

## The Highland Licensing Board

Meeting – 6 November 2018

Agenda Item	6
Report No	HLB/110/18

### Policy Statement 2019-2022 under the Gambling Act 2005

#### Report by the Depute Clerk to the Licensing Board

##### Summary

This Report details the consultation responses to the Consultation Draft Policy Statement set out in Appendix 1 and invites the Board to agree the terms of its Policy Statement 2019-2022 following consideration of these consultation responses.

## 1. Background

- 1.1 The Board is required to publish, every three years, a statement of the principles that they propose to apply in exercising their functions under the Gambling Act 2005. The previous and current policy Statement was agreed on 6 December 2016 and subsequently came into force on 1 January 2017 for a three year period.
- 1.2 For unknown historic reasons, The Highland Council's Gambling Policy Statement three year timeline was out of line with that of other local authorities.
- 1.3 It was therefore agreed by the Board on 7 August 2018 to consult on a further Draft Policy Statement for a period of six weeks for statutory consultees and members of the public to submit consultation responses and therefore bring the Policy Statement back into line with other local authorities' timelines. Responses were to be received by 21 September 2018.
- 1.4 In determining its policy, the Board must have regard to the Gambling Commission's Guidance to Licensing Authorities (<http://www.gamblingcommission.gov.uk/PDF/GLA5-updated-September-2016.pdf>) and give appropriate weight to the views of those it has consulted. In determining what weight to give particular representations, the factors to be taken into account will include:
  - who is making the representations (what is their expertise or interest)
  - relevance of the factors to the licensing objectives
  - how many other people have expressed the same or similar views
  - how far the representations relate to matters that the licensing authority should be including in its policy statement.

1.5 The proposed amendments to the previous Policy Statement were as set out below:

- Part A – Introduction: reference as to why the Board is re-consulting and amending the Board’s policy at this point
- Part C – Gaming Machines: reference to the reduction in the maximum stake from £100 to £2 for Category B2 (otherwise known as fixed odds betting terminals) games machines and the likely timeframe for implementation
- Part C – Small Society Lottery registration: reference to Department for Digital, Culture, Media & Sport’s current consultation on whether to increase the limit for draw sales and annual sales for small society lottery registrations or whether to retain the status quo
- Updating ward numbers
- Updating web links

## **2 Consultation**

2.1 Section 349 (3) of the Act requires the licensing authority to consult the following on the licensing authority’s Statement of Policy or any subsequent revision:

- in Scotland, the Chief Constable of Police Scotland
- one or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority’s area
- one or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority’s functions under the Act.

However the recommended list of consultees in Appendix 2 of the Consultation Draft Policy also included a range of organisations including various services of Highland Council, NHS Highland, businesses that are the holders of a premises licence, organisations named as responsible authorities in the Act, organisations working with people who are problem gamblers and community councils.

In addition to those named consultees, any person could respond to the consultation and the Consultation Draft Policy Statement was published on the Highland Council’s website and was available to anyone on demand. The Draft Statement as published is attached at Appendix 1.

### 3 Responses

3.1 Responses were disappointingly low with only 4 received as follows:

- A letter was received by email from Gosschalks Solicitors on behalf of the Association of British Bookmakers (ABB). A copy of this letter is attached as Appendix 2.
- An email was received from Gamcare. A copy of this email is attached as Appendix 3.
- An email was received from the Chair of Tarbat Community Council. A copy of this email is attached as Appendix 4.
- An email was received from Scottish Environment Protection Agency (SEPA). A copy of this email is attached as Appendix 5.

### 4 Comments on responses

4.1 Gosschalks Solicitors on behalf of the ABB provided some specific recommendations for the Draft Policy Statement within their letter which are addressed below:

#### **Local Risk Assessments**

It is suggested that '*whether the premises is in an area of deprivation*' should be removed from the list as a matter for deliberation when undertaking a local risk assessment on the basis that the affluence of an area is not a relevant consideration to an assessment of risks to the licensing objectives unless the licensing authority has determined that persons in a specific area of a particular income level are automatically vulnerable or more like to commit crime as a result of gambling.

Whilst the Highland Licensing Board has not carried out any specific local area research on this matter, a study by Howard Reed, former Chief Economist at the Institute of Public Policy Research using an analysis carried out by GeoFutures, revealed a historical association between betting shops, deprivation and ethnicity and that new entrants to the market are deliberately targeting these areas. The report also confirmed that areas close to betting shops tend towards higher level of crime events, resident deprivation, unemployment and ethnic diversity and that areas with the highest levels of deprivation had more than twice as many betting shops compared to areas with the lowest levels of deprivation.

In light of this, it is recommended to retain '*areas of deprivation*' as a as a matter for consideration for licensees when assessing the local risk to the licensing objectives.

## **Conditions**

It is questioned whether additional conditions on a licensee should be attached on the basis that is 'appropriate' or where there is a 'perceived need'. Given that the Draft Policy makes it clear that additional conditions will only be attached where there are specific risks or problems associated with a particular locality, premises or class of premises and that the conditions attached have to be proportionate, relevant, fair and reasonable, it is not considered that reference to imposing additional conditions where 'appropriate' or where there is a 'perceived need' causes any evidential issues as such additional conditions would have to be justified by the Board.

### **Recommendation**

The Board is invited to agree the terms of its Policy Statement following consideration of these consultation responses.

Date: 10 October 2018

Author: Claire McArthur

Appendices:

Appendix 1 – Consultation Draft Policy Statement

Appendix 2 – Letter from Gosschalks Solicitors on behalf of ABB

Appendix 3 – Email from Gamcare

Appendix 4 – Email from Tarbat Community Council

Appendix 5 – Email from SEPA

## THE HIGHLAND LICENSING BOARD

### STATEMENT OF POLICY – GAMBLING ACT 2005 2019-22

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## **FOREWORD**

This policy statement is the fourth one published by the Highland Licensing Board as required in terms of the Gambling Act 2005.

Consultation on the draft policy statement took place during the period from 10 August 2018 to 21 September 2018.

A report providing details of comments received from consultees and consideration given to those comments was considered at the meeting of the Highland Licensing Board which was held on [            ]. A copy of the report is available on-line at [            ].

This finalised version of the policy statement incorporates amendments which were approved by the Licensing Board on [            ] in response to comments received.

The policy statement will be in force for a period of three years. It will be kept under review and revised if appropriate during the three year period.

## PART A

### INTRODUCTION

#### **1. Statutory background**

The Gambling Act 2005 (**referred to in this policy statement as the “Act”**), which came into full force and effect on 1 September, 2007, created a new system of licensing and regulation for all commercial gambling in Great Britain, other than the National Lottery and spread betting. Section 349 of the Act requires all licensing authorities to publish a policy statement of licensing principles they propose to apply in exercising their functions under the Act.

The Act provides that a policy statement shall apply for a period of three years and may be reviewed and revised during that period if appropriate.

Highland Licensing Board (**referred to in this policy statement as the “Licensing Authority”**) is the Licensing Authority for the Highland area for the purposes of the Act. The three Divisional Licensing Boards which previously comprised the Licensing Authority for Highland approved their first policy statements in 2007. Divisional Boards were subsequently removed and the Licensing Authority approved its first Highland-wide policy statement in 2010 and its second in 2013.

As required in terms of Section 349 of the Act, the Licensing Authority consulted on and reviewed and revised their 2013 policy statement in 2016 which subsequently came into force on 1 January 2017.

For unknown historic reasons, the Licensing Authority’s three year cycle for producing their policy statement was out of line with other local authorities. In order to rectify this, an updated version of the 2017 policy statement has now been produced to align with the period 2019-22. Given that the Board’s current policy statement was reviewed and consulted on relatively recently, it has been agreed that a shorter consultation period of six weeks is carried out.

The following is the Highland-wide policy statement which the Licensing Authority proposes to apply in exercising its functions under the Act during the period beginning on 1 January 2019. This policy statement will be kept under review and revised, if appropriate, during the three year period.

## **2. The Licensing Authority's area profile**

The area of the Licensing Authority for the purpose of the Act and any subsequent regulations and guidance is the whole of The Highland Council area. This area extends to 26,484 square kilometres – one third of the land area of Scotland.

The 2011 Census figures show that the population of Highland on Census day was 232,132 and it increased to 232,950 in mid-2013. This is the seventh highest population of the 32 licensing board areas in Scotland.

Highland generally has an older population profile than that of Scotland as a whole, with a slightly higher percentage of children but higher proportions in all the age groups above 45.

Population by settlement (main towns plus selected smaller settlements providing locally important services) is approximately as follows:

<b>Settlement</b>	<b>Population</b>	<b>Settlement</b>	<b>Population</b>
Inverness	67,960	Portree	2,220
Fort William	9,823	Ullapool	1,498
Nairn	9,203	Golspie	1,413
Thurso	7,337	Kingussie	1,360
Wick	6,770	Dornoch	1,310
Alness	5,313	Brora	1,210
Dingwall	5,076	Mallaig	792
Invergordon	3,969	Broadford	753
Tain	3,396	Fort Augustus	720
Conon Bridge and Maryburgh	2,791	Kyle of Lochalsh	645
Aviemore	2,734	Gairloch	641
Grantown-on-Spey	2,400	Lochinver	353
Muir of Ord	2,358	Kinlochbervie	182

Further details of the Highland area profile can be found at:

[http://www.highland.gov.uk/info/695/council\\_information\\_performance\\_and\\_statistics/575/highland\\_facts\\_and\\_figures](http://www.highland.gov.uk/info/695/council_information_performance_and_statistics/575/highland_facts_and_figures)

The Highland Council area is split into 21 wards. Population by ward (based on NRS 2014 mid-year estimates) and current numbers of licensed premises are approximately as follows.

Ward	Population	Premises Licences	Type
01 North West and Central Sutherland	5,819		
02 Thurso and Northwest Caithness	[tbc]	1	Betting Office
03 Wick and East Caithness	[tbc]	2	Betting Office Family Entertainment Centre
04 East Sutherland and Edderton	7,956	1	Family Entertainment Centre
05 Wester Ross, Strathpeffer and Lochalsh	11,882		
06 Cromarty Firth	12,350	2	Betting Office
07 Tain and Easter Ross	9,236	1	Betting Office
08 Dingwall and Seaforth	13,063	3	Betting Office
09 Black Isle	10,183		
10 Eilean a' Cheo	10,391		
11 Caol and Mallaig	8,212	1	Betting Office

12 Aird and Loch Ness	10,973	9	Betting Office
13 Inverness West	8,786		
14 Inverness Central	14,066		
15 Inverness Ness-side	11,848	2	Betting Office
16 Inverness Millburn	8,409	2	Bingo Premises Licence Betting Office (Track)
17 Culloden and Ardersier	11,674	1	Betting Office
18 Nairn	12,295	3	Betting Office Family Entertainment Centre
19 Inverness South	14,779		
20 Badenoch and Strathspey	13,654	2	Betting Office Family Entertainment Centre
21 Fort William and Ardnamurchan	11,560	2	Betting Office

Further detailed information relating to each ward can be found at:

[https://www.highland.gov.uk/info/695/council\\_information\\_performance\\_and\\_statistics/504/council\\_wards](https://www.highland.gov.uk/info/695/council_information_performance_and_statistics/504/council_wards)

### **3. The licensing objectives**

3.1 In exercising most of their functions under the Act, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:-

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
- Ensuring that gambling is conducted in a fair and open way.
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

3.2 In terms of Section 153 of the Act, in making decisions about premises licences and temporary use notices licensing authorities must aim to permit the use of premises for gambling in so far as they think it is:-

- in accordance with any relevant code of practice issued by the Gambling Commission;  
(This currently refers to the Gambling Commission's Licence Conditions and Codes of Practice (**referred to in this policy statement as the "LCCP"**), which can be accessed at:  
<http://www.gamblingcommission.gov.uk/PDF/LCCP/Licence-conditions-and-codes-of-practice.pdf>)
- in accordance with any relevant guidance issued by the Gambling Commission;  
(This currently refers to the Gambling Commission Guidance to Licensing Authorities 5<sup>th</sup> edition (**referred to in this policy statement as the "Gambling Commission Guidance"**) which can be accessed at  
<http://www.gamblingcommission.gov.uk/PDF/GLA5-updated-September-2016.pdf>)
- reasonably consistent with the licensing objectives; and
- in accordance with the Licensing Authority's Policy Statement.

3.3 Separately, the LCCP requires gambling premises licence holders to undertake a risk assessment which take into consideration the profile of the local area in which the premises are, or are to be, situated. The Licensing Authority will have regard to these risk assessments when determining applications and considering any appropriate additional conditions to mitigate identified risks. This is discussed further in this policy statement at section 1.8 of Part B.

#### **4. Application of the policy statement**

4.1 The aim of this policy statement is to promote consistency of decision-making and to give advance notice to applicants of the Licensing Authority's likely approach to determining applications. Although there is a presumption that the Licensing Authority will follow the terms of its policy statement in determining individual applications, it is open to applicants to seek the grant of applications which are contrary to the Licensing Authority's policy statement. In such cases, applicants will be required to demonstrate to the Licensing Authority good reason why the Licensing Authority's policy statement should not be followed. In particular, they will require to satisfy the Licensing Authority that the decision sought will not conflict with any of the licensing objectives.

4.2 Nothing in this policy statement will override the right of any person to make an application under the Act, or to have the application considered on its individual merits, or undermine the right of any person to make representations on an application or to seek a review of a licence where there is a legal power to do so.

4.3 In making decisions under the Act, the Licensing Authority will have regard to this policy statement but every application will be considered on its own merits.

4.4 This policy statement is intended to be a general statement of principles and is not to be regarded as a comprehensive guide to the application of the Act by the Licensing Authority. Applicants and others should always have regard not only to this policy statement but also to the Act, any regulations made under the Act and any Guidance or Codes of Practice issued by the Gambling Commission, including the LCCP. Guidance and Codes of Practice issued by the Gambling Commission may be accessed on the Commission's web site ([www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk))

#### **5. Consultation on the policy statement**

5.1 The Licensing Authority is required to consult widely upon this statement before it is finalised and published.

5.2 The Act requires that the following parties be consulted by licensing authorities:-

- In Scotland, the Chief Constable;
- One or more persons who appear to the Board to represent the interests of persons carrying on gambling businesses in the Board's area;
- One or more persons who appear to the Board to represent the interests of persons who are likely to be affected by the exercise of the Board's functions under the Gambling Act 2005.

A list of the persons/organisations who were directly consulted on this statement is contained in Appendix 2. A public consultation was also published on The Highland Council website and members of the public were invited to submit their views.

5.3 The consultation took place between 10 August 2018 and 21 September 2018.

5.4 The policy statement was approved at a meeting of the Licensing Authority on [ ] and is published on the Highland Council's website.

5.5 Should you have any comments as regards this policy statement please send them via email to [Claire.McArthur@highland.gov.uk](mailto:Claire.McArthur@highland.gov.uk) or by letter to the following contact:

Claire McArthur  
Depute Clerk to the Licensing Board  
Council Offices  
High Street  
Dingwall  
IV15 9QN

Tel: 01349 868 541

## **6. Declaration**

6.1 In producing this policy statement, the Licensing Authority declares that it has had regard to the licensing objectives set out in the Act, the Gambling Commission Guidance and any responses from those consulted on the statement.

## **7. Responsible authorities**

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

The principles are:

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

7.2 In accordance with the suggestion in the Gambling Commission Guidance, this Licensing Authority designates The Highland Council, per the Director of Social Care and Health and the Director of Education and Learning for this purpose.

7.3 In addition, the responsible authorities under the Act are:-

- The Gambling Commission.
- The Chief Constable, Police Scotland.
- The Chief Fire Officer, Scottish Fire and Rescue Service.

- Highland Council.
- Highland Council, Planning and Building Standards.
- Highland Council, Environment
- Highland Council, Transport and Streets
- Highland Council, Social Care and Health
- Highland Council, Education and Learning
- HM Revenue and Customs.
- Any other person prescribed in regulations by the Secretary of State or Scottish Ministers.

The contact addresses for these authorities are provided in Appendix 4.

## **8. Interested parties**

8.1 Interested parties are certain types of people or organisations that have the right to make representations about licence applications, or apply for a review of an existing licence. These parties are defined in section 158 of the Act as follows:

*“For the purposes of this Part a person is an interested party in relation to an application for, or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence, or to which the application is made, the person:-*

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

8.2 The Licensing Authority is required by regulations to state the principles it will apply, in exercising its powers under the Act, in determining whether a person is an interested party. The principles the Licensing Authority will apply are:-

- The Licensing Authority will decide each case on its merits and will not apply a rigid rule to its decision making. It will consider the factors to be taken into account which are set out in the Gambling Commission’s Guidance at paragraphs 8.12 and 8.17.
- In deciding whether a person “lives sufficiently close to the premises to be likely to be affected by the authorised activities, the Licensing Authority will take into account the following factors:
  - the size of the premises
  - the nature of the premises

- the distance of the premises from the location of the person making the representation
- the potential impact of the premises such as the number of customers, routes likely to be taken by those visiting the establishment
  - the circumstances of the person who lives close to the premises. This is not their personal characteristics, but their interests which may be relevant to the distance from the premises.

Relevant factors will also depend on the particular application. For example, it is reasonable for the Licensing Authority to consider that living sufficiently close to premises to be likely to be affected could have a different meaning for (a) a private resident, (b) a residential school for children with truanting problems and (c) a residential hostel for vulnerable adults.

- The Licensing authority will give the expression “person” who “has business interests” a wide interpretation and will include partnerships, charities, faith groups and medical practices. The Licensing Authority will require to be satisfied, however, that the relevant business is likely to be affected. Factors which will be taken into account in this regard are the size of the premises, the “catchment” area of the premises (i.e. how far people travel to visit the premises, and whether the person making the representation has business interests in that catchment area that might be affected.
- The Licensing Authority will include within the meaning of “interested parties” bodies such as trade associations and trade unions, and residents’ and tenants’ associations, but only if they have a member who can be classed as an interested person under the terms of the Gambling Act 2005, i.e. one who lives sufficiently close to the premises to be likely to be affected by the activities being applied for or one who has business interests that might be so affected.
- Where interested parties are representatives who are democratically elected such as councillors, MPs and MSPs, no specific evidence of being asked to represent a particular constituent will be required as long as the councillor/MP/MSP represents the ward/constituency likely to be affected. Likewise, Community Councils likely to be affected will be considered to be interested parties. In other cases, the Licensing Authority will generally require written evidence that the representative (e.g. an advocate or relative) has a mandate to represent someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities or has business interests that might be affected by the authorised activities. A letter from one of these persons requesting the representation is sufficient.

8.3 If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not members of the Highland Licensing Board. If there are any doubts then please contact the Clerk to the Licensing Board at the address shown in Appendix 3.

## **9. Exchange of information**

9.1 Licensing authorities are required to include in their statements the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between the authority and the Gambling Commission, and the functions under Section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

9.2 The principles which the Licensing Authority applies are that it will act in accordance with the provisions of the Act in its exchange of information, which includes the provision that the Data Protection Act 1998 will not be contravened. The Licensing Authority will also have regard to any guidance issued by the Gambling Commission on this matter as well as any relevant regulations issued by the Scottish Ministers or the Secretary of State where so empowered.

## **10. Inspection, compliance and enforcement<sup>1</sup>**

10.1 The Licensing Authority will work closely with the responsible authorities to promote the licensing objectives by targeting known high risk premises or localities, in line with any government or Gambling Commission advice around better regulation.

10.2 In exercising its functions under Part 15 of the Act with respect to the inspection of premises the Licensing Authority will be guided by the Gambling Commission's Guidance and will endeavour to be:

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

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

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<sup>1</sup> In Scotland, licensing authorities are not able to institute criminal proceedings themselves when enforcement issues arise. They must refer any alleged breaches of the Act to the Procurator Fiscal.

10.4 The main inspection, enforcement and compliance role for the Licensing Authority in terms of the Act will be for the purpose of ensuring compliance with the conditions subject to which premises licences and other permissions which it authorises are granted. For the purposes of inspection, enforcement and compliance the Highland Council has designated its Licensing Standards Officers, appointed for the area of the Highland Licensing Board, as authorised persons in terms of Section 304 with the powers as set out in Part 15 of the Act.

10.5 The Gambling Commission will be the enforcement body for operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines will not be dealt with by the Licensing Authority but will be notified to the Gambling Commission. In circumstances where the Licensing Authority believes a premises requires a premises licence for gambling activities and no such licence is in force, the Licensing Authority will alert the Gambling Commission.

10.6 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 provide the Authority with the contact details for a senior individual within the organisation, whom the Authority will contact first should any compliance queries or issues arise.

## **11. Licensing authority functions**

11.1 Licensing authorities are responsible under the Act for:

- Licensing premises where gambling activities are to take place by issuing *premises licences*.
- Issuing *provisional statements*.
- Regulating *members' clubs* and *miners' welfare institutes* who wish to undertake certain gaming activities under club gaming permits and/or club machine permits.
- Issuing *club machine permits* to *commercial clubs*.
- Granting permits for the use of certain lower stake gaming machines at *unlicensed family entertainment centres*.
- Receiving notifications from alcohol licensed premises (i.e. premises licensed under the Licensing (Scotland) Act 2005) for the use of two or fewer gaming machines.
- Issuing *licensed premises gaming machine permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing (Scotland) Act 2005, where more than two machines are required.
- Registering *small society lotteries* and recording their annual returns.

- Issuing *prize gaming permits*.
- Receiving and endorsing *temporary use notices*.
- Receiving *occasional use notices*.
- Providing information to the Gambling Commission regarding details of licences issued (see section above on 'Exchange of Information').
- Maintaining registers of the permits and licences that are issued under these functions

11.2 It should be noted that local licensing authorities are not involved in licensing remote gambling. This is regulated by the Gambling Commission via operating licences.

## **12. Equality Strategy**

12.1 The Board aims at all times to act in accordance with the Public Sector Equalities Duties. The Board's Equality Strategy, which was agreed on 9 February 2017, can be accessed at

[https://www.highland.gov.uk/info/751/equality\\_diversity\\_and\\_citizenship/313/equal\\_opportunities](https://www.highland.gov.uk/info/751/equality_diversity_and_citizenship/313/equal_opportunities)

This will be subject to continuous review.

The Board also expects licence holders to address equalities issues in all aspects of the operation of their premises.

## **13. Publication Scheme**

13.1 The Freedom of Information (Scotland) 2002 provides for a duty to be placed on Public Authorities (of which the Highland Licensing Board is one) to publish information on the basic structure of the Board and how it is administered and details of the type of information available to the public and how it can be extracted. The Board's publication scheme, setting out this information, can be accessed at

[https://www.highland.gov.uk/directory\\_record/738772/liquor/category/500/liquor\\_licence](https://www.highland.gov.uk/directory_record/738772/liquor/category/500/liquor_licence)

## PART B

### PREMISES LICENCES

#### 1. General principles

**1.1 General** - The Licensing Authority issues premises licences to allow premises to be used for certain types of gambling. For example premises licences are required to use premises as amusement arcades, bingo halls, or bookmakers. Casinos also require a premises licence. However, this Licensing Authority is prevented by legislation from issuing casino premises licences.

Premises licences will be subject to the requirements set out in the Act and regulations, as well as any specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions, where applicable, and also attach others, where it is believed to be appropriate. Licence holders must also comply with the Gambling Commission's Licensing Conditions and Codes of Practice (LCCP): <http://www.gamblingcommission.gov.uk/PDF/LCCP/Licence-conditions-and-codes-of-practice-April-2018.pdf>

**1.2 Making decisions** - In making decisions about premises licence applications the Licensing Authority will aim to permit the use of premises for gambling in so far as it thinks it is:-

- in accordance with any relevant code of practice issued by the Gambling Commission, including the LCCP;
- in accordance with the Gambling Commission Guidance;
- reasonably consistent with the licensing objectives; and
- in accordance with the Authority's policy statement which sets out its licensing principles.

**1.3 Objections on moral grounds** - In accordance with the Gambling Commission's Guidance, moral objections to gambling will not be deemed a valid reason to reject applications for premises licences. The Licensing Authority will accordingly give no weight to moral objections when determining licence applications.

**1.4 Demand** - Separately, on considering an application for a premises licence no regard may or will be had to the expected demand for the facilities proposed to be provided in the premises for which a premises licence is sought.

**1.5 Definition of "premises"** - Premises are defined in the Act as "any place" and this includes a vessel or a vehicle. Different premises licences cannot apply in respect of single premises at different times. However, it is possible for a single building to be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be genuinely

regarded as being different premises. Whether different parts of a building can properly be regarded as being separate premises will always be a question of fact in the circumstances. However, the Gambling Commission does not consider that areas of a building that are artificially or temporarily separated can be properly regarded as different premises. Factors which will assist the Licensing Authority in making their decision may include:-

- is a separate registration for business rates in place for different parts of the building?
- are the different parts of the owned by the same person or by someone else?
- can each of the premises be accessed from the street or a public passageway?
- can the premises only be accessed from another gambling premises?

The following advice from the Gambling Commission Guidance (paragraph 7.6 – 7.8) will be followed:

*“In most cases the expectation is that a single building/plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing authority.*

*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. If a premises is located within a wider venue, a licensing authority should request a plan of the venue of which the premises should be identified as a separate unit.*

*The Commission recognises that different configurations may be appropriate under different circumstances but the crux of the matter is whether the proposed premises are genuinely separate premises that merit their own licence – with the machine entitlements that brings – and are not an artificially created part of what is readily identifiable as a single premises.*

**1.6 Unfinished premises** – Operators can apply for a premises licence for premises which have still to be constructed or altered and the Licensing Authority is required to determine such an application on its merits. However, the Gambling Commission Guidance states (in particular at parts 7.58 to 7.65) 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 alteration required before the premises are brought into use. If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an

application for a provisional statement should be made instead. In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, the Licensing Authority will determine applications on their merits, applying a two stage consideration process:-

- First, whether the premises ought to be permitted to be used for gambling.
- Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place. Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

Where the operator has still to undertake final fitting out of the premises but can give a reasonably accurate statement as to when the works will be completed, the Licensing Authority may issue the licence with a future effective date. In other cases, it may be more appropriate to issue the licence subject to a condition that trading shall not commence until the premises have been completed in accordance with the scale plans that accompanied the licence application.

See also section 9 below regarding provisional statements.

**1.7 Location** - While demand issues (e.g. the likely demand or need for gambling facilities in an area) cannot be considered in assessing the suitability of the location of premises, considerations in terms of the licensing objectives must be taken into account when assessing the suitability of a proposed location. In this regard the Licensing Authority considers the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder, as key considerations.

With regard to these objectives it is the Licensing Authority's policy, upon receipt of any relevant application, to look at specific location issues including:

- the possible impact a gambling premises may have on any premises that provide services to children or young people, e.g. a school, or vulnerable adult centres in the area
- the possible impact a gambling premises may have on residential areas where there may be a high concentration of families with children
- the size of the premises and the nature of the activities taking place
- any levels of organised crime in the area.

In order for a particular location to be considered unacceptable, the licensing authority will need to be satisfied that there is sufficient evidence that the particular location of the premises would be harmful to the licensing objectives.

**1.8 Local risk assessments** - From 6 April 2016, it is a requirement of the LCCP, under section 10, for licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at their premises and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in this policy.

The LCCP goes on to say licensees must review (and update as necessary) their local risk assessments:

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

The Licensing Authority will expect the local risk assessment to consider as a minimum:

- whether the premises is in an area of deprivation
- whether the premises is in an area subject to high levels of crime and/or disorder
- the demographics of the area in relation to vulnerable groups
- the location of services for children such as schools, playgrounds, toy shops, leisure centres, other areas where children will gather and children's walking routes to these.

In any case the local risk assessment should show how vulnerable people, including people with gambling dependencies, are protected.

The risk assessment should also include details of the following:

- The training of staff in brief intervention when customers show signs of excessive gambling, the ability of staff to offer brief intervention and how the manning of premises affects this.
- Details as to the location and coverage of working CCTV cameras, and how the system will be monitored.
- The layout of the premises so that staff have an unobstructed view of persons using the premises.

- The number of staff who will be available on the premises at any one time. If at any time that number is one, the assessment should confirm the supervisory and monitoring arrangements when that person is absent from the licensed area or distracted from supervising the premises and observing those persons using the premises.
- Arrangements for monitoring and dealing with under age persons and vulnerable persons, which may include dedicated and trained personnel, leaflets, posters, self-exclusion schemes, window displays and advertisements not to entice passers-by etc.
- The provision of signage and documents relating to games rules, gambling care providers and other relevant information, provided in both English and the other prominent first language for that locality.
- Where the application is for a betting premises licence other than in respect of a track, the location and extent of any part of the premises which will be used to provide facilities for gambling in reliance on the licence.

Such information may be used to inform the decision the Licensing Authority makes about whether to grant the licence, to grant the licence with special conditions or to refuse the application.

This policy does not preclude any application being made and each application will be decided on its merits, with the onus being upon the applicant to show how the concerns can be overcome.

Licence holders will be expected to hold their premises risk assessments on the premises and to share them with the Licensing Authority on request.

**1.9 Duplication with other regulatory regimes** - The licensing authority will seek to avoid any duplication with other statutory/regulatory systems where possible, including planning and building standards. When considering a licence application, the Licensing Authority may not consider whether the premises are likely to be awarded planning permission or building standards approval. It will, however, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

**1.10 Licensing objectives** - Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, the Licensing Authority has considered the Gambling Commission's Guidance 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 Licensing Authority is aware that the Gambling Commission will be taking 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 Licensing Authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. The Licensing Authority is aware of the 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 generally cannot be addressed via the Gambling Act provision.

- **Ensuring that gambling is conducted in a fair and open way** - The Licensing Authority has noted that the Gambling Commission has stated that it would generally not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is, however, more of a role with regard to tracks which is explained in more detail in the 'Tracks' section below.
- **Protecting children and other vulnerable persons from being harmed or exploited by gambling** - The Licensing Authority has noted the Gambling Commission's Guidance states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The Licensing Authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises with regard to this licensing objective. Appropriate measures may include supervision of entrances/machines, segregation of areas, etc. Licence holders are reminded in particular that they will require to comply with the relevant provisions of Part 3.2 of the LCCP relating to access to gambling by children and young persons.

As regards the term “vulnerable persons” it is noted that the Gambling Commission offers no 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, for example, mental health, a learning disability or substance misuse relating to alcohol or drugs.” The licensing authority will consider this aspect of the third licensing objective on a case by case basis.

**1.11 Conditions** – In respect of the various types of licences issued under the Act, Scottish Ministers have set mandatory conditions and default conditions in the Gambling Act 2005 (Mandatory and Default Conditions) (Scotland) Regulations 2007 and the Gambling Commission has set Licence Conditions and Codes of Practice in the LCCP. Therefore it is generally unlikely that the Licensing Authority will need to impose individual additional conditions imposing a more restricted regime in relation to matters that have already been dealt with by these standard conditions.

However, where there are specific risks or problems associated with a particular locality, or a specific premises or class of premises, the Licensing Authority will consider attaching individual conditions to address these.

For example, where certain measures are not already addressed by the mandatory and default conditions or by the applicant, the Licensing Authority may consider licence conditions to cover issues such as:

- proof of age schemes
- CCTV
- supervision of entrances
- supervision of machine areas
- a reduction in the number of betting machines (betting premises)
- the manning of premises
- physical separation of areas
- location of entrance points
- notices / signage
- specific opening hours
- a requirement that children must be accompanied by an adult
- enhanced Disclosure Scotland checks of the applicant and/or staff
- support to persons with gambling addiction
- policies to address seasonal periods where children may more frequently attempt to gain access to premises and gamble such as pre and post school hours, half terms and school holidays
- policies to address the problems associated with truant children who may attempt to gain access to the premises and gamble

This list is not mandatory or exhaustive and is merely indicative of examples of certain measures which may satisfy the requirements of the Licensing Authority and the responsible authorities, depending on the nature and location of the premises and the gambling facilities to be provided.

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 Licensing Authority will generally consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. The Licensing Authority 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 Licensing Authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances, segregation of gambling from non-gambling areas frequented by children and the supervision of gaming machines in non-adult gambling premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.

The Licensing Authority will also ensure that where category C or above machines (which may only be used by persons over the age of 18) 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.

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

It is noted that there are conditions which the licensing authority cannot attach to premises licences which are:

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

**1.12 Door supervisors** - The Gambling Commission Guidance advises that authorities may consider whether there is a need for door supervisors in terms of the licensing objective of protection of children and vulnerable persons from being

harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime. In terms of Section 178 of the Act a person employed as a 'door supervisor' is required to hold a licence issued by the Security Industry Authority (SIA). 'In house' employees working as door supervisors at bingo premises are exempt from requirements to be SIA licensed. Further details are contained in Part 33 of the Gambling Commission Guidance.

Where door supervisors are provided at these premises the operator should ensure that any persons employed in this capacity are fit and proper to carry out such duties. Possible ways to achieve this could be to require potential staff to produce enhanced disclosure information from Disclosure Scotland on potential staff and evidence that such personnel have attended industry recognised training.

## **2. Adult gaming centres**

2.1 Adult gaming centres are a category of premises introduced by the Act that are most closely related to what were commonly known as adult only amusement arcades seen in many city centres.

2.2 Under the Act a premises holding an adult gaming centre licence will be able to make category B, C and D gaming machines available and no one under 18 will be permitted to enter such premises

2.3 In determining applications for adult gaming centre licences, the Licensing Authority will have particular regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises and that the relevant requirements of the LCCP in relation to children and young persons are met.

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

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

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

2.5 The mandatory conditions set out at Part 21 of the Gambling Commission's Guidance will apply to all adult gaming centre licences.

### **3. Licensed family entertainment centres**

3.1 Licensed family entertainment centres are those premises which usually provide a range of amusements such as computer games, penny pushers and may have a separate section set aside for adult only gaming machines with higher stakes and prizes. Licensed family entertainment centres will be able to make available unlimited category C and D machines where there is clear segregation in place so children do not access the areas where the category C machines are located

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

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

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

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

3.4 The mandatory conditions set out at Part 22 of the Gambling Commission's Guidance will apply to all family entertainment centre licences.

#### **4. Bingo premises**

4.1 While children are allowed to enter premises licensed for bingo, the Licensing Authority will expect to see measures in place to ensure that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted these must be separated from areas where children and young persons are allowed. The relevant requirements of the LCCP in relation to children and young persons must be met.

4.2 Part 18 of the Gambling Commission's Guidance sets out the mandatory and default conditions attached to different types of bingo premises.

#### **5. Betting premises**

5.1 Guidance on off-course betting premises (commonly known as betting offices) where betting which takes place other than at a track is set out at Part 19 of the Gambling Commission Guidance. There are also betting offices on tracks that have a separate premises licence from the track premises licence. Separate guidance on track premises licences and the different rules which apply are set out at Part 20 of the Gambling Commission Guidance. A key difference is that a betting office licence may only be applied for by a person holding an operating licence. An applicant for a track premises licence holder, however, need not hold an operating licence from the Gambling Commission.

5.2 In assessing betting premises licence applications, the Licensing Authority will apply the general principles set out at section 1 of Part B of this policy statement.

5.3 Children and young persons are not permitted to enter premises with a betting premises licence (although exemptions apply to tracks, as explained in Part 20 of the Gambling Commission Guidance). Accordingly key consideration will be given to the third licensing objective. Applicants will require to satisfy the Licensing Authority that they have policies and procedures in place which will meet the Social Responsibility Code in the LCCP. These must take into account the structure and layout of their gambling premises in order to prevent underage gambling.

5.4 **Gaming machines** - A holder of a betting premises licence may make available for use up to four gaming machines of category B, C or D. The category B machines are restricted to B2, B3 and B4 machines. The Licensing Authority may not restrict the number of machines to fewer than this automatic entitlement.

The Licensing Authority is aware that the Department for Digital, Culture, Media and Sport have reduced the maximum stake on category B2 (otherwise known as fixed odds betting terminals) from £100 to £2. However, it is understood that this change

will now not take effect until 2020. The policy statement will be revised, as appropriate, once further details are provided by the UK Government.

**5.5 Self-Service Betting Terminals (SSBTs)** – These are machines designed or adapted for use to bet on live or future real events. They merely automate the process of betting that can be conducted in person on betting premises and are not classed as gaming machines. Accordingly, they neither count towards the maximum permitted number of gaming machines on betting premises nor have to comply with any stake or prize limits. However, section 181 of the Act contains an express power for licensing authorities to restrict the number of SSBTs, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence.

5.7 When considering whether to impose a condition to restrict the number of SSBTs in particular premises, the Licensing Authority will take into account, amongst other things, the size of the premises, the number of counter positions available for person-to-person transactions and the location of the machines. The aim of the Licensing Authority will be to ensure that the SSBTs are in a properly segregated area where children are not permitted and that staff are able to monitor the use of SSBTs by children and young persons or by vulnerable people.

5.8 Where certain measures are not already addressed by the mandatory/default conditions set out in part 19 of the Gambling Commission's Guidance and the LCCP, the Licensing Authority may consider licence conditions to address such issues.

## **6. Travelling fairs**

6.1 Travelling fairs have traditionally been able to provide various types of low stake gambling without the need for a gambling licence or permit provided that certain conditions are met. This provision continues in similar fashion under the Act.

6.2 Travelling fairs have the right to provide an unlimited number of category D gaming machines and/or equal chance prize gaming (without the need for a permit) as long as the gambling amounts to no more than an ancillary amusement at the fair. Where category D machines and/or equal chance prize gaming without a permit are to be made available for use at travelling fairs, it will be a matter for this licensing authority to decide whether the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair, is met. Category D machines have a minimum stake of 10p in cash or 30p when non-exchangeable prizes are staked. The maximum prize is £5 in cash or £8 in non-cash prizes. Higher stake category B and C machines are not permitted.

6.4 Travelling fairs may be located only on a site that has been used for fairs for no more than 27 days per calendar year. This statutory maximum applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. The Licensing Authority will work with its

neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

6.5 It should be noted that although no type of gambling licence or permit is required for travelling fairs, a public entertainment licence (PEL) will be required under the Civic Government (Scotland) Act 1982. Information on how to obtain a PEL and the standard conditions which will apply can be accessed at [https://www.highland.gov.uk/directory\\_record/738741/public\\_entertainment](https://www.highland.gov.uk/directory_record/738741/public_entertainment)

## **7. Provisional statements**

7.1 A provisional statement application is a process which allows a developer to examine the likelihood of whether a building which he expects to be constructed, to be altered or to acquire a right to occupy would be granted a premises licence.

7.2 A provisional statement is not a licence and merely gives the holder some form of guarantee that a premises licence would be granted so the developer can judge whether a development is worth taking forward in light of the need to obtain a premises licence. An applicant may also apply for a provisional statement for premises which already hold a premises licence (either for a different type of gambling or the same type).

7.3 In terms of representations about premises licence applications, following the grant of a provisional statement no further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances.

7.4 The Licensing Authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:-

- (a) which could not have been raised by objectors at the provisional licence stage, or
- (b) which in the authority's opinion reflect a change in the operator's circumstances.

7.5 The Licensing Authority will not take into account irrelevant matters such as the likelihood of the applicant obtaining planning permission or building standards approval for the proposal.

## **8. Reviews**

8.1 A premises licence review is a process defined in the legislation which ultimately leads to a licence being reassessed by the Licensing Authority with the possibility that the licence may be revoked, suspended or that conditions may amended or new conditions added.

8.2 Requests for a review of a premises licence can be made by interested parties or

responsible authorities. However, it is for the licensing authority to decide whether the review is to be carried out. The Licensing Authority may reject an application for review if it considers that the application is not relevant to the matters listed below or considers that the request is frivolous, vexatious, will certainly not cause the authority to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations relating to the same premises or requests for review.

Requests for reviews should be:-

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

8.2 The Licensing Authority itself can also initiate a review of a licence on the basis of any reason which it thinks is appropriate.

## PART C

### PERMITS/TEMPORARY & OCCASIONAL USE NOTICE

#### 1. Unlicensed family entertainment centre (UFECs) gaming machine permits

1.1 The term 'unlicensed family entertainment centre' is one defined in the Act and refers to a premises which provides category D gaming machines along with various other amusements such as computer games and penny pushers. The premises are 'unlicensed' in that it does not require a premises licence. It does, however, require a permit to be able to provide category D machines. It should not be confused with a 'licensed family entertainment centre' which requires a premises licence because it provides both category C and D gaming machines.

1.2 UFECs will be able to offer only category D machines in reliance on a gaming machine permit. However, any number of category D machines can be made available with such a permit.

1.3 An application for a permit may be granted only if the Licensing Authority is satisfied that the premises will be used as a UFEC, and if the Chief Constable has been consulted on the application.

1.4 It should be noted that the Licensing Authority cannot attach conditions to this type of permit. It can, however, refuse applications if not satisfied as to the suitability of the applicant or that the issues raised in the statement of principles set out below have been addressed through the application. Applicants only need to address the statement of principles when making their initial applications and not at renewal time.

1.5 **Statement of principles** - The Licensing Authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations.

The efficiency of such policies and procedures will each be considered on their merits, however, they may include:

- appropriate measures and training for staff as regards suspected truant children on the premises
- measures and training covering how staff would deal with unsupervised very young children being on the premises
- measures and training covering how staff would deal with children causing perceived problems on or around the premises.
- the arrangements for supervision of premises either by staff or the use of CCTV.

The Licensing Authority will also expect that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs that the applicant has no relevant convictions, and that staff are trained to have a full understanding of the maximum stakes and prizes.

## **2. Gaming machines on alcohol licensed premises other than clubs.**

2.1 Premises licensed to sell alcohol for consumption on the premises are automatically entitled to have up to 2 gaming machines of categories C and/or D on the premises. To take advantage of this entitlement, the licence holder must give notice to the Licensing Authority of their intention to make gaming machines available for use, and must pay the prescribed fee. The automatic entitlement to have 2 gaming machines relates to the premises as a whole and not to each individual bar or lounge area within the premises. The Licensing Authority can remove the automatic authorisation in respect of any particular premises if:-

- provision of the machines is not reasonably consistent with the pursuit of the gambling 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.

2.2 If a premises wishes to have more than 2 machines, then the premises licence holder (i.e. the holder of the licence to sell alcohol on the premises needs to apply for a permit. The Licensing Authority must consider that application based upon the gambling licensing objectives, the Gambling Commission Guidance, and “*such matters as they think relevant.*” The Licensing Authority will decide what matters are relevant on a case by case basis. In general, however, the key relevant matter to which the Licensing Authority will have regard will be the need to protect children and vulnerable persons from harm or being exploited by gambling. The Licensing Authority will also expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines (category C machines). Measures which will satisfy the Licensing Authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be helpful. The relevant requirements of the LCCP must also be met. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

2.3 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 be dealt with, as an Adult Gaming Centre premises licence.

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

### **3. Prize gaming permits**

3.1 Section 288 defines gaming as prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before play commences. Prize gaming can often be seen at seaside resorts in amusement arcades where a form of bingo is offered and the prizes are displayed on the walls.

3.2 A prize gaming permit is a permit issued by a Licensing Authority to authorise the provision of facilities for gaming with prizes on specified premises.

3.3 In making its decision on an application for this type of permit the Licensing Authority does not need to have regard to the licensing objectives but must have regard to the Gambling Commission Guidance. The Licensing Authority will also have regard to its statement of principles as set out below in determining the suitability of the applicant for a permit.

3.4 **Statement of principles** - The applicant should set out the types of gaming that he or she is intending to offer and 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.

The applicant should also demonstrate that they have policies and procedures in place which include:

- appropriate measures and training for staff as regards suspected truant children on the premises
- measures and training covering how staff would deal with unsupervised very young children being on the premises
- measures and training covering how staff would deal with children causing perceived problems on or around the premises.
- the arrangements for supervision of premises either by staff or the use of CCTV.

3.5 It should be noted that there are conditions in the Act with 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 (currently The Gambling Act 2005 (Prize Gaming) (Permits) Regulations 2007, 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.

#### **4. Club gaming and club machine permits**

Members' clubs and miners' welfare institutes may apply for a club gaming permit or a club machine permit. The club gaming permit will enable the premises to provide gaming machines (three machines of categories B4, C or D) and equal chance gaming. (i.e. poker, bingo etc.). A club machine permit will enable the premises to provide gaming machines (three machines of categories B4, C or D). Commercial clubs may apply for a club machine permit only.

To qualify for these special club permits, a members' club must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming. A members' club must be permanent in nature, not established to make commercial profit, and be controlled by its members equally. Examples include working men's clubs, branches of the Royal British Legion and clubs with political affiliations.

Clubs must have regard to the protection of children and vulnerable persons from harm or being exploited by gambling. They must provide sufficient measures to ensure that under 18 year olds do not use the adult only gaming machines. These measures may include:

- the machines being in close proximity to the bar, or in any other area where they are capable of being adequately supervised
- notices and signage
- the provision of information leaflets / helpline numbers for organisations such as GamCare.

Before granting the permit the Licensing Authority will need to satisfy itself that the premises meets the requirements of a members' club and that the majority of members are over 18.

The licensing authority may only refuse an application on the grounds that:

- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which they have 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.

#### **4. Temporary use notices**

4.1 Temporary use notices allow the holder of an operating licence issued by the Gambling Commission to use unlicensed premises on not more than 21 days in any 12 month period for gambling. They may only be granted where a relevant operating licence has been granted. Premises that might find a temporary use notice useful would include hotels, conference centres and sporting venues.

4.2 A temporary use notice can only be used to offer gambling of a form authorised by the operator's operating licence. It can only be used to permit the provision of facilities for equal chance gaming and where the gaming in each tournament is intended to produce a single overall winner. Gaming machines may not be made available under a temporary use notice.

4.3 A temporary use notice must be lodged with the licensing authority not less than three months and one day before the day on which the gambling is due to take place. The application must be copied to the Gambling Commission, Police Scotland and HM Commissioners for Revenue and Customs. Information about how to serve a temporary use notice is available at

[https://www.highland.gov.uk/directory\\_record/738752/gambling](https://www.highland.gov.uk/directory_record/738752/gambling)

4.4 The Act makes a special reference, in the context of temporary use notices, to a "set of premises" to try and ensure that large premises which cannot reasonably be viewed as separate are not used for more temporary use notices than permitted. The Licensing Authority considers that the determination of what constitutes "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In considering whether a place falls within the definition of a "set of premises", the Licensing Authority will look at, amongst other things, the ownership/occupation and control of the premises. The Licensing Authority will

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.

4.5 The Licensing Authority, in deciding whether to object to the temporary use notice and issue a counter-notice, must apply the same principles as in determination of a premises licence application. In particular, the Licensing Authority will aim to permit the provision of facilities for gambling under a temporary use notice subject to its view as to whether to do so accords with the Gambling Commission Guidance, the LCCP and the Licensing Authority's policy statement and is reasonably consistent with the licensing objectives.

## **5. Occasional use notices (for tracks)**

5.1 There is a special provision in the Act which provides that where there is betting on a track on 8 days or fewer in a calendar year, betting may be permitted by an occasional use notice without the need for a full premises licence. Track operators and occupiers need to be aware that the procedure for applying for an occasional use notice is different to that for a temporary use notice. The application may be made in writing, to the Licensing Authority by the person responsible for the administration of the events on a track or by an occupier of the track. A separate occasional use notice is required for each day's use, even where consecutive days of use are proposed. The notice must be served on the Licensing Authority and copied to Police Scotland.

5.2 Provided that the notice will not result in betting facilities being available for more than 8 days in a calendar year, there is no provision for counter-notices or objections to be submitted. The Licensing Authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. It should be noted, however, that betting operators cannot provide gaming machines at tracks by virtue of an occasional use notice.

## **6. Small society lottery registrations**

A lottery generally refers to schemes under which prizes are distributed by chance among entrants who have given some form of value for their chance to take part. Raffles are the most common example.

The Act creates two principal classes of lotteries: licensed lotteries and exempt lotteries. Licensed lotteries are large society lotteries and lotteries run for the benefit of local authorities. These are regulated by the Gambling Commission.

Within the class of exempt lotteries there are four sub classes, one of which is small society lotteries which are regulated by the Licensing Authority. A small society lottery is a lottery promoted on behalf of a non-commercial society as defined in the

Act and which also meets specific financial requirements set out in the Act. Small society lotteries require to satisfy the Licensing Authority that they meet the following requirements before they will be registered.

- A lottery is small if the total value of tickets put on sale in a single lottery is £20,000 or less and the aggregate value of the tickets put on sale in a calendar year is £250,000 or less.
- To be 'non-commercial' a society must be established and conducted:
  - for charitable purposes,
  - for the purpose of enabling participation in, or supporting, sport, athletics or a cultural activity; or
  - for any other non-commercial purpose other than that of private gain.

Once registered, the small society lottery must be conducted in accordance with the rules set out at Part 34 of the Gambling Commission Guidance.

The Licensing Authority is aware that the Department for Digital, Culture, Media & Sport is currently carrying out a consultation on Society Lottery reform. This includes Small Society Lotteries and it is considering the following:

- Raising the limit for total value of ticket put on sale in a single lottery from £20,000 to £30,00 or £40,00 or retaining the current limit;
- Raising the aggregate value of the tickets put on sale in a calendar year from £250,000 to £400,000 or £500,000 or retaining the current limit

Should any changes be implemented, the policy statement will be revised as appropriate.

The other types of exempt lotteries are 'incidental lotteries', 'private lotteries' (which include private society lotteries, work lotteries and residents' lotteries) and 'customer lotteries'. If you require guidance on the different categories of lotteries please refer to the detailed guidance notes available on the Gambling Commission website at:

<http://www.gamblingcommission.gov.uk/Gambling-sectors/Lotteries/Lotteries-raffles.aspx>

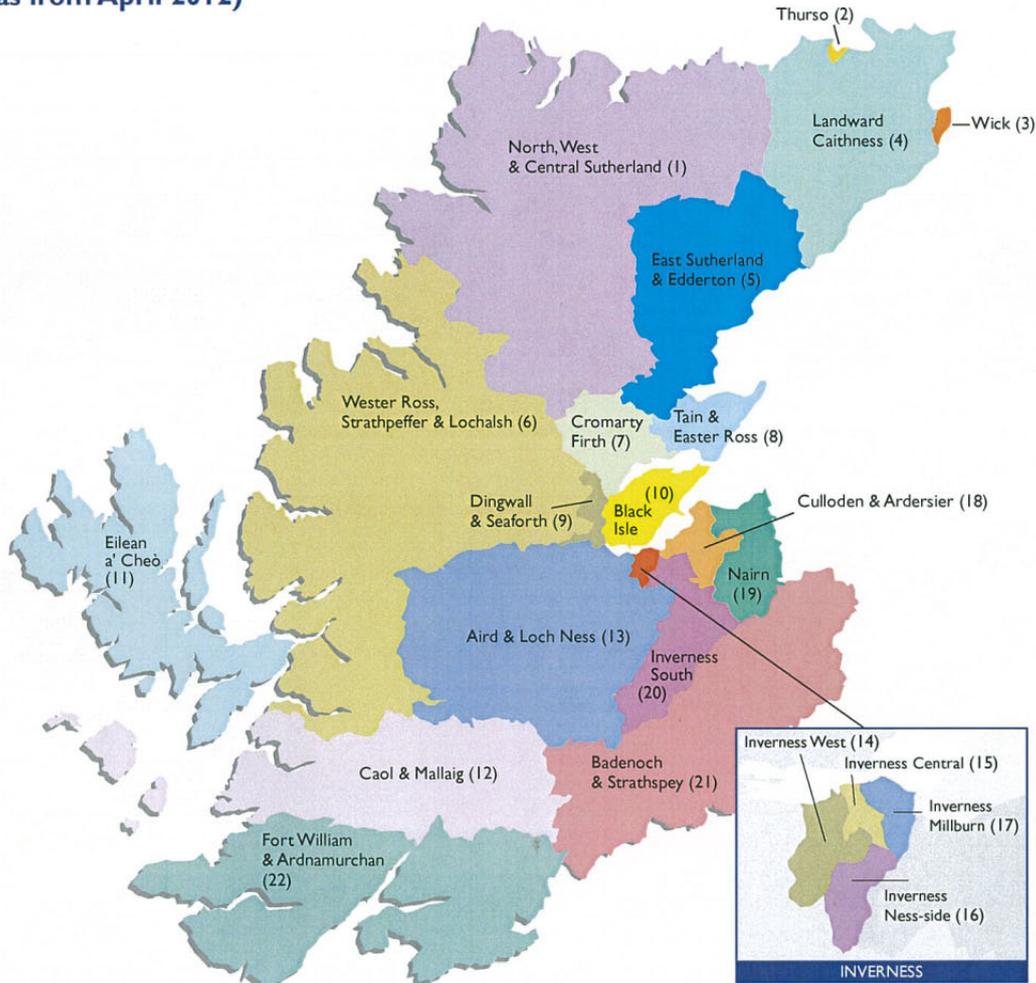
# APPENDIX 1 – MAP OF HIGHLAND COUNCIL AREA AND WARDS

PR12 50/F



## MULTI-MEMBER WARDS

(as from April 2012)



Ward No./ Ward Name	No. of Members	2011 Population	Ward No./ Ward Name	No. of Members	2011 Population	Ward No./ Ward Name	No. of Members	2011 Population
1 North, West & Central Sutherland	3	5,568	7 Cromarty Firth	4	11,748	16 Inverness Ness-Side	4	10,008
2 Thurso	3	7,218	8 Tain & Easter Ross	3	8,860	17 Inverness Millburn	3	8,050
3 Wick	3	6,587	9 Dingwall & Seaforth	4	12,399	18 Culloden & Ardersier	4	11,030
4 Landward Caithness	4	11,355	10 Black Isle	4	9,639	19 Nairn	4	11,593
5 East Sutherland & Edderton	3	7,952	11 Eilean a' Cheò	4	10,114	20 Inverness South	4	14,092
6 Wester Ross, Strathpeffer & Lochalsh	4	11,372	12 Caol & Mallaig	3	7,882	21 Badenoch & Strathspey	4	12,983
			13 Aird & Loch Ness	4	10,658	22 Ft William & Ardnamurchan	4	11,404
			14 Inverness West	3	8,204	<b>TOTAL</b>	<b>80</b>	<b>222,370</b>
			15 Inverness Central	4	13,654			

## **APPENDIX 2 - SCHEDULE OF CONSULTEES**

The draft Statement of policy was made available on the website of Highland Licensing Board -

[https://www.highland.gov.uk/news/article/11223/consultation\\_on\\_statement\\_of\\_policy\\_under\\_the\\_gambling\\_act\\_2005](https://www.highland.gov.uk/news/article/11223/consultation_on_statement_of_policy_under_the_gambling_act_2005)

during the consultation period from 10 August 2018 to 21 September 2018.

- The Chief Constable per Police Scotland, Highlands & Islands Policing Division, Divisional Coordination Unit, Old Perth Road, Inverness IV2 3SY
- The Chief Fire Officer - per Highlands and Islands Fire & Rescue Service, 64 Seafield Road, Inverness, IV1 1SG
- The Scottish Environment Protection Agency, North Region HQ, Graesser House, Fodderty Way, Dingwall, IV15 9XD
- All members of Highland Licensing Board
- All members of Highland Council
- Highland Licensing Forum
- The Director of Health and Social Care, Highland Council, Glenurquhart Road, Inverness IV3 5NX
- The Director of Transport and Streets, Highland Council, Glenurquhart Road, Inverness IV3 5NX
- The Director of Environmental Health, 38 Harbour Road, Inverness, IV1 1UF
- The Director of Planning and Development, Highland Council, Glenurquhart Road, Inverness IV3 5NX
- All Community Councils within Highland
- The Gambling Commission, Victoria Square House, Victoria Square, Birmingham, B2 4BP
- The Association of British Bookmakers Limited, Ground Floor, Warwick House, 25 Buckingham Palace Road, London SW1W 0PP
- The Bingo Association, Lexham House, 75 High Street North, Dunstable, Bedfordshire, LU6 1JF
- National Casino Forum, Vicarage House, 58-60 Kensington Church Street, London, W8 4DB
- Existing holders of betting premises and bingo Licences in Highland
- The Director of Public Health, NHS Highland, Assynt House, Beechwood Business Park, Inverness, IV2 3BW
- The Highland Alcohol and Drugs Partnership, <mailto:info@highland-adp.org.uk>
- HM Revenue & Customs, Portcullis House, 21 India Street, Glasgow, G2 4PZ
- Addiction Counselling Inverness, 70 Tomnahurich Street, Inverness, IV3 5DT
- Gamblers Anonymous Scotland, St Columkilles Hall, 2 Kirkwood Street, Rutherglen, Glasgow, G73 2SL
- GamCare, 2nd Floor, 7-11 St John's Hill, London, SW11 1TR
- SMART Recovery UK, Box 123, 24 Station Square, Academy Street, Inverness IV1 1LD

## **APPENDIX 3 - LIST OF OFFICES AND CONTACTS**

### **Highland Licensing Board – Clerk and Area Offices**

#### **Clerk to the Licensing Board :**

Susan Blease  
Council Offices  
High Street  
Dingwall  
IV15 9QN  
Tel: (01349) 86 8538  
Email: [Susan.Blease@highland.gov.uk](mailto:Susan.Blease@highland.gov.uk)

#### **Depute Clerk to the Licensing Board**

Claire McArthur  
Council Offices  
High Street  
Dingwall  
IV15 9QN  
Tel: (01349) 86 8541  
Email: [Claire.McArthur@highland.gov.uk](mailto:Claire.McArthur@highland.gov.uk)

#### **Local Area Offices:**

Email: [Licensing@highland.gov.uk](mailto:Licensing@highland.gov.uk)

#### **Caithness, Sutherland and Ross**

Council Offices  
Government Buildings  
Girnigoe Street  
Wick  
Caithness  
KW1 4HW  
Tel: (01955) 609508

Council Offices  
Drummuie  
Golspie  
Sutherland  
KW10 6TA  
Tel: (01408) 635205

#### **Skye & Lochaber**

##### **Skye:**

Council Offices  
Tigh na Sgìre  
Park Lane  
Portree  
Isle of Skye  
IV51 9GP  
Tel: (01478) 613826

#### **Licensing Standards Officer (LSO)**

David Inglis  
Council Offices  
High Street  
Dingwall  
IV15 9QN  
Tel: (01349) 86 8644  
Email: [david.inglis@highland.gov.uk](mailto:david.inglis@highland.gov.uk)

#### **Licensing Standards Officer (LSO)**

David Inglis  
Council Offices  
High Street  
Dingwall  
IV15 9QN  
Tel: (01349) 86 8644  
Email: [david.inglis@highland.gov.uk](mailto:david.inglis@highland.gov.uk)

**Lochaber:**  
Council Offices  
Lochaber House  
High Street  
Fort William  
PH33 6EL  
Tel: (01397) 707233

**Inverness, Nairn and Badenoch and Strathspey**

Council Offices  
Town House  
Inverness  
IV1 1JJ  
Tel: (01463) 724265

**Licensing Standards Officer (LSO)**

Ian Cox  
Town House  
Inverness, IV1 1JJ  
Tel: (01463) 724385  
Fax: (01463) 724302  
Email: [ian.cox@highland.gov.uk](mailto:ian.cox@highland.gov.uk)

Gambling information can be found on the Council's website at –

[https://www.highland.gov.uk/info/1125/licences\\_permits\\_and\\_permissions](https://www.highland.gov.uk/info/1125/licences_permits_and_permissions)

and on the Gambling Commission website at –

<http://www.gamblingcommission.gov.uk/Home.aspx>

## **APPENDIX 4 – RESPONSIBLE AUTHORITIES**

The Gambling Commission, Victoria Square House, Victoria Square, Birmingham B2 4BP <http://www.gamblingcommission.gov.uk/about/Contact-us/Contact-us.aspx>

The Chief Constable per Police Scotland, Highlands & Islands Policing Division, Divisional Coordination Unit, Old Perth Road, Inverness IV2 3SY

The Chief Fire Officer - per Highlands and Islands Fire & Rescue Service, 64 Seafield Road, Inverness, IV1 1SG

Highland Council, Glenurquhart Road, Inverness IV3 5NX

The Director of Health and Social Care, Highland Council, Glenurquhart Road, Inverness IV3 5NX

The Director of of Transport and Streets Highland Council, Glenurquhart Road, Inverness IV3 5NX

The Director of Environmental Health, 38 Harbour Road, Inverness, IV1 1UF

The Director of Planning and Development, per the Area Manager:

***Inverness, Nairn, Badenoch & Strathspey and Lochaber:***

*Area Planning Manager (South): Nicola Drummond, Kintail House, Inverness, IV2 3BW*

***Caithness, Sutherland, Ross and Skye:***

*Area Planning Manager (North): Dafydd Jones, Council Offices, High Street, Dingwall, IV15 9QN*

HM Revenue and Customs - [www.hmrc.gov.uk/](http://www.hmrc.gov.uk/)



BY EMAIL ONLY

[Claire.McArthur@highland.gov.uk](mailto:Claire.McArthur@highland.gov.uk) and  
Licensing Department  
Highland Council

**Please ask for:** Richard Taylor  
**Direct Tel:** 01482 590216  
**Email:** [rjt@gosschalks.co.uk](mailto:rjt@gosschalks.co.uk)  
**Our ref:** RJT / MJM / 097505.00005  
#GS2167395  
**Your ref:**  
**Date:** 13<sup>th</sup> September 2018

Dear Sir/Madam,

**Re: Gambling Act 2005 Policy Statement Consultation**

We act for the Association of British Bookmakers (ABB) and have received instructions to respond on behalf of our client to the current consultation on the Council's review of its gambling policy statement.

The Association of British Bookmakers (ABB) represents over 80% of the high street betting market. Its members include large national operators such as William Hill, Ladbrokes Coral and Paddy Power, as well as almost 100 smaller independent bookmakers.

Please see below for the ABB's response to the Council's current consultation on the draft gambling policy statement.

This response starts by setting out the ABB's approach in areas relevant to the local authority's regulation of betting shop premises, and its commitment to working with local authorities in partnership. The response finishes by highlighting matters within the policy statement which the ABB feels may need to be addressed.

Betting shops have been part of the British high street for over 50 years and ensuring a dialogue with the communities they serve is vital.

The ABB recognises the importance of the gambling policy statement in focusing on the local environment and welcomes the informed approach this will enable operators to take for example, with regard, to the new requirements for local area risk assessments and ensuring the right structures are in place in shops that are appropriate for that area.

Whilst it is important that the gambling policy statement fully reflects the local area, the ABB is also keen to ensure that the statutory requirements placed on operators and local authorities under the Gambling Act 2005 remain clear; this includes mandatory conditions (for instance, relating to Think 21 policies) and the aim to permit structure. Any duplication or obscuring of these within new processes would be detrimental to the gambling licensing regime. The ABB also

believes it is important that the key protections already offered for communities, and clear process (including putting the public on notice) for objections to premises licence applications, continue to be recognised under the new regime.

Any consideration of gambling licensing at the local level should also be considered within the wider context.

- the overall number of betting shops is in decline. The latest Gambling Commission industry statistics show that numbers as of March 2017 were 8,788 - a decline of 349 since March 2014, when there were 9,137 recorded.
- planning law changes introduced in April 2015 have increased the ability of licensing authorities to review applications for new premises, as all new betting shops must now apply for planning permission.
- successive prevalence surveys and health surveys tells us that problem gambling rates in the UK are stable (0.6%) and possibly falling.

### **Working in partnership with local authorities**

The ABB is fully committed to ensuring constructive working relationships exist between betting operators and licensing authorities, and that where problems may arise that they can be dealt with in partnership. The exchange of clear information between councils and betting operators is a key part of this and the opportunity to respond to this consultation is welcomed.

### **LGA – ABB Betting Partnership Framework**

In January 2015 the ABB signed a partnership agreement with the Local Government Association (LGA), developed over a period of months by a specially formed Betting Commission consisting of councillors and betting shop firms, which established a framework designed to encourage more joint working between councils and the industry.

Launching the document Cllr Tony Page, LGA Licensing spokesman, said it demonstrated the *"desire on both sides to increase joint-working in order to try and use existing powers to tackle local concerns, whatever they might be."*

The framework builds on earlier examples of joint working between councils and the industry, for example the Medway Responsible Gambling Partnership which was launched by Medway Council and the ABB in December 2014. The first of its kind in Britain, the voluntary agreement led the way in trialing multi-operator self-exclusion. Lessons learned from this trial paved the way for the national multi-operator self-exclusion scheme now in place across the country. By phoning a free phone number (0800 294 2060) a customer who is concerned they are developing a problem with their gambling can exclude themselves from betting shops close to where they live, work and

socialise. The ABB is working with local authorities to help raise awareness of the scheme, which is widely promoted within betting shops.

The national scheme was first trialed in Glasgow in partnership with Glasgow City Council. Cllr Paul Rooney, Glasgow's City Treasurer and Chairman of a cross-party Sounding Board on gambling, described the project as *"breaking new ground in terms of the industry sharing information, both between operators and, crucially, with their regulator."*

### **Primary Authority Partnerships in place between the ABB and local authorities**

All major operators, and the ABB on behalf of independent members, have also established Primary Authority Partnerships with local authorities. These partnerships help provide a consistent approach to regulation by local authorities, within the areas covered by the partnership; such as age-verification or health and safety. We believe this level of consistency is beneficial both for local authorities and for operators.

For instance, Primary Authority Partnerships between Milton Keynes Council and Reading Council and their respective partners, Ladbrokes and Paddy Power, led to the first Primary Authority inspection plans for gambling coming into effect in January 2015. By creating largely uniform plans, and requiring enforcing officers to inform the relevant Primary Authority before conducting a proactive test-purchase, and provide feedback afterwards, the plans have been able to bring consistency to proactive test-purchasing whilst allowing the Primary Authorities to help the businesses prevent underage gambling on their premises.

### **Local area risk assessments**

Since April 2016, under new Gambling Commission LCCP provisions, operators have been required to complete local area risk assessments identifying any risks posed to the licensing objectives and how these would be mitigated. Licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy, and any local area profile, in their risk assessment. These must be reviewed where there are significant local changes or changes to the premises, or when applying for a variation to or for a new premises licence.

The ABB fully supports the implementation of risk assessments which will take into account risks presented in the local area, such as exposure to vulnerable groups and crime. The new requirements build on measures the industry has already introduced through the ABB Responsible Gambling Code to better identify problem gamblers and to encourage all customers to gamble responsibly.

This includes training for shop staff on how to intervene and direct problem gamblers to support services, as well as new rules on advertising including banning gaming machine advertising in shop windows, and the introduction of Player Awareness Systems which use technology to track account

based gaming machine customers' player history data to allow earlier intervention with any customers whose data displays known 'markers of harm'.

### **Best practice**

The ABB is committed to working pro-actively with local authorities to help drive the development of best practice with regard to local area risk assessments, both through responses to consultations such as this and directly with local authorities. Both the ABB and its members are open and willing to engage with any local authority with questions or concerns relating to the risk assessment process, and would encourage them to make contact.

Westminster Council is one local authority which entered into early dialogue with the industry, leading to the development of and consultation on draft guidance on the risk assessment process, which the ABB and our members contributed to. Most recently one operator, Coral, has been working closely with the Council ahead of it issuing its final version of the guidance, which we welcome.

The final guidance includes a recommended template for the local area risk assessment which we would point to as a good example of what should be expected to be covered in an operator's risk assessment. It is not feasible for national operators to submit bespoke risk assessments to each of the c.350 local authorities they each deal with, and all operators have been working to ensure that their templates can meet the requirements set out by all individual local authorities.

The ABB would be concerned should any local authority seek to prescribe the form of an operator's risk assessment. This would not be in line with better regulation principles. Operators must remain free to shape their risk assessment in whichever way best meets their operational processes.

The ABB has also shared recommendations of best practice with its smaller independent members, who although they deal with fewer different local authorities, have less resource to devote to developing their approach to the new assessments. In this way we hope to encourage a consistent application of the new rules by operators which will benefit both them and local authorities.

### **Concerns around increases in the regulatory burden on operators**

The ABB is concerned to ensure that any changes in the licensing regime at a local level are implemented in a proportionate manner. This would include if any local authority were to set out overly onerous requirements on operators to review their local risk assessments with unnecessary frequency, as this could be damaging. As set out in the LCCP a review should only be required in response to significant local or premises change. In the ABB's view this should be where evidence can be provided to demonstrate that the change could impact the premises' ability to operate consistently with the three licensing objectives.

Any increase in the regulatory burden would severely impact ABB members at a time when overall shop numbers are in decline, and operators are continuing to absorb the impacts of significant recent regulatory change. This includes the increase to 25% of Machine Games Duty, limits to staking over £50 on gaming machines, and planning use class changes which require all new betting shops in England to apply for planning permission.

### **Employing additional licence conditions**

It should continue to be the case that additional conditions are only imposed in exceptional circumstances where there are clear reasons for doing so. There are already mandatory and default conditions attached to any premises licence which will ensure operation that is consistent with the licensing objectives. In the vast majority of cases, these will not need to be supplemented by additional conditions.

The LCCP require that premises operate an age verification policy. The industry operates a policy called "Think 21". This policy is successful in preventing under-age gambling. Independent test purchasing carried out by operators and the ABB, and submitted to the Gambling Commission, shows that ID challenge rates are consistently around 85%. The ABB has seen statements of principles requiring the operation of Challenge 25. Unless there is clear evidence of a need to deviate from the industry standard then conditions requiring an alternative age verification policy should not be imposed.

The ABB is concerned that the imposition of additional licensing conditions could become commonplace if there are no clear requirements in the revised licensing policy statement as to the need for evidence. If additional licence conditions are more commonly applied this would increase variation across licensing authorities and create uncertainty amongst operators as to licensing requirements, over complicating the licensing process both for operators and local authorities

### **Other concerns**

Where a local area profile is produced by the licensing authority, this be made clearly available within the body of the licensing policy statement, where it will be easily accessible by the operator and also available for consultation whenever the policy statement is reviewed.

### **Considerations specific to the Draft Statement of Policy – Gambling Act 2005 – 2019-2022**

On behalf of the ABB, we welcome the light touch approach to the Statement of Gambling Policy and have very few comments to make. Those comments are below:-

#### **1.8 Local Risk Assessments**

Within this section, there is a list of four bullet points detailing matters that the Licensing Authority expects the local risk assessment to consider as a minimum. The first bullet point,

*“whether the premises is in an area of deprivation”* should be removed from this list. The relevant affluence of an area is not a relevant consideration to an assessment of risks to the licensing objectives unless the Licensing Authority has already determined that persons in a specific area or of a particular income level are automatically vulnerable or more likely to commit crime as a result of gambling. We are certain that this predetermination has not taken place and in the circumstances the reference to whether or not the premises is in an area of deprivation should be removed.

### 1.11 Conditions

We particularly welcome the acknowledgement that the mandatory and default conditions are usually sufficient to ensure that the operation of the premises will be reasonably consistent with the licensing objectives and in the circumstances it is generally unlikely that the Licensing Authority will need to impose individual additional conditions.

We also welcome the statement that additional conditions will only be imposed if there is a specific risk identified in respect of a particular application. The evidential basis for the imposition of additional conditions is very important and additional conditions should not be imposed simply where it is felt to be “appropriate” (paragraph 1.1) or where there is a “perceived need” (paragraph 1.11).

### **Conclusion**

The ABB and its members are committed to working closely with both the Gambling Commission and local authorities to continually drive up standards in regulatory compliance in support of the three licensing objectives: to keep crime out of gambling, ensure that gambling is conducted in a fair and open way, and to protect the vulnerable.

Indeed, as set out, the ABB and its members already do this successfully in partnership with local authorities now. This includes through the ABB Responsible Gambling Code, which is mandatory for all members, and the Safe Bet Alliance (SBA), which sets voluntary standards across the industry to make shops safer for customers and staff.

We would encourage local authorities to engage with us as we continue to develop both these codes of practice, which are in direct support of the licensing objectives, as well as our processes around local area risk assessments.

Yours faithfully,



**GOSSCHALKS**

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Queens Gardens, Hull, HU1 3DZ **T** 01482 324252 **F** 0870 600 5984  
**E** [info@gosschalks.co.uk](mailto:info@gosschalks.co.uk) **W** [www.gosschalks.co.uk](http://www.gosschalks.co.uk) **DX** 11902 – Hull

A list of partners is available for inspection at the above address.  
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### Claire McArthur

---

**From:** Catherine Sweet <catherine.sweet@gamcare.org.uk>  
**Sent:** 10 August 2018 15:48  
**To:** Claire McArthur  
**Subject:** RE: Consultation on proposed draft of Gambling Act Statement of Policy 2019-2022  
**Attachments:** GamCare Local Authorities Brochure 2018 (web-version).pdf; GamCare Training Brochure 2017.pdf

Hello,

Thank you for your email, we appreciate your interest in our work.

While we do not have the resources available to allow us to personally respond to each Local Authority which contacts us regarding their refreshed Statement of Principles, we have compiled a list of the issues or factors which we think it would be helpful to consider below, more information is available via the [Gambling Commission](#).

The function of the Statement is to reflect locally specific gambling concerns and to reflect the Council's wider strategic objectives. The active use of the Statement is one means by which you can make clear your expectations of gambling operators who have premises in your area. This allows operators to respond to locally specific requirements and adjust their own policies and procedures as required.

- A helpful first step is to develop a risk map of your local area so that you are aware of both potential and actual risks around gambling venues. A useful explanation of area-based risk-mapping has been developed with Westminster and Manchester City Councils, which gives some guidance on those who may be most vulnerable or at-risk of gambling-related harm. For more information please see [www.geofutures.com/research-2/gambling-related-harm-how-local-space-shapes-our-understanding-of-risk/](http://www.geofutures.com/research-2/gambling-related-harm-how-local-space-shapes-our-understanding-of-risk/)
- Consider that proposals for new gambling premises which are near hostels or other accommodation or centres catering for vulnerable people, including those with learning difficulties, and those with gambling / alcohol / drug abuse problems, as likely to adversely affect the licensing objectives set out by the Gambling Commission. This is also relevant regarding the proximity to schools, colleges and universities.
- A detailed local risk assessment at each gambling venue – pertinent to the environment immediately surrounding the premises as well as the wider local area – is a good way to gauge whether the operator and staff teams are fully aware of the challenges present in the local area and can help reassure the Local Licensing Authority that appropriate mitigations are in place.
- Does the operator have a specific training programme for staff to ensure that they are able to identify children and other vulnerable people, and take appropriate action to ensure they are not able to access the premises or are supported appropriately?
- Does the operator ensure that there is an adequate number of staff and managers are on the premises at key points throughout the day? This may be particularly relevant for premises situated nearby schools / colleges / universities, and/or pubs, bars and clubs.
- Consider whether the layout, lighting and fitting out of the premises have been designed so as not to attract children and other vulnerable persons who might be harmed or exploited by gambling.
- Consider whether any promotional material associated with the premises could encourage the use of the premises by children or young people if they are not legally allowed to do so.

We would suggest that the Local Licensing Authority primarily consider applications from [GamCare Certified operators](#). GamCare Certification is a voluntary process comprising an independent audit assessment of an operator's player protection measures and social responsibility standards, policy and practice. Standards are measured in accordance with the GamCare Player Protection Code of Practice. If you would like more information on how our audit can support Local Licensing Authorities, please contact [mike.kenward@gamcare.org.uk](mailto:mike.kenward@gamcare.org.uk)

For more information on GamCare training and other services available to local authorities, as well as recommended training for gambling operators, please see the attached brochures.

If there is anything else we can assist with please do let us know.

Kind regards,  
Catherine

**Catherine Sweet**  
**Head of Marketing and Communications**  
T: 020 7801 7028  
E: [catherine.sweet@gamcare.org.uk](mailto:catherine.sweet@gamcare.org.uk)



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**From:** Info  
**Sent:** 10 August 2018 13:51  
**To:** Catherine Sweet <[catherine.sweet@gamcare.org.uk](mailto:catherine.sweet@gamcare.org.uk)>  
**Subject:** FW: Consultation on proposed draft of Gambling Act Statement of Policy 2019-2022

**From:** Claire McArthur <[Claire.McArthur@highland.gov.uk](mailto:Claire.McArthur@highland.gov.uk)>  
**Sent:** 10 August 2018 12:07  
**To:** Claire McArthur <[Claire.McArthur@highland.gov.uk](mailto:Claire.McArthur@highland.gov.uk)>  
**Subject:** Consultation on proposed draft of Gambling Act Statement of Policy 2019-2022

This Message originated outside your organization.

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Dear all

The Highland Licensing Board (HLB) is now consulting on a proposed draft of its next Statement of Policy under the Gambling Act 2005 which, when finalised after consultation responses have been considered and any consequent amendments made, will become its policy statement for the period 2019-2022. HLB approved the publication and issue of the proposed Consultation Draft Policy Statement as a formal Consultation Draft at the meeting of 7 August 2018.

The Consultation Draft Statement of Policy can be accessed at:

[https://www.highland.gov.uk/downloads/file/19515/draft\\_policy\\_statement\\_2019\\_to\\_2022](https://www.highland.gov.uk/downloads/file/19515/draft_policy_statement_2019_to_2022)

HLB is required to publish, every three years, a statement of the principles that they propose to apply in exercising their functions under the Gambling Act 2005. For unknown historic reasons, The Highland Council's Gambling Policy Statement three year timeline was out of line with other local authorities. Therefore, the previous Gambling Policy Statement was agreed on 6 December 2016 and subsequently came into force on 1 January 2017 for a three year period.

It has, however, been agreed with the Gambling Commission that the three year cycle should be aligned with other local authorities who are due to renew their policy for the period 2019-2022. However, given that the HLB's current policy statement is relatively new, it has been agreed that a shorter consultation period can be carried out.

HLB invites any consultation responses to be submitted by **21 September 2018.**

Please submit any responses to myself at - [Claire.McArthur@highland.gov.uk](mailto:Claire.McArthur@highland.gov.uk)

or alternatively by letter to:

Claire McArthur  
Depute Clerk to the Licensing Board  
Council Offices  
High Street  
Dingwall  
IV15 9QN

Regards

Claire McArthur

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Mura h-eil na beachdan a tha air an cur an cèill sa phost-d seo a' buntainn ri gnothachas Chomhairle na Gàidhealtachd, 's ann leis an neach fhèin a chuir air falbh e a tha iad, is chan eil iad an-còmhnaidh a' riochdachadh beachdan na Comhairle, no buidhnean buntainneach, agus chan eil am post-d seo na phàirt de chunradh sam bith mura h-eil sin air innse.

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Èisteachd \* Fosgailte \* Luach \* Leasachadh \* Taic \* Com-pàirteachas \* Libhrigeadh**



**Claire McArthur**

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**From:** oildive <oildive@btinternet.com>  
**Sent:** 17 August 2018 19:00  
**To:** Claire McArthur  
**Cc:** Hamish MacKenzie; heleda@btinternet.com; jacquimonro@btinternet.com; janet@wilsons-lawyers.co.uk; 'Linda Cameron'; secretaryfortcc@yahoo.com  
**Subject:** Highland Licencing Board - Consultation Draft Statement of Policy

Dear Claire,

I have read through this draft policy statement and have no problems with it. It seems clearly set out and very reasonable.

Kind regards

*Martin Dane*

*Home/Work Tel:* 01862 871221

*Mobile Tel:* 07713 288030

*E-mail:* [oildive@btinternet.com](mailto:oildive@btinternet.com)  
[chairtarbatcommunitycouncil@gmail.com](mailto:chairtarbatcommunitycouncil@gmail.com)

**Claire McArthur**

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**From:** Mackay, Jim <jim.mackay@sepa.org.uk>  
**Sent:** 10 August 2018 14:12  
**To:** Claire McArthur  
**Cc:** Planning Dingwall; SCC  
**Subject:** Statement of Policy under the Gambling Act 2005

Hi Claire,  
Thank you for consulting SEPA on the Highland Licensing Board's Statement of Policy under the Gambling Act 2005.

This is to confirm that SEPA will not be providing a consultation response to this Statement of Policy.

With best wishes,  
Jim

**Jim Mackay**

Planning Unit Manager North  
Planning Service, SEPA, Graesser House, Dingwall Business Park, Dingwall IV15 9XB  
Direct line: 01349 860315 Mobile: 07786335062 email: [Jim.Mackay@sepa.org.uk](mailto:Jim.Mackay@sepa.org.uk)  
Our planning guidance: [www.sepa.org.uk/environment/land/planning/](http://www.sepa.org.uk/environment/land/planning/)

**From:** SCC  
**Sent:** 10 August 2018 13:10  
**To:** Planning Dingwall <[Planning.Dingwall@sepa.org.uk](mailto:Planning.Dingwall@sepa.org.uk)>  
**Subject:** A SEPA Contact Centre Call has been received Call Ref: [G:0146099]



This is confirmation of an enquiry received by SEPA Contact Centre on 10/08/2018 12:10. Should you require anything further please reply to this email, or alternatively call 03000 99 66 99 quoting the call reference in the subject of this email.

**Customer Details:**

**Name:** Claire McArthur  
**Address:** , ,  
**Postcode:**  
**Telephone:** unknown user  
**E-mail:** [Claire.McArthur@highland.gov.uk](mailto:Claire.McArthur@highland.gov.uk)  
**Summary:** Consultation on proposed draft of Gambling Act Statement of Policy 2019-2022

**Details:**

Dear all

The Highland Licensing Board (HLB) is now consulting on a proposed draft of its next Statement of Policy under the Gambling Act 2005 which, when finalised after consultation

responses have been considered and any consequent amendments made, will become its policy statement for the period 2019-2022. HLB approved the publication and issue of the proposed Consultation Draft Policy Statement as a formal Consultation Draft at the meeting of 7 August 2018.

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or alternatively by letter to:

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Depute Clerk to the Licensing Board  
Council Offices  
High Street  
Dingwall  
IV15 9QN

Regards

Claire McArthur

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Mura h-eil na beachdan a tha air an cur an cèill sa phost-d seo a' buntainn ri gnothachas Chomhairle na Gàidhealtachd, 's ann leis an neach fhèin a chuir air falbh e a tha iad, is chan eil iad an-còmhnaidh a' riochdachadh beachdan na Comhairle, no buidhnean buntainneach, agus chan eil am post-d seo na phàirt de chunnradh sam bith mura h-eil sin air innse.

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**SCC Comment:**

Regards

Ryan McGrath  
SEPA Contact Centre

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