56-7.65 of the Guidance.

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. This Licensing Authority will consider very carefully whether applications for Premises Licences in respect of certain gambling premises located very close to a school, a centre for gambling addicts, a vulnerable adult centre or to a residential area where there may be a high concentration of families with children should be granted in light of the third Licensing Objective. Should any further specific policy be decided upon as regards areas where gambling premises should not be located, this Statement will be updated. It should be noted that any such policy does not preclude any application being made and will depend to a large extent on the type of gambling that it is proposed will be offered on the premises and that each application will be decided on its merits, with the onus being placed upon the applicant to show how Licensing Objective concerns can be overcome.

Local risk assessments – from 6 April 2016, it is a requirement of the Gambling Commission's Licence Conditions and Codes of Practice (LCCP), under Section 10, for licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at their premises and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in this policy.
The LCCP goes on to say licensees must review (and update as necessary) their local risk assessments:

a. to take account of significant changes in local circumstance, including those identified in this policy;
b. when there are significant changes at a licensee's premises that may affect their mitigation of local risks;
c. when applying for a variation of a premises licence; and
d. in any case, under a local risk assessment when applying for a new premises licence.

The Licensing Authority will expect the local risk assessment to consider as a minimum:

- whether the premises is in an area of deprivation
- whether the premises is in an area subject to high levels of crime and/or disorder
- the demographics of the area in relation to vulnerable groups
- the location of services for children such as schools, playgrounds, toy shops, leisure centres, other areas where children will gather and children's walking routes to these.

In any case the local risk assessment should show how vulnerable people, including people with gambling dependencies, are protected.

The risk assessment should also include details of the following:

- The training of staff in brief intervention when customers show signs of excessive gambling, the ability of staff to offer brief intervention and how the manning of premises affects this.
- Details as to the location and coverage of working CCTV cameras, and how the system will be monitored.
- The layout of the premises so that staff have an unobstructed view of persons using the premises.
- The number of staff who will be available on the premises at any one time. If at any time that number is one, the assessment should confirm the supervisory and monitoring arrangements when that person is absent from the licensed area or distracted from supervising the premises and observing those persons using the premises.

- Arrangements for monitoring and dealing with under age persons and vulnerable persons, which may include dedicated and trained personnel, leaflets, posters, self-exclusion schemes, window displays and advertisements not to entice passers-by etc.
- The provision of signage and documents relating to games rules, gambling care providers and other relevant information, provided in both English and the other prominent first language for that locality.
- Where the application is for a betting premises licence other than in respect of a track, the location and extent of any part of the premises which will be used to provide facilities for gambling in reliance on the licence.

Such information may be used to inform the decision the Licensing Authority makes about whether to grant the licence, to grant the licence with special conditions or to refuse the application.

This policy does not preclude any application being made and each application will be decided on its merits, with the onus being upon the applicant to show how the concerns can be overcome.

Licence holders will be expected to hold their premises risk assessments on the premises and share them with the Licensing Authority on request.

Planning and Building Standards

The Gambling Commission Guidance to Licensing Authorities states in:
Paragraph 7.58 "In determining applications, the Licensing Authority should not take into consideration matters which are not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal."

This Authority will not take into account irrelevant matters as per the above Guidance. In addition, this Authority notes the following excerpt from the Guidance:
Paragraph 7.65 *"When dealing with a Premises Licence application for finished buildings, the Licensing Authority should not take into account whether those buildings have to comply with the necessary planning or buildings consents nor should fire or health and safety risks be taken into account."* Those matters should be dealt with under the relevant planning control and building regulation powers, and not form part of the consideration for the Premises Licence. *"Section 210 of the Act prevents Licensing Authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally, the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under law relating to planning or building."*

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 premises which are the subject of a

licence application are likely to be awarded planning permission or building consent, in its consideration of the licence application. However, this Authority will listen to, and consider carefully, any concerns about conditions which licensees are not able to meet due to planning restrictions, should such a situation arise.

When dealing with a Premises Licence application for finished buildings, this Authority cannot take into account whether those buildings have to comply with the necessary planning or building consents. Fire or health and safety risks cannot be taken into account, as these matters are dealt with under relevant planning control, building and other regulations and must not form part of the consideration for the premises licence.

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 Licensing Authorities and some comments are made below.

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

The Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that Licensing Authorities should pay attention to the proposed location of gambling premises in the context 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 and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see or hear it, so as to assess whether nuisance or disorder has taken place. In terms of the Guidance to Licensing Authorities, paragraph 5.5 states that *"…disorder is intended to mean activity that is more serious and disruptive than mere nuisance."* Issues of nuisance cannot be addressed via the Gambling Act provisions.

Ensuring that gambling is conducted in a fair and open way
This Licensing Authority has noted that the Gambling Commission in its Guidance for Licensing 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. (However, if Licensing Authorities suspect that gambling is not being conducted in a fair and open way, this should be brought to the attention of the Commission so that it can consider the continuing suitability of the operator to hold an Operating Licence or of an individual, to hold a personal licence.)"*

This Licensing Authority also notes, however, that the Gambling Commission also states *"in relation 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."* Further information on tracks is contained in section 7 below.

Protecting children and other vulnerable persons from being harmed or exploited by gambling
This Licensing Authority has noted the Gambling Commission's Guidance for Licensing Authorities states that *"The Objective refers of protecting children from being "harmed or exploited by gambling". That means preventing them from taking part in gambling…."* (as well as restrictions on 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. Licence holders are reminded that they must comply with Part 3.2 of the LCCP relating to the access to gambling by children and young persons.

This Licensing Authority will pay particular attention to any Codes of Practice which the Gambling Commission issues as regards this Licensing Objective in relation to specific premises such as casinos. It is understood that a Code for casinos must:

- specify steps that the Premises Licence holder must take to ensure that children and young persons (that is those under the age of 18) do not enter casino premises, or in the case of the regional casino, do not enter the gambling area;
- amongst those specified steps, ensure that each entrance to the casino or gambling area is supervised by at least one person ("the supervisor") who is responsible for compliance with the Code of Practice; and
- require that, unless the supervisor is certain that a person seeking admittance is an adult, evidence of age must be required of all those seeking to enter the casino or gambling area.

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 gambling beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental health needs, learning disability or substance misuse relating to, alcohol or drugs."* This Licensing Authority will consider this Licensing Objective on a case by case basis. Should a practical definition prove possible in future then this policy statement will be updated with it, by way of a revision.

To achieve the licensing objective of "protecting children and other vulnerable persons from being harmed or exploited by gambling", the Licensing Authority expects all gambling licensed premises and premises with gambling permits to have policies in place to help safeguard children and vulnerable adults.

Conditions

Any conditions attached to licences will be proportionate and will be:

- relevant to the need to make the proposed building suitable as a gambling facility;
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects.

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures 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.

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.

This Authority will also ensure that where category C or above machines (which may only be used by persons over the age of 18 years) 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.

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.

It is noted that there are conditions which the licensing authority cannot attach to Premises Licences which are:
- any condition on the Premises Licence which makes it impossible to comply with an Operating Licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Act 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.

Door Supervisors

The Gambling Commission advises in its Guidance to Licensing Authorities that if a Licensing Authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a premises licence condition to this effect.

Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether those carrying out such duties will require to be licensed under the Private Security Industry Act 2001 will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different premises vary (as per the Gambling Commission's Guidance, Part 33.)

It should be noted that the above paragraphs relate to door supervisors only in relation to Premises Licences granted under the Gambling Act 2005. Where a Premises Licence has also been granted under the Licensing (Scotland) Act 2005, in relation to the same premises, there may also be conditions on that licence which relate to door supervisors. The Premises Licence holder under the Licensing (Scotland) Act 2005, should ensure compliance with those conditions.

2. Adult Gaming Centres

This Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the Authority that there will be sufficient measures to meet the Licensing Objectives (for example, ensure that under 18 year olds do not have access to the premises). Appropriate licence conditions may cover issues such as:

- Proof of age schemes
- CCTV
- Door supervisors
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare, Gamblers Anonymous Scotland & other support organisations.

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

As regards the protection of vulnerable persons, this Licensing Authority will consider measures such as the use of self-barring schemes, provision of information leaflets / helpline numbers for organisations such as GamCare, Gamblers Anonymous Scotland & other support organisations.

3. (Licensed) Family Entertainment Centres:

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

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:

- Proof of age schemes
- CCTV
- Door supervisors
- 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 organisations such as GamCare.
- Measures / training for staff on how to deal with suspected truant school children on the premises

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

As regards the protection of vulnerable persons, this Authority will consider measures such as the use of self-barring schemes, provision of information leaflets / helpline numbers for organisations such as GamCare, Gamblers Anonymous Scotland & other support organisations.

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.

4. Casinos

No Casinos resolution

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. Should this Licensing Authority decide in the future to pass such a resolution, it will update this Policy Statement with details of that resolution. Any such decision will be made by the Licensing Board.

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. where such regulations have been made under Section 175 of the Act) there are likely to be a number of operators which will want to run the casino.

In such situations the Licensing Authority will run a 'competition' under Schedule 9 of the Gambling Act 2005. This Licensing Authority will run such a competition in line with the Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008, as well as following the procedure set out in Part 17 of the Gambling Commission's Guidance.

Licence considerations / conditions - This Licensing Authority will attach conditions to casino Premises Licences according to the principles set out in the Gambling Commission's Guidance at Part 9, bearing in mind the mandatory conditions listed in Part 17 of the Guidance and the Licence Conditions and Codes of Practice published by the Gambling Commission.

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

This Licensing Authority notes that the Gambling Commission's Guidance states:

"Licensing Authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This is a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded premises.

This authority also notes that from 13 July 2011 a holder of a bingo premises licence may make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises. A licence variation must be applied for if operators wish to take

advantage of this change to the legislation.

This Authority also notes the Gambling Commission's Guidance at paragraph 18.9 regarding the unusual circumstances in that an existing bingo premises covered by one premises licence applies to vary the licence and acquire additional bingo premises licences (so that the area that was the subject of a single licence will becomes divided between a number of separate licensed premises) it is not permissible for all of the gaming machines to which each of the licences brings an entitlement to be grouped together within one of the licensed premises.

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 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 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.

6. Betting premises

Betting machines

It is noted that the Gambling Commission's Guidance for Licensing Authorities states: "Section 181 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). When considering whether to impose a condition to restrict the number of SBBTs in particular premises, the Licensing Authority, amongst other things, the ability of employees to monitor the use of the machines by children and young persons or by vulnerable people".

7. Tracks

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.

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.

This Licensing Authority may consider measures to meet the Licensing Objectives such as:-

- Proof of age schemes
- CCTV
- Door supervisors
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- The location of gaming machines

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

As regards the protection of vulnerable persons, this licensing authority will consider measures such as the use of self-barring schemes, provision of information leaflets / helpline numbers for organisations such as GamCare.

Gaming machines Where the applicant holds a pool betting operating licence and is going to use his entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.

Betting machines This Licensing Authority will, as per Part 16 of 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 proposes to offer.

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. 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".

Application and Plans

Section 151 of the Gambling Act, requires applicants to submit plans of the premises with their application, in order to ensure that the Licensing Authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the Licensing Authority to plan future premises inspection activity. (See the Gambling Commission's Guidance, paragraph 20.43.

Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations. (See the Gambling Commission's Guidance, paragraph 20.44.

Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises.

In the rare cases where the outer parameter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases, betting facilities

may be better provided through Occasional Use Notices where the boundary premises do not need to be defined. (See the Gambling Commission's Guidance, Part 15.

This Authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information so that this Authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the "five times rule" (commonly known as betting rings) must be included on the plan. (See the Gambling Commission's Guidance, paragraph 20.46.

8. Travelling Fairs

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.

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

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 and not in any 12 month period as per 30.5. 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

Developers may wish to apply to this Authority for Provisional Statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a Premises Licence. There is no need for the applicant to hold an Operating Licence in order to apply for a Provisional Statement.

Section 204 of the Gambling Act, provides for a person to make an application to the Licensing Authority for a Provisional Statement in respect of premises that he or she:

- Expects to be constructed;
- Expects to be altered, or
- Expects to acquire a right to occupy.

The process for considering an application for a Provisional Statement is the same as that for a Premises Licence application. The applicant is obliged to give notice of the application in the same way as applying for a Premises Licence. Responsible authorities and interested parties may make representations and there are rights of appeal.

The Gambling Act (Premises Licences and Provisional Statements) (Scotland) Regulations 2007, prescribe the form in which Provisional Statement applications should be made.

In contrast to the Premises Licence application, the applicant does not have to hold or have applied for an Operating Licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

The holder of a Provisional Statement may then apply for a Premises Licence once the premises are constructed, altered or acquired. The Licensing Authority will be constrained in the matters it can consider when determining the Premises Licence application, and in terms of representations about Premises Licence applications that follow the grant of a Provisional Statement, no further representations from relevant authorities or interested parties can be taken in to account unless:

- They concern matters which could not have been addressed at the Provisional Statement stage, or
- They reflect a change in the applicant's circumstances.

In addition, the Authority may refuse the Premises Licence (or grant it on terms different to those attached to the Provisional Statement) only by reference to matters:

- Which could not have been raised by representations at the Provisional licence stage;
- Which in the Authority's opinion reflect a change in the operator's circumstances; or
- Where the premises has not been constructed in accordance with the plan submitted with the application and information submitted with the provisional statement application. This must be a substantial change to the plan and this Licensing Authority notes that it can discuss any concerns it has with the applicant before making a decision.

10. Reviews

Requests for a review of a Premises Licence can be made by interested parties or responsible authorities. However, it is for the Licensing Authority to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below:

- in accordance with any relevant Code of Practice issued by the Gambling Commission;
- in accordance with any relevant Guidance issued by the Gambling Commission;
- reasonably consistent with the Licensing Objectives; and
- in accordance with the Authority's Statement of Licensing Policy.

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

The Licensing Authority can also initiate a review of a particular Premises Licence, or a particular class of Premises Licence on the basis of any reason which it thinks is appropriate.

Once a valid application for a review has been received by the Licensing Authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the Licensing Authority, who will publish notice of the application within 7 days of receipt.

The Licensing Authority must carry out the review as soon as possible after the 28 day period for making representations has passed.

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

(a) Add, remove or amend a licence condition imposed by the Licensing Authority;

(b) Exclude a default condition imposed by the Secretary of State or Scottish Ministers (e.g. opening hours) or remove or amend such an exclusion;

(c) Suspend the Premises Licence for a period not exceeding three months; and

(d) Revoke the Premises Licence.

In determining what action, if any, should be taken following a review, the Licensing Authority must have regard to the principles set out in Section 153 of the Act, as well as any relevant representations.

Risk assessments – in considering review of premises licences, the Board will have regard to the terms of risk assessments carried out by licence holders, and the extent to which their assessments have identified, and the steps the licence holder will take to mitigate risk.

In particular, the Licensing Authority may also initiate a review of a Premises Licence on the grounds that a Premises Licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

The licensing authority must hold a hearing, unless the applicant and any person who has made representations that have not been withdrawn (that are not vexatious, frivolous or irrelevant) consent to the review being conducted without one.
Once the review has been completed, the Licensing Authority must, as soon as possible, notify its decision to:

- The licence holder
- Any person who made representations
- The applicant for review (if any.)
- The Chief Constable; and
- The Commission
- Her Majesty's Commissioners for Revenue & Customs

PART C
Permits / Temporary & Occasional Use Notice

1. Unlicensed Family Entertainment Centre Gaming Machine Permits (Statement of Principles on Permits - Schedule 10 paragraph 7)

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).

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 Licensing Authorities also states*: ~~"In their three year Licensing Policy Statement, Licensing Authorities may include a Statement of Principles that they propose to apply when exercising their functions in considering applications for permits…., Licensing Authorities will want to give weight to matters relating to child protection issues."~~* ~~24.8.~~

"In their three year Licensing Policy Statement, Licensing Authorities may include a Statement of Principles that they propose to apply when exercising their functions in considering applications for permits…., Licensing Authorities may want to give weight to matters relating to protection of children being harmed or exploited by gambling and to ensure that staff supervision adequately reflects the level of risk to this group" 24.8

The Gambling Commission's 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 Family Entertainment Centre (UFEC), and if the Chief Constable has been consulted on the application …Licensing Authorities might wish to consider asking applicants 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.)
- That employees are trained to have a full understanding of the maximum stakes and prizes." 24.9

It should be noted that a Licensing Authority cannot attach conditions to this type of permit.

A plan for the UFEC must be submitted.

Statement of Principles

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, Disclosure Scotland checks for staff, 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.

With regard to renewals of these permits, a Licensing Authority may refuse an application for renewal of a permit only on the grounds that an authorised Local Authority Officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with pursuit of the Licensing Objectives.

2. (Alcohol) Licensed premises gaming machine permits - (Schedule 13 paragraph 4(1))

There is provision in writing 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 and pay the relevant fee and comply with any relevant Code of Practice issued by the Gambling Commission about the location and operation of he machine is complied with. 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.

Permit: 3 or More Machines

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 and Code of Practice issued by the Gambling Commission, issued under Sections 24 and 25 of the Gambling Act 2005, and "*such matters as they 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 sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be of 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.

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

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, but if minded to do so will give the applicant an opportunity to make representations. Conditions (other than these) cannot be attached.

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

3. Prize Gaming Permits

The Gambling Act 2005, states that a Licensing Authority *may "prepare a Statement of Principles that they propose to apply in exercising their functions under this Schedule"* which *"may, in particular, specify matters that the Licensing Authority propose to consider in determining the suitability of the applicant for a permit".*

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.
- Clear policies that outline the steps to be taken to protect children from harm

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. (Gambling Act 2005, Schedule 14 paragraph 8(3)).

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.

4. Club Gaming Permits and Club Machine Permits

There are two types of club permit available under the 2005 Act - a Club Gaming Permit and a Club Gaming Machine Permit. The Club Gaming Permits allow the provision of no more than 3 gaming machines. These may be from categories B3A, B4, C and D but only one B3A machine can be sited as part of this entitlement, as well as per 25.26 unlimited equal chance gaming and games of chance as set out in the Gambling Act 2005 (Club Gaming Permits) (Authorised Gaming) Regulations 2007, which are pontoon and chemin de fer. The Club Machine permit merely permits the use of up to 3 gaming machines of category B3A, B4 C and D as per 25.32.

There are 3 types of clubs defined in the 2005 Act: Members' Clubs, Commercial Clubs, and Miners' welfare institutes. The Club Machine permit is available for all three, but the Club Gaming permit may only be applied for by Members' Clubs and Miner's Welfare Institutes not commercial clubs. NB Commercial Clubs may not site category B3A gaming machines offering lottery games in their club.

Gambling Commission Guidance for Licensing Authorities states:
that 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 that of a prescribed kind (currently bridge and whist). Members' clubs must be permanent in nature but there is no need for a club to have an alcohol licence." Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations."

The Gambling Commission's Guidance also makes it clear that particular care should be taken when assessing applications for gaming permits which have been used for illegal poker clubs under the guise of members clubs. Experience very strongly indicates that taking care at the application stage in robustly checking the credentials of the applicant will save a great deal of time and effort afterwards as per 25.2.

This Licensing Authority notes that the Gambling Commission's Guidance states that the Licensing Authority has to satisfy itself that the club meets the requirements of the Act to obtain a club gaming permit. In doing so it will take account a number of matters as outlined in sections 25.45-25.47 of the Gambling Commission's Guidance. These include the constitution of the club, the frequency of gaming, and ensuring that there are more than 25 members. The Gambling Commission's Guidance also makes it clear that holders of licensed premises club machine permits are required to comply with the code of practice which has been issued by the commission on the location and operation of machines as per 25.34.

This Licensing Authority is aware 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 (Gambling Commission's Guidance for Local Authorities 25.38

There are statutory conditions on club gaming permits that no child or young person as per 25.22 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

Temporary Use Notices allow the use of premises for gambling where there is no Premises Licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Use Notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.

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

The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this Statement, the relevant regulations (SI no. 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single winner. Equal chance gaming is defined in the 2005 Act as a form of gaming which does not involve a banker, and the chances of winning are equally favourable to all participants. Although most commonly associated with poker, the definition also includes such games as bingo, bridge, dominoes, cribbage amongst others.

There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities. As with "premises," the definition of "a set of premises" will be a question of fact in the particular circumstances

of each Notice that is given. In the Act, "premises" is defined as including "any place." In considering whether a place falls within the definition of a "set of premises," the Licensing Authority needs to look at, amongst other things, the ownership/occupation and control of the premises.

This Licensing Authority will normally object to Notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities in part 14.14

6. Occasional Use Notices:

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 however consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the Notice.

7. Small Society Lotteries

This Licensing Authority will adopt a risk based approach towards its enforcement responsibilities for small society lotteries. This authority considers that the following list, although not exclusive, could affect the risk status of the operator:

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

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

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

Charities and community groups should contact this Licensing Authority at Licensing@argyll-bute.gov.uk to see further advice.

APPENDIX 1

Schedule of Consultees to this Policy Statement

It was sent to all the consultees listed below and will be sent to any other interested part on request. Therefore all responses will be considered and any appropriate adjustments will be made to the statement.

If anyone has any queries please contact the Licensing Department, Legal & Regulatory Services, Argyll and Bute Council, Kilmory, Lochgilphead, PA31 8RT on telephone number : 01546 604338 or by email: licensing@argyll-bute.gov.uk

1. Members of Argyll and Bute Licensing Board
2. Elected Members of Argyll and Bute Council
3. The Gambling Commission, Victoria Square House, Victoria Square, Birmingham, B2 4BP
4. The Chief Constable, Police Scotland, 2 Clyde Gateway, French Street, Glasgow, G40 4EH
5. Scottish Fire & Rescue Service, Bothwell Road, Hamilton, Lanarkshire, ML3 0EA
6. Head of Development & Economic Growth, Department of Development and Infrastructure Services, Argyll and Bute Council, Kilmory, Lochgilphead, PA31 8RT
7. Head of Children & Families, Community Services, Argyll and Bute Council, Kilmory, Lochgilphead, PA31 8RT
8. Argyll and Bute Child Protection Committee, Children & Families Section, Argyll and Bute Council, Kilmory, Lochgilphead, PA31 8RT
9. H M Revenue and Customs, Excise Processing Teams, BX9 1GL, United Kingdom
10. Associated Secretary, The Church of Scotland, 121 George Street, Edinburgh, EH2 4YN
11. The National Casino Forum, Carlyle House, 235-237 Vauxhall Bridge Road, Victoria, London, SW1 1EJ
12. Association of British Bookmakers Limited, 25 Buckingham Palace Road, London, SW1W OPP

SCHEDULE OF RESPONSIBLE AUTHORITIES

GAMBLING ACT 2005

Appendix 2

1. Argyll and Bute Licensing Board

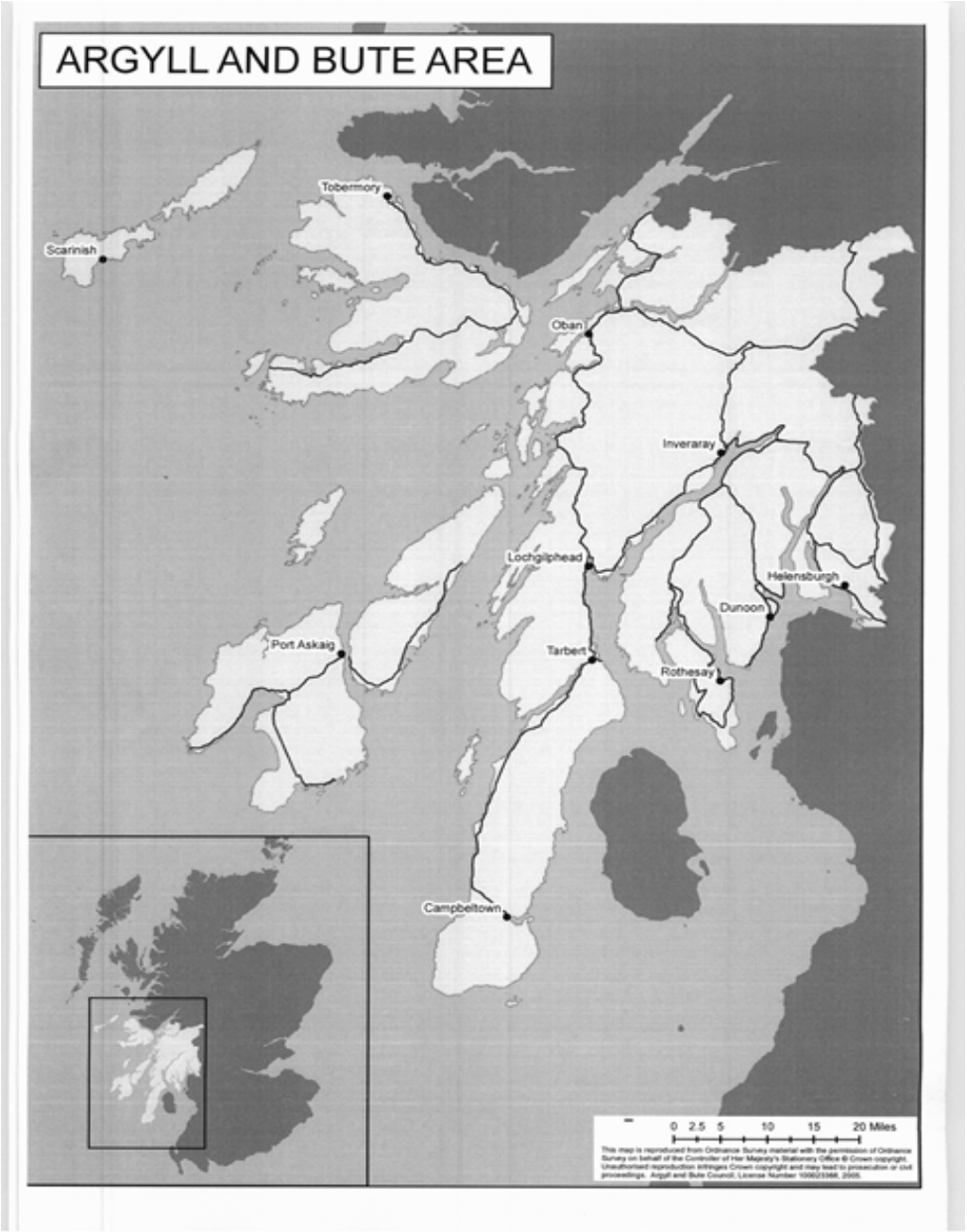
2. The Gambling Commission, Victoria Square House, Victoria Square, Birmingham, B2 4BP

3. The Chief Constable, Police Scotland, 2 Clyde Gateway, French Street, Glasgow,G40 4EH

4. The Chief Fire Officer, Scottish Fire and Rescue, Central Command HQ, 123 Port Dundas Street, Cowcaddans, Glasgow, G4 0ES

5. The Argyll and Bute Child Protection Committee, Children and Families Section, Community Services, Argyll and Bute Council, Kilmory, Lochgilphead, PA31 8RT

6. H M Revenue & Customs, Building 1, Atlantic Square, Glasgow, G2 8JQ


ARGYLL AND BUTE AREA
Tobermory
Scarinish
Oban
Inveraray
Lochgilphead
Helensburgh
Dunoon
Port Askaig
Tarbert
Rothesay
Campbeltown
0 2.5 5 10 15 20 Miles

APPENDIX 3

Argyll and Bute Licensing Board

The Gambling Act 2005

Scheme of Delegation of Powers to Officials

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2.0	Powers delegated under the Gambling Act 2005	3&4

1.0 INTRODUCTION

1.1 This scheme of delegation sets out the powers delegated by Argyll and Bute Licensing Board to the Clerk and any Depute Clerk of the Board under:

- The Gambling Act 2005

1.2 In any particular case where powers are delegated to the Clerk or any Depute Clerk under this scheme of delegation, if it appears to them that it is appropriate for the power to be exercised by the Board itself then they shall be entitled to refer the case to the Board for the exercise of the power.

2.0 POWERS DELEGATED UNDER THE GAMBLING ACT 2005

2.1 The following powers are delegated to and exercisable by the Clerk or any Depute Clerk:-

2.1.1 **Premises Licences**

- Determining an application for the variation of a premises licence where there are no representations.

- Determining an application for transfer of a premises licence where there are no representations and where the application is accompanied by the licensee's consent.

- Determining an application for a copy of a premises licence.

2.1.2 **Temporary Use Notices**

- Giving a counter-notice under section 218(3) – whole period of notice exceeds statutory limit for temporary use notification.

- Giving a counter-notice under section 218(5) – part of period of notice exceeds statutory limit for temporary use notification.

2.1.3 **Family Entertainment Centre Gaming Machine Permits**

- Determining an application for a family entertainment centre gaming machine permit or an application for renewal of such a permit where no representations are made.

- Determining an application for a copy of a permit.

2.1.4 **Club Gaming Permits and Club Machine Permits**

- Determining an application for grant/renewal where no objections are made and no grounds for refusal exist.

- Determining an application to vary a permit (unless it is considered that the Board would refuse an application for the permit were it made anew).

- Cancelling a permit for non payment of the annual fee.

- Determining an application for a copy of a permit.

2.1.5 **Licensed Premises Gaming Machine Permits**

- Determining an application for grant/variation/transfer of a permit where:

  - no objections/representations are made;

  - no grounds for refusal exist; and

  - the permit is to be granted for the same number and categories of gaming machines stated in the application.

- Cancelling a permit for non payment of the annual fee.

- Determining an application for a copy of a permit.

2.1.6 **Prize Gaming Permits**

- Determining an application for a permit/renewal of a permit where no objections/representations are made.

- Determining an application for a copy of a permit.

2.1.7 **Registration of Small Society Lotteries**

- Determining an application for registration where no ground for refusal exists.

- Refusing an application for registration under paragraph 47 of Part 5 of Schedule 11 to the Act.

- Cancelling a registration for non payment of the annual fee.

2.2 All powers under the Gambling Act 2005 other than those set out in paragraphs above shall be exercisable by the Licensing Board. This includes the approval of the Gambling Policy.