



CAERPHILLY COUNTY BOROUGH COUNCIL

GAMBLING ACT 2005

STATEMENT OF LICENSING POLICY

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Mae'r cyhoeddiad hwn ar gael yn Gymraeg ac mewn ieithoedd neu
fformatau eraill ar gais.

INDEX

Ref.	CONTENTS	Page
1.	STATEMENT OF LICENSING POLICY	3
1.1	Introduction	3
1.2	Equalities and Human Rights	3
1.3	Profile of Caerphilly County Borough	4
1.4	Purpose	4
1.5	Licensing Authority Functions	5
1.6	Consultation	6
1.7	Responsible Authorities	6
1.8	Interested Parties	6
1.9	Exchange of Information	7
1.10	Enforcement	8
1.11	Fundamental Rights	8
1.12	Partnership and Integrated Planning	9
2.	PREMISES LICENCES	9
2.1	General Principles	9
2.2	Definition of Premises	10
2.3	Appropriate Licence Environment	11
2.4	Premises “ready for gambling”	12
2.5	Location	12
2.6	Planning	13
2.7	Duplication with other Regulatory Regimes	13
2.8	Licensing Objectives	14
2.9	Localised Information Sharing	15
2.10	Conditions	15
2.11	Door Supervisors	17
2.12	Adult Gaming Centres	17
2.13	(Licensed) Family Entertainment Centres	17
2.14	Casinos	18
2.15	Bingo Premises	18
2.16	Betting Premises	18
2.17	Tracks	19
2.18	Travelling Fairs	20
2.19	Provisional Statements	21
3.	PERMITS/TEMPORARY AND OCCASIONAL USE NOTICES	22
3.1	Unlicensed Family Entertainment Centre Gaming Machine Permits	22
3.2	(Alcohol) Licensed Premises Gaming Machine Permits	22
3.3	Prize Gaming Permits	23
3.4	Club Gaming and Club Machines Permits	24
3.5	Temporary Use Notices	25
3.6	Occasional Use Notices	26

Ref.	CONTENTS	Page
4.	SMALL SOCIETY LOTTERIES	26
5.	DECISION MAKING	27
5.1	Administration, Exercise and Delegation of Functions	27
5.2	Appeals Procedure	27
5.3	Giving Reasons for Decisions	27
5.4	Complaints against Licensed Premises	27
5.5	Reviews	28
6.	LICENSING CONDITIONS AND CODES OF PRACTICE	29
7.	FURTHER INFORMATION	31
Annex		
Annex 1	Policy consultees	32
Annex 2	Responsible authorities	33
Annex 3	Access restrictions to gambling premises	35
Annex 4	Gaming machine categorisation	36
Annex 5	Mandatory, default and premises specific conditions	38
Annex 6	Delegation of functions	45
Annex 7	Definitions	47

1. STATEMENT OF LICENSING POLICY

1.1 Introduction

The Gambling Act 2005 requires the Council to prepare and publish a “Statement of Licensing Policy” that sets out the principles the Council proposes to apply in exercising its licensing functions when dealing with applications for Premises Licences, as required by the Act. Definitions of the terms used in this policy are attached as Annex 1.

Consultation took place between ****DATE**** and ****DATE****. This policy was approved at a meeting of the Full Council on ***DATE*** and was published on ***DATE***, as well as being available at www.caerphilly.gov.uk

This Policy Statement takes effect on 31st January 2016. This Licensing Authority will update and publish a new Licensing Policy whenever necessary but in any case within 3 years of the date of this Policy (or such period as may be determined by legislation), and will fully consult with partners, trade associations and residents groups as appropriate, any representations received will be considered at that time.

The Council reserves the right to amend this policy without consultation where it is necessary to ensure the policy reflects changes to national legislation or statutory guidance.

In producing the final Policy Statement the Council 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, any codes of practice and any responses from those consulted on the Policy Statement.

The council acknowledges that it may need to depart from this Policy and from the guidance issued under the Act in individual and exceptional circumstances, and where the case merits such a decision in the interests of the promotion of the licensing objectives. Any such decision will be taken in consultation with the appropriate legal advisors for the Licensing Authority, and the reasons for any such departure will be fully recorded.

1.2 Equalities and Human Rights

The Equalities Act 2010 introduced measures to tackle discrimination encountered by disabled people in certain areas including employment, and access to goods, facilities and services. The applicant shall have regard to this legislation. However, the Licensing Authority will not use licensing to pursue such issues, other than where supported by legislation and accepted good practice.

The Welsh Language (Wales) Measure 2011 makes both Welsh and English the official languages of Wales, and the Licensing Authority will ensure that it provides its services in accordance with the Council’s current policies on Welsh language service provision and production of bilingual material.

The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way that is incompatible with such a right. The Licensing Authority will have regard to the Human Rights Act when considering any licensing issues, and particularly in respect of the way in which applications are considered and enforcement activities are carried out.

The Council expects that in granting an authorisation the holder of that authorisation will take all reasonable and practical steps to prevent and eliminate unlawful discrimination and to promote equality of opportunity and good relations within and between staff, customers and visitors. This is irrespective of a person's ethnic origin, sex, age, marital status, sexual orientation, disability, gender reassignment, religious beliefs or non beliefs, use of Welsh language, BSL and other languages, nationality, responsibility for any dependants or any other reason which cannot be shown to be justified.

The Council ensures that it treats all individuals and organisations who are renewing or making new applications for licenses, with equal respect both when corresponding with those individuals and organisations, and during the licensing approval process and will do so in the language or format of their choice, in line with the Council's Strategic Equality Objectives.

The Council is satisfied that this policy satisfies the statutory requirements and where there are restrictions, they satisfy the provisions on proportionality and balance of competing rights.

1.2 Profile of Caerphilly County Borough

The County Borough of Caerphilly stretches from Cardiff and the M4 in the South to the Heads of the Valleys and the Brecon Beacons in the North, a distance of some 40 kilometres and covering a total area of 69,160 acres. It has a population in excess of 178,800 and is semi-rural in character. There are seven main town centres servicing the area, (Caerphilly, Blackwood, Bargoed, Ystrad Mynach, Newbridge, Risca and Rhymney) along with numerous villages, each with their own individual character. The authority is comprised of 33 wards.

Gambling premises are predominantly sited within the seven main towns, with a greyhound race track based in Ystrad Mynach.

1.3 Purpose

In exercising most of its functions under the Gambling Act 2005 the Council, as the Licensing Authority, must have regard to the following licensing objectives:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- Ensuring that gambling is conducted in a fair and open way;

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

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”.

Section 153 of the Act requires that the Council when making decisions about premises licences and temporary use notices should aim to permit the use of premises for gambling insofar as it is:

- In accordance with any relevant code of practice issued by the Gambling Commission;
- In accordance with any relevant guidance issued by the Gambling Commission;
- Reasonably consistent with the licensing objectives;
- In accordance with the Council’s Statement of Licensing Policy.

1.4 The Licensing Authority Functions

The Council is 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 notification from alcohol licensed premises (under the Licensing Act 2003) of 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 monetary 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 below on information exchange);
- Maintain registers of the permits and licences that are issued under these functions.

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

The Council 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 any or all problems associated with gambling within the community. The Council will therefore continue to work in partnership with neighbouring authorities, Heddlu Gwent Police, the Safer Caerphilly County Borough Community Safety Partnership, local businesses, local people and those involved in child protection to promote the licensing objectives as outlined. In addition, the Council recognises its duty under Section 17 of the Crime and Disorder Act 1998, with regard to the prevention of crime and disorder.

1.5 Consultation

The Council has consulted widely upon this Statement before finalising and publishing. Consultation on this policy has been conducted in line with the Act and the Gambling Commission's Guidance (hereafter referred to as Guidance). A list of those persons consulted is attached as annex 1, further details, together with a list of comments made and the consideration by the Council of those comments is available on request.

1.6 Responsible Authorities

In exercising the Council's powers under Section 157(h) of the Act, to designate, in writing, a body that is competent to advise the Council about the protection of children from harm, the following principles have been applied:

- The need for the body to be responsible for an area covering the whole of the Council's area;
- The need for the body to include senior and responsible representatives of appropriate public bodies in the county borough area, who have as a principal duty, responsibility for the protection of children from harm

In accordance with the Guidance this Council designates the Child Protection Co-ordinator (On behalf of the Local Safeguarding Children Board) for this purpose. Details of the bodies and contact details identified under the Act that are to be treated as Responsible Authorities are listed in annex 2. of this policy.

1.7 Interested Parties

Interested Parties can make representations about licence applications, or apply for a review of an existing licence based on the three licensing objectives as detailed in paragraph 1.3 of this Policy Statement.

An Interested Party is someone who:-

- (a) Lives sufficiently close to the premises to be likely to be affected by the authorised activities;
- (b) Has business interests that might be affected by the authorised activities; or

Represents persons in either of the two groups above.

The principles the Council will apply to determine whether a person is an Interested Party are:

A) This Council will not apply rigid rules to its determination and will consider the examples of considerations provided in the Guidance. It will also consider the Guidance that “business interests” should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

B) Interested Parties can be persons who are democratically elected, such as Councillors and MP’s. No specific evidence of being asked to represent an interested person will be required as long as the Councillor/MP is sufficiently close to, lives or represents those likely to be affected. Likewise, parish councils likely to be affected will be considered as interested parties. Other than these, however, this Council 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 business interests that might be affected by the authorised activities. Correspondence from one of these persons, requesting the representation is sufficient.

In the event that a Councillor is requested to represent the views of an individual, the Councillor would not be permitted to take part in the determination of that application by the Licensing and Gambling Sub-Committee, or in any other way have a personal interest that would preclude them from participating in a hearing. If there is any doubt the Councillor will be recommended to contact the Council’s Monitoring Officer.

1.8 Exchange of Information

The principle that the Council will apply in respect of the exchange of information between it and the Gambling Commission and those bodies listed in Schedule 6 of the Act is that it will act in accordance with the provisions of the Gambling Act 2005 which includes the provision that the Data Protection Act 1998 will not be contravened. The Council will also have regard to any guidance issued by the Gambling Commission to Local Authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

1.9 Enforcement

The Council will be guided by the Gambling Commission's Guidance to local authorities, the Regulators Code and the council's enforcement policy and will endeavour to be:

- Proportionate: regulators should only intervene when necessary, remedies should be appropriate to the risk posed,
- Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
- Consistent: rules and standards must not be contradictory and implemented fairly;
- Transparent: regulators should be open, ensure that regulations can be easily understood and user friendly; and
- Targeted: regulation should be focused on the problem, and minimise side effects.

In accordance with the Guidance the Council will endeavour to avoid duplication with other regulatory regimes as far as is possible.

The Council adopt a risk-based inspection programme, based on:

- The licensing objectives;
- Relevant codes of practice;
- Guidance issued by the Gambling Commission;
- The principles set out in this Statement of Licensing Policy.
- The council's enforcement policy.

The main enforcement and compliance role for this Council 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 Operator and Personal Licences. Concerns about manufacture, supply or repair of gaming machines are dealt with by the Council but should be notified to the Gambling Commission.

The council will take account of the 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.

1.10 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 Council have a right of appeal to the Magistrates Court against the decisions of the Council.

1.11 Integrating Strategies and Avoiding Duplication

By consulting widely prior to this Policy Statement being published, the Council will take full account of local policies covering crime prevention, culture, transport, planning and tourism as part of an integrated strategy for the Council, 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 Council will avoid duplication with other regulatory regimes so far as possible. Therefore, the Council will not attach conditions to a licence unless they are considered necessary, reasonable and proportionate to the use of premises for gambling, and are consistent with the licensing objectives.

1.12 Partnership and Integrated Planning.

Welsh Government statutory guidance entitled “Shared Purpose, Shared Delivery: guidance on integrating partnerships and plans”, requires Local Service Boards (LSBs) (consisting of Local Authority and partners) to rationalise partnerships and integrate plans to identify priority issues for the local community and deliver actions which achieve outcomes. The Caerphilly LSB and partners have produced “Caerphilly Delivers”, their Single Integrated Plan, and are delivering actions to achieve a more Prosperous, Safer, Healthier, Learning and Greener Caerphilly.

These integrated planning requirements will be superseded in April, 2016, when the requirements of the Well-being of Future Generations (Wales) Act, 2015 are implemented and Public Service Boards replace LSBs.

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 Council will have particular regard to the likely impact of licensing on related crime and disorder in the County Borough, particularly when considering the location, impact, operation and management of all proposed licence/permit applications, renewals and variations of conditions.

2. PREMISES LICENCES

2.1 General Principles

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 other conditions where they are considered to be appropriate.

The Council is aware that in making decisions about Premises Licences it should aim to permit the use of premises for gambling insofar 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 this Policy Statement.

It is appreciated that in accordance with the Guidance for local authorities “moral objections to gambling are not a valid reason to reject applications for Premises Licences” and also that unmet demand is not a criterion for consideration by the licensing authority.

The Licence Conditions and Code of Practice (LCCP) issued by the Gambling Commission which commenced in May 2015 placed further onus on premises to complete a risk assessment (Social Responsibility Code 10.1.11). The Council will have regard to this code when considering applications. This is covered in detail at point 6 on page 27

2.2 Definition of “Premises”:

Premises are defined in the Act as “any place”. Section 152 of the Act gives that a premises licence may not authorise the use of a premises for more than one kind of activity except for tracks. Tracks may be subject to main and subsidiary licences.

A single building could be subject to more than one premises licence, provided that they relate to 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 subdivisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

The Guidance states that: “In most cases the expectation is that a single building/plot will be the subject of an application for a licence. But, that does not mean that a single building plot cannot be the subject of separate premises licence, e.g. 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.”

The Council takes particular note of the Guidance 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 licensing premises or premises with a permit;
- Customers should be able to participate in the activity named on the premises licence.

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

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

2.3 Appropriate Licence Environment

The Guidance and the Licence Conditions and Codes of Practice (LCCP) sets out matters that the council should take into account when considering licence applications for premises licences.

Guidance, LCCP and the SR code prescribes restrictions on gambling activities on premises, previously known as primary gambling activity. The council 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 council 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.

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

A summary of the Guidance for relevant access provisions for each premises type is attached as Annex 3 :

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 is outstanding construction or alteration works at a premises, the Council 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 in the Guidance.

2.5 Location:

The Council 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. In accordance with the Guidance the Council 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. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this Statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

2.6 Planning:

The Gambling Commission Guidance to Licensing Authorities states:

- 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.

The Council will not take into account irrelevant matters, in addition, the Council notes the following excerpt from the Guidance:

- 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 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:

The Council seeks to avoid any duplication with other statutory/regulatory systems where possible, including planning. The Council 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, the Council will not take into account whether those buildings have to comply with the necessary planning or building 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, the Council has considered the Guidance and comments as follows:

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

The Council is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. However, it is envisaged 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, the Council will consider carefully whether the location is suitable for gambling premises and whether conditions such as the provision of door supervisors may be appropriate.

2.8.2 Ensure that gambling is conducted in a fair and open way:

Ensuring gambling is conducted in a fair and open way, will be addressed via operating and personal licences administered by the Gambling Commission. There is a role for this Council with regard to tracks, which is explained in more detail at point 2.17 at page 18 in this policy statement.

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

The Guidance states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The Council will, therefore, consider, as suggested in this 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.

The Council is also aware of the Gambling commission Codes of Practice, as regards this licensing objective, in relation to specific premises.

The term “vulnerable persons” is not defined by the Gambling Commission but states that “it will for regulatory purposes assume that this group includes people

- who gamble more than they want to;
- people who gamble beyond their means;
- people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs”.

The Council will consider this licensing objective on an application by application basis.

The Guidance 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) 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
- there are procedures for identifying customers who are at risk of gambling related harm.

The council 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 council will take all conditions and codes into account when considering applications or performing enforcement activities.

This Council may consider measures to meet this licensing objective 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.

2.9 Localised Information Sharing e.g. Bet-Watch:

The Council encourages and will support local operators to create and maintain an information sharing network to discuss issues of problem gamblers that are identified. This would provide 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 the Council will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas, etc. There are specific comments made in this regard under some of the licence types below. The Council will also expect the licence applicant to offer his/her own suggestions as to ways in which the licensing objectives can be met effectively.

The Council 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 Guidance.

The Council will also ensure that where category C or above machines (Please see Annex 4 for machine categorisation information) are available 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 Council will consider, in accordance with the Guidance, 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 the Council cannot attach conditions 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.

Relevant mandatory and default conditions are attached at Appendix 5 for information

2.11 Door Supervisors:

The guidance to licensing authorities advises that if it is concerned that a premises may attract disorder, or be subject to attempts at unauthorised access (e.g. 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 condition on premises licence to this effect.

Where it is has been determined that supervision of entrances/machines is appropriate for particular cases, a consideration of whether such door stewards should be SIA licensed or not, will be necessary. It will not be automatically assumed that they need to be SIA licensed as the statutory requirements for different types of premises vary.

2.12 Adult Gaming Centre

The Council 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 Council that there will be sufficient measures to, 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 council 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.

2.13 (Licensed) Family Entertainment Centres

The Council 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 Council, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

The Council will refer to the Commission's website in respect of conditions that apply to operating licences (issued by the Gambling Commission) covering the way in which the area containing the category C machines

should be delineated. This Council will also take in to account any mandatory or default conditions as appropriate.

2.14 Casinos

The Council has not passed a “no casino” resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should the Council decide in the future to pass such a resolution, it will update this Policy Statement with details of that resolution. Any such decision will be made by the full Council.

Licence Considerations/Conditions:

If necessary the Council would attach conditions to casino premises licences according to the principles set out in the Guidance, bearing in mind the mandatory conditions and the Gambling Commission LCCP.

Betting Machines:

The Council will, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people when considering the number/nature/circumstances of betting machines an operator wants to offer

2.15 Bingo Premises

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 excluded areas.

The holder of bingo premises licences may make available a number of category B gaming machines, not exceeding 20% of the total number of gaming machines, which are available for use on the premises

Operators may allow children and young people onto 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.

2.16 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.

The Council will, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

2.17 Tracks

Tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. The Act allows for a main licence, and subsequent application to vary that licence allows for the issue of subsidiary licences provided that each licence relates to a specified area of the track, and that not more than one premises licence has effect in relation to any area of the track. The Council will especially consider the impact upon the third licensing objective (i.e. 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.

The Council therefore expects premises licence applicants to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. Children and young persons are 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 prevented from entering areas where gaming machines (other than category D machines) are provided.

Gaming Machines:

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

Betting Machines:

The Council will, take into account the size of the premises and the ability of staff to monitor the use of 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.

Applications and plans:

The Gambling Act requires applicants to submit plans of the premises with their application, in order to ensure that the Council has the necessary information to make an informed judgement about whether the premises are fit for gambling and will be used in planning future premises inspection activity.

Plans for tracks should be drawn to scale 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 are not required to be defined.

The Council 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 in order that the Council can satisfy itself that the plan indicates the main areas where betting may take place. For racecourses in particular, any betting area subject to the "five times rule" (commonly known as betting rings) must be indicated on the plan.

2.8 Travelling Fairs

This Council 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 Council will also consider whether the applicant falls within the statutory definition of a travelling fair contained in the Gambling Act.

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

2.9 Provisional Statements

Developers may wish to apply to this Council 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(s) to make an application to the Council for a provisional statement in respect of premises that they:

- expect to be constructed;
- expect to be altered; or
- expect 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 Council 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 Council 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 Council'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 Council notes that it can discuss any concerns it has with the applicant before making a decision.

3. PERMITS/TEMPORARY AND OCCASIONAL USE NOTICES

3.1 Unlicensed family entertainment centre Gaming Machine Permits

Where premises licence is not in place, but an operator wishes to provide category D gaming machines, application may be made to the Council for this type of 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 and would, therefore, exclude any premises primarily used for any other purposes, e.g. canteens, fast food takeaways, leisure centres, garages and petrol filling stations, taxi offices.

An application for a permit may be granted only if the Council is satisfied that the premises will be used as an unlicensed Family Entertainment Centre and the Chief Officer of Police has been consulted on the application.

The Council 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 Council 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 Family Entertainment Centres;
- That the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act);
- That staff are trained to have a full understanding of the maximum stakes and prizes.

It should be noted that the Council cannot attach conditions to this type of permit.

3.2 (Alcohol) Licensed Premises Gaming Machine Permits

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority. The Council 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 the condition in the Gambling Act regarding automatic entitlement to gaming machines (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.

If more than 2 machines are required, then an application must be made for a permit and the Council will consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission, and “*such matters as the Council think relevant.*” The Council considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the Council 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 Council 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 persons under 18. Notices and signage may also be required. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

The Council can determine whether to grant an application for 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 such machines.

3.3 Prize Gaming Permits

The Council has the right to prepare a ‘Statement of Principles’ that it proposes to apply in exercising its functions in respect of these permits which may, in particular, specify matters that this authority propose to consider in determining the suitability of the applicant for a permit.

The Council has prepared the following ‘Statement of Principles’, which gives that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant can demonstrate:-

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

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

In making its determination for prize gaming permits the licensing authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

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

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

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 or a Club Gaming Machines Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance. Members Clubs and Miners' Institutes and also Commercial Clubs may apply for a Club Machine Permit. A Club Gaming Machine Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D). Commercial Clubs may not site category B3A gaming machines offering lottery games in their club.

The Council has to satisfy itself that the club meets the requirements of the Act to obtain a club gaming permit. In doing so it will take into account a number of matters as outlined in the Guidance. These include the constitution of the club, the frequency of gaming, and ensuring that there are more than 25 members.

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 Council 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. Commercial clubs do not qualify for Club Premises Certificates under the Licensing Act 2003 and as such cannot avail themselves of the fast track procedure. Guidance for local authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:

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

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, would include such venues as hotels, conference centres and sporting venues.

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

The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this Statement, the relevant regulations 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.

There are a number of statutory limits as regards temporary use notices which requires the Council to carefully consider the meaning of 'premises' or 'a set of premises' and will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place". In considering whether a place falls within the definition of "a set of premises", the Council will look at, amongst other things, the ownership/occupation and control of the premises.

This Council 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 by the Gambling Commission's Guidance to licensing authorities.

3.6 Occasional Use Notices

The Council 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. The Council will though consider the definition of a 'track' and whether the applicant is permitted to avail themselves of an occasional use notice.

4. SMALL SOCIETY LOTTERIES

The Council has adopted a risk based approach towards its enforcement responsibilities for small society lotteries. The Council considers that the following list, although not exclusive, could affect the risk status of the operator:

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

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

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

Charities and community groups should contact the Council on 01443 866750 to seek further advice.

5. DECISION MAKING

5.1 Administration, Exercise and Delegation of Function

The powers and duties of the Council 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 setting out this Council's delegation of functions and decisions is attached as Annex 6. The Council may, nevertheless, refer any matter to the Licensing Committee or Sub-Committee.

5.2 Appeals Procedure

Entitlements to appeal for parties aggrieved by decisions of the Council are set out in the 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 the local Magistrates Court, within a period of 21 days, beginning with the day on which the appellant was notified by the Council 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.

5.3 Giving Reasons For Decisions

The Council will give comprehensive reasons for its decisions and 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.

5.4 Complaints Against Licensed Premises

The Council 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 Council 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.

Due consideration will be given to all relevant representations unless they do not comply with the requirements as set out below.

5.6 **Reviews**

Requests for a review can be made by Interested Parties or Responsible Authorities. However, it is for the Council 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 Council as to whether it is frivolous, vexatious, or whether it is substantially the same as previous representations or requests for review.

The Council 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 Council, representations can be made by responsible authorities and interested parties. Timescales are prescribed for the submission of representations, notification of application and a hearing before the relevant committee.

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

- add, remove or amend a licence condition imposed by the Council;
- 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; and
- revoke the premises licence.

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

In particular, the Council 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 Council 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.

6. LICENSING CONDITIONS AND CODES OF PRACTICE 2015 (LCCP)

The Gambling Commission released an LCCP in February 2015 with a commencement date of May 2015. The code strengthened the social responsibility code (SR) requirements. Details regarding the LCCP and SR code can be accessed via the Gambling Commission website at www.gamblingcommission.gov.uk

The code requires operators;

- To supervise customers effectively on gambling premises and identify customers who are at risk of gambling related harm.
- With effect from April 2016 operators will have in place schemes to allow customers to self-exclude themselves from all operations of a similar type in the area where they live and work.
- To have a range of measures with regard to marketing to ensure social responsibility in that they are transparent and not misleading.
- With effect from 6 April 2016 produce risk assessments

Risk Assessments are to be conducted by operators on individual premises and that policies, procedures and control measures are in place to mitigate local risks to the licensing objectives. In making risk assessments, licensees must take into account any relevant matters identified in the licensing authority's statement of licensing policy. Licensees must review (and update as necessary) their local risk assessments:

- to take account of significant changes in local circumstances, including those identified in a licensing authority's statement of licensing policy;
- when there are significant changes at a licensee's premises that may affect their mitigation of local risks;
- when applying for a variation of a premises licence;
- in any case, undertake a local risk assessment when applying for a new premises licence.

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. Consideration of the risk assessment this will form part of the council's inspection regime and may also be requested when officers are investigating complaints.

This Council expects the following matters to be considered by operators when making their risk assessment.

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.
- Matters of faith, including all religious or faith denominations including proximity to churches, mosques, temples or any other place of worship.

This list is not exhaustive and other factors not in this list but are identified by the licence holder must be taken into consideration.

The Council expects that operators will regularly review and update the risk assessment and produce it upon request to any authorised officer of the Council. Further the Council anticipates that existing premises licence holders will undertake risk assessments as a matter of good practice and commitment to the promotion of the licensing objectives.

7. FURTHER INFORMATION

Further information this Statement of Licensing Policy or the application process can be obtained from:

**Licensing Section
Caerphilly County Borough Council
Ty Penallta
Tredomen Park
Ystrad Mynach
CF82 7PG**

Telephone: 01443 866750

Email: licensing@caerphilly.gov.uk

**Information is also available from:
The Gambling Commission
Victoria Square House
Birmingham
B2 4BP**

Telephone: 0121 230 6666

Website: www.gamblingcommission.gov.uk

**The Department for Culture, Media and Sport
2– 4 Cockspur Street
London
SW1Y 5DH**

Telephone: 020 7211 6200

Website: www.culture.gov.uk

POLICY CONSULTEES

CCBC - Elected Members
CCBC – Appropriate Directors and Heads of Service
Her Majesty’s Revenues and Customs (HMRC)
Gambling Commission
Heddlu Gwent Police
Fire Service
Gwent Magistrates
Health and Safety Executive
Health Board
Neighbour Hood Watch (via Police CADRO)
Community and Town Councils
All Licensed Premises and Club Premises Certificate Holders
General Public - via web site and advertisement in newspaper
CCBC – Community Safety
CCBC – Equalities
CCBC – Legal
CCBC – Highways
CCBC - Environmental Health - Pollution Control
CCBC - Environmental Health - Food and Health and Safety
CCBC - Licensing Authority Responsible Authority
CCBC – Trading Standards
CCBC – Planning

RESPONSIBLE AUTHORITIES**RESPONSIBLE AUTHORITY CONTACT DETAILS**

Responsible Authority	Contact Details
Gambling Commission	Victoria Square House Victoria Square Birmingham B2 4BP
HMRC	National Registration Unit (Betting and Gaming) Portcullis House 21 India Street Glasgow G2 4PZ
Police (Chief Officer of Police for area in which premises are situated)	The Chief Officer of Police FAO The Licensing Officer Heddlu Gwent Police 'C' Divisional Headquarters Blackwood Road Pontllanfraith Blackwood NP12 2XA Tel: 01495 232253/232267 E-mail: LicensingCDIV@gwent.pnn.police.uk
Fire And Rescue Authority (For area in which premises are situated)	Chief Fire Officer South Wales Fire and Rescue Service Headquarters Forest View Business Park Llantrisant CF72 8LX Tel: 01443 232713 E-mail: safety-east@SouthWales-fire.gov.uk
Planning (Local Planning Authority for area in which premises are situated)	Head of Regeneration and Planning Planning Division Caerphilly County Borough Council Ty Dyffryn Dyffryn Industrial Estate Ystrad Mynach CF82 7FP E-mail: planning@caerphilly.gov.uk

Responsible Authority	Contact Details
<p>Environmental Health (Statutory function for minimising or preventing the risk of pollution of the environment or of harm to human health.)</p>	<p>Team Leader Pollution Control Caerphilly County Borough Council Ty Penallta Tredomen Park Ystrad Mynach Hengoed CF82 7PG</p> <p>E-mail: enviroservices@caerphilly.gov.uk</p>
<p>Child Protection (Body which represents those who are responsible for or interested in matters relating to the protection of children from harm and is competent to advise on such matters.)</p>	<p>Child Protection Co-ordinator (On behalf of the Local Safeguarding Children Board) Caerphilly County Borough Council Ty Penallta Tredomen Park Ystrad Mynach CF82 7PG Tel: 01443 864744 E-mail: Quality,Planning&ChildProtectionTeam@caerphilly.gov.uk</p>

ACCESS RESTRICTIONS TO GAMBLING PREMISES

Casinos

- The principal access entrance to the premises must be from a street;
- 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 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 premises 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.

Guidance contains further information on this issue, which this authority will also take into account in its decision-making.

Gaming Machine Categorisation

Machine category	Maximum stake (from January 2014)	Maximum prize (from January 2014)	Permitted premises
A	Unlimited	Unlimited	Regional Casino
B1 	£5	£10,000 (with the option of a maximum £20,000 linked progressive jackpot on a premises basis only)	Large Casino, Small Casino, Pre-2005 Act casino and Regional Casinos
B2 	£100	£500	Betting premises and tracks occupied by pool betting and all of the above
B3 	£2	£500	Bingo premises, Adult gaming centre and all of the above
B3A	£2	£500	Members' club or Miners' welfare institute only
B4 	£2	£400	Members' club or Miners' welfare club, commercial club and all of the above.
C 	£1	£100	Family entertainment centre (with Commission operating licence), Qualifying alcohol licensed premises (without additional gaming machine permit), Qualifying alcohol licensed premises (with additional LA gaming machine permit) and all of the above.

Machine category	Maximum stake (from January 2014)	Maximum prize (from January 2014)	Permitted premises
<u>D money prize</u>	10p	£5	Travelling fairs, unlicensed (permit) Family entertainment centre and all of the above
<u>D non-money prize (other than crane grab machine)</u>	30p	£8	All of the above.
<u>D non-money prize (crane grab machine)</u>	£1	£50	All of the above.
<u>D combined money and non-money prize (other than coin pusher or penny falls machines)</u>	10p	£8 (of which no more than £5 may be a money prize)	All of the above.
<u>D combined money and non-money prize (coin pusher or penny falls machine)</u>	20p	£20 (of which no more than £10 may be a money prize)	All of the above.

MANDATORY CONDITIONS

The following mandatory conditions shall be attached to every premises licence:

1. The summary of the terms and conditions of the premises licence issued under section 164(1)(c) of the 2005 Act shall be displayed in a prominent position within the premises.
2. The layout of the premises shall be maintained in accordance with the plan.
3. The premises shall not be used for:
 - (a) the sale of tickets in a private lottery or customer lottery, or
 - (b) the sale of tickets in any other lottery in respect of which the sale of tickets on the premises is otherwise prohibited(a).

In addition to the above the following mandatory conditions will apply to:

Casinos and Horse Race Courses Premises Licences:

At the time of developing this policy there were no casinos or horse race courses within the Caerphilly area. As a consequence mandatory conditions have not been listed for these premises. Information on these mandatory conditions will be available from the Gambling Commission.

Bingo Premises Licences:

1. A notice stating that no person under the age of 18 years is permitted to play bingo on the premises shall be displayed in a prominent place at every entrance to the premises.
2. No customer shall be able to enter the premises directly from any other premise in respect of which one of the following permissions has effect-
 - (a) a casino premises licence;
 - (b) an adult gaming centre premises licence;
 - (c) a betting premises licence other than a track premises licence; and
3. Any area of the premises to which category B and C gaming machines are located-
 - (a) shall be separated from the rest of the premises by a physical barrier which is effective to prevent access other than by an entrance designed for the purpose;
 - (b) shall be supervised at all times to ensure children or young persons or both do not enter the area; and
 - (c) shall be arranged in such a way that ensures all parts of the area can be observed by the persons mentioned in sub-paragraph

- (3) The reference to supervision in this paragraph means supervision by-
 - (a) one or more persons whose responsibilities include ensuring children or young persons or both do not enter the area; or
 - (b) closed circuit television which is monitored by one or more persons whose responsibilities include ensuring that children or young persons or both do not enter the area.
 - (4) A notice stating that no person under the age of 18 years is permitted to enter the area shall be displayed in a prominent place at the entrance to any area of the premises in which Category B or C gaming machines are made available for use.
4. (1) In the case of a charge for admission to the premises, a notice of that charge shall be displayed in a prominent place at the principal entrance to the premises.
 - (2) In the case of any other charges in respect of gaming, a notice setting out the information in sub-paragraph (3) shall be displayed at the main point where payment for the charge is to be made.
 - (3) The notice in sub-paragraph (2) shall include the following information –
 - (a) the cost (in money) of each game card (or set of game cards) payable by an individual in respect of a game of bingo;
 - (b) in respect of each game card (or set of game cards) referred to in paragraph (a) the amount that will be charged by way of a participation fee for entitlement to participate in that game; and
 - (c) a statement to the effect that all or part of the participation fee may be waived at the discretion of the person charging it.
 - (d) The notice may be displayed in electronic form.
 - (e) A reference in this paragraph to a charge in respect of gaming does not include an amount paid for an opportunity to win one or more prizes in gaming to which section 288 of the 2005 Act (meaning of “prize gaming”) applies.
5. (1) The rules of each type of game that is available to be played the premises other than games played on gaming machines shall be made available to customers within the premises.
 - (2) The conditions in sub-paragraph (1) may be satisfied by -
 - (a) displaying a sign setting out the rules;
 - (b) making available leaflets or other written material containing the rules; or
 - (c) running an audio-visual guide to the rules prior to any bingo game being commenced.
6. Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling in order to do so.

Adult Gaming Centre Premises Licences:

1. A notice stating that no person under the age of 18 years is permitted to enter the premises shall be displayed in a prominent place at every entrance to the premises.
2. No customer shall be able to access the premises directly from any other premises in respect of which a licence issued under Part 8 of the Act, or a permit issued under Schedule 10, 12 or 13 to the Act, has effect.
3. Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling at any gaming machine in order to do so.
4.
 - (1) No alcohol shall be permitted to be consumed on the premises at any time during which facilities for gambling are being provided on the premises.
 - (2) A notice stating the condition in sub-paragraph (1) shall be displayed in a prominent place at every entrance to the premises.

Family Entertainment Centre Premises Licences:

1. No customer shall be able to access the premises directly from any other premises in respect of which one of the following premises licences has effect -
 - (a) a casino premises licence;
 - (b) an adult gaming centre premises licence;
 - (c) a betting premises licence other than a track premises licence.
2. Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling at any gaming machine in order to do so.
3.
 - (1) Where Category C gaming machines are made available for use on the premises, any area of the premises in which those machines are located
 - (a) shall be separated from the rest of the premises by a physical barrier which is effective to prevent access other than by an entrance designed for the purpose;
 - (b) shall be supervised at all times to ensure children or young persons or both do not enter the area; and
 - (c) shall be arranged in such a way so as to permit all parts of the area to be observed by the persons mentioned in sub-paragraph (2).

- (2) The reference to supervision in this paragraph means supervision by -
 - (a) one or more persons whose responsibilities include ensuring children or young persons or both do not enter the area; or
 - (b) closed circuit television which is monitored by one or more persons whose responsibilities include ensuring that children or young persons or both do not enter the area.
- (3) A notice stating that no person under the age of 18 years is permitted to enter the area shall be displayed in a prominent place at the entrance to any area of the premises in which Category C gaming machines are made available for use.
4. (1) No alcohol shall be permitted to be consumed on the premises at any time during which facilities for gambling are being provided on the premises.
 - (2) A notice stating the condition in sub-paragraph (1) shall be displayed in a prominent place at every entrance to the premises.

Betting Premises Licences (other than Track Premises Licences):

1. A notice stating that no person under the age of 18 years is permitted to enter the premises shall be displayed in a prominent place at every entrance to the premises
2. (1) Access to the premises shall be from a street or from other premises with a betting premises licence.
 - (2) Without prejudice to sub-paragraph (1), there shall be no means of direct access between the premises and other premises used for the retail sale of merchandise or services.
3. Subject to anything permitted by virtue of the 2005 Act, or done in accordance with paragraphs 4, 5, 6 and 7 below, the premises shall not be used for any purpose other than for providing facilities for betting.
4. Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to leave any gaming machine or betting machine in order to do so.
5. No apparatus for making information or other material available in the form of sounds or visual images may be used on the premises, except for apparatus used for the following purposes -
 - (a) communicating information about, or coverage of sporting events, including -
 - (i) information relating to betting on such an event; and

- (ii) any other matter or information, including an advertisement, which is incidental to such an event.
 - (b) communicating information relating to betting on any event (including the result of the event) in connection with which betting transactions may be or have been effected on the premises.
- 6. No publications, other than racing periodicals or specialist betting publications, may be sold or offered for sale on the premises.
- 7. No music, dancing or other entertainment shall be provided or permitted on the premises, save for entertainment provided in accordance with paragraph 5.
- 8. (1) No alcohol shall be permitted to be consumed on the premises at any time during which facilities for gambling are being provided on the premises.

(2) A notice stating the condition in sub-paragraph (1) shall be displayed in a prominent place at every entrance to the premises.
- 9. A notice setting out the terms on which customers are invited to bet on the premises shall be displayed in a prominent place on the premises to which customers have unrestricted access.

All Track Premises Licences:

- 1. No customer shall be able to access the premises directly from any other premises in respect of which one of the following premises licences has effect (a) a casino premises licence;

(b) an adult gaming centre premises licence.
- 2. A notice stating that no person under the age of 18 is permitted to bet on the premises shall be displayed in a prominent place at every public entrance to the premises.
- 3. The terms on which a bet may be placed must be displayed in a prominent place within the premises to which customers wishing to use facilities for betting have unrestricted access.
- 4. The premises licence holder shall make arrangements to ensure that betting operators who are admitted to the premises for the purpose of accepting bets -

(a) will be operating under a valid operating licence; and
(b) are enabled to accept such bets in accordance with -

- (i) the conditions imposed under sections 92 (general betting operating licence) or 93 (pool betting operating licence) of the 2005 Act, or
 - (ii) an authorization under section 94 (horse-race pool betting operating licence) of that Act.
- 5. The premises licence holder shall make arrangements to ensure that reasonable steps are taken to remove from the premises any person who is found to be accepting bets on the premises otherwise than in accordance with the 2005 Act.
- 6. Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling in order to do so.

Track Premises Licence in respect of premises that are dog-racing tracks:

- 1. A totalisator on the premises shall only be operated -
 - (a) whilst the public are admitted to the premises for the purposes of attending dog races and no other sporting events are taking place on the premises; and
 - (b) for effecting with persons on the premises betting transactions on dog races taking place on the premises.
- 2. (1) At any time during which the totalisator is being lawfully used on the premises –
 - (a) no betting operator or betting operator’s assistant shall be excluded from the premises by reason only of the fact that he proposes to accept or negotiate bets on the premises; and
 - (b) there shall be made available on the premises space for betting operators and betting operators’ assistants where they can conveniently accept and negotiate bets in connection with dog races run on the premises on that day.(2) This paragraph is without prejudice to section 180 (pool betting on dog races) of the 2005 Act.
- 3. For the purposes of this Part, “totalisator” means the apparatus for betting known as the totalisator or pari mutual, or any other machine or instrument of betting of a like nature, whether mechanically operated or not.

DEFAULT CONDITIONS:

Default conditions are attached to premises licence in the same way as mandatory conditions but an applicant can apply for these conditions to be excluded or varied. Default conditions shall apply unless the licensing authority decides to exclude them, in which case the authority can impose alternative conditions relating to the same matter. These powers can apply to

all premises licences, or class of licence, or to licences in specified circumstances.

Casinos and Horse Race Courses Premises Licences:

At the time of developing this policy there are no casinos or horse race courses within the Caerphilly area. As a consequence default conditions have not been listed for these premises. Information on the default conditions are available from the Gambling Commission.

Bingo Premises Licences:

1. Subject to paragraph 2, no facilities for gambling shall be provided on the premises between the hours of midnight and 9.00 a.m.
2. The condition in paragraph 1 shall not apply to making gaming machines available for use.

Adult Gaming Centre Premises Licences:

There are no default conditions applicable to these types of premises.

Family Entertainment Centre Premises Licences:

There are no default conditions applicable to these types of premises.

Betting Premises Licences (other than in respect of tracks):

No facilities for gambling shall be provided on the premises between the hours of 10.00 p.m. on one day and 7.00 a.m. on the next day.

All Track Premises Licences:

1. Subject to paragraph 2, no facilities for gambling shall be provided on the premises between the hours of 10.00 p.m. on one day and 7.00 a.m. on the next day.
2. The prohibition in paragraph 1 does not apply on days when a sporting event is taking place on the premises, in which case gambling transactions may take place at any time during that day.

PREMISES SPECIFIC CONDITIONS

In addition to the above mandatory and default conditions, licensing authorities have powers, under the Gambling Act 2005, to set individual conditions for a premises licence when the licence is granted. In doing so they may impose a condition on a licence or exclude default conditions. Such a condition may apply in relation to premises generally or only in relation to a specified part of the premises.

SCHEDULE OF DELEGATION OF LICENSING FUNCTIONS AND DECISIONS

Matters to be dealt with	Full Council	Sub-Committee	Officers
Three year Gambling Policy	X		
Policy not to permit casinos	X		
Fee Setting – when appropriate	X		
Application for Premises Licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representation has been received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
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 objections made/objections have been withdrawn
Cancellation of club gaming/club machine permits		x	

Matters to be dealt with	Full Council	Sub-Committee	Officers
Applications for other permits		Where objections have been made and not withdrawn	Where no objections made/objections have been withdrawn
Cancellation of licensed premises gaming machine permits			x
Consideration of temporary use notice			x
Decision to give a counter notice to a temporary use notice		x	

DEFINITIONS

NOTE: In this Policy, the following definitions are included to provide an explanation to certain terms included in the Act and, therefore, in the Statement of Licensing Policy. In some cases they are an abbreviation of what is stated in the Gambling Act 2005 or an interpretation of those terms. For a full definition of the terms used, the reader must refer to the Gambling Act 2005.

‘The Council’ means Caerphilly County Borough Council, acting as the Licensing Authority as defined by the Gambling Act 2005.

‘The Act’ means the Gambling Act 2005.

‘The County Borough’ means the county borough of Caerphilly.

‘The Licensing Authority’ the authority in whose area the premises is wholly/partly situated. The Licensing Authority (as in the issuing authority) is also a responsible authority.

‘The Gambling Commission’ a body set up by the Government as the unified regulator for gambling, replacing the Gaming Board.

‘Guidance’ means Guidance issued by the Gambling Commission

‘LCCP’ means Licensing Conditions Code of Practice issued by the Gambling Commission.

‘Responsible Authority’ means a public body that must be notified of certain applications for premises licences and permits, and are entitled to make representations on any of the licensing objectives.

‘Children’ means individuals who are less than 16 years old.

‘Young person’ means individuals who are aged less than 18 years old and are 16 years and over.

‘Mandatory Conditions’ means a specified condition provided by regulations to be attached to premises licences.

‘Default Conditions’ means a specified condition provided for by regulations to be attached to a licence unless excluded by the Council.

‘Premises’ means any place, including a vessel or moveable structure.