

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

GAMBLING ACT 2005

GAMBLING POLICY 2022

Effective from 31st January 2022

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Approved by Council XX December 2021

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

GAMBLING POLICY

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NEATH PORT TALBOT COUNTY BOROUGH COUNCIL
Gambling Act 2005

Gambling Policy

PART A

1.0. Introduction

- 1.1. The Gambling Act 2005 requires the Council (hereafter referred to as the “Licensing Authority”) to prepare and publish a “Statement of Licensing Policy” known as the Gambling Policy that sets out the principles the Licensing Authority proposes to apply in exercising its licensing functions under the Act.
- 1.2. This Policy takes effect on 31st January 2022. 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, and will fully consult with partners, trade associations and residents groups as appropriate at that time, any representations received will be considered at that time.
- 1.3. However where updates are required due to changes in national legislation, statutory guidance or contact details the Licensing Authority reserves the right to amend this policy without consultation where it is necessary to ensure the policy reflects national legislation or statutory guidance.
- 1.4. In producing the final Policy Statement the Licensing Authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the Guidance to Licensing Authorities issued by the Gambling Commission, any codes of practice and any responses from those consulted on the Policy Statement.
- 1.5. The Licensing Authority has a legal obligation to comply with all legislation that promotes equality it has a policy in place to promote equality to all. Licensing of persons and premises under the Gambling Act 2005 will actively promote equality of service and enforcement to all members of the community.
- 1.6. 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.

- 1.7. The Licensing Authority 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.
- 1.8. It should be noted that this Policy will not override the right of any person to make an application, make representation about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

2.0. **Consultation**

- 2.1. In accordance with the requirements of the Act, the Licensing Authority has consulted widely before publishing this Policy. A list of consultees is reproduced at Appendix 2. The consultation was carried out between September and November 2021.
- 2.2. The Policy was approved at a meeting of the full Council on **XX** December 2021 and was published via our website on the **XX** December 2021. Copies have been placed in the public libraries of the area as well as being available in the Civic Centres at Neath and Port Talbot. Should you have any comments as regards this Gambling Policy, or wish to see the full list of comments and the consideration by the authority of those comments then please send them via e- mail or letter to:-

***Legal Regulatory Manager
Legal Regulatory Services***

Civic Centre

Port Talbot

SA13 1PJ

LRS@npt.gov.uk

3.0. Neath Port Talbot County Borough Council Local Area Profile

- 3.1. Neath Port Talbot has a geographical area of **441km² and is the ninth largest council in Wales with a population of 144,386 (the 11th highest population density)**
- 3.2. The Council has adopted a Corporate Plan **(2021-2023)** and the Neath Port Talbot Public Services Board Well-being Plan (2018 – 2023) The Council's Corporate Plan sets out the Council's well-being objectives which have been set so as to maximise the Council's contribution to the seven national well-being goals whilst also discharging its duty to improve the economic environmental, social and cultural well-being of people in Neath, Port Talbot and Pontardawe and to carry out sustainable development. The Plan also sets priorities for improvement and describes how the Council is changing the way it does things to meet the needs of its communities.
- 3.3. The Neath Port Talbot Public Services Board Well-being Plan sets out the Public Services Board's long term vision for the area as well as priorities for action over the next 5 years. The Plan contains well-being objectives identified by the Public Services Board and describes the practical steps that the Board will take to deliver the objectives.
- 3.4. The Licensing Authority expects that those who operate or wish to operate gambling premises within Neath Port Talbot are familiar with both the Council's Corporate Plan and the Public Services Board Well-being Plan and have regard to the well-being objectives that the Council and the Board are trying to achieve.
- 3.5. Operators will be expected to have given consideration to the appropriate well-being objectives within their risk assessments as outlined in paragraph 39 of this policy, paying particular attention to the protection of children from harm and the high levels of deprivation and personal debt within Neath Port Talbot.

4.0. **Licensing Objectives**

4.1. In exercising most of their functions under the Gambling Act 2005 (the Act), the Licensing Authority must have regard to the licensing objectives as set out in Section 1 of the Act and reproduced below:-

- 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 being conducted in a fair and open way.
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

4.2. It should be noted that the Gambling Commission has stated “The requirements in relation to children is explicitly to protect them from being harmed or exploited by gambling”.

4.3. The Licensing Authority is aware that as per Section 153 of the Act, in making decisions about premises licences and temporary use notices, it should aim to permit the use of premises for gambling in so far as it thinks it:-

- In accordance with any relevant code of practice issued by the Gambling Commission;
- In accordance with any relevant guidance issued by the Gambling Commission;
- Reasonably consistent with the licensing objectives; and
- In accordance with the authority’s statement of licensing policy

5.0. **Licensing Authority Functions**

5.1. Under the Act this Licensing Authority will be responsible for the following:

- Issuing Premises Licences – Where gambling activities are to take place.

- Issue Provisional Statements - For premises which are to be constructed or adapted for gambling activities.
- Regulate Club Gaming Permits and or Club Machine Permits for members clubs and miners' welfare institutes who wish to undertake certain gaming activities.
- Issue Club Machine Permits – for Commercial Clubs.
- Grant Permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres.
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines.
- Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required.
- Registration of lotteries which are small society lotteries below prescribed thresholds.
- Issue Prize Gaming Permits.
- Receive and Endorse Temporary Use Notices
- Receive Occasional Use Notices.
- Provide information to the Gambling Commission regarding details of licences issued (see section 7.0. on information exchange).
- Maintain registers of the permits and licences that are issued under these functions.

5.2. The licensing authority in order to deal efficiently with applications for premises licences, permits, temporary and occasional use notices, reviews, etc has prescribed a list of delegated functions. This is shown at appendix 3.

5.3. It should be noted that the Licensing Authority will not be involved in licensing remote gambling. This will fall to the Gambling Commission via Operating Licences.

5.4. The Licensing Authority recognises that the licensing function is only one means of promoting delivery of the three objectives and should not therefore be seen as a means for solving all problems within the community. The Licensing Authority will therefore continue to work in partnership with neighbouring authorities, South Wales Police, Public Health local businesses, local people and those involved in child protection to promote the licensing objectives as outlined. In addition, the Licensing Authority

recognises its duty under Section 17 of the Crime and Disorder Act 1998, with regard to the prevention of crime and disorder.

6.0. **Responsible Authorities**

6.1. The Licensing Authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:

- The need for the body to be responsible for an area covering the whole of the Licensing Authority's area, and
- The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

In accordance with the Gambling Commission's Guidance for Local Authorities, this authority designates the Western Bay Safeguarding Children Board for this purpose.

6.2. The contact details of all the Responsible Authorities under the Gambling Act 2005 are available on the Licensing Authority's website at: www.npt.gov.uk/licensing.

7.0. **Interested Parties**

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

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

7.2. The Licensing Authority is required by regulations to state the principles it will apply in exercising its powers under the

Gambling Act 2005 to determine whether a person is an interested party. The principles are:

Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making, but will consider the examples of considerations provided in the Gambling Commission's Guidance to Licensing Authorities.

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

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 represents the ward likely to be affected. Likewise parish/community councils likely to be affected will be considered to be interested parties. Other than these persons, this Authority will require written evidence that a person 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting that representation is sufficient.

If individuals wish to approach Councillors to ask them to represent their views then care should be taken that the Councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the **Legal Regulatory Services team** on 01639 763050 (**ring back service**) or e-mail LRS@npt.gov.uk

8.0. Exchange of Information

- 8.1. Licensing authorities are required to include in their policy statement the principles to be applied by the Authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under Section 350 of the Act with the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.
- 8.2. The principle that this Licensing Authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its

exchange of information which includes the provision that ***data protection legislation*** will not be contravened. The Licensing Authority will also have regard to any guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

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

9.0. **Enforcement**

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

9.2. The Licensing Authority's principles are that:

It will be guided by the Gambling Commission's Guidance to Local Authorities, the Regulators Code and the Licensing Authority's enforcement policy. It will endeavour to be:

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

9.3. The Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

9.4. The Licensing Authority has implemented a risk-based inspection programme based on:-

- The Licensing Objectives

- Relevant Codes of Practice
- Guidance issued by the Gambling Commission in particular ~~Part 36~~
- The principles set out in this statement of licensing policy
- The Licensing Authority's enforcement policy

9.5. The main enforcement and compliance role for the Licensing Authority in terms of the Gambling Act 2005 will be to ensure compliance with the premises licences and other permissions which is authorises. The Gambling Concerns about manufacture, supply or repair of gaming machines will not be dealt with by the Licensing Authority, but should be notified to the Gambling Commission.

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

9.7. The Licensing Authority will also keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

10.0. **Fundamental Rights**

10.1. 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.

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

11.0. Integrating Strategies and Avoiding Duplication

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

12.0. Sustainable Development Community Strategy

- 12.1. ***The Well-being of Future Generations (Wales) Act 2015 requires Local Authorities in Wales 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. The Act clearly supports and actively promotes the licensing objectives. This Act links specifically to the prevention of crime and disorder and public nuisance. The Licensing Authority will consider the five ways of working contained under this Act namely:***

Long Term (how we support the long term well-being of people) – The Licensing Authority recognises the need for people to be able to enjoy their leisure time and socialise with friends and family in a diverse and vibrant environment. This has to be balanced however against the need to ensure that children are protected from the harms of gambling and ensuring that operators are able to identify vulnerable adults with gambling addictions/ problems, to offer help, guidance and support through appropriate signposting.

Integration (impacts upon our wellbeing objectives) – The Licensing Authority will ensure that children and adults with gambling addictions/ problems are protected. Premises offer gambling activities will be expected to have given proper consideration in operating schedules as to how they

will protect children and vulnerable adults on their premises. Likewise, operating schedules will be expected to have given consideration to ensuring that their business does not impact negatively on those that live in the vicinity of the premises.

Involvement (how people have been involved) – The Licensing Authority has undertaken an extensive, far reaching consultation exercise in developing this policy.

Collaboration (Working with other services / organisations) – The Licensing Authority works with other Local Authorities and partner agencies across Wales to develop consistent policies and processes. Membership of the Institute of Licensing and representation on the All Wales Licensing Expert Panel enables the Licensing Authority to work with other local authorities, partner agencies and trade bodies across Wales to develop consistent policies and processes in order to achieve its objectives.

Prevention (how problems will be prevented from occurring or getting worse) – The Licensing Authority will carefully consider all applications to ensure the licensing objectives set-out in the Act are promoted at all times. Where premises are found to not be operating in a safe and responsible manner, the Licensing Authority will work with its partners to take remedial action, including formal enforcement to swiftly resolve any issues.

12.2. The Neath Port Talbot Public Services Board involving the Local Authority and representatives from a range of partner organisations, are responsible for achievement of locally set well-being objectives which must address the national well-being goals specified in the Well-being of Future Generations (Wales) Act 2015.

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

Part B – Premises Licences

13.0. General Principles

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

13.2. The Licensing Authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it is:-

- In accordance with any relevant code of practice issued by the Gambling Commission;
- In accordance with any relevant guidance issued by the Gambling Commission;
- Reasonably consistent with the licensing objectives; and
- In accordance with the authority's statement of licensing policy

13.3. It is appreciated that moral objections to gambling are not a valid reason to reject applications for premises licences (except as regards any 'no casino resolution' – see section on Casinos below) and also that unmet demand is not a criterion for a Licensing Authority.

13.4. The Licence Conditions and Code of Practice (LCCP) issued by the Gambling Commission commencing in May 2015 places further onus on premises to complete a risk assessment based on code 8, the social responsibility code. The Licensing Authority will have regard to this code when considering applications.

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

- 13.6. Premises are defined in the Act as including “any place”. Section 152 therefore prevents more than one premises licence applying to “any place”. However, it is possible for a single building to be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being separate premises. This makes provision for large multiple unit premises such as a pleasure park, shopping mall etc to obtain discrete premises licences where appropriate safeguards are in place. However, the Licensing Authority will pay particular attention if there are issues about sub-division of a single building and will ensure that mandatory conditions relating to access between premises are observed.
- 13.7. The Gambling Commission states in its Guidance to Licensing Authorities that “in most cases the expectation is that a single building will be the subject of an application for a licence e.g. 32 High Street. But that does not mean that 32 High Street cannot be the subject of separate premises licences for the basement and ground floor if they are configured acceptably. Whether different parts of a building can be properly 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”.
- 13.8. The Licensing Authority takes particular note of the Gambling Commission’s Guidance to Local Authorities which states that:
- 13.9. Licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:
- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so

that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.

- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not “drift” into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premise or premises with a permit.
- Customers should be able to participate in the activity named on the premises licence.

13.10. 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?

14.0. **Appropriate Licence Environment**

14.1. The Guidance to Local Authorities and the Licence Conditions and Codes of Practice (LCCP) set out additional matters that the Licensing Authority should take into account when considering licence applications for premises licences.

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

14.3. Where gambling facilities are provided at premises as a supplementary activity to the main purpose of the premises; e.g. motorway service areas and shopping malls, the Licensing Authority will expect the gambling area to be clearly defined

to ensure that customers are fully aware that they are making a choice to enter into the gambling premises, and that the premises is adequately supervised at all times.

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

15.0. **Premises “Ready for Gambling”**

15.1. 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.

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

15.3. In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process.

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

15.4. 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.

15.5. More detailed examples of the circumstances in which such a licence may be granted can be found in the Guidance.

16.0. **Other Considerations**

Location:

16.1. The Licensing Authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. This authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issue 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.

Planning:

16.2. The Gambling Commissions 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.

16.3. This authority will not take into account irrelevant matters as per the above guidance. In addition the authority 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 2005 Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.

Duplication with other regulatory regimes:

- 16.4. This Licensing Authority seeks to avoid any duplication with other statutory/regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be planning permission or building regulations approval in its consideration of it. It will however, listen to and consider carefully any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.
- 16.5. When dealing with a premises licence application for finished buildings, this authority will not take into account whether those buildings have to comply with the necessary planning or building consents. Fire or health & safety risks will not be taken into account, as these matters are dealt with under relevant planning, building and other regulations and must not form part of the consideration for the premises licence.

Licensing objectives:

- 16.6. Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this Licensing Authority has considered the Gambling Commission's Guidance to Local Authorities and some comments are made below.

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

- 16.7. This Licensing Authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. It is however 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, this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. The Licensing Authority is aware of the need to make a distinction between disorder and nuisance. It will consider factors such as whether police assistance was required, the nature of any incident so as to make that distinction.

Ensuring that gambling is conducted in a fair and open way:

16.8. The Licensing Authority has noted that the Gambling Commission's advice that it would generally not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences.

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

16.9. The Licensing Authority notes the Gambling Commission's guidance that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at, or are particularly attractive to children). The Licensing Authority will therefore consider, 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.

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

16.11. As regards the term "vulnerable persons" it is noted that the Gambling Commission is not seeking to offer a definition, but states that "it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who are gambling beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs". The Licensing Authority will consider this licensing objective on a case by case basis.

16.12. 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.

16.13. In particular operators must ensure that;

- all staff are trained,
- that all customers are supervised when on gambling premises

- must have procedures for identifying customers who are at risk of gambling related harm ***and also where to signpost people for support***

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

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

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

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

Conditions:

16.18. Any conditions attached to licences by this Licensing Authority 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.

16.19. Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this Licensing Authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. Specific regard will be against 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 Licensing Authority will also expect the licence applicant to offer his/her own suggestions as to the way in which the licensing objectives can be met effectively, in conjunction with mandatory conditions specified in the Gambling Act 2005 (Mandatory and Default Conditions)(England and Wales) Regulations 2007.

16.20. The Licensing Authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises, in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance and Codes of Practice.

16.21. The Licensing Authority will also ensure that where category C or above machines are on offer in premises in 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.

16.22. The Licensing Authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. This Licensing Authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are

distinct and that children are excluded from gambling areas where they are not permitted to enter.

16.23. It is noted that there are conditions which the Licensing Authority cannot attach to premises licences which are:

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

Door Supervisors:

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

16.25. Where it is decided that supervision of entrances/machines is appropriate for particular cases it will need to be decided whether these need to be SIA licensed or not. It will not be automatically assumed that they need to be licensed as the statutory requirements for different types of premises vary

17.0. Adult Gaming Centres

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

17.2. Where gambling facilities are provided at premises as a supplementary activity to the main purpose of the premises; e.g. motorway service areas and shopping malls. The Licensing

Authority will expect the gambling area to be clearly defined to ensure that customers are fully aware that they are making a choice to enter into the gambling premises and that the premises is adequately supervised at all times.

17.3. The Licensing Authority may consider measures such as:

- Proof of age schemes
- CCTV
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- Self-barring schemes
- Provision of information leaflets/helpline numbers for organisations such as GamCare.

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

18.0. **(Licensed) Family Entertainment Centres**

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

18.2. The applicant will be expected to 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.

18.3. Children and young persons are permitted entry to licensed FECs but are not permitted to play Category C gaming machines. The Licensing Authority 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 Licensing Authority will expect applicants to meet the licensing objectives and comply with all mandatory conditions and Codes of Practice issued by the Gambling Commission.

18.4. 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 Licensing Authority will seek to ensure that:

- Only adults are admitted to the area where the gaming 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.

18.5. The Licensing Authority may consider measures to meet the licensing objectives such as:

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

This list is neither mandatory, nor exhaustive and is merely indicative of example measures.

19.0. **Casinos**

19.1. The Licensing Authority has passed a 'no casino' resolution under Section 166 of the Gambling Act 2005. This resolution came into effect on 31st January **2022**.

19.2. Potential licence applicants should note that as a 'no casino' resolution has been passed by this authority, no applications for casino premises will be considered. Any applications received will be returned with a notification that a 'no casinos' resolution is in place.

20.0. **Bingo Premises**

20.1. This Licensing Authority notes that the Gambling Commission's Guidance states;

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

20.2. The Licensing Authority is aware that a holder of bingo premises licences may make available for use of 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.

20.3. Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.

20.4. Where Category C or above machines are available in the bingo premises to which children are admitted, the Licensing Authority 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.

21.0. **Betting Premises**

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

21.2. The Licensing 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.

22.0. **Travelling Fairs**

22.1. It will fall to the Licensing Authority to decide whether, where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

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

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

23.0. Tracks

23.1. The Licensing Authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. The Licensing Authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

23.2. The Licensing Authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

23.3. The Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures/licence conditions may cover issues such as:

- Proof of age schemes
- CCTV
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- Self-barring schemes
- Provision of information leaflets/helpline numbers for organisations such as Gam Care.

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

23.4. Gaming machines - Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, these machines (other than category D

machines) should be located in areas from which children are excluded.

- 23.5. Betting machines – This Licensing Authority will, as per Part 6 of the Gambling Commission’s Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator proposes to offer.
- 23.6. Applications and plans -The Gambling Act (s51) requires the applicants to submit plans of the premises with their application, in order to ensure the Licensing Authority has premises are fit for gambling. The plan will also be used for the Licensing Authority to plan future premises inspection activity.
- 23.7. Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations.
- 23.8. Some tracks may be situated on agricultural land where the perimeter is not such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises.
- 23.9. In 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 of the premises does not need to be defined.)
- 23.10. This authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the “five times rule” (commonly known as betting rings) must be indicated on plan.

24.0. **Provisional Statements**

- 24.1. Developers may wish to apply to this authority for provisional statements before entering into a contact 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.
- 24.2. S204 of the Gambling Act provides for a person to make an application to the Licensing Authority for a provisional statement in respect of premises that he or she:
- expects to be constructed;
 - expects to be altered; or
 - expects to acquire a right to occupy.
- 24.3. 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
- 24.4. 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.
- 24.5. The holder of a provisional statement may then apply for a premises licence once the premises are constructed altered or acquired.
- 24.6. The Licensing Authority will be constrained in the matters it can consider when determining the premises licence application. In terms of representations about premises licence applications, following 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.

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

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

25.0. **Reviews**

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

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the authority's statement of licensing policy.

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

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

- add, remove or amend a licence condition imposed by the Licensing Authority;

- exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
- suspend the premises licence for a period not exceeding three months; and
- revoke the premises licence.

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

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

Part C –
Permits, Temporary Use Notices & Occasional Use Notices

26.0. Family Entertainment Centre Permit

- 26.1. Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the Licensing Authority for a permit.
- 26.2. The Licensing Authority will expect applicants 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 policy and procedures will be considered on their merits. They may include training of staff regarding suspected truant school children, how to deal with unsupervised, very young children or children causing problems in and around the premises.
- 26.3. The Licensing Authority will expect applicants to demonstrate:
- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
 - that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and
 - that staff are trained to have a full understanding of the maximum stakes and prizes.
- 26.4. The applicant will be expected to 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.
- 26.5. 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.
- 26.6. It should be noted that the Licensing Authority cannot attach conditions to this type of permit.

27.0. Alcohol Licensed Premises

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

The Licensing Authority can remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Act, e.g. gaming machines have been made available in a way that does not comply with the requirements on the location and operation of the gaming machines;
- the premises are mainly used for gambling; or
- an offence under the Gambling Act has been committed on the premises.

27.2. If a premises wishes to have more than 2 machines, then it needs to apply for a permit, and the Licensing Authority will consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant*”. The Licensing Authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling.

27.3. The applicant will be expected to satisfy the Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines.

27.4. Measures which will satisfy the Authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be 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.

27.5. It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any

such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.

27.6. It should be noted that the Licensing Authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

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

28.0. **Club Gaming and Club Machine Permits**

28.1. Members Clubs and Miner's Welfare Institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Club Gaming Machines Permit.

28.2. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming, and games of chance as set out in regulations.

28.3. A Club Gaming Machine Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D) only. NB Commercial Clubs may not site category B3A gaming machines offering lottery games in their club

28.4. Gambling Commission Guidance states: "Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulations and these cover bridge and whist clubs, which replicates the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working mens' clubs, branches of the Royal British Legion and clubs with political affiliations".

28.5. The Licensing Authority 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 received the type of permit for which is 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.

28.6. There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). Commercial clubs cannot hold a club premises certificate under the Licensing act 2003 and so cannot use the fast-track procedure. As the Gambling Commission's Guidance to Licensing Authorities states "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the 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.

28.7. 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.

29.0. **Prize Gaming Permits**

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

29.2. The Licensing Authority has prepared a policy, which is that the applicant should set out the types of gaming that he or she is

intending to offer, and that the applicant should be able to demonstrate:-

- that they understand the limits to stakes and prizes that are set out in Regulations;
- that the gaming offered is within the law;
- clear policies that outline the steps to be taken to protect children from harm.

29.3. In making its decision on an application for this permit the Licensing Authority does not need to (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

29.4. It should be noted that the Gambling Act 2005 sets down conditions that the permit holder must comply with. These conditions 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.

29.5. The Licensing Authority cannot however attach additional conditions to prize gaming permits.

30.0. **Temporary Use Notice**

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

- 30.2. The Licensing Authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.
- 30.3. The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this Statement the relevant regulations (SI no. 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.
- 30.4. There are a number of statutory limits as regards temporary use notices. Gambling Commission Guidance is noted that the meaning of “premises” in part 8 of the Act is discussed in Part 7 of the guidance. As with “premises”, the definition of “a set of premises” will be a question of fact in the particular circumstances of each notice that is given. In the Act “premises” is defined as including “any place”. In considering whether a place falls within the definition of “a set of premises”, licensing authorities will need to look at, amongst other things, the ownership/occupation and control of the premises.
- 30.5. The Licensing Authority is likely 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.

31.0. **Occasional Use Notices**

- 31.1. The Licensing Authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. The Licensing Authority will, consider the definition of a ‘track’ and whether the applicant is permitted to avail him/herself of the notice

32.0. **Small Society Lotteries**

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

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

32.2. Non-commercial gaming is permitted if it takes place at 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.

Part D – Decision Making, Conditions and Codes of Practice

33.0. Administration, Exercise and Delegation of Functions

- 33.1. The powers and duties of the Licensing Authority under the Act may be carried out by the Licensing Committee, by a Sub-Committee or by one or more officers acting under delegated authority.
- 33.2. 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.
- 33.3. The schedule of delegation of licensing functions is attached at Appendix 3

34.0. Appeals Procedure

- 34.1. Entitlements to appeal for parties aggrieved by decisions of the Licensing Authority are set out in Sections 206 to 209 of the 2005 Act. Appeals must be made to the Magistrates Court for the area in which the Licensing Authority, which has considered the application, is situated.
- 34.2. An appeal has to be commenced by giving notice of the appeal by the appellant to; The Clerk to the Justices, Swansea Magistrates Court, Grove Place, Swansea, SA1 5DB within a period of 21 days, beginning with the day on which the appellant was notified by the Licensing Authority of the decision to be appealed against.
- 34.3. 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.
- 34.4. In anticipation of such appeals, the Licensing Authority will give comprehensive reasons for its decisions. The Licensing

Authority will address the extent to which decisions have been made with regard to any relevant codes of practice and guidance issued by the Gambling Commission, reasonably consistent with the licensing objectives and in accordance with this Policy Statement.

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

35.0. **Complaints against licensed Premises**

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

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

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

36.0. **Illegally sited Gaming Machines**

36.1. Gaming machines can only be made available for use where a premises licence, permit or an exemption e.g. travelling fairs, authorises its use. It is not possible to site gaming machines at premises such as off licences, newsagents, takeaways or other retail stores.

36.2. When illegally sited gaming machines are discovered, the Licensing Authority will make every effort to seize the gaming

machine at the first opportunity to ensure that the gaming machine is removed from circulation.

36.3. The Licensing Authority working with the Gambling Commission will investigate offences committed under the Gambling Act 2005 by both the supplier of the machine and the proprietor of the business on which the machine was illegally sited.

36.4. The Licensing Authority will usually take formal action against the proprietor of the business where illegal gaming machines have been made available for use on the premises. As part of the proceedings the Licensing Authority will seek to secure a forfeiture order under Section 345 of Act, in order that the machine can then be destroyed.

36.5. The Licensing Authority anticipates that similar action will be taken by the Gambling Commission to ensure that formal action is also taken against the supplier of the gaming machine.

Part E – Codes of Practice and Risk Assessments

37.0. Overview

37.1. 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.

37.2. 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

38.0. **Types of Code Provision**

38.1. The LCCP contains two types of code provision, Social Responsibility Code Provisions and Ordinary Code Provisions:

Social Responsibility Code Provisions

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

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

38.3. 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.

Ordinary Code Provisions

38.4. 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).

39.0. **Risk Assessments**

39.1. 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.

39.2. 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.

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

39.4. The Licensing Authority expects the following matters to be considered by operators when making their risk assessment:

39.5. 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.

39.6. 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, credit / money lending shops, pawn shops etc.

39.7. Other issues that may be considered could include;

- proximity to churches, mosques, temples or any other place of worship *as these are often used by vulnerable people, for example: providing food banks, debt advice or mental health support;*
- the economic make-up of an area;
- the surrounding night-time economy;
- children's homes and care facilities;
- the area footfall e.g. residential or commercial areas;
- banks and ATMs 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;
- mental health facilities;
- community buildings;
- residential care establishments;
- transport and parking facilities e.g. 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, e.g. parks and playgrounds.

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

Betting Track Premises

39.9. Betting Track Premises are not required to seek an Operators' 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 2005, namely i) preventing gambling being a source of crime or disorder, being associated with crime or disorder or being used to support crime; ii) ensuring that gambling is conducted in a fair and open way; iii) protecting children and other vulnerable persons from being harmed or exploited by gambling, this Licensing Authority would expect a Betting Track Premises to conduct a risk assessment for their premises.

Significant changes

39.10. 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.

39.11. 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.

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

- Any building work or premises refit where gambling facilities are relocated within the premises.
- The premises licence is transferred to a new operator who will operate the premises with its own

procedures and policies which are different to those of the previous licensee.

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

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

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

Variations

39.15. 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.

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

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

Regular review of risk assessment

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

39.18. 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 Licensing Authority's Gambling Policy. This would enable gambling operators to consider the Local Area Profile outlined at paragraph 3.0.

Local risks and control measures

39.19. 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

39.20. 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.

39.21. 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.

39.22. 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.

39.23. 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 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.

40.0. **Further Information**

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

Legal Regulatory Services

Civic Centre
Port Talbot
SA13 1PJ

Telephone: 01639 763050 (***ring back service***)

Email: LRS@npt.gov.uk

Information is also available from:

The Gambling Commission
Victoria Square House
Birmingham
B2 4BP

Telephone: 0121 230 6666

Website: www.gamblingcommission.gov.uk

The Department for Digital, Culture, Media and Sport
100 Parliament Street
London
SW1A 2BQ

Telephone: 020 7211 **2210**
Website: www.culture.gov.uk

APPENDIX 1



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APPENDIX 2

Consultees – Gambling Policy

South Wales Police
Gambling Commission
ABMU Public Health Wales
British Association of Leisure Parks,
Piers & Attractions Ltd (BALPPA)
British Greyhound Racing Board
Bingo Association
British Beer & Pub Association
Association of British Bookmakers
Casino Operators Association of the UK
Racecourse Association Ltd
British Amusements + Catering Trades Association
British Casino Association
British Holiday & Home Parks Association
Community Councils
Neath Port Talbot Community Safety Partnership
Neath Port Talbot Council for Voluntary Services
Existing Licence / Permit holders (S34's, bingo, betting shops)
Neath Port Talbot CVS
Neath Town Centre Partnership
Neath Town Centre Manager
Business Crime Reduction Partnership
Gamblers Anonymous
Citizen's Advice Bureau
Gamcare
Mid and West Wales Fire and Rescue Services
Western Bay Safeguarding Boards
All Local Authority Directorates in particular:-
Environmental Health Section
Children and Young People Services

APPENDIX 3

SUMMARY OF LICENSING AUTHORITY DELEGATIONS UNDER THE
GAMBLING ACT 2005

Matters to be dealt with	Full Council	Full Cttee	Sub Committee	Officers
Three year Gambling Policy	X			
Policy not to permit Casinos	X	X		
Fee Setting – when appropriate		X		
Application for premises licence			Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Application for a variation to a licence			Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a transfer of a licence			Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a provisional statement			Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application to review premises licence/club premises certificate			X	
Application for club gaming/club machine permits			Where objections have been made (and not withdrawn)	Where no objections have been made (or have been withdrawn)
Cancellation of club gaming/club machine permits			X	
Applications for other permits				X
Cancellation of licensed premises gaming machine permits				X
Consideration of temporary use notice				X
Decision to give a counter notice to a temporary use notice			X	
Decision on whether a complaint is irrelevant frivolous vexatious etc				X
Decision as Responsible Authority to call for a Review of a Premises Licence				X