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AGENDA

Committee	LICENSING COMMITTEE
Date and Time of Meeting	TUESDAY, 30 NOVEMBER 2021, 10.00 AM
Venue	REMOTE MEETING VIA MS TEAMS
Membership	Councillor Mackie (Chair) Councillors Sattar, Asghar Ali, Bowen-Thomson, Derbyshire, Ford, Goddard, Jacobsen, Kelloway, Lancaster and Wood

1 **Apologies for Absence**

To receive apologies for absence.

2 **Declarations of Interest**

To be made at the start of the agenda item in question, in accordance with the Members' Code of Conduct.

3 **Minutes** (*Pages 3 - 6*)

To approve as a correct record the minutes of the 1 September and 10 September 2020.

4 **Review of Statement of Gambling Act Policy** (*Pages 7 - 64*)

5 **Authorisation of Officers and Delegations** (*Pages 65 - 66*)

6 **Urgent Items (if any)**

7 **Reports**

Davina Fiore
Director Governance & Legal Services
Date: Wednesday, 24 November 2021
Contact: Graham Porter,
02920 873401, g.porter@cardiff.gov.uk

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LICENSING COMMITTEE

1 SEPTEMBER 2020

Present: Councillor Mackie(Chairperson)
Councillors Sattar, Asghar Ali, Derbyshire, Ford and Kelloway

1 : APOLOGIES FOR ABSENCE

Apologies were received from Councillors Goddard, Jacoben and Wood.

2 : DECLARATIONS OF INTEREST

No declarations of interest were received.

3 : MINUTES

The minutes of the meeting held on 3 September 2019 were approved by the Committee as a correct record and were signed by the Chairperson.

4 : REVIEW OF STATEMENT OF LICENSING POLICY

Consideration of this item was adjourned.

5 : URGENT ITEMS (IF ANY)

No urgent items were received.

The meeting terminated at 10.30 am

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LICENSING COMMITTEE

10 SEPTEMBER 2020

Present: Councillor Mackie(Chairperson)
Councillors Sattar, Bowen-Thomson, Derbyshire, Ford,
Goddard, Jacobsen, Dianne Rees and Wood

1 : APOLOGIES FOR ABSENCE

Apologies for absence were received from Cllr Kelloway.

2 : DECLARATIONS OF INTEREST

No declarations of interest were received.

3 : REVIEW OF STATEMENT OF LICENSING POLICY

Under the Licensing Act 2003 each licensing authority must produce a Statement of Licensing Policy (SLP) outlining their approach to licence applications and the processes used to address associated issues. The SLP must be reviewed on a 5-year basis in consultation with a number of stakeholders.

The Policing and Crime Act 2017 introduced 'Cumulative Impact Assessments' (CIAs) into the Licensing Act 2003. Home Office guidance required that CIAs are reviewed every 3 years and therefore it is necessary to review the current SLP and publish a CIA as a separate document.

Members were advised that a public consultation was undertaken between 4 November and 24 December 2019. The SLA and CIA were amended to reflect the views of consultees. The revised policy and the responses to the consultation were appended to the report.

The Committee received representation from Mr Matthew Phipps representing members of the licensing trade. Mr Phipps raised concerns around the principal of the adoption of the policy. Mr Phipps accepted that the representations received during the consultation process were considered at the time at which they were made. However, he did not consider that the policy should be adopted today as the Covid-19 pandemic has profoundly changed the way we live. The consultation exercise was undertaken almost 12 months ago and a significant period has elapsed. The responses provided to the consultation are out of date; the consultation and subsequent dialogue are out of date; and the evidence on which the policy is based is out of date.

Mr Phipps considered that maintaining the status quo in terms of the SLP is not the right approach for the city at this time. The CIA needs to be based on evidence that is current and this is not the position the Committee is being asked to approve. The evidence from South Wales Police related to the period February to November 2018. The City Centre is profoundly different now and the policy needs to reflect that.

Mr Phipps highlighted some of the problems within the hospitality trade in the City Centre as a result of the Covid-19 pandemic. He also made comments regarding the CCTV evidence used to support the CIA.

Mr Phipps suggested that the policy needed a rethink to ensure the vibrancy of the City.

Responding to the comments from a Member of the Committee, the Licensing Manager stated that the Coronavirus Regulations sit outside the Licensing Act regime as a separate function. The issues around Covid-19 stray into public health areas and public health is not one of the licensing objectives. The Licensing Manager suggested that it is necessary to make reference to Covid-19 / Coronavirus in the SLP because those powers and the measures taken are separate. The Coronavirus regulations are 'fast-moving' and change regularly and therefore any reference made to them in the policy would soon be out of date.

The Committee also received representation from Sgt Justin Hardwicke of South Wales Police. Sgt Hardwicke considered that the policy was vital and it would allow the authority to maintain control over the licensing trade in the City Centre.

The Committee debated the report.

RESOLVED – That Committee commend the amended Statement of Licensing Policy to the Council for approval prior to its publication.

4 : URGENT ITEMS (IF ANY)

No urgent items were received.

The meeting terminated at 12.00 pm

Licensing Committee: 30 November 2021

Report of the Head of Shared Regulatory Services

Review of Statement of Gambling Licensing Policy

1. Purpose of Report

- 1.1 To seek approval to renew the Statement of Gambling Licensing Policy under the Gambling Act 2005 following a statutory consultation.

2. Background

- 2.1 Under the Gambling Act 2005 every Licensing Authority has to publish a Statement of Licensing Policy which sets out the principles that it proposes to apply in exercising its functions under the Act. The statement must be determined for a three year period in consultation with:

- The Chief Officer of Police
- One or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area
- One or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's functions under the Gambling Act 2005

- 2.2 A Statement of Gambling Licensing Policy was adopted and published in January 2019. The Gambling Commission has provided guidance to local authorities on what Statements of gambling licensing policies should contain and this has been relied upon in reviewing the existing policy statement.

- 2.3 This report is to request the approval of the Committee of an amended Statement of Gambling Licensing Policy following a review of the policy. A copy of the amended Statement of Gambling Licensing Policy is attached as **Appendix A**.

3. Preparation of the Amended Licensing Policy Statement

- 3.1 Section 349 of the Gambling Act requires a licensing authority to prepare before each successive period of three years, a statement of the principles

that they propose to apply in exercising their functions under the Act during that period.

- 3.2 Under Section 154 of the Act the licensing authority (i.e. the full Council) must approve the policy and may not delegate this to its Licensing Committee.
- 3.3 The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 came into force on 31 March 2006 and set out the requirements on licensing authorities as to the form and publication of the Statement of Gambling Licensing Policy.
- 3.4 Section 25 of the Act requires the Gambling Commission to produce guidance to local authorities on the manner in which they are to exercise their functions under the Act. Licensing Authorities must have regard to this guidance which was last published by the Gambling Commission in September 2015. The guidance has been relied upon extensively in reviewing the Statement of Gambling Licensing Policy.
- 3.5 The responsible authorities and those stakeholders and organisation which are listed in Appendix B of the Draft Policy have been consulted directly on the policy as have all those who hold a licence. A public consultation exercise was carried out requesting views on the existing policy.
- 3.6 The revised Statement of Licensing Policy has been amended to reflect some of the views of the consultees and is attached as **Appendix A**. Details of the comments received during the consultation, along with the Licensing Authorities comments and any amendments made as a result of the consultation exercise are contained in **Appendix B**.

4. Achievability

- 4.1 This report contains no equality personnel or property implications.

5. Legal Implications

- 5.1 Section 349 of the Gambling Act 2005 states:

(1) A Licensing Authority shall before each successive period of three years:

- (a) Prepare a Statement of the Principles that they propose to apply in exercising their functions under this Act during that period, and
- (b) Publish the Statement

- 5.2 Consultation on this matter is prescribed by the Gambling Act 2005 and the

Gambling Act 2005 (Licensing Policy Statement) (England and Wales) Regulations 2006.

5.3 The full Council is required to approve the policy for publication.

6. Financial Implications

6.1 There are no financial implications arising directly from this report.

7. Recommendation

7.1 It is recommended that the Committee endorse the amended Statement of Gambling Licensing Policy and approve it for ratification by the Council.

Dave Holland
HEAD OF SHARED REGULATORY SERVICES

4 November 2021

This report has been prepared in accordance with procedures approved by Corporate Managers.

Background papers: N/A

City of Cardiff Council

Statement of Gambling Act Policy



Shared
Regulatory
Services

Gwasanaethau
Rheoliadol
a Rennir



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This Statement of Licensing Principles was approved by Cardiff Council on DATE

1. The Licensing Objectives

In exercising most of their functions under the Gambling Act 2005, 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, 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

1.1 Introduction

This Statement covers the geographical area of Cardiff.

Cardiff Council is the Licensing Authority under the Gambling Act 2005.

Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they propose to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from "time to time" and any amended parts re-consulted upon. The statement must be then re-published.

Cardiff Council consulted widely upon this statement before finalising and publishing. A list of those persons consulted is provided below. It should be noted that unsolicited comments were received from other persons but we have not listed all of these.

The Gambling Act requires that the following parties are consulted by licensing authorities:

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

- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.

A full list of persons this authority consulted is detailed in Appendix C.

Our consultation took place between ~~insert date~~ and we followed ~~the HM Government Code of Practice on Consultation~~, HM Government Code of Practice on Consultation (published July 2008), ~~which is available at:~~

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www.bis.gov.uk/files/file47158.pdf

The full list of comments made and the consideration by the Council of those comments is available by request to: Licensing ~~Service~~, The Cardiff Council, City Hall, Cardiff, CF10 3ND.

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The policy was approved at a meeting of the Full Council on and was published via our website on ~~insert date~~.

Should you have any comments as regards this policy statement please send them via e-mail or letter to the following contact:

Licensing ~~Service~~
~~The~~ Cardiff Council
City Hall
Cardiff
CF10 3ND
E-mail: licensing@cardiff.gov.uk

It should be noted that this statement of licensing 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.

1.2 Profile of Cardiff

Cardiff is the capital City of Wales and is continuing to grow faster than any other capital city in Europe. In population terms, it is the largest Local Authority in Wales (350,000) but measures of population belies Cardiff's significance as a regional trading and business centre. The population swells by approximately 70,000 daily with commuters and visitors. Its popularity as a shopping and leisure destination extends way beyond Wales with many visitors not only from the rest of the UK but from overseas.



Cardiff is the seat of government and the commercial, financial and administrative centre of Wales. Cardiff boasts one of the most vibrant city centres in the UK and on a typical weekend, Cardiff's night time economy can attract over 40,000 people and sometimes more than 150,000 when the City's Principality Stadium hosts international events.

Cardiff Bay is a world class waterfront development and the Principality Stadium ranks among the world's finest sports stadia hosting major events that demonstrates Cardiff's developing role on the international stage. It's impressive range of cultural, sporting and arts facilities including the National Museum of Wales and the Museum of Welsh Life, St David's Hall, New Theatre, Millennium Centre and new City Stadium, as well as the International Sports Village.

Such developments have led to a vibrancy and dynamism across the City which presents significant challenge to enforcement services wanting to secure the safety of their local population and visitors.

The Council area is mainly urban, with the city centre (Cathays ward) and Cardiff Bay (Butetown Ward) areas being the main commercial districts. In addition there are 26 local/district centres throughout the city. The rest of the area is predominately residential.

The County is divided into 29 electoral wards; these areas are shown in the map of the County in Appendix A.

There are currently around 70 premises in Cardiff licensed under the Gambling Act 2005.

1.3 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 to Licensing Authorities issued by the Gambling Commission, and any responses from those consulted on the statement.

1.4 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 to Licensing Authorities, this authority designates the Local Safeguarding Children Board for this purpose.

The contact details of all the Responsible Authorities under the Gambling Act 2005 are detailed in Appendix B.

1.5 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 Gambling Act 2005 as follows:

"For the purposes of this Part a person is an interested party in relation to an application for or in respect of a Premises Licence if, in the opinion of the Licensing Authority which issues the licence or to which the applications is made, the person

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

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 to Licensing Authorities at 8.11 to 8.18 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, medical practices and Local Health Board.

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

If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the

Licensing Service
Cardiff Council
City Hall
Cardiff
CF10 3ND

Tel: 029 2087 1651

Fax: 029 2087 1816

Licensing@cardiff.gov.uk

1.6 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 the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

Consequently, the Licensing Authority will act in accordance with the provisions of the Gambling Act 2005 in its exchange of ~~information which~~ information that includes the provision that current Data Protection legislation will not be contravened. The Licensing Authority will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

Should any protocols be established as regards information exchange with other bodies then

they will be made available.

The authority may from time to time exercise its' powers under section 115 of the Crime and Disorder Act 1998 to exchange data and information with the police and other partners to fulfil its' statutory objective of reducing crime in the area.

The authority would wish to make its decision making process as transparent as possible and all representations made to it will be shared with all parties to an application. Freedom of information legislation will be complied with.

Please contact the Licensing Service for further information on our protocols.

1.7 Enforcement

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

The Licensing Authority's principles are that it will be guided by the Gambling Commission's Guidance to local authorities, the Regulators Code and the Council's enforcement policy. It 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 to Licensing Authorities this Licensing Authority will endeavour to avoid duplication with other regulatory regimes as far as possible.

This Licensing Authority has adopted and implemented 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

The main enforcement and compliance role for this Licensing Authority in terms of the

Gambling Act 2005 is to ensure compliance with the Premises Licences and other permissions which it authorises. The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the Licensing Authority but should be notified to the Gambling Commission.

The Licensing Authority will take account of the Gambling Commission's guidance document issued in February 2015 (or any subsequent amendments) 'Approach to Test Purchasing' when considering making test purchases at gambling premises. The council will also follow its own policies and procedures regarding the use of underage test purchasers.

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.

1.8 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 Act 2003) for the use of two or fewer gaming machines
- Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- Register small society lotteries below prescribed thresholds
- Issue Prize Gaming Permits
- Receive and Endorse Temporary Use Notices
- Receive Occasional Use Notices
- Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
- Maintain registers of the permits and licences that are issued under these functions

It should be noted that licensing authorities are not to be involved in licensing remote gambling at all, which is regulated by the Gambling Commission via Operating Licences.

The Licensing Authority recognises that the licensing function is only one means of promoting delivery of the three objectives and should not therefore be seen as a means for solving all problems within the community. The Licensing Authority will therefore continue to work in

partnership with neighbouring authorities, South Wales Police, the Community Safety Partnership, local businesses, local people and those involved in child protection to promote the licensing objectives as outlined. In addition, the Licensing Authority recognises its duty under Section 17 of the Crime and Disorder Act 1998, with regard to the prevention of crime and disorder.

1.9 Fundamental Rights

Under the terms of the Act any individual/company may apply for a variety of permissions and have their applications considered on their individual merits. Equally, any Interested Party or Responsible Authority has a right to make relevant representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in the Act.

Applicants and those making relevant representations in respect of applications to the Licensing Authority have a right of appeal to the Magistrates Court against the decisions of the Licensing Authority.

1.10 Integrating Strategies and Avoiding Duplication

By consulting widely prior to this Policy Statement being published, the Licensing Authority will take full account of local policies covering crime prevention, culture, transport, planning and tourism as part of an integrated strategy for the Licensing Authority, Police and other agencies. Many of these strategies may not be directly related to the promotion of the three licensing objectives, but may indirectly impact upon them.

When considering any application, the Licensing Authority will avoid duplication with other regulatory regimes so far as possible. Therefore, the Licensing Authority will not attach conditions to a licence unless they are considered necessary, reasonable and proportionate to the use of premises for gambling consistent with the licensing objectives.

1.11 Sustainable Development Community Strategy

The Local Government Act 2000 requires all local authorities to produce a community strategy within the framework of the UK Sustainable Development Strategy – “A better Quality of Life” and relevant regional strategies.

The Wellbeing and Future Generations (Wales) Act 2015 requires all Welsh local authorities to think about the long-term impact of their decisions, to work better with people, communities and each other, and to prevent persistent problems such as poverty, health inequalities and climate change.

Community strategies provide a focal point for the identification of local issues and

aspirations on social inclusion, environmental protection, employment and economic development.

Local strategic partnerships, typically involving the police, local authorities, local health boards, and representatives from education, business and the voluntary sector organisations, are responsible for the achievement of locally set objectives.

Under the Crime and Disorder Act 1998 local authorities must have regard to the likely effect of the exercise of their functions on, and do all they can to prevent crime and disorder in the area. The Licensing Authority will have particular regard to the likely impact of licensing on related crime and disorder in the County, particularly when considering the location, impact, operation and management of all proposed licence/permit applications, renewals and variations of conditions.

2. Premises Licences Consideration of applications

2.1 General Principles

Premises Licences authorise the provision of gambling facilities on the following:-

- Casino Premises;
- Bingo Premises;
- Betting Premises (including race tracks used by betting intermediaries);
- Adult Gaming Centres (AGCs);
- Family Entertainment Centres (FECs).

Except in the case of Tracks (where the occupier may not be the person offering gambling), Premises Licences will only be granted to those issued with an Operating Licence by the Gambling Commission.

Premises Licences are subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

2.2 Definition of “premises”

In the Act, "premises" is defined as including "any place". Section 152 therefore prevents

more than one Premises Licence applying to any place. But a single building could 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. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

The Gambling Commission states in the fifth 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 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 gambling where they are prohibited from participating.
- Entrances to and exits from parts of a building covered by one or more Premises Licences should be separate and identifiable so that the separation of different premises is not compromised and people do not “drift” into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers should be able to participate in the activity names 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 any other gambling premises?

2.3 Appropriate Licence Environment

The Guidance to Local Authorities and the Licence Conditions and Codes of Practice (LCCP) commencing May 2015, set out additional matters that the Licensing Authority should take into account when considering licence applications for Premises Licences.

The Guidance prescribes restrictions on gambling activities on premises, previously known as primary gambling activity. The Licensing Authority will consider any application based on the provisions in these codes and guidance.

Where gambling facilities are provided at premises as a supplementary activity to the main purpose of the premises; e.g. motorway service areas and shopping malls, the Licensing Authority will expect the gambling area to be clearly defined to ensure that customers are fully aware that they are making a choice to enter into the gambling premises, and that the premises is adequately supervised at all times.

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 7.24 of the Guidance)
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons
- No customer must be able to enter a casino directly from any other premises which holds 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 per para 7.23 Guidance to Licensing Authorities) 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 have to be licensed.

Tracks

- No customer should be able to access the premises directly from:
 - a casino
 - an adult gaming centre

Bingo Premises

- No customer must be able to access the premise directly from:
 - a casino
 - an adult gaming centre
 - a betting premises, other than a track

Family Entertainment Centre

- No customer must be able to access the premises directly from:
 - a casino
 - an adult gaming centre
 - 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.

2.4 Premises "ready for gambling"

The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the Licensing Authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building 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.

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 7.60-7.67 of the Guidance.

2.5 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 are relevant to its decision-making. As per the Gambling Commission's Guidance to Licensing 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, however each application will be decided on its merits

2.6 Planning

The Gambling Commission Guidance to Licensing Authorities states:

7.60 – In determining applications the Licensing Authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those 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:

7.67 - When dealing with a Premises Licence application for finished buildings, the Licensing Authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the Premises Licence. Section 210 of the 2005 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 the law relating to planning or building.

2.7 Duplication with other regulatory regimes

This Licensing Authority seeks to avoid any duplication with other statutory / regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

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

2.8 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 - This Licensing Authority is aware that 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 terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This Licensing Authority is aware of the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction.

Ensuring that gambling is conducted in a fair and open way - This Licensing Authority has noted that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. *For Local Authorities with tracks:* There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section— see page 14).

Protecting children and other vulnerable persons from being harmed or exploited by gambling - This Licensing Authority has noted the Gambling Commission's Guidance that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The Licensing Authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

This Licensing Authority is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.

As regards the term "vulnerable persons" it is noted that the Gambling Commission does not seek 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 impairment, alcohol or drugs.” This Licensing Authority will consider this licensing objective on a case by case basis.

The Gambling Commission Guidance to Local Authorities sets out considerations that an operator must make in order to protect children and young people from accessing gambling premises.

The Licence Conditions and Codes of Practice (LCCP) issued in 2015 prescribe how operators must prevent children from using age restricted gaming or gambling activities, particularly where gaming machines are licensed.

In particular operators must ensure that;

- all staff are trained,
- that all customers are supervised when on gambling premises
- must have procedures for identifying customers who are at risk of gambling related harm.

The Licensing Authority will expect all operators to have policies and procedures in place as required by the LCCP codes on social responsibility to cover all aspects of the code, in particular staff training records and self-exclusion records

Further provisions with regard to self-exclusion and marketing are included in the social responsibility code. The Licensing Authority will take all conditions and codes into account when considering applications or performing enforcement activities.

See section 6 of this policy statement for further details and on the Licensing Authority's requirements in relation to the LCCP.

The Licensing Authority will have regard to the Chief Medical Officer for Wales Report to support the licensing objective in order to protect children and other vulnerable persons from being harmed or exploited by gambling.

The Licensing Authority would expect applicants and licence holders to carry out the necessary checks on all relevant members of staff to ensure their suitability for employment, particularly in respect of premises where children and vulnerable people have access.

2.9 Bet-Watch

The Licensing Authority will encourage and support local operators to create and maintain an information sharing network to discuss issues of problem gamblers that are identified. This will also be an opportunity for operators to discuss issues with the licensing officers.

2.10 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. Specific regard will be given to the local risk assessment for each premises, and evidence of specific risk when making such decisions. 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 and Codes of Practice.

This authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:

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

These considerations will apply to premises including buildings where multiple Premises Licences are applicable.

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 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.

2.11 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 to this effect.

Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether these need to be SIA licensed or not 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 the Guidance, Part 33).

2.12 Adult Gaming Centres

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

Where gambling facilities are provided at premises as a supplementary activity to the main purpose of the premises; e.g. motorway service areas and shopping malls, the Licensing Authority will expect the gambling area to be clearly defined to ensure that customers are fully aware that they are making a choice to enter into the gambling premises and that the premises is adequately supervised at all times.

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

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas

- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.

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

2.13 (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 may consider measures to meet the licensing objectives such as:

- CCTV
- 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.
- 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.

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.

2.14 Casinos

Under the provisions of Section 166 of the Gambling Act 2005 an authority may resolve not to issue casino Premises Licences. The Authority has made no such resolution. The Licensing

Committee will consider any petition signed by no less than 50 persons requesting that such a resolution should be made and make a recommendation on the proposal to the full Council for consideration and determination.

Local Authorities only: Casinos and competitive bidding – Small/Large casinos - This Licensing Authority is aware that where a Licensing Authority area is enabled to grant a Premises Licence for a new style casino (i.e. the Secretary of State has made such regulations under Section 175 of the Gambling Act 2005) there are likely to be a number of operators which will want to run the casino. In such situations the Local Authority will run a 'competition' under Schedule 9 of the Gambling Act 2005. This Licensing Authority will run such a competition in line with any regulations / codes of practice issued under the Gambling Act 2005.

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 paragraph 9, bearing in mind the mandatory conditions listed in paragraph 17 of the Guidance, and the Licence Conditions and Codes of Practice published by the Gambling Commission.

2.15 Betting Premises

Betting Machines

The Act provides that a machine is not a gaming machine if it is designed or adapted for use to bet on future real events. Betting premises may make available machines that accept bets on live events, such as horseracing, as a substitute for placing a bet over the counter. These "betting machines" are not gaming machines: they merely automate the process, which can be conducted in person and, therefore, do not require regulation as a gaming machine.

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.

2.16 Bingo premises

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

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

This authority also notes the Guidance at paragraph 18.8 regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

18.7 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.

2.17 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
- 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

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

2.18 Gaming machines

There are many categories of gaming machine permitted at licensed and other premises and the number of such machines that may be permitted in each type of gambling premises are set out in the Act. The Licensing Authority does not have the power to set different limits or further expand or restrict the categories of machine that are permitted. The exception to this is alcohol-licensed premises that hold gaming machine permits, where licensing authorities have discretion to specify the number of permitted gaming machines. In addition, limits are set separately in the Act for certain types of permit issued by licensing authorities. Information on gaming machine entitlement can be found on the ~~Gambling Commission website: <http://www.gamblingcommission.gov.uk/for-licensing-authorities/GLA/Appendix-A-Summary-of-machine-provisions-by-premises.aspx>~~Gambling Commission website.

Field Code Changed

There is a minimum age of 18 for all players for all category A, B and C machines, including category B3A gaming machines offering lottery style games. However there is no minimum age for players of category D machines. The holder of any permit or premises licence must comply with the codes of practice issued by the Commission on the location of and access to gaming machines by children and young persons, and the separation from category C and B machines where those are also located on the same premises.

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

2.19 Betting machines

This Licensing Authority will, as per Part 6 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.

2.20 Applications and plans

The Gambling Act (s51) and Regulations 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.

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.

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 perimeter 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.

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 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 indicated on the plan.

2.21 Travelling Fairs

This Licensing Authority is responsible for deciding 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 is noted that the 27-day statutory maximum for the land being used as a fair applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This Licensing Authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

2.22 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.

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 into account unless:

- they concern matters which could not have been addressed at the provisional statement stage, or
- they reflect a change in the applicant's circumstances.

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

- which could not have been raised by objectors at the provisional statement 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. 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.

3. Permits/Temporary and Occasional use Notice

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

Only premises that are wholly or mainly used for making gaming machines available may hold

an Unlicensed Family Entertainment Centre. As a result, it is generally not permissible for such premises to correspond to an entire shopping centre, airport, motorway service station or similar. Typically, the machines will be in a designated enclosed area and clearly defined when making an application to the Licensing Authority.

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 to 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 child protection issues.*" (24.6)

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 might wish to 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 staff are trained to have a full understanding of the maximum stakes and prizes".* (24.7)

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

This Licensing Authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises. This Licensing Authority will also expect, as per Gambling Commission Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

3.2 (Alcohol) Licensed premises Gaming Machine Permits - (Schedule 13 paragraph 4(1) Automatic entitlement: 2 machines

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the Licensing Authority and pay the prescribed fee.

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 issued by the Gambling Commission issued under Section 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 harmed 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 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. Conditions (other than these) cannot be attached.

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.

3.3 Prize Gaming Permits

A Prize Gaming Permit is a permit issued by the Authority to authorise the provision of facilities for gaming with prizes on specified premises.

In respect of the issue of Prize Gaming Permits the authority intends to restrict the grant or renewal of such permits to cafes and restaurants or hotels with restaurant facilities where seating facilities are provided for persons to take refreshment of food on the premises and the number of machines to be limited to one in each premises unless the premises is a staff canteen when two machines may be permitted.

The applicant is expected to set out the types of gaming that is intended to be offered and to demonstrate that they understand the limits to stakes and prizes set out in regulations and that the gaming is offered within the law.

The Licensing Authority may not attach conditions to this type of permit.

3.4 Club Gaming and Club Machines Permits

Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in forthcoming regulations.

Members Clubs and Miner's welfare institutes – and also Commercial Clubs – may apply for a Club Machine Permit. A Club Machine Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D). NB Commercial Clubs may not site category B3A gaming machines offering lottery games in their club.

The club must be conducted 'wholly or mainly' for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulations and these cover bridge and whist clubs.

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.

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). Commercial clubs cannot hold club premises certificates under the Licensing Act 2003 and so cannot use the fast-track procedure. As the Gambling Commission's Guidance to Licensing Authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:

- (a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
- (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- (c) that a Club Gaming Permit or Club Machine Permit issued to the applicant in the last ten years has been cancelled."

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.

3.5 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.

A Temporary Use Notice may only be granted 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 or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.

This Licensing Authority expects 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, as

recommended in the Gambling Commission's Guidance to Licensing Authorities.

3.6 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 though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice. This Licensing Authority will also ensure that no more than 8 OUNs are issued in one calendar year in respect of any venue.

3.7 Small Society Lotteries

The Gambling Act 2005 sets out a definition of a lottery, detailed below, and provides that promoting or facilitating a lottery is illegal, unless it falls into one of two categories of permitted lottery, namely:

- licensed lotteries – these are large society lotteries and lotteries run for the benefit of local authorities that are regulated by the Commission and require operating licences;
- exempt lotteries – there are four types of exempt lottery that are expressly permitted under Schedule 11 of the Act, including the small society lottery.

A lottery is any arrangement that satisfies all of the criteria contained within the statutory description of either a simple lottery or a complex lottery, in accordance with section 14 of the Act.

A 'society' is the society, or any separate branch of such a society, on whose behalf a lottery is to be promoted, and has been established as a non-commercial organisation. Section 19 of the Act defines a society as such if it is established and conducted:

- for charitable purposes, as defined in section 2 of the Charities Act 2006;
- for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity;
- for any other non-commercial purpose other than that of private gain.

The society must have been established for one of the permitted purposes as set out in section 19 of the Act, and that the proceeds of any lottery must be devoted to those purposes. It is not permissible to establish a society whose sole purpose is to facilitate lotteries.

Local authorities are entitled to operate their own lotteries, but may only do so if licensed by the Gambling Commission. Local authorities must commit a minimum of 20% of the proceeds

from such lotteries for a purpose for which they have power to incur expenditure, and must also adhere to the other relevant provisions in the Act. They may also need to hold a remote gambling operating licence, in the event that they wish to sell lottery tickets via electronic or other remote technological methods such as over the telephone, email or via the internet.

Applications for small society lottery registrations must be in the form prescribed by the Secretary of State and must be accompanied by a registration fee and a copy of the terms and conditions and the constitution to prove that they are a non-commercial society. Paragraphs 47 and 48 of Schedule 11 of the Act set out the grounds for licensing authorities to refuse a small society lottery registration application.

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.

Proceeds must not exceed £20,000 for a single draw and aggregate proceeds from lotteries must not exceed £250,000 in any one year.

Charities and community groups should contact this Licensing Authority on **029 20871651** or **licensing@cardiff.gov.uk** to seek further advice.

4. Decision making

4.1 Administration, Exercise and Delegation of Functions

The powers and duties of the Licensing Authority under the Act may be carried out by the Licensing Committee, by a Sub-Committee or by one or more officers acting under delegated authority.

It is considered that many of the functions will be largely administrative in nature with no perceived areas of contention. In the interests of efficiency and cost effectiveness these will, for the most part, be carried out by officers.

The schedule of delegation of licensing functions is attached at Appendix D. The Licensing Authority may, nevertheless, refer any matter to the Licensing Committee or Sub-Committee.

4.2 Appeals Procedure

Entitlements to appeal for parties aggrieved by decisions of the Licensing Authority are set out in Sections 206 to 209 of the 2005 Act. Appeals must be made to the Magistrates Court for the area in which the Licensing Authority, which has considered the application, is situated.

An appeal has to be commenced by giving notice of the appeal by the appellant to; Cardiff Magistrates Court within a period of 21 days, beginning with the day on which the appellant was notified by the Licensing Authority of the decision to be appealed against.

On determining an appeal, the Court may:

- Dismiss the appeal;
- Substitute the decision appealed against with any other decision that could have been made by the Licensing Authority;
- Remit the case to the Licensing Authority to dispose of the appeal in accordance with the direction of the Court.
- Make an order about costs.

4.3 Giving Reasons for Decisions

In anticipation of such appeals, the Council will give comprehensive reasons for its decisions. The Licensing Authority will address the extent to which decisions have been made with regard to any relevant codes of practice and guidance issued by the Gambling Commission, reasonably consistent with the licensing objectives and in accordance with this Policy Statement.

4.4 Implementing the Determination of the Magistrates' Court

As soon as the decision of the Magistrates' Court has been notified to all parties, the Licensing Authority will not delay its implementation and necessary action will be taken forthwith unless ordered by a higher court to suspend such action (for example, as a result of an ongoing

judicial review). The Act provides for no other appeal against the determination of the Magistrates' Court.

4.5 Complaints against Licensed Premises

The Licensing Authority will investigate complaints against licensed premises in relation to matters relating to the licensing objectives for which it has responsibility. In the first instance, complainants are encouraged to raise the complaint directly with the licence holder or business concerned to seek a local resolution.

Where an interested party has made either a valid representation about licensed premises or a valid application for a licence to be reviewed, the Licensing Authority may initially arrange a conciliation meeting to address and clarify the issues of concern.

This process will not override the right of any interested party to ask that the Licensing and Gambling Sub-Committee consider their valid objections, or for any licence holder to decline to participate in a conciliation meeting.

4.6 Reviews

Requests for a review 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 based upon any relevant codes of practice and guidance issued by the Gambling Commission, reasonably consistent with the licensing objectives and in accordance with this Policy Statement.

The request for the review will also be subject to the consideration by the Licensing Authority as to whether it is frivolous, vexatious, or whether it will not cause this Licensing Authority 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:-

- add, remove or amend a licence condition imposed by the Licensing Authority;
- exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
- suspend the Premises Licence for a period not exceeding three months
- 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.

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.

Once the review has been completed, the Licensing Authority must, as soon as possible, notify its decision to:

- the licence holder;
- the applicant for review (if any);
- the Commission;
- any person who made representations;
- the chief officer of police or chief constable; and
- Her Majesty's Commissioners for Revenue and Customs.

5. Licensing Conditions and Codes of Practice (LCCP)

The Gambling Act 2005 requires the Gambling Commission to issue one or more codes of practice about the manner in which facilities for gambling are provided. The codes may be directed at the holders of operating or personal licences, or any other person involved in providing facilities for gambling. Further information can be found on the Gambling Commission's website: www.gamblingcommission.gov.uk

The Act also requires licensing authorities to take into account when exercising their functions, any relevant code of practice issued by the Commission under section 24, in this case:-

- The Commission's *Licence conditions and codes of practice* (LCCP), which apply to holders of Gambling Commission operating or personal licences;

- Other codes - these are the Commission's code of practice for equal chance gaming and its code of practice for gaming machines in clubs and premises with an alcohol licence

The LCCP contains two types of code provision:

5.1 Social responsibility code provisions

These are provisions describing arrangements which should be made by persons providing facilities for gambling for the purpose of:-

- (a) ensuring that gambling is conducted in a fair and open way;
- (b) protecting children and other vulnerable persons from being harmed or exploited by gambling; and
- (c) making assistance available to persons who are or may be affected by problems related to gambling.

Compliance with these is a condition of operator licences; therefore any breach of them by a licensed operator may lead the Commission to review the operator's licence with a view to suspension, revocation or the imposition of a financial penalty and would also expose the operator to the risk of prosecution.

5.2 Ordinary code provisions

These do not have the status of licence conditions in the case of licensed operators, but set out good practice; these code provisions are in the unshaded boxes in this document.

Codes of practice are admissible in evidence in criminal or civil proceedings and must be taken into account in any case in which the court or tribunal think them relevant, and by the Commission in the exercise of its functions; any departure from code provisions by an operator may be taken into account by the Commission, for example on a licence review (but could not lead to imposition of a financial penalty).

However, the Commission has made it clear that licensed operators may adopt alternative approaches to those set out if they have actively taken account of the provision and can demonstrate that an alternative approach is reasonable in the particular circumstances; or that to take an alternative approach would be acting in a similarly effective manner.

5.3 Risk Assessments - Gambling Premises

The LCCP requires all existing licensees that provide gambling at their premises to assess the local risks to the licensing objectives and have policies, procedures and control measures to

reduce those risks. Licensees must take into account any relevant matters identified in the licensing authorities (gambling) Statement of Policy when making their risk assessments.

A local risk assessment should also be undertaken or updated by a licensee, when applying for:-

- A new premises licence;
- When applying for a variation of an existing premises licence;
- To take into account any local significant changes in the local area;
- When there are significant changes within their premises that may affect the existing local risk assessment.

Operators are required to make the risk assessment available to licensing authorities when an application is submitted and a copy should be kept at the premises or otherwise on request, and this will form part of the Licensing Authority's inspection regime or investigating complaints.

Such risk assessments are required from new applicants, and from existing premises licensees seeking to vary a licence. The code requires all operators of; Casino's, AGC's, Bingo Premises, FEC's, Betting shops and remote betting intermediaries to assess local risks to the licensing objectives, and to have policies, procedures and control measures in place to mitigate those risks.

Operators are required by the SR code to make the risk assessment available to licensing authorities when an application is submitted either for -new Premises Licence or variation of a Premises Licence, or otherwise on request, and this will form part of the Licensing Authority's inspection regime and may be requested when officers are investigating complaints.

The code requires the Licensing Authority to set out matters they expect the operator to take account of in the risk assessment in its statement of policy and this Licensing Authority would recommend that the following general matters are considered by operators when making their risk assessment.

- Information held by the licensee regarding self-exclusions and incidences of underage gambling,
- Arrangement for localised exchange of information regarding self-exclusions and gaming trends.
- Urban setting such as proximity to schools, commercial environment, factors affecting footfall
- proximity to accommodation or centres catering for vulnerable people, including those with gambling/alcohol/drug addiction
- Range of facilities in proximity to the licensed premises such as other gambling outlets, banks, post offices, refreshment and entertainment type facilities
- Known problems in the area such as problems arising from street drinkers, youths participating in anti-social behaviour, drug dealing activities, etc.
- Matters relating to children and young persons, including;

- Institutions, places or areas where presence of children and young persons should be expected such as schools, youth clubs, parks, playgrounds and entertainment venues such as bowling alleys, cinemas etc.
- Any premises where children congregate including bus stops, café's, shops, and any other place where children are attracted,
- Areas that are prone to issues of youths participating in anti social behaviour, including such activities as graffiti/tagging, underage drinking, etc.
- Recorded incidents of attempted underage gambling

Matters relating to vulnerable adults, including;

- Information held by the licensee regarding self-exclusions and incidences of underage gambling,
- ~~Gaming trends that may mirror days for financial payments such as pay days or benefit payments~~
- Arrangement for localised exchange of information regarding self-exclusions and gaming trends.
- Proximity of premises which may be frequented by vulnerable people such as hospitals, residential care homes, medical facilities, doctor's surgeries, council housing offices, addiction clinics or help centres, places where alcohol or drug dependant people may congregate, etc.

This list is not exhaustive and are purely suggestions that may be considered by operators undertaking their own risk assessment.

Betting Track Premises – The Gambling Commission states within its LCCP code that Operators are required to make a risk assessment. However, Betting Track Premises are not required to seek an Operator's Licence with the Gambling Commission and as such are not required to conduct a risk assessment. However, in the interest of the objectives of the Gambling Act 2003, namely i) preventing gambling being a source of crime or disorder, being associated with crime or disorder or being used to support crime; ii) ensuring that gambling is conducted in a fair and open way; iii) protecting children and other vulnerable persons from being harmed or exploited by gambling, this Licensing Authority would expect a Betting Track Premises to conduct a risk assessment for their premises.

5.4 Significant changes to the premises

From time to time operators will undertake a refresh of the premises' layout and décor, which is unlikely to prompt a review of the risk assessment for that premises. However, where there is a significant change at the premises that may affect the mitigation of local risks, then an operator must review its risk assessment and if necessary update it, taking into account the change and how it may affect one or more of the licensing objectives.

It is expected that gambling operators will undertake this risk assessment process as a matter of course for any premises refit, changes to layout or internal control measures. If any changes

do require a review of the risk assessments for that premises gambling operators should ensure that they have a system in place to record and action any measures identified in that review.

The gambling operator will be responsible for identifying when a significant change to the premises has occurred. In order to assist gambling operators the Licensing Authority has provided the following list of examples of what could be classified as a significant change to the premises (some of which may also require a variation to the existing premises licence).

- Any building work or premises refit where gambling facilities are relocated within the premises.
- The premises licence is transferred to a new operator who will operate the premises with its own procedures and policies which are different to those of the previous licensee.
- Any change to the operator's internal policies which as a result requires additional or changes to existing control measures; and/or staff will require retraining on those policy changes.
- The entrance or entrances to the premises are changed, for example, the door materials are changed from metal with glazing to a full glass door or doors are reallocated from egress to ingress or vice versa.
- New gambling facilities are made available on the premises which were not provided previously, for example, bet in play, handheld gaming devices for customers, Self Service Betting Terminals, or a different category of gaming machine is provided.
- The premises operator makes an application for a licence at that premises to provide an activity under a different regulatory regime, for example, to permit the sale of alcohol.

As with the examples of significant changes in local circumstances, the list above is not an exhaustive list of significant changes to premises.

The Licensing Authority will not, as general practice, request a copy of the reviewed risk assessment if a significant change to the licensed premises has occurred, unless the change is one that will necessitate a variation application.

5.5 Variation of the premises licence

Variations to premises licences are only those required to be made under section 187 of the Act and will not include changes of circumstances such as a change of premises' name or a change of licensee's address, etc.

The Commissions LCCP social responsibility code provision 10.1.1 requires that gambling operators must undertake a review of the local risk assessment and update it if necessary when preparing an application to vary the premises licence. Operators submitting a variation application to the Licensing Authority may consider submitting a copy of the reviewed local risk assessment when submitting the application. This will then negate the need for the

Licensing Authority requesting to see a copy of this risk assessment and could potentially reduce the likelihood of a representation being made to the application.

If an operator wishes to vary a converted casino premises licence from one premises to another then the gambling operator should consider producing a new risk assessment for that premises. It is advisable that a copy of that assessment is submitted to the Licensing Authority with the application form.

5.6 Regular review of risk assessment

As a matter of best practice the Licensing Authority recommends that operators establish a regular review regime in respect of their local risk assessments. This review programme can be carried out alongside other reviews on Health and Safety risk assessments for the premises. This review programme would ensure that, regardless of whether or not any of the trigger events set out above have occurred, these risk assessments are considered at regular intervals and updated if necessary.

It will be up to the gambling operator as to the frequency of these reviews but it is recommended that no more than three years should pass before these assessments are reviewed. Operators may wish to synchronise their reviews of the local risk assessments with the publication of the Council's Statement of Licensing Principles for Gambling. This would enable gambling operators to consider the Local Area Profile, which has been published in the Council's Statement of Licensing Principles for Gambling.

5.7 Local risks and control measures

There are two specific parts to the risk assessment process:

- the assessment of the local risks
- the determination of appropriate mitigation to reduce those risks

The risks that operators must identify relate to the potential impact a gambling premises and its operation may have on the licensing objectives. Gambling operator should identify and list all of the local risks within the assessment that they have identified. The level of such risks can range from being low to very high depending on the potential impact that the gambling operator has assessed it to have on the licensing objectives. The level of any given risk will have a direct impact on the type and extent of the control measures that the gambling operators deems as being necessary to mitigate such risk.

Operators will already be assessing locations when looking for new sites or when reviewing the performance of their premises. The design of premises is also assessed to ensure that they will meet the needs of the gambling operation, will provide protection for staff and customers; and will have facilities for recording crime. Operators will also have implemented policies and procedures for the operation of premises in line with statutory and other regulatory requirements placed upon them by the Commission and other agencies.

Operators will already be familiar with identifying risks in relation to health and safety and food hygiene legislation. Risk assessments are also used for security and crime purposes, for example for money laundering and as part of trade association best practice, such as the Safe Bet Alliance.

This local risk assessment process, although similar requires a much broader range of considerations when identifying local risk. The requirement of the Commission's LCCP social responsibility code provision 10.1.1 is that gambling operators consider the local area in which the premises are situated and the impact that the premises operation may have on the licensing objectives.

5.8 Local area risks

There are a number of factors relating to the local area that operators may consider which is independent of who the operator believes is their target market. It will be for the gambling operator to identify these risks. However, there may be occasions that the Commission or the Licensing Authority will provide information on what they perceive as being a local risk. This may be specified in the Statement of Licensing Policy or in a separate guidance document, both of which will be found on the Council's website.

The local area will be different depending on the premises and the size of its operation. For example a large Bingo hall may have a wider catchment area than a neighbourhood betting shop as the Bingo hall attracts customers from further afield.

5.9 Gambling operational risks

The gambling operation relates to how the premises will be or is run. This will include the operator's policies and procedures which have been put in place to meet the requirements of the business, the Act and/or specific code provisions within the LCCP.

Gambling operators should identify operational risks in the local area to the licensing objectives and then consider whether there are control measures in excess of those already in place that would mitigate the risk. For example if there is a known illegal drug use in the local area the gambling operator may consider using control measures such as maglocks on the toilet doors or change the design to the toilet to deter people from using it for illegal drug use.

It is likely that the identification of risks associated with this element of the assessment will be very similar for all premises with slight variations depending on any specific factors that relate to the premises or the local area.

The control measures that operators will put in place to mitigate any risk associated with the

gambling operation will be dependent on the type of gambling activities provided, how the company operates and the size of the organisation.

5.10 Premises design risks

The design of the premises is an extremely important factor when considering local risks. For example, an Adult Gaming Centre which is located within an area which has a high number of children and young people present throughout the day may identify that the doors on either side of the premises are being used by local children as a short cut to access the adjacent street. The appropriate mitigation in this case may be that the gambling operator closes off one of the doors to prevent it being used as a short cut.

As part of the design process, the layout of the premises is a major consideration as poorly conceived design may create significant risks to one or more of the licensing objectives. Gambling operators are experienced in premises design and often these considerations are made during the planning phase. It is advisable that gambling operators ensure that there is a process in place to record these key decisions at an early stage of the planning process for the premises design so that this can be included in their risk assessment.

5.11 Interior design risks

The internal design and layout will reflect the premises operation and the type of gambling facilities that it offers. For some premises the design will be subject to certain limitations due to mandatory conditions on the gambling premises licence, such as the distance between gaming tables and other gambling facilities in casinos, and restrictions on the location of ATMs.

Operators should assess the risk presented by the internal layout of the premises and the location of gambling facilities within them. For example, if a gaming machine is placed within the direct line of sight of the cashier counter then staff will be able to monitor player behaviour and undertake interventions if there is a concern over the customers' spending habits. Staff can also monitor the use of the machines and can challenge any customers who are believed to be under the age of 18, or who damage the machines, or who appear to be attempting to launder money. By a simple assessment of the optimum location for these machines, operators can significantly reduce the risk to the licensing objectives.

5.12 Exterior design risks

The exterior of premises will be a major advertisement for the gambling operator. However, the design should be assessed based on the associated risk. Operators may identify a risk associated with the design and introduce control measures based on that perceived risk. For example, if the premises have a large amount of glass frontage in an area prone to criminal

damage, operators may consider the risk of damage to the standard toughened glass to be high and introduce a control measure such as roller shutters and/or external CCTV cameras.

5.13 Control measures

Depending on the nature of the risk factors, the control measures identified to mitigate the perceived risk may be a combination of systems, design and physical measure. Control measures that relate to systems may be measures that have been put in place through policies and procedures. These can either be systems that apply to all of the operator's premises or systems that have been developed specifically for particular premises to deal with a specific local risk factor. System control measures may include staff training, security policies and procedures. They may also relate to having security personnel on entrances, implementing membership criteria and/or providing support to local vulnerable groups through financial or other means.

Design control measures are measures that are built into the design of the premises. These can include the location of gambling facilities and the design and location of cashier counters within the premises, and the exterior design of premises. For example, a control measure for the interior of the premises could involve moving a cashier counter from the rear of the premises to the front of the shop next to the main entrance. An external design control measure may involve the exterior design being tailored to address local risks, for example, more open window displays to enable staff can see out of the premises or a design to avoid attracting children to the premises.

The final control measures relate to specific physical measure that will address an identified risk factor. These physical control measures may, for example, include alarms, CCTV cameras, doors, magnetic locks, time locks on safes, spit kits, window shutters, fogging systems, UV lights in toilets.

The control measures identified to mitigate a perceived risk may involve a combination of systems, design and physical measures. For example to address the risk factors relating to children gaining access to an over 18 restricted gambling premises, the operator may identify the following control measures:

Systems: PASS card or age verification policies, challenge 21 scheme, staff training and door staff.

Design: Exterior design which will not attract children into the premises, the entrance layout will enable staff and security to watch those entering the premises and challenge them on the grounds of age.

Physical: Magnetic door locks and ID scans.

Step 1: Undertaking a local risk assessment

The risk assessment should be carried out through a step-by-step approach. Gambling operators may first assess the local area and identify the relevant risk factors, then assess the gambling operation, and finally assess the premises design, both internal and external. Once the risk factors have been identified, the control measures to mitigate the risks should be considered. These control measures will either already be in place or will need to be implemented.

- Assessors should start by identify the local risk factors surrounding the premises. The risk factors will differ from location to location so an understanding of the specific characteristics of the local area and the people who live, work or visit that area is important. Use Community wellbeing profile and local knowledge will assist.

Step 2: Gambling operation and physical design

In assessing the risk factors associated with a gambling operation the assessor should take into account the local risks which are commonly accepted by broader stakeholders and how that gambling operation may affect that risk.

The physical design of the premises is a key consideration as this could have a significant impact on the risk to the licensing objectives. In assessing the risk factors associated with the premises design and layout reference is needed to the local area risks factors already identified to ensure the design doesn't add to that risk. The design, both internal and external should be considered and specific risk factors identified and noted.

Step 3: Control measures

Once the risk factors have been identified, the assessor should seek to identify control measures that would mitigate the identified risks. Such control measures will relate to one of the three categories of control measures mentioned above (systems, design and physical). Some risk factors may require a combination of control measures to adequately mitigate the risk.

Step 4: Action Plan

Once the assessment has been carried out an action plan should be completed so that any identified actions are documented and a deadline for completing the required piece of work is set and agreed.

Completed assessment

The control measures must be implemented on the premises and, if applicable, staff on the premises should be trained in their use or trained on the new policy or procedure. The assessment must be retained and should be reviewed whenever a trigger occurs or as part of a regular review regime

6. Further Information

Further information about the Gambling Act 2005, this Statement of Licensing Policy or the application process can be obtained from:

Licensing Section
Cardiff Council
City Hall
Cathays Park
Cardiff
CF10 3ND
Telephone: 029 20871651
Email: licensing@cardiff.gov.uk
Website: www.cardiff.gov.uk

Information is also available from:

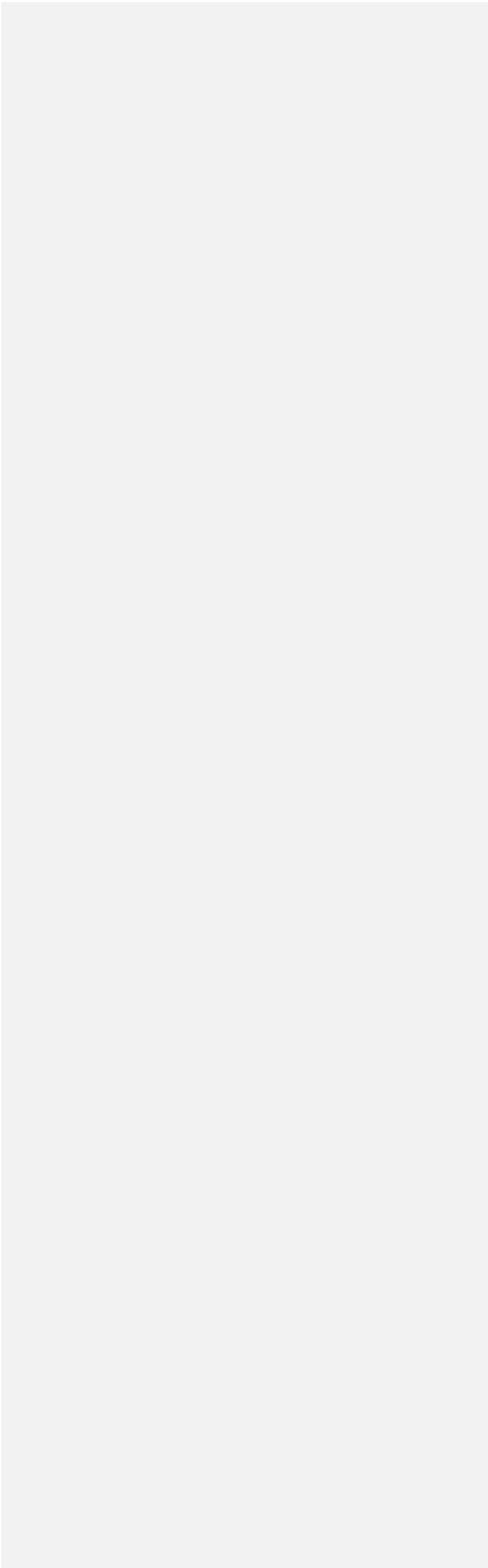
The Gambling Commission
Victoria Square House
Birmingham
B2 4BP
Telephone: 0121 230 6666
Fax: 0121 230 6720
Email: info@gamblingcommission.gov.uk
Website: www.gamblingcommission.gov.uk

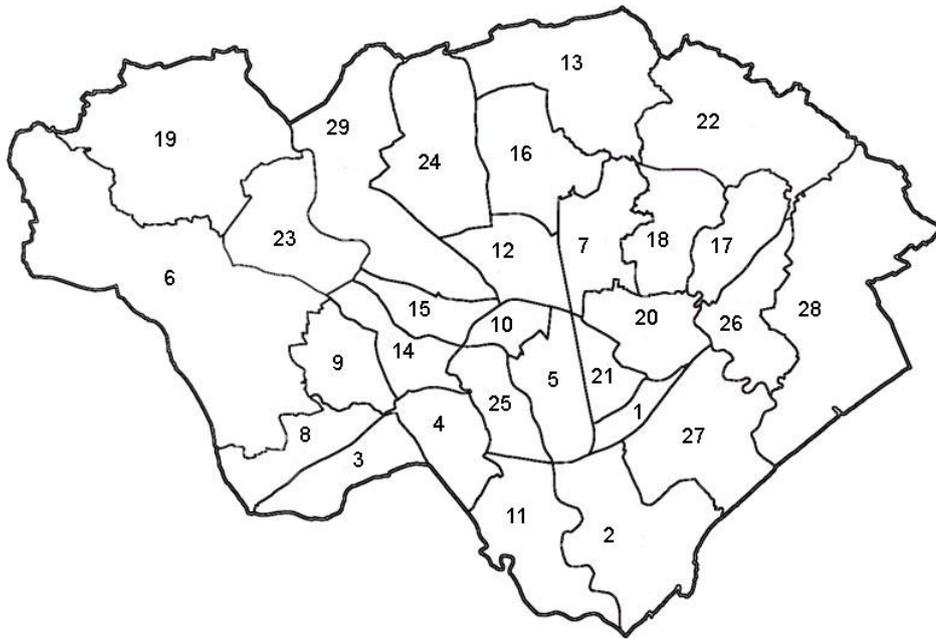
The Department for Culture, Media and Sport
100 Parliament Street
London
SW1A 2BQ
Telephone: 020 7211 6200
Website: www.culture.gov.uk

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7. Appendices

Appendix A: Map of Cardiff





- | | |
|-------------------------|----------------------------------|
| 1. Adamsdown | 16. Llanishen |
| 2. Butetown | 17. Llanrumney |
| 3. Caerau | 18. Pentwyn |
| 4. Canton | 19. Pentyrch |
| 5. Cathays | 20. Penylan |
| 6. Creigiau & St Fagans | 21. Plasnewydd |
| 7. Cyncoed | 22. Pontprennau & Old St Mellons |
| 8. Ely | 23. Radyr & Morganstown |
| 9. Fairwater | 24. Rhiwbina |
| 10. Gabalfa | 25. Riverside |
| 11. Grangetown | 26. Rumney |
| 12. Heath | 27. Splott |
| 13. Lisvane | 28. Trowbridge |
| 14. Llandaff | 29. Whitchurch & Tongwynlais |
| 15. Llandaff North | |

Appendix B - Responsible Authorities : Contact Details

Consultation with all Responsible Authorities is encouraged prior to the submission of the application. Where copies of applications have to be submitted to the Chief Officer of Police and/or the Responsible Authorities dependant on licence application type the following addresses should to be used:

<p>Group Leader<u>Team Manager</u> (Licensing) Licensing The Cardiff Council City Hall Cardiff CF10 3ND 029 20871651 licensing@cardiff.gov.uk</p>	<p>The Chief Officer of Police South Wales Police Licensing Department, Cardiff Bay Police Station, Eastern B.C.U James Street Cardiff CF10 5EW SWPCardiffLicensing@south-wales.pnn.police.uk</p>
<p>The Gambling Commission Victoria Square House Victoria Square, Birmingham. B2 4BP 0121 230 6500</p>	<p>The Chief Fire Officer South Wales Fire and Rescue Service Forest View Business Park, Llantrisant, Pontyclun CF72 8LX 01443 232000 Safety-south@southwales-fire.gov.uk</p>
<p>Operational Manager (Neighbourhood Services) Pollution Control The Cardiff Council City Hall, Cardiff. CF10 3ND 029 20871856 or 20871675 pollution-cardiff-srs.wales@valeofglamorgan.gov.uk Noiseandairpollution@cardiff.gov.uk</p>	<p>The Operational Manager Development Management The Cardiff Council County Hall, Cardiff. CF10 4UW 029 20871135 development@cardiff.gov.uk</p>
<p>The Operational Manager Children's Services Child Protection Unit Trowbridge Family Centre Greenway Road Trowbridge Cardiff CF3 1QS 029 20774642 safeguardingchildren@cardiff.gov.uk</p>	<p>HM Revenue & Customs Excise Processing Teams Gambling Duties BX9 1GL UK Nrubetting&gaming@hmrc.gsi.gov.uk 0300 200 3700</p>

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<p>The Operational Manager (Commercial Services) (Health and Safety) Cardiff Council City Hall Cardiff. CF10 3ND 029 2087 2054 Health&SafetyEnforcement@cardiff.gov.uk (Premises where health & safety is enforced by the Cardiff Council)</p>	<p>The Operational Manager for Wales Health and Safety Executive Government Buildings Ty Glas, Llanishen Cardiff. CF14 5SH 029 20263000 (Premises where health & safety is enforced by HSE)</p>
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Appendix C - List of Organisations Consulted Directly

- The Chief Officer of Police;
- The Fire Authority;
- Representatives of the holders of various licences for premises within the County who will be affected by this Policy;
- Bodies representing businesses and residents in the Cardiff;
- Departments (including Responsible Authorities) within the Council with an interest in the licensing of gambling;
- Local Safeguarding Children Board;
- Elected Members
- Community Councils;
- Other organisations as appear to be affected by licensing matters covered by this Statement;
- H.M. Revenue and Customs.
- Local Health Board

Appendix D - Schedule of Delegation of Licensing Functions and Decisions

Matters to be dealt with	Full Council	Licensing Sub-Committee	Officers
Three year Gambling Policy	x		
Policy not to permit casinos	x		
Fee Setting – when appropriate (Fee Setting for Premises Licence be delegated to the Licensing and Regulatory Committee,		x	
Application for Premises Licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn/authorised to dispense with a hearing if all parties are in agreeance/authorised to assess if a representation is valid.
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn/authorised to dispense with a hearing if all parties are in agreeance/authorised to assess if a representation is valid.
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representation has been received from the Commission

Matters to be dealt with	Full Council	Licensing Sub-Committee	Officers
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn/authorised to dispense with a hearing if all parties are in agreeance/authorised to assess if a representation is valid.
Review of a Premises Licence		x	
Revocation of a Premises Licence for failure to pay annual licence fee			x
Application for Club Gaming/Club Machine Permits		Where objections have been made (and not withdrawn)	Where no representations received/representations have been withdrawn/authorised to dispense with a hearing if all parties are in agreeance/authorised to assess if a representation is valid.
Cancellation of Club Gaming/Club Machine Permits		x	
Applications for other permits		Where objections have been made and not withdrawn	Where no representations received/representations have been withdrawn/authorised to dispense with a hearing if all parties are in agreeance/authorised to assess if a representation is valid.

Matters to be dealt with	Full Council	Licensing Sub-Committee	Officers
Cancellation of licensed premises Gaming Machine Permits		x	Authorised to cancel a permit, with the holder having the right to a hearing at the Sub-Committee.
Consideration of temporary use notice			Consideration/authorised to dispense with a hearing if all parties are in agreeance/authorised to assess if objection is valid.
Decision to give a counter notice to a temporary use notice		x	
Small Society Lotteries		x	Registration, Refusal and revocation of a lottery registration with the applicant/holder having the right to a hearing at the Sub-Committee.

Draft Gambling Act Policy Consultation Responses

Date	Source	Details of Representation	Response	Details of Amendment
27.09.2021	South Wales Fire & Rescue Service	No observations to make from the Fire Service	N/A	N/A
10.09.2021	Building Control, Cardiff Council	No adverse comment from a Building Control perspective	N/A	N/A
20.10.2021	Gosschalks LLP	<p>Point 1 - Conditions 2.10</p> <p>Paragraphs 2.10 explains the licensing authority's approach to the imposition of conditions on premises licences. This section would be assisted by the inclusion of an acknowledgement that the mandatory and default conditions that attach to all premises licences are designed to be, and usually are sufficient to ensure operation that is reasonably consistent with the licensing objectives.</p> <p>Point 2 - Conditions 2.10</p> <p>Paragraph 2.10 also refers to specific regard being given to the local risk assessment for each premises and evidence of specific risk. This section should be redrafted to make clear that additional conditions will only be considered where there is clear evidence of a risk to the licensing objectives in the circumstances of a particular case that is not adequately addressed by the policies, procedures and mitigation measures contained within the applicant's risk assessment. Otherwise, there is the inference that the policies, procedures and mitigation measures contained within the local risk assessment may be "converted" or "translated" into premises licence conditions.</p> <p>It is important that these policies and procedures are dealt with in the risk assessment rather than by way of licence conditions as the risk assessment is a dynamic document and (in accordance with SR Code Provision 10.1.2) must be reviewed if there is a significant change in local circumstances. As risks change or new risks are identified, the policies, procedures and mitigation measures to address those identified risks may be changed very quickly. However, if the mitigation measures are the subject of premises licence conditions, then an application for variation of the premises licence will be required to change these conditions. This could delay any change and would cause unnecessary expense</p>	<p>Disagree.</p> <p>It is felt that paragraph 2.10 covers all the necessary information in relation to the imposition of conditions.</p> <p>Disagree.</p> <p>Do not agree that the paragraph infers that conditions will be converted from the risk assessment.</p>	<p>N/A</p> <p>N/A</p>

		<p>and administration for both operators and the Licensing Authority.</p> <p>Point 3 - Conditions 5.3</p> <p>Paragraph 5.3 explains the requirements for operators to conduct risk assessments. This section contains lists of bullet points that the licensing authority recommends be considered by operators when completing the risk assessment. These lists of bullet points should be redrafted to exclude matters that are not relevant to any assessment of risk to the licensing objectives. For example, this paragraph indicates that the risk assessment is expected to consider “<i>Known problems in the area such as problems arising from street drinkers, youths participating in anti-social behaviour, drug dealing activity etc.</i>” It is impossible to see how these activities can be relevant to an assessment of risk to the licensing objectives. Similarly, “<i>Areas that are prone to issues of youths participating in anti-social behaviour, including such activities as graffiti tagging, underage drinking etc.</i>” should also be removed.</p> <p>Point 4</p> <p>Finally, the references to, “<i>Gaming trends that may mirror days for financial payments such as pay days or benefits payments</i>” should be removed as these can only be relevant to an assessment of risk to the licensing objectives if the authority’s view is that anyone in receipt of benefits or indeed paid employment is deemed vulnerable or likely to commit crime as a result of gambling.</p>	<p>Disagree.</p> <p>The bullet points are recommendations on matters that operators may wish to consider in their risk assessments which can be linked back to the Licensing Objectives.</p> <p>Agree.</p>	<p>N/A</p> <p>Point removed.</p>
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Licensing Committee: 30 November 2021

Report of the Head of Shared Regulatory Services
Authorisation of Officers and Delegations

1. Background

1.1 The Council Constitution identifies the Licensing Committee as having responsibility for the Licensing Act 2003 and the Gambling Act 2005. As a result of changes in post designation within Council and Shared Regulatory Services there is a need to update officer authorisations and delegations to ensure that officers have the appropriate formal authorisation to act of the Council's behalf. The Committee is requested to delegate the appropriate powers to officers.

2 Delegation of Authority

2.1 In the interests of effective performance it is proposed to delegate the responsibility for authorising officers to administer the requirements of the Licensing Act 2003 and Gambling Act 2005, and the instituting of legal proceedings under those Acts to the following officers:

- Assistant Director - Street Scene
- Head of Shared Regulatory Services
- Operational Manager - Neighbourhood Services.

2.2 It is proposed that, where appropriate, the aforementioned officers be authorised to approve and refuse Temporary Event Notices; to issue, refuse, suspend Licences, registrations, certificates, permits and notices, to institute legal proceedings, to implement the relevant provisions in respect of offences or other requirements; pursuant to any of the rules, regulations and/or Orders made under the Licensing Act 2003 and the Gambling Act 2005 as amended. The legislation sets out those circumstances where officers may not undertake decisions.

2. Achievability

2.1 The recommendations can be achieved. These authorisations and appointments enable the officers to undertake their statutory duties.

3. Legal Implications

- 3.1 The authorisations and appointments proposed will ensure that the aforementioned officers have an appropriate authorisation to carry out the relevant regulatory functions.

4. Financial Implications.

- 4.1 There are no direct financial implications arising from the recommendations of this report, for which delegated authority is to be exercised appropriately and within the existing budget.

5. Recommendations

- 5.1 It is recommended that the Committee exercise its delegated authority to authorise the Assistant Director (Street Scene), the Head of Shared Regulatory Services and the Operational Manager (Neighbourhood Services) to act under, and to authorise officers to administer, the requirements of the Licensing Act 2003 and Gambling Act 2005 as identified in paragraph 2.2 above and to institute any necessary legal proceedings.

Dave Holland
Head of Shared Regulatory Services

2 November 2021

This report has been prepared in accordance with procedures approved by the Corporate Managers.

Background papers: None