



## **LICENSING AND GAMBLING COMMITTEE – 29TH NOVEMBER 2018**

**SUBJECT: GAMBLING ACT 2005 – REVIEW OF STATEMENT OF LICENSING POLICY**

**REPORT BY: INTERIM CORPORATE DIRECTOR - COMMUNITIES**

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### **1. PURPOSE OF REPORT**

- 1.1 To inform Members of the result of consultation carried out to review the Statement of Gambling Licensing Policy. The report is seeking the views of Members prior to its presentation to Council on 13<sup>th</sup> December 2018.

### **2. SUMMARY**

- 2.1 In accordance with the Gambling Act 2005, the Licensing Authority must prepare, consult upon and approve a Statement of Licensing Policy that must be reviewed every three years. The current Policy was approved by Council and published in January 2016. The policy must contain objectives regarding the following:-
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime,
  - Ensuring that gambling is conducted in a fair and open way, and
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling.

### **3. LINKS TO STRATEGY**

- 3.1 The review of Statement of Gambling Licensing policy contributes to the following Well-being Goals within the Well-being of Future Generations Act (Wales) 2015:
- A prosperous Wales
  - A resilient Wales
  - A more equal Wales
  - A globally responsive Wales.

### **4. THE REPORT**

- 4.1 In accordance with the above Act, the Licensing Authority has a duty to publish a Policy which sets out the principles that it will apply when dealing with gambling premises, gaming permits, lottery registrations, and other gambling notices associated with gaming.

The Policy has been reviewed and a consultation exercise undertaken with relevant bodies, individuals, residents and businesses throughout the Borough who have been invited to comment. The consultation period commenced on 25<sup>th</sup> July 2018 and ran until the 31<sup>st</sup> August 2018.

- 4.2 When preparing the revised Statement, the Authority must have regard to legislative changes and the Guidance issued by the Gambling Commission. In addition the revised policy has been developed following collaboration with neighbouring authorities comprising the Gwent Licensing Forum, i.e. Torfaen, Monmouthshire, Blaenau Gwent and Newport. The collaboration addressed common themes affecting all authorities but did not address local issues or considerations particular to each authority.
- 4.3 Four responses have been received during the consultation period, one related to advertising of Gambling and possible pressure to be brought on Central Government to prohibit all gambling advertisements, which is outside the remit of the policy. Another response queried whether premises could be required to be Dementia Friendly, whilst this is something which could not be conditioned, the principles of the scheme could be outlined during officer compliance visits. The third response requested that the Licensing Authority note the change of address of one of the agencies consulted. The fourth response was received from the Gwent Licensing Forum Chair to incorporate the comments of Aneurin Bevan Gwent Public Health team, who made reference to the location or clustering of gambling premises, the proximity of premises where groups vulnerable to problematic gambling may congregate. Furthermore consideration of location of alcohol premises in relation to Gambling premises and awareness of where to signpost customers at risk of harm.
- 4.4 The revised Statement of Licensing Policy is attached as Appendix 1 and the main amendments to the policy are as follows:
- 4.4.1 **Define the types of Gambling Premises more clearly.**  
Section 2.1 of the policy now confirms the type of premises authorised under the Gambling Act e.g. Bingo Premises, Betting Premises including race tracks, Adult Gaming and Family Entertainment Centres.
- 4.4.2 **Requirement for applicants / licence holders to carry out necessary checks of staff members where children and vulnerable people have access.**  
Sections 2.11 & 2.13 of the policy place the onus on applicants/licensees of Family Entertainment Centres to provide evidence that suitable Disclosure and Barring Service checks have been conducted on staff in their employment. Furthermore to put sufficient measures in place to ensure children do not have access to adult only gaming machines, through segregation of machines, supervision of these areas, the location of such machines and the display of prominent notices.
- 4.4.3 **Details the type of conditions that could be imposed on a licence.**  
Whilst decisions upon individual conditions will be made on a case by case basis section 2.8 details conditions which the council could impose on a licence, examples provided have particular reference to security, anti- social behaviour concerns, underage access and player protection controls.
- 4.4.4 **Increased guidance on small society lotteries.**  
Section 4 sets out the qualifying criteria for Societies, the content of applications and supporting information required and the Licensing Authority's ability to refuse an application.
- 4.4.5 **Provides advice to applicants / licence holders on conditions and codes of practice concerning local risk assessments.**  
Section 6 of the policy explains the Licensing Authority's requirements concerning the Gambling Commission's Licence Conditions and Codes of Practice. This will require new applicants and existing licensees to undertake or update their local risk assessment demonstrating a local regard for the area when submitting a new premises' licence, or variation. These should take into account significant changes in the local area or when there are significant changes within their premises that may affect the existing risk assessment. In effect the applicant / licensee will be required to assess local risks and determine appropriate mitigation to reduce those risks.
- 4.5 Following consideration by this Committee, the Policy will be presented to Council for final approval. The revised policy must be published by the 1<sup>st</sup> January 2019 to come into effect for the 31<sup>st</sup> January 2019.

## **5. WELL-BEING OF FUTURE GENERATIONS**

- 5.1 This report and review of the Statement of Gambling Policy contributes to the Well-being Goals as set out in Links to Strategy above. They are consistent with the five ways of working as defined within the sustainable development principle in the Act. There is an emphasis on prevention as the licensing process ensures that a number of checks and safeguards are in place before a licence is granted. There is also involvement particularly through the consultation process for applications allowing other agencies and the community to input into the decision making process.

## **6. EQUALITIES IMPLICATIONS**

- 6.1 The Policy is required to be reviewed every three years. There are no potential equalities implications of this report and the amended policy on groups or individuals who fall under the category identified in Section 6 of the Council's Strategic Equality Plan. There is no requirement for an Equalities Impact Assessment Questionnaire to be completed for this report. The Council ensures that it treats all individuals who are renewing or making new applications for licenses, with equal respect in line with the Council's Strategic Equality Plan 2016 to 2020. The review of the Gambling policy was subject to public consultation which included a media release and the authority's corporate website.

## **7. FINANCIAL IMPLICATIONS**

- 7.1 There are no financial implications.

## **8. PERSONNEL IMPLICATIONS**

- 8.1 There are no personnel implications.

## **9. CONSULTATIONS**

- 9.1 Details of consultees on the amended policy are listed in Annex 1 of the attached policy document. Four responses were received as a result of the public consultation process and are detailed in paragraph 4.3 and where appropriate have been included in the amended policy.
- 9.2 This report has been sent to the consultees listed below and all comments received are reflected in this report.

## **10. RECOMMENDATIONS**

- 10.1 That the Committee consider and offer any comment to Council on the revised Statement of Licensing Policy, prior to submission to Full Council on 13th December 2018.

## **11. REASONS FOR THE RECOMMENDATIONS**

- 11.1 In order to give effect to the statutory obligations imposed by the Gambling Act 2005 and any Regulations made under the Act.

## **12. STATUTORY POWER**

- 12.1 Gambling Act 2005. The decision is the responsibility of the full Council.

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Consultees: Councillor D Preece, Chair, Licensing Committee  
Councillor J Simmonds Vice Chair, Licensing Committee  
Mark S Williams, Interim Corporate Director, Communities.  
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Jacqui Morgan, Trading Standards, Licensing and Registrars Manager  
Rob Tranter, Head of Legal Services and Monitoring Officer  
James Williams, Solicitor, Legal Services  
Anwen Cullinane Senior Policy Officer (Equalities and Welsh Language)  
Mike Eedy, Finance Manager  
Shaun Watkins, HR Manager

Background Papers:

The current Gambling policy: <http://www.caerphilly.gov.uk/CaerphillyDocs/Licensing/Statement-of-Licensing-Policy-Gambling-Act.aspx>

The Gambling Act 2005 and associated Regulations.

Gambling Commission Licensing Conditions and Codes of Practice.

Appendices:

Appendix 1 Revised Statement of Licensing Policy



## **CAERPHILLY COUNTY BOROUGH COUNCIL**

### **GAMBLING ACT 2005**

### **STATEMENT OF LICENSING POLICY**

Approved: \*\*\*DATE\*\*\*\*\* 2018

Commencement: \*\*\*\*DATE\*\*\*\*\* 2019

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

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## **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 6.

This Policy Statement takes effect on 31<sup>st</sup> January 2019. 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 Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. The characteristics that are protected by the Equality Act 2010 are age, disability, gender reassignment, marriage or civil partnership (in employment only), pregnancy and maternity, race, religion or belief, sex and sexual orientation.

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, British Sign Language 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.

### **1.3 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 **180,453** 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.

### **1.4 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.

## **1.5 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, Public Health, 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.

## **1.6 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 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. Consultation took place between 25<sup>th</sup> July 2018 and 31st August 2018.

This policy was approved at a meeting of the Full Council on \*\*\*DATE\*\*\* and was published on the \*\*\*\*\*Date \*\*\*\*\* 2019, as well as being available at [www.caerphilly.gov.uk](http://www.caerphilly.gov.uk)

## **1.7 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.

## **1.8 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, medical practices and Local Health Board.

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, Community 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.

## **1.9 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 2018 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.

### 1.10 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 '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 and the Better Regulation Delivery Office's (BRDO) Code of Practice on Age Restricted Products.

### 1.11 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.

### **1.12 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.

### **1.13 Sustainable Development Community Strategy**

The Local Government Act 2000 requires all local authorities to produce a community strategy within the framework of the UK Sustainable Development Strategy – “A better Quality of Life” and relevant regional strategies. The Wellbeing and Future Generations (Wales) Act 2015 requires all Welsh local authorities to think about the long-term impact of their decisions, to work better with people, communities and each other, and to prevent persistent problems such as poverty, health inequalities and climate change.

Community strategies provide a focal point for the identification of local issues and aspirations on social inclusion, environmental protection, employment and economic development.

Local strategic partnerships, typically involving the police, local authorities, local health boards, and representatives from education, business and the voluntary sector organisations, are responsible for the achievement of locally set objectives. These are set out in the Caerphilly We Want Well-Being Plan and can be accessed via

<https://your.caerphilly.gov.uk/publicservicesboard/content/well-being-plan>

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 authorise the provision of gambling facilities on the following:-

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

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

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

This Council may also consider measures to meet the licensing objectives when making such decisions, for example:

- 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;

- Measures/training for staff on how to deal with children on the premises, for example, suspected truancy from school.

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

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 places f onus on licence holders to complete a risk assessment. The Council will have regard to this code when considering applications.

## 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 sub-divisions 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.

The Guidance, 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/ Duplication with other Regulatory Regimes:**

The Council seeks to avoid any duplication with other statutory/regulatory systems where possible, including 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 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:

### **2.7.1 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.

### **2.7.2 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 23 in this policy statement.

### **2.7.3 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 and also where to signpost people for support (training is available from a number of sources including Newport Citizens Advice Bureau (CAB) and Gambleaware)

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.

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

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

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

## **2.8 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

## **2.9 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. Specific regard will be given to the local risk assessment for each premises when making such decisions 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. In conjunction with Mandatory conditions that are specified in the Gambling Act 2005 (Mandatory and Default Conditions)(England and Wales) Regulations 2007 (the regulations).

Conditions the Council may impose on a licence could include:-

### **Security conditions**

- A minimum of two members of staff after 10pm;
- The premises will have an intruder alarm and panic button;
- A monitor shall be placed inside the premises above the front door showing CCTV images of customers entering the premises.

#### Anti-social behaviour conditions

- The licensee shall develop and agree a protocol with the police as to incident reporting, including the type and level of incident and mode of communication, so as to enable the police to monitor any issues arising at or in relation to the premises;
- The licensee shall place and maintain a sign at the entrance which states that 'only drinks purchased on the premises may be consumed on the premises';
- The licensee shall implement a policy of banning any customers who engage in crime or disorder within or outside the premises.

#### Underage controls

- Customers under 21 will have to provide ID;
- No machines in the Unlicensed Family Entertainment Centre to be sited within one metre of the Adult Gaming Centre entrance;
- Staff training records or certified copies should be available at the premises for inspection.

#### Player protection controls

- There shall be no cash point or ATM facilities on the premises;
- The licensee shall train staff on specific issues related to the local area and shall conduct periodic refresher training. Participation in the training shall be formally recorded and the records produced to the police or licensing authority upon request;
- Prominent GamCare documentation will be displayed at the premises.

This list is not exhaustive and merely gives an example of the type of conditions which may be imposed depending on the circumstances at each premises.

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 and Code of Practice(s).

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

## **2.10 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 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.

## **2.11 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.

## **2.12 (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 applicant for a Family Entertainment Centre provide evidence that a suitable criminal record check with the Disclosure and Barring Service (DBS) has been conducted on all staff in his/her employment.

Children and young persons are permitted entry to licensed FECs but are not permitted to play Category C machines. The Council expects the applicant to ensure that there will be sufficient measures in place to prevent under 18 year olds having access to the adult only gaming machine areas. The Council will expect applicants to meet the licensing objectives and comply with all mandatory conditions and Codes of Practice issued by the Gambling Commission.

There is a requirement that there must be clear segregation between the types of machine in order that children do not have access to Category C machines. All Category C machines must be located in an area of the premises which is separate from the remainder of the premises by a physical barrier, which will prevent access other than through a designated entrance. The Council will seek to ensure that:

- only adults are admitted to the area where the machines are located;
- access to the area where the machines are located is supervised;
- the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
- at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18

## **2.13 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

## **2.14 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.

Where Category C or above machines are available in the bingo premises to which children are admitted, the Council will seek to ensure that:-

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

Where bingo is permitted in alcohol-licensed premises, this must be low turnover bingo only and applicants are expected to comply with any Codes of Practice and advice issued by the Gambling Commission. High turnover bingo will require a Bingo Operating Licence.

## **2.15 Betting Premises**

### **Betting machines:**

#### ***Self Service Betting Terminals (SSBTs):***

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 Self Service Betting Terminals “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.

However, where a machine is made available to take bets on virtual races (that is, results and/or images generated by computer to resemble races or other events) that machine is a gaming machine and counts towards the maximum permitted number of gaming machines, and must meet the relevant category limitations for the premises.

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.

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

## **2.16 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.

## **2.17 Gaming Machines:**

There are a number of categories of gaming machine permitted at licensed and other premises and the number of such machines that may be permitted in each type of gambling premises are set out in the Act. The Council does not have the power to set different limits or further expand or restrict the categories of machine that are permitted. The exception to this is alcohol-licensed premises that hold gaming machine permits, where licensing authorities have discretion to specify the number of permitted gaming machines. In addition, limits are set separately in the Act for certain types of permit issued by licensing authorities. A table setting out gaming machine entitlement at each type of premises is attached at Appendix C.

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

Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, 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 and Regulations 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.

## **2.18 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.

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.

## **2.19 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**

These forms of authorisations are as follows:-

- Unlicensed Family Entertainment Centres (uFEC) Permits
- Prize Gaming Permits
- Licensed Premises Gaming Machine Permits
- Club Gaming Permits
- Club Gaming Machine Permits
- Temporary Use Notices (TUNs)
- Occasional Use Notices (OUNs)

A table setting out gaming machine entitlement is attached at Annex 4.

### **3.1 Unlicensed family entertainment centre Gaming Machine Permits**

Only premises that are wholly or mainly used for making gaming machines available may hold an Unlicensed Family Entertainment Centre. As a result, it is generally not permissible for such premises to correspond to an entire shopping centre, airport, motorway service station or similar. Typically, the machines will be in a designated enclosed area and clearly defined when making an application to the Council.

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 and codes of practice 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**

Where there is betting on a track on 8 days or fewer in a calendar year, betting may be permitted by an occasional use notice (OUN) without the need for a full premises licence. The intention behind OUNs is to permit licensed betting operators with appropriate permission from the Commission, to use tracks for short periods for conducting betting, where the event upon which the betting is to take place is of a temporary, infrequent nature (the OUN dispenses with the need for a betting premises licence for the track in these circumstances).

Non-commercial, fundraising race nights can be run as betting events at sporting venues under the authority of an OUN, whether or not the sporting event on which the bets are taken is held at that venue. The sporting event on which the bets are or will be taken also need not be taking place at the same time as the betting under the OUN.

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

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

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

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

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

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

Local authorities are entitled to operate their own lotteries, but may only do so if licensed by the Gambling Commission. Local authorities must commit a minimum of 20% of the proceeds from such lotteries for a purpose for which they have power to incur expenditure, and must also adhere to the other relevant provisions in the Act. They may also need to hold a remote gambling operating licence, in the event that they wish to sell lottery tickets via electronic or other remote technological methods such as over the telephone, email or via the internet.

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

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 or via [licensing@caerphilly.gov.uk](mailto:licensing@caerphilly.gov.uk) to seek further advice to register the lottery and to provide proof the collection is for charitable purposes, to support sporting, athletic or cultural activities.

## **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 and Gambling 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 and Gambling 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 Implementing the Determination of The Magistrates' Court**

As soon as the decision of the Magistrates' Court has been notified to all parties, the Council will not delay its implementation and necessary action will be taken forthwith unless ordered by a higher court to suspend such action (for example, as a result of an ongoing judicial review). The Act provides for no other appeal against the determination of the Magistrates' Court.

## **5.5 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 (LCCP)**

The Gambling Act 2005 requires the Gambling Commission to issue one or more codes of practice about the manner in which facilities for gambling are provided. The codes may be directed at the holders of operating or personal licences, or any other person involved in providing facilities for gambling.

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

- The Commission's *Licence conditions and codes of practice* (LCCP), which apply to holders of Gambling Commission operating or personal licences;
- Other codes - these are the Commission's code of practice for equal chance gaming and its code of practice for gaming machines in clubs and premises with an alcohol licence

The LCCP contains two types of code provision:

### **Social responsibility code provisions**

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

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

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

### **Ordinary code provisions**

These do not have the status of licence conditions in the case of licensed operators, but set out good practice.

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

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

### **Risk Assessments - Premises**

The LCCP requires all existing licensees that provide gambling at their premises to assess the local risks to the licensing objectives and have policies, procedures and control measures to reduce those risks. Licensees must take into account any relevant matters identified in the licensing authorities (gambling) Statement of Policy when making their risk assessments.

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

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

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

The code requires the Council to set out matters they expect the operator to take account of in the risk assessment in its statement of policy and this council expects the following matters to be considered by operators when making their risk assessment.

- Information held by the licensee regarding self-exclusions and incidences of underage gambling,
- Gaming trends that may reflect benefit payments
- Arrangement for localised exchange of information regarding self-exclusions and gaming trends.



- Urban setting such as proximity to schools, commercial environment, factors affecting footfall,
- Range of facilities in proximity to the licensed premises such as other gambling outlets, banks, post offices, refreshment and entertainment type facilities
- Known problems in the area such as problems arising from street drinkers, youths participating in anti-social behaviour, drug dealing activities, etc.

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

The 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 allies, 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.

The consideration of the location of alcohol licensed premises will also be a key consideration for gambling licence applications.

Other issues that may be considered could include;

- Matters of faith, including all religious or faith denominations including proximity to churches, mosques, temples or any other place of worship.
- the economic make-up of an area;
- the surrounding night-time economy;
- children's homes and care facilities;
- the area footfall eg. residential or commercial areas;
- banks and ATM nearby;
- known anti-social behaviour issues;
- housing facilities;
- job centres;
- hostel and support services for the homeless;
- alcohol and drug support facilities;
- pawn brokers and payday loan businesses;
- other gambling premises;
- If there is an existing cluster of gambling premises;
- mental health facilities;
- community buildings;
- residential care establishments;
- transport and parking facilities eg. bus stops, taxi ranks, train stations;
- presences of rough sleepers;
- unemployment rates for area;
- types and rates of crime in the area that could impact on the premises
- areas with significant areas of children, eg parks and playgrounds.

This list is not exhaustive and other factors not in this list that are identified must be taken into consideration.

### **Significant changes to the premises**

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

It is expected that gambling operators will undertake this risk assessment process as a matter of course for any premises refit, changes to layout or internal control measures. If any changes do require a review of the risk assessments for that premises gambling operators should ensure that they

have a system in place to record and action any measures identified in that review.

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

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

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

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

### **Variation of the premises licence**

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

The Commissions LCCP social responsibility code provision 10.1.1 requires that gambling operators must undertake a review of the local risk assessment and update it if necessary when preparing an application to vary the premises licence. Operators submitting a variation application to the Council may consider submitting a copy of the reviewed local risk assessment when submitting the application. This will then negate the need for the Council requesting to see a copy of this risk assessment and could potentially reduce the likelihood of a representation being made to the application.

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

### **Regular review of risk assessment**

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

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

### **Local risks and control measures**

There are two specific parts to the risk assessment process:

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

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

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

Operators will already be familiar with identifying risks in relation to health and safety and food hygiene legislation. Risk assessments are also used for

security and crime purposes, for example for money laundering and as part of trade association best practice, such as the Safe Bet Alliance.

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

### **Local area risks**

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

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

### **Risk Assessment**

Although gambling is a legal entertainment activity it can, in some locations, have a negative impact on individuals and the wider community. The consideration of the proximity of gambling premises to locations where groups vulnerable to problematic gambling may congregate, e.g schools, alcohol services, supported housing, will be a priority for the applicant and licensing authority. Caerphilly Public Services Board has produced a Wellbeing Assessment as part of the Wellbeing of Future Generations Act. The Assessment considers Economic, Social, Environmental and Cultural Wellbeing in the county in determining the 'Caerphilly we want'.

Full details can be found on -

<https://your.caerphilly.gov.uk/publicservicesboard/content/well-being-assessment>

Crime data for local area can be obtained from [www.gwent.police.uk](http://www.gwent.police.uk)

### **Gambling operational risks**

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

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

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

The control measures that operators will put in place to mitigate any risk associated with the gambling operation will be dependent on the type of gambling activities provided, how the company operates and the size of the organisation.

### **Premises design risks**

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

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

### **Interior design risks**

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

Operators should assess the risk presented by the internal layout of the premises and the location of gambling facilities within them. For example, if a gaming machine is placed within the direct line of sight of the cashier counter then staff will be able to monitor player behaviour and undertake interventions if there is a concern over the customers' spending habits. Staff can also

monitor the use of the machines and can challenge any customers who are believed to be under the age of 18, or who damage the machines, or who appear to be attempting to launder money. By a simple assessment of the optimum location for these machines, operators can significantly reduce the risk to the licensing objectives.

### **Exterior design risks**

The exterior of premises will be a major advertisement for the gambling operator. However, the design should be assessed based on the associated risk. Operators may identify a risk associated with the design and introduce control measures based on that perceived risk. For example, if the premises have a large amount of glass frontage in an area prone to criminal damage, operators may consider the risk of damage to the standard toughened glass to be high and introduce a control measure such as roller shutters and/or external CCTV cameras.

### **Control measures**

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

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

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

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

restricted gambling premises, the operator may identify the following control measures:

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

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

**Physical:** Magnetic door locks and ID scans.

### **Step 1: Undertaking a local risk assessment**

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

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

### **Step 2: Gambling operation and physical design**

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

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

### **Step 3: Control measures**

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



## **Step 4: Action Plan**

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

## **Completed assessment**

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

## **7. FURTHER INFORMATION**

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

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

**Telephone: 01443 866750**

**Email: [licensing@caerphilly.gov.uk](mailto: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](http://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](http://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
Health and Safety Executive
Health Board
Community and Town Councils
All Licensed Gambling Premises
All Licensed Premises and Club Premises Certificate Holders
General Public - via web site and press release
CCBC – Community Safety
CCBC – Corporate Policy Unit
CCBC – Legal Services
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
CCBC- Child Protection Co-ordinator
Newport CAB
Gwent Licensing Forum (GLF)

**RESPONSIBLE AUTHORITIES****RESPONSIBLE AUTHORITY CONTACT DETAILS**

<b>Responsible Authority</b>	<b>Contact Details</b>
Gambling Commission	Victoria Square House Victoria Square Birmingham B2 4BP <b>Telephone: 0121 230 6666</b> <b>Website: <a href="http://www.gamblingcommission.gov.uk">www.gamblingcommission.gov.uk</a></b>
HMRC	Excise Processing Teams, (Betting and Gaming) BX9 1GL  Tel: 0300 322 7072 e-mail <a href="mailto:nrubetting&amp;gaming@hmrc.gsi.gov.uk">nrubetting&amp;gaming@hmrc.gsi.gov.uk</a>
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: <a href="mailto:LicensingCDIV@gwent.pnn.police.uk">LicensingCDIV@gwent.pnn.police.uk</a>
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: <a href="mailto:safety-east@SouthWales-fire.gov.uk">safety-east@SouthWales-fire.gov.uk</a>
Planning (Local Planning Authority for area in which premises are situated)	Head of Planning and Regeneration Planning Division Caerphilly County Borough Council Tredomen House, Tredomen Park, Ystrad Mynach, Hengoed. CF82 7WF E-mail: <a href="mailto:planning@caerphilly.gov.uk">planning@caerphilly.gov.uk</a>

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 Penallta House Tredomen Park Ystrad Mynach Hengoed CF82 7PG</p> <p>E-mail: <a href="mailto:enviroservices@caerphilly.gov.uk">enviroservices@caerphilly.gov.uk</a></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 Penallta House Tredomen Park Ystrad Mynach CF82 7PG Tel: 01443 864744 E-mail: <a href="mailto:srt@caerphilly.gov.uk">srt@caerphilly.gov.uk</a></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.

## Summary of Machine Provisions by Premises

Machine category							
Premises type	A	B1	B2	B3	B4	C	D
Large casino (machine/table ratio of 5-1 up to maximum)				Maximum of 150 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine/table ratio)			
Small casino (machine/table ratio of 2-1 up to maximum)				Maximum of 80 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine/table ratio)			
Pre-2005 Act casino (no machine/table ratio)				Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead			
Betting premises and tracks occupied by pool betting				Maximum of 4 machines categories B2 to D (except B3A machines)			
Bingo premises <sup>1</sup>		Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4			No limit on category C or D machines		
Adult gaming centre <sup>2</sup>		Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4			No limit on category C or D machines		
Licensed family entertainment centre <sup>3</sup>				No limit on category C or D machines			
Family entertainment centre (with permit) <sup>3</sup>				No limit on category D machines			
Clubs or miners' welfare institute (with permits) <sup>4</sup>				Maximum of 3 machines in categories B3A or B4 to D			
Qualifying alcohol-licensed premises				1 or 2 machines of category C or D automatic upon notification			
Qualifying alcohol-licensed premises (with licensed premises gaming machine permit)				Number of category C-D machines as specified on permit			
Travelling fair		No limit on category D machines					

<sup>1</sup> Bingo premises licence are entitled to make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines on the premises. Where a premises licence was granted before 13 July 2011, they are entitled to make available eight (The Gambling Act 2005 (Gaming Machines in Bingo Premises) Order 2009) category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. Category B machines at bingo premises are restricted to sub-category B3 and B4 machines, but not B3A machines.

<sup>2</sup> Adult gaming centres are entitled to make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises and any number of category C or D machines. Where a premises licence was granted before 13 July 2011, they are entitled to make available four category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. Category B machines at adult gaming centres are restricted to sub-category B3 and B4 machines, but not B3A machines.

<sup>3</sup> Only premises that are wholly or mainly used for making gaming machines available may hold an unlicensed FEC gaming machine permit or an FEC premises licence. Category C machines may only be sited within licensed FECs and where an FEC permit is in force. They must be in a separate area to ensure the segregation and supervision of machines that may only be played by adults. There is no power for the licensing authority to set a limit on the number of machines under the FEC permit.

<sup>4</sup> Members' clubs and miners' welfare institutes with a club gaming permit or with a club machine permit, are entitled to site a total of three machines in categories B3A to D but only one B3A machine can be sited as part of this entitlement.

<sup>5</sup> Commercial clubs with club machine or gaming permits are entitled to a total of three machines in categories B4 to D.

**SCHEDULE OF DELEGATION OF LICENSING FUNCTIONS AND DECISIONS**

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



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

## **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.