

# Report

## Council

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### Part 1

24 November 2015

Item No: 1

### **Subject**     **Gambling Act 2005 – Statement of Principles**

**Purpose**     To seek approval and adoption of the revised Gambling Act 2005 Statement of Principles.

**Author**     Public Protection Manager

**Ward**        City Wide

**Summary**     The Gambling Act 2005 became fully implemented on 1 September 2007 and it created a new system of licensing and regulation for commercial gambling. It requires the Council to prepare and publish a Statement of Principles for each successive period of three years, which outlines the principles that the Council will apply in exercising its functions as the Licensing Authority under the Act. The draft revisions to the Statement included in this report have been produced in accordance with Regulations and the Gambling Commission's Guidance to Licensing Authorities. Statutory consultation must take place prior to the Statement of Principles being determined by full Council. This consultation ran from the 4 August 2015 to 21 September 2015. The draft revised policy was considered by the Licensing Committee on 3 August 2015 then again, pursuant to the consultation responses, on the 3 November 2015, the Licensing Committee supported the resultant proposed amendments to the Statement of Principles and recommended it be presented to full Council for approval and adoption.

**Proposal**     That Council approves and adopts the revised 2015 Statement of Principles as required under the Gambling Act 2005.

**Action by**     Head of Law and Regulation

**Timetable**     Immediate

This report was prepared after consultation with:

- Head of Finance
- Head of People and Business Change
- Head of Law and Regulation

## Background

- 1.1. The Gambling Act 2005 came fully in to effect on 1 September 2007. It created a new system of licensing and regulation for commercial gambling in this country. Amongst other changes, it has given Local Authorities new and extended responsibilities for licensing premises for gambling, some of which were transferred to the Local Authorities from the local licensing justices.
- 1.2 The Act gives Licensing Authorities a number of important regulatory functions in relation to gambling. Their main functions are to:
  - license premises for gambling activities;
  - consider notices given for the temporary use of premises for gambling;
  - grant permits for gaming and gaming machines in clubs and miners' welfare institutes;
  - regulate gaming and gaming machines in alcohol licensed premises;
  - grant permits to family entertainment centres for the use of certain lower stake gaming machines;
  - grant permits for prize gaming;
  - consider occasional use notices for betting at tracks; and
  - register small societies' lotteries
- 1.3 In addition, Section 349 of the Gambling Act 2005 requires that the Council prepares and publishes a Statement of Principles that it proposes to apply in exercising its function under the Act, before each successive period of three years. The existing Statement of Principles in respect of the Gambling Act 2005 was adopted by the Council 14 January 2013 and it is therefore necessary for the Council to prepare its fourth Statement of Gambling Principles for the next three year period.
- 1.4 To help the process, the Act requires the Gambling Commission to issue statutory guidance to Licensing Authorities on the manner in which they are to exercise their functions under the Act and the principles to be applied by them in exercising those functions. Licensing Authorities are required to take account of all such guidance. The statutory guidance is designed to ensure the spread of best practice and consistency of approach in decision making amongst licensing authorities, whilst not preventing authorities from properly exercising the discretion they have to take account of appropriate and relevant local issues and factors.
- 1.5 The Statement of Principles must be formulated in accordance with Regulations and Guidance issued by the Gambling Commission. Final approval of the policy must be made by the full Council and the policy must be in place by 14 January 2016.

## 2 Statement of Principles

- 2.1 During the time that the existing Statement of Principles has been in operation, it has proved extremely satisfactory and has guided applicants, officers, and more importantly, the Licensing Committee, in the consideration and determination of applications. There have been no challenges made of any of the policies in the document during the period. As there have been no changes to the Gambling Act 2005 and only a few changes to Gambling Commission's Guidance, the majority of the contents of the Policy remain the same.

The draft revised Statement of Principles, supported by the Licensing Committee following public consultation and subsequent revision, is at **Appendix A** of this report.

### **3. The Main Changes to the Statement**

- 3.1 Most of the changes to the policy are to be found in Section 6 -“Licence Conditions and Code of Practice (LCCP). The Gambling Commission releases the LCCP in February 2015 with the commencement date of May 2015. The Code strengthens the Social Responsibility Code (SR) requirements.

#### **The SR code requires operators;**

- To supervise customers effectively on gambling premises and identify customers who are at risk of gambling related harm.
- With effect from April 2016, to have in place schemes to allow customers to self-exclude themselves from all operators of a similar type in the area where they live and work.
- To have a range of measures to ensure social responsibility- that marketing is transparent and not misleading.
- With effect from April 2016 to produce a risk assessment for individual premises, and have policies and procedures and control measures in place to mitigate local risks to the licensing objectives. Such risk assessments are required from new applicants, and from existing premises licensees seeking to vary a licence. The code requires all operators of Casinos, Adult Gaming Centres, Bingo Premises, Family Entertainment Centres, Betting shops and remote betting intermediaries to assess local risks to the licensing objectives, and to have policies, procedures and control measures in place to mitigate those risks.

### **4. Consultation**

- 4.1 The Licensing Committee approved a draft statement to go out for public consultation on the 4 August 2015. Six weeks’ consultation took place from 5 August until 16 September 2015.  
Those consulted were:

The Gambling Commission  
Gamblers Anonymous  
Gamcare  
The British Gambling Association  
British Greyhound Racing Board  
The Jockey Club  
Association of British Bookmakers Ltd  
Gwent Police  
South Wales Fire Authority,  
Responsible Authorities under the Gambling Act,  
Local Safeguarding Children Board;  
HM Revenue and Customs  
All Licensed operators within Newport.

The draft revised Policy was also be placed on the Council website and the public notified by Twitter and Facebook etc.

## 4.2 Responses

The authority received **two** representations, one from the Gambling Commission and the other from Gosschalks Solicitors representing Association of British Bookmakers.

In light of these representations, it was felt appropriate to make some additional small amendments to the draft statement.

These amendments were presented to the Licensing Committee on 3 November and the Committee agreed those changes.

It is that amended Statement of Principles that is before Council to consider at Appendix A.

## 5 Financial Summary

There are no financial implications contained in this report. The revision of the Statement of Gambling Principles is a statutory function. The costs in carrying out the revision, including the consultation process, will be covered by the Gambling Act 2005 fees. There will be no income generated by the revision of the policy.

## 6 Risks

The Council in carrying out its function as Licensing Authority has a statutory duty to revise its Statement of Gambling Principles. The next revision must be published and effective no later than 14 January 2016.

Risk	Impact of Risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect	Who is responsible for dealing with the risk?
The Statement of Principles is not put in place as required by statute.	H	L	Consultation has been completed in time to allow the revised Statement to be finalised and approved by Full Council by the legal deadline.	Public Protection Manager

## 7 Links to Council Policies and Priorities

Ensuring that this work is completed as required by statute will support the following Council Policies and Strategies:

Newport City Council's Corporate Plan "Standing Up for Newport" 2012-2017 (Relevant priorities: "A Safer City").

Newport City Council Improvement Plan 14/15 (Relevant Objective: "Making City Centre Safer at night")

## 8 Options Considered/Available

Option 1: **To approve the revised Statement of Principles under the Gambling Act 2015.**

Option 2: Not to approve the revised Statement of Principles.

## **9 Preferred choice and reasons**

### **9.1 Option 1**

**To approve the revised Statement of Principles under the Gambling Act 2005 so it can be submitted to Council for approval and adoption** - This will ensure that the Council fulfils its duty as the Licensing Authority to have the Policy in place by the appointed day.

## **11 Equalities Impact**

11.1 The Statement of Principles will be a public document and has been subject to a thorough consultation process. It is intended that the policies which underpin the document will be published and available in a range of media. The Statement of Principles and subsequent procedures will be developed in consultation with the City Contact Centre, thus utilising the facilities in place and future processes to be introduced including Welsh language and other minority language telephone facilities, language line, web based service access etc.

## **12 Crime Prevention Impact**

12.1 The Statement of Principles will be developed in partnership with a range of agencies, for example the police and child protection agencies. A good Policy will have an impact upon some of the priority areas identified in the Crime and Disorder Strategy and help to protect children and vulnerable persons.

## **13. Comments of Chief Financial Officer**

There are no financial implications arising from amending the Gambling Statement of Principles.

## **14. Comments of Monitoring Officer**

The proposed revised Statement of Principles complies with the Council's statutory duty under Section 349 of the Gambling Act 2005 and reflects the Regulations and Guidance issued by the Gambling Commission. The Council is required to review the current Statement of Principles within 3 years and, where amendments are proposed, to undertake a period of further statutory consultation. The revised draft document proposes amendments to the current Statement to reflect recent changes to the Licensing Conditions and Code of Practice issued by the Gambling Commission. The proposed amendments have been the subject of statutory consultation, with no adverse comment or objections, and Licensing Committee are recommending its adoption. As with the Council's Statement of Licensing policy, the final Statement of Gambling Principles need to be approved and adopted by Full Council, as this forms part of the Council's policy framework.

## **15. Staffing Implications: Comments of Head of People and Business**

## **Change**

There are no staffing implications as a result of this report. The Revised Statement of Principles is in line with local strategy and policy.

## **Appendices**

A: Gambling Act 2005 Revised Statement of Principles 2015

## **Background Papers**

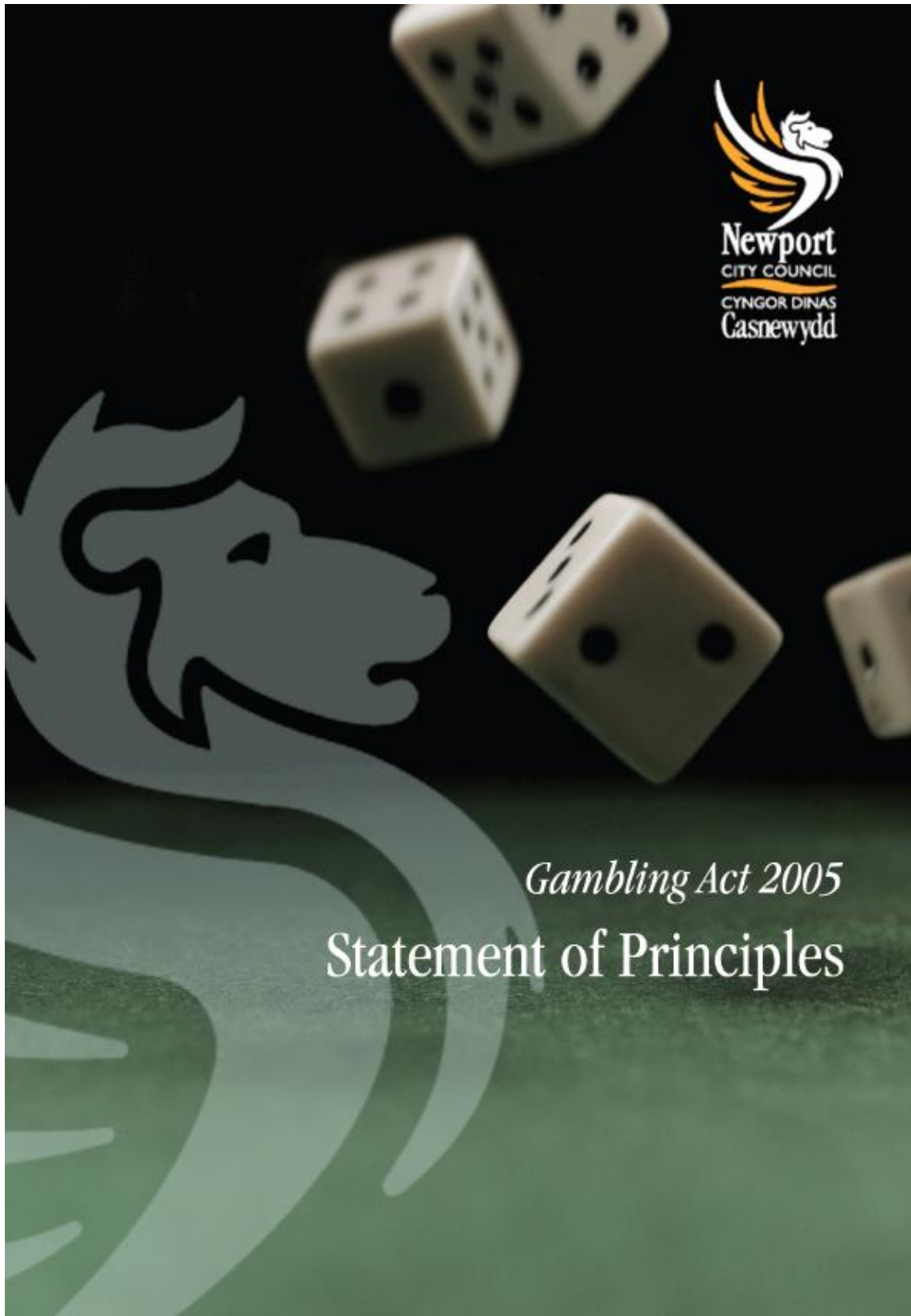
The Gambling Act 2005 Guidance to Licensing Authorities (Gambling Commission)

Newport City Council's Statement of Gambling Principles adopted in January 2010

Licensing Committee 4 August 2015 Gambling Policy report and minutes

Licensing Committee 3 November 2015 Gambling Policy report and minutes

## **Appendix A**



Approved: \*\*\*DATE\*\*\* 2015  
Commencement: ??????????????????

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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.

This Policy Statement takes effect on 14<sup>th</sup> January 2016. This Licensing Authority will update and publish a new Licensing Policy whenever necessary but in any case within 3 years of the date of this Policy, 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.

However where updates are required due to changes in national legislation, statutory guidance or contact details the council reserves the right to amend this policy without consultation where it is necessary to ensure the policy reflects 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 has a legal obligation to comply with all legislation that promotes equality it has a policy in place to promote equality to all. The Planning and Public Protection Service Area has its own equalities framework which is available for inspection on our website. Licensing of persons and premises under the Gambling Act 2005 will actively promote equality of service and enforcement to all members of the community.

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 Council 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 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 Profile of Newport City

Newport is a multi-cultural city with its own unique atmosphere, where traditional industries sit alongside new electronics and financial service sectors. Standing at the gateway between England and Wales, Newport covers a geographical area of just over 73.5 square miles, with a population of 145,700 persons and is a vibrant, forward-thinking city steeped in a rich industrial heritage, dating from the nineteenth century when its important strategic location was first recognised. After losing some of its core industries, the city is successfully proving that it can re-establish and adapt itself as a centre of modern industry and commerce.

The face of Newport is changing dramatically with a number of exciting new developments underway. Completed projects and investments have already delivered huge transformation for the city including a world class university campus, state of the art business premises, a new railway station, revamped market, new bus station, iconic architecture and a new waterfront district providing riverside homes and leisure opportunities. These schemes, as well as new investments and recent announcements mean investments totalling £250 million are giving a fresh momentum to the city's regeneration. Construction of Friars Walk, Newport's new retail and leisure scheme is underway and will be completed in later half of 2015. This coupled with the city ability to successfully hold international events like the NATO conference and Ryder Cup highlights that the city is open to business.

There are approximately 29 gambling premises within Newport, 23 of these are betting shops, 2 Adult Gaming Centres and 2 Bingo Halls. The authority also issues approximately 122 licensed premises gaming machines permits.

The Council recognises that responsible Gambling can be a source of leisure and fun for many and can contribute to boosting the local economy through attracting visitors, especially with sporting events. Although it also recognises that Gambling can be addictive and can have negative consequences on the local communities.

### 1.3 Objectives

In exercising most of its functions under the Gambling Act 2005, the Council, as the Licensing Authority, must have regard to the following three 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".

The Council is aware that, as per Section 153, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling insofar as it believes it is:

- **In accordance with any relevant code of practice issued by the Gambling Commission;**

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

#### 1.4 The Licensing Authority Functions

The Council is required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences;
- Issue Provisional Statements;
- Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits;
- Issue Club Machine Permits to Commercial Clubs;
- Grant permits for the use of certain lower stake gaming machines at unlicensed family entertainment centres;
- Receive notification from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines;
- Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines;
- Register small society lotteries below prescribed thresholds;
- Issue Prize Gaming Permits;
- Receive and endorse Temporary Use Notices;
- Receive Occasional Use Notices;
- Provide information to the Gambling Commission regarding details of licences issued (see section 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. This activity 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 all problems within the community. The Council will therefore continue to work in partnership with neighbouring authorities, Gwent Police, the *One Newport* Partnership, local businesses, local people and those involved in child protection to promote the licensing objectives as outlined. In addition, the Council recognises its duty under Section 17 of the Crime and Disorder Act 1998, with regard to the prevention of crime and disorder.

#### 1.5 Consultation

The Council has consulted widely with regard to this Statement before finalising and publishing. A list of those persons consulted is provided below, in line with the Act and the Gambling Commission's Guidance. Further details, together with a list of comments made and the consideration by the Council of those comments are available on request.

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

Consultation took place between 6<sup>th</sup> August 2015 and 21<sup>st</sup> September 2015 and, as far as practicable, the Council followed the Consultation Principles issued by the government in October 2013 which is available at <https://www.gov.uk/government/publications/consultation-principles-guidance>

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

#### 1.6 Responsible Authorities

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

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

In accordance with the Gambling Commission's Guidance this Council designates the Local Safeguarding Children Board/the Council's Head of Children's Services for this purpose.

#### 1.7 Interested Parties

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

An Interested Party is someone who:-

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

Each case will be decided upon its merits. This Council will not apply a rigid rule to its decision-making. It will consider the examples of considerations provided in the Gambling Commission's Guidance for local authorities. It will also consider the Gambling Commission's Guidance that "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, AMs and MPs. No specific evidence of being asked to represent an interested person will be required as long as the Councillor/MP/AM represents the ward 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.

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 and Gambling Sub-Committee dealing with the licence application or in any other way have a personal interest that would preclude them from participating in a hearing. If there are any doubts then please contact the Licensing Section.

It should be noted that, unlike the Licensing Act, the Gambling Act does not include as a specific licensing objective the prevention of public nuisance. There is, however, other relevant legislation, which deals with public nuisance.

## **1.8 Exchange of Information**

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

## **1.9 Enforcement**

The Council's principles are that it will be guided by the Gambling Commission's Guidance to local authorities, the Regulators' Code and the Council's Public Protection 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, keep regulations simple and user friendly; and
- Targeted: regulation should be focused on the problem, and minimise side effects.

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

The Council has adopted and implemented a risk-based inspection programme, based on:

- The licensing objectives;
- Relevant codes of practice;
- Guidance issued by the Gambling Commission, in particular at Part 36;
- The principles set out in this Statement of Licensing Policy.
- The council's Public Protection 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 Gambling Commission's guidance document issued in February 2015 (and any future subsequent amendments) 'Approach to Test Purchasing' when considering making test purchases at gambling premises. The Council will also follow its own policies and procedures regarding the use of underage test purchasers.

The Council also keeps itself informed of developments as regards the work of the Better Regulation Delivery Office in its consideration of the regulatory functions of local authorities.

## **1.10 Fundamental Rights**

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

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

### **1.11 Integrating Strategies and Avoiding Duplication**

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

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

### **1.12 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.

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, primary care trusts, and representatives from education, business and the voluntary sector organisations, are responsible for the achievement of locally set objectives.

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

## **2. Premises Licences**

### **2.1 General Principles**

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

It is appreciated that as per the Gambling Commission's Guidance for local authorities "moral objection to gambling is not a valid reason to reject applications for Premises Licences" and also that unmet demand is not a criterion for a licensing authority.

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 Council will have regard to this code when considering applications. This is covered in detail in Section 6 of this statement.

#### ***Definition of "Premises":***

Premises are defined in the Act as "any place". Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

The Gambling Commission states in its Guidance to Licensing Authorities that: "In most cases the expectation is that a single building/plot will be the subject of an application for a licence. 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 Gambling Commission's 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?
- Are 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?

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

## **2.2 Appropriate Licence Environment**

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

Guidance section 19, LCCP condition 16 and code 9 prescribe 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.

The Gambling Commission's Guidance for relevant access provisions for each premises type is reproduced in Appendix A:

### **2.3 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 it needs alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.

In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at 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.

### **2.4 Other Considerations**

#### ***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. As per the Gambling Commission's Guidance for local authorities, 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 produced regarding the 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**

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

## **2.5 Duplication with other Regulatory Regimes:**

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

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

## **2.6 Licensing Objectives:**

Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, the Council has considered the Gambling Commission's Guidance to licensing authorities and some comments are made below.

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

The Council is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does, however, envisage that licensing authorities should pay attention to

the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime, the Council 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 Council is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction. Issues of nuisance cannot be addressed via the Gambling Act provisions. (Disorder is defined to mean an activity that is more serious and disruptive than mere nuisance)

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

The Council has noted that the Gambling Commission states that it does 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. There is, however, more of a role with regard to tracks, which is explained in more detail in the “tracks” section.

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

The Council has noted the Gambling Commission’s Guidance for local authorities 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 Codes of Practice, which the Gambling Commission issues as regards this licensing objective, in relation to specific premises.

As regards the term “vulnerable persons” it is noted that the Gambling Commission does not seek to offer a definition but states that “it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble 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 Council will consider this licensing objective on a case by case basis.

Section 7 of the Gambling Commission Guidance to Local Authorities sets out the considerations that an operator must make in order to protect children and young people from accessing gambling premises.

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

In particular operators must ensure that;

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

- must have procedures for identifying customers who are at risk of gambling related harm.

The 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.

### **2.7 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 will also be an opportunity for operators to discuss issues with the licensing officers.

### **2.8 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 need, such as the use of supervisors, appropriate signage for adult only areas, etc. There are specific comments made in this regard under some of the licence types below. The Council will also expect the licence applicant to offer his/her own suggestions as to ways in which the licensing objectives can be met effectively.

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

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

- All such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;

- Only adults are admitted to the area where these machines are located;
- Access to the area where the machines are located is supervised;
- The area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- At the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

These considerations will apply to premises, including buildings where multiple premises licences are applicable.

The Council is aware that tracks may be covered by more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this Council will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

It is noted that there are conditions, which the Council cannot attach to premises licences, which are:

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

## **2.9 Door Supervisors:**

The Gambling Commission advises in its Guidance to licensing authorities that if it is concerned that a premises could 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 premises licence to this effect.

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

## **2.10 Adult Gaming 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 that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.

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

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.

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

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

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

## **2.11 (Licensed) Family Entertainment Centres**

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

The Council may consider measures to meet the licensing objectives such as:

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

The Council will, as per the Gambling Commission's guidance, refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be



delineated. This Council will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

## **2.12 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:***

The Council will attach conditions to casino premises licences according to the principles set out in the Gambling Commission’s Guidance, bearing in mind the mandatory conditions listed in the Guidance, and the Licence Conditions and Codes of Practice published by the Gambling Commission.

### ***Betting Machines:***

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

## **2.13 Bingo Premises**

This Council 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.”

The Council 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 available for use on the premises.

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

## **2.14 Betting Premises**

### ***Betting machines:***

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

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

## **2.15 Tracks**

The Council is aware that tracks may be subject more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission’s Guidance, 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 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.

The Council may consider measures to meet the licensing objectives, such as:-

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

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

## **2.16 Gaming Machines:**

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

### **2.17 Betting Premises:**

Betting machines: the Council will, as per the Gambling Commission's Guidance, 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.

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.

### **2.18 Applications and Plans:**

The Gambling Act (Section 51) 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. They will also be used for the Council to plan 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 do not need 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 that this Council can satisfy itself that the plan indicates the main areas where betting might 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.

### **2.19 Travelling Fairs**

This Council is responsible for deciding whether, where category D machines and/or equal chance prize gaming without a permit are 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 Section 286 of the Gambling Act 2005.

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

## **2.20 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 to make an application to the Council for a provisional statement in respect of premises that he or she:

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

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

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

The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The 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 have 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**

A table setting out gaming machine entitlement is attached at Appendix D.

#### **3.1 Unlicensed Family Entertainment Centre Gaming Machine Permits**

Where premises do not hold a Premises Licence but wishes to provide category D gaming machines, it may apply to the Council for this permit.

It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use 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 a condition of Section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
- The premises are mainly used for gaming; or
- An offence under the Gambling Act has been committed on the premises.

If a premises wishes to have more than two machines, then it needs to apply for a permit and this Council must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as 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 anyone under 18. Notices and signage may also be of help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.

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

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

### **3.3 Prize Gaming Permits**

The Council has the right to prepare a 'Statement of Principles' that it proposes to apply in exercising its functions under Schedule 14 of the Act 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 a 'Statement of Principles', which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:-

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

In making its decision on an application for this permit, the licensing authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

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

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

### **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 sections 25.47-25.49 of the Gambling Commission's Guidance. These include the constitution of the club, the frequency of gaming, and ensuring that there are more than 25 members.

The 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 (Schedule 12 paragraph 10). Commercial clubs cannot hold Club Premises Certificates under the Licensing Act 2003 and so cannot use the fast track procedure. As the Gambling Commission’s Guidance 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, according to the Gambling Commission, would include hotels, conference centres and sporting venues.

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



The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this Statement, the relevant regulations (S1 no. 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.

There are a number of statutory limits as regards temporary use notices. The meaning of "premises" in part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place". In considering whether a place falls within the definition of "a set of premises", the Council needs to look at, amongst other things, the ownership/occupation and control of the premises.

This Council expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises; as recommended by the Gambling Commission's Guidance to licensing authorities.

### **3.6 Occasional Use Notices**

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

## **4. Small Society Lotteries**

The Council will adopt 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's Licensing Team to seek further advice.

## **5. Decision Making**

## **5.1 Administration, Exercise and Delegation of Functions**

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

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

The following schedule sets out the recommended delegation of functions and decisions by guidance. The Council may, nevertheless, refer any matter to the Licensing Committee or Sub-Committee.

The schedule of delegation of licensing functions is attached at Appendix B.

## **5.2 Appeals Procedure**

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

An appeal has to be commenced by giving notice of the appeal by the appellant to; The Clerk to the Justices, Gwent Magistrates Court, The Law Courts, Faulkner Road, Newport, NP20 4PR, 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**

In anticipation of such appeals, the Council will give comprehensive reasons for its decisions. The Council 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 on-going 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 fit the exceptions in 5.6 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 will not cause this Council to alter/revoke/suspend the licence, 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 during a 28 day period. This period begins 7 days after the application was received by the Council, who will publish notice of the application within 7 days of receipt.

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

The purpose of the review will be to determine whether the 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 Section 153 of the Act, as well as any relevant representations.

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

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

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

## **6. Licensing Conditions and Codes of Practice 2015 (LCCP)**

The Gambling Commission released an LCCP in February 2015 with a commencement date of May 2015. The code strengthened the Social Responsibility Code (SR) requirements. Details regarding the LCCP and SR code can be accessed via the Gambling Commission website at [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

The code requires operators;

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

- With effect from April 2016 to produce a risk assessment on individual premises, and have policies and procedures and control measures in place to mitigate local risks to the licensing objectives.

## **Risk Assessments Gambling Premises**

The code requires all operators of; Casinos, Adult Gaming Centres, Bingo Premises, Family Entertainment Centres, Betting shops and remote betting intermediaries to assess local risks to the licensing objectives, and to have policies, procedures and control measures in place to mitigate those risks.

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

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, cafés, 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 incidents of underage gambling,
- Gaming trends that may coincide with dates 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, doctors' surgeries, council housing offices, addiction clinics or help centres, places where alcohol or drug dependant people may congregate, etc.

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

## **7. Further Information**

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

Newport City Council,

Po Box 883,

Civic Centre,

Godfrey Road,

Newport.

NP20 4UR.

Telephone: 01633 656656 Email: [environment.licensing@newport.gov.uk](mailto:environment.licensing@newport.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)

Advice regarding Problem Gambling can be found by number of charities and Counselling support groups for example Gamcare: [www.gamcare.org.uk](http://www.gamcare.org.uk)

## Appendix A Access to 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;
- 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;
- Betting premises, other than a track.

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



## Appendix B 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>
Three year Gambling Policy	x		
Policy not to permit casinos	x		
Fee Setting – when appropriate	Licensing Committee		
Application for Premises Licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representation has been received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Review of a Premises Licence		x	
Revocation of a premises licence for failure to pay annual licence fee			x
Application for club gaming/club machine permits		Where objections have been made (and not withdrawn)	Where no objections made/objections have been withdrawn
Cancellation of club gaming/club machine permits		x	

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

## Appendix C 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 Newport City Council, acting as the Licensing Authority as defined by the Gambling Act 2005.

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

'The Act' means the Gambling Act 2005.

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

'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'- individuals who are under 16 years old.

'Young person' means individuals who are between the ages of 16 and 18 years old.

'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.

## Appendix D Summary of Machine Provisions by Premises

Machine category							
Premises type	A	B1	B2	B3	B4	C	D
<b>Large casino</b> (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)			
<b>Small casino</b> (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)			
<b>Pre-2005 Act casino</b> (no machine/table ratio)				Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead			
<b>Betting premises and tracks occupied by pool betting</b>				Maximum of 4 machines categories B2 to D (except B3A machines)			
<b>Bingo premises 1</b>			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		
<b>Adult gaming centre 2</b>			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		
<b>Licensed family entertainment centre 3</b>				No limit on category C or D machines			
<b>Family entertainment centre (with permit)<sup>3</sup></b>				No limit on category D machines			
<b>Clubs or miners' welfare institute (with permits)<sup>4</sup></b>				Maximum of 3 machines in categories B3A or B4 to D			
<b>Qualifying alcohol-licensed premises</b>				1 or 2 machines of category C or D automatic upon notification			

<b>Qualifying alcohol-licensed premises</b> (with licensed premises gaming machine permit)	Number of category C-D machines as specified on permit
<b>Travelling fair</b>	No limit on category D machines