

CYNGOR SIR POWYS COUNTY COUNCIL

2003 ACT LICENSING COMMITTEE

18th December 2012

REPORT AUTHOR: Senior Licensing Officer

SUBJECT: Draft Statement of Principles, Gambling Act 2005

REPORT FOR: Decision

1. INTRODUCTION

- 1.1 The Gambling Act 2005 gives licensing authorities various functions in relation to the licensing of premises and issuing of permits for gambling. Under section 349 of the Act, licensing authorities are required to produce, at least every three years, a statement of the principles that they propose to apply when exercising their functions under the Act.
- 1.2 The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 set out precise requirements as to the form, content and publication of a statement, or a revision of a statement.
- 1.3 The first Powys Statement of Principles, which follows very closely the template produced by the Local Authorities Coordinators of Regulatory Services (LACORS), was published in January 2007, followed by a second edition in 2010, and therefore the Council is required, by the Gambling Act, to consult on the document and to publish a new Statement in January 2013.
- 1.4 The purpose of this report is to obtain agreement to the publication of the Statement attached to this report in order to comply with the requirements of the Gambling legislation.

2. CONSULTATION

- 2.1 In accordance with Government guidance, a wide range of consultees were contacted in order to seek views on the draft 2013 Policy Statement. A list of those invited to comment on the document is set out in Appendix A.
- 2.2 The Gambling Commission requested that one amendment be made to clarify one section. No other responses were received from any of the consultees.

3. DECISION

- 3.1 Members may wish to recommend to Full Council that the draft Statement of Principles made under the Gambling Act 2005, set out in Appendix B, be published.

Recommendation:	Reason for Recommendation:
That the Statement of Principles set out at Appendix B to this report be placed on the agenda for the next available meeting of Full Council with a recommendation that it be approved.	To comply with the statutory duty contained in Section 349 of the Gambling Act 2005.

Contact Officer	Tel:	Fax:	Email:
Nigel Williams	01938551328	01938551248	nigel.williams@powys.gov.uk
Relevant Portfolio Member(s):	Councillor W B Thomas		
Relevant Local Member(s):	N/A		

Background Papers used to prepare report: Gambling Commissions Guidance Issued to Local Authorities in September 2012.
Guidance issued by DCMS.

APPENDIX A

The following were invited to comment on the draft Powys Statement Of Principles

Dyfed Powys Police
Mid and West Wales Fire and Rescue Service
Planning at Brecon Beacons National Park
Powys County Council Services: -
Environmental Health
Trading Standards
Planning
Children's Services (Child Protection)
All Powys Community and Town Councils
Mecca Bingo/Casinos Ltd
William Hill PLC
Ladbrokes PLC
Betfred Ltd
BCA (The British Casino Association)
The British Holiday & Home Parks Association
BACTA (The British Amusements Catering Trade Association)
BALPPA (The British Association of Leisure Parks, Piers & Attractions Ltd)
The Bingo Association
The British Beer & Pub Association
ABB (The Association of British Bookmakers)
COA (UK) (Casino Operators' Association of the UK)
Racecourse Association Limited
The Gambling Commission
Gala Coral
S P Racing, Llandrindod Wells
Evans & James, Brecon

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Preface and Declaration

When The Gambling Act 2005 took effect on 1 September 2007, it provided a new regime for regulating gambling and betting.

Apart from the National Lottery and spread betting, gambling and betting will be regulated by the Gambling Commission, whose duties include licensing the operators and individuals involved in the provision of gambling and betting.

The Licensing Authority is required, under the Act, to licence premises where gambling takes place. The Council is also required to licence certain other activities (such as registering small society lotteries).

Licensing Authorities are required by Section 349 Gambling 2005 Act to publish a Statement of the Principles, which they propose to apply when exercising their functions in accordance with the legislation.

The Statement of Principles provides an indication as to how the Council intends to approach this task.

This statement must be published / reviewed at least every 3 years. It should be noted that before this or any part of the statement is published or amended, further consultation is required. It must also go before and be considered by the Senior Licensing Team, the Council's appointed Licensing and Regulatory Committee, the Cabinet and Council before it can be approved and formally adopted.

In accordance with the Act, Powys County Council has consulted in relation to this statement before finalising its content.

DECLARATION: In producing the Statement, Powys County Council act in their capacity as Licensing Authority and declares that regard has been given to the licensing objectives of the Gambling Act 2005, the Guidance issued by the Gambling Commission and any responses from those consulted on this statement.

*This Revised Statement of Principles was approved at a meeting of Powys County Council on ****. .*

It should be noted that this Policy Statement does not override the right of any person to make an application, make representations about any application, or apply for a review of a licence, as each application/case will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

1. The Gambling Commission

The Gambling Commission regulates gambling in the public interest. It does so by keeping crime out of gambling, by ensuring that gambling is conducted in a fair and open way and by protecting children and vulnerable people.

The Commission provides independent advice to the Government about the manner in which gambling is carried out, the effects of gambling and the regulation of gambling generally.

The Commission has issued guidance in accordance with Section 25 of the 2005 Act about the manner in which Licensing Authorities exercise their licensing functions under the Act and, in particular, the principles to be applied.

The Commission will also issue Codes of Practice under Section 24 about the way in which facilities for gambling are provided, which may also include provisions about the advertising of gambling facilities.

The Gambling Commission can be contacted at:

Gambling Commission

Victoria Square House

Victoria Square

BIRMINGHAM

B2 4BP

Website: www.gamblingcommission.gov.uk

Email: info@gamblingcommision.gov.uk

2. Licensing Objectives

The Gambling Act 2005 requires that the Council carry out its various licensing functions with a view to promoting three statutory licensing objectives, these 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; and**
- protecting children and other vulnerable persons from being harmed or exploited by gambling.** *(NB The Gambling Commission, in its Guidance has stated that the requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling).*

3. Authorised activities

'Gambling' is defined in the Act as either gaming, betting or taking part in a lottery:

- 'gaming'** means playing a game of chance for a prize
- 'betting'** means making or accepting a bet on the outcome of a race, competition, or any other event; the likelihood of anything occurring or not occurring; or whether anything is true or not true
- 'lottery'** is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance.

Private gaming in private dwellings and on domestic occasions is exempt from licensing or registration providing that no charge is made for participating; only equal chance gaming takes place; and it does not occur in a place to which the public have access. Domestic betting between inhabitants of the same premises or between employees of the same employer is also exempt.

Non-commercial gaming and betting (where no parts of the proceeds are for private gain) may be subject to certain exemptions. Further advice should be sought from the Council's licensing service where appropriate.

4. Licences – Gambling Act 2005

The Act provides for 3 categories of licence as follows:

- Operating licences
- Personal licences
- Premises licences

The Council will be responsible for the issue of Premises licences. The Gambling Commission will be responsible for the issue of operating and Personal licences.

5. Council Functions

The Council, in its capacity as a Licensing Authority, is responsible for:

- Premises Licences
- Temporary Use Notices
- Occasional Use Notices
- Permits as required under the Act
- Registrations as required under the Act

This document sets out the policies that the Council will apply when making decisions in relation to any applications or notifications made in respect of the above.

This policy relates to all those licensable premises, notices, permits and registrations identified as falling within the provisions of the Act, namely: -

- Casinos
- Bingo Premises
- Betting Premises
- Tracks
- Adult Gaming Centres
- Licensed Family Entertainment Centres
- Unlicensed Family Entertainment Centres
- Club Gaming Permits
- Prize Gaming and Prize Gaming Permits
- Occasional Use Notices
- Temporary Use Notices
- Registrations of small society lotteries.

NB *The National Lottery is regulated by the National Lottery Commission, Remote Gambling is dealt with by the Gambling Commission and Spread Betting is regulated by the Financial Services Authority.*

6. General Principles

In carrying out its functions in relation to premises licences and temporary use notices, the Council will generally aim to permit the use of premises for gambling as long as it is considered to be:

- In accordance with any relevant Codes of Practice issued by the Gambling Commission.
- In accordance with any Guidance issued by the Gambling Commission.
- Reasonably consistent with the licensing objectives
- In accordance with the Council's Statement of Principles

It should be noted that the Gambling Commission has issued guidance to Local Authorities that moral objections to gambling are not a valid reason to reject applications for premises licences. This is because such objections do not relate to the licensing objectives. An Authority's decision cannot be based on dislike of gambling, or a general notion that it is undesirable to allow gambling premises in an area (with the exception of the casino resolution powers). In deciding to reject an application, a Licensing Authority should rely on reasons that demonstrate that the licensing objectives are not being, or are unlikely to be met.

Nothing in this 'Statement of Principles' will:

- Undermine the rights of any person to apply under the Act for a variety of permissions and have the application considered on its individual merits;

OR

Override the right of any person to make representations on any application or seek a review of a licence or permit where they are permitted to do so under the Act.

The starting point in determining applications will be to grant the application, without conditions. Conditions will only be considered where they are needed to meet the requirements of the licensing objectives and any conditions applied will not be overly onerous and will be proportionate to the scale of the application and the 'risks' involved. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

When determining an application to grant a premises licence or whether to review a premises licence, regard will be taken regarding the proximity of the premises to schools, vulnerable adult centres, or to residential areas with a high concentration of families with children. The proximity of premises etc. taken into consideration will vary depending upon the size and scope of the gambling premises concerned. Each case will, however, be determined on its merits. Therefore, if an applicant can effectively demonstrate how they might overcome licensing objective concerns, this will be taken into account.

Licensing is about the control of licensed premises, Temporary Use Notices or Occasional Use Notices within the terms of the Act. Conditions may be attached to licences that will cover matters that are within the control of individual licensees.

When considering any conditions to be attached to licences, the Council will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned. The Secretary of State may, by regulation, provide for specific conditions to be attached to a Premises Licence as either 'mandatory' or 'default' conditions. In determining an application, the Licensing Authority may not have regard to the expected demand for the facilities, which it is proposed to provide.

In this respect, the Council recognises that, apart from the licensing function, there are a number of other mechanisms available for addressing issues of unruly behaviour that can occur away from licensed premises, including:

- Planning controls
- Ongoing measures to create a safe and clean environment in these areas in partnership with local businesses, transport operators and other Council Departments
- Regular liaison with the Police on law enforcement issues regarding disorder and anti-social behaviour
- The power of the police, other responsible authorities or a local resident or business to seek a review of the licence

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Objectors will be required to relate their objection to one or more of the Licensing Objectives, as specified at paragraph 3, before the Licensing Authority will be able to consider it.

Where a person, whether or not directly affected by an application or living in the vicinity of a licensable premises under consideration, puts themselves forward as representing the interests of residents in the vicinity, the Licensing Authority will normally ask them to provide evidence that they are acting as representatives of others.

The Council, in undertaking its licensing function, will have due regard to the need to eliminate unlawful discrimination and to promote equality and good relations between persons of different racial groups.

7. Advisory body for the Protection of Children from Harm

The Council acting in its capacity as Licensing Authority designates Children Services, of the Directorate of Social Care of the Council as the competent authority to provide advice on the protection of children from harm.

The Licensing Authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the 2005 Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. These principles are:

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

8. Transitional Arrangements

During the transitional arrangements period specified in the Act, a premises licence will be issued to persons applying under Schedule 18 of the Act who have supplied the required information, documentation and fee. Issue of licences will be on the basis of existing permissions being continued. If however the Police make a representation that the conversion of an existing licence would undermine the crime prevention and disorder objective, then a licence will be referred to the Council's Licensing and Regulatory Committee for consideration.

9. Consultees

This Statement of Principles will be subject to formal consultation with:

- Dyfed Powys Police
- Mid & West Wales Fire & Rescue Service
- Children's Services

- Powys Community Safety Partnership
- Representatives of the holders of the various licences for premises in the district who may be affected by this policy
- Town and Community Councils
- Persons and businesses likely to be affected by authorised gambling within the District

The Council will have full regard to the Commissions Guidance, and will apply appropriate weight to the views of those consulted.

In determining what weight to apply to representations, the Council will take into account:

- Who is making the representation (their expertise and/or interest)
- What the motivation may be for their views
- The number of representations that express the same or similar views
- How far the representations relate to matters the Council should be including in the Statement of Principles.

10. Information Exchange

In fulfilling its functions and obligations under the Gambling Act 2005, the Council will exchange relevant information with other regulatory bodies. In exchanging such information the Council will conform to the requirements of the Gambling Act, Data Protection and Freedom of Information legislation in accordance with the Council's existing policies.

Contact details of those persons making representations and details of the representations will be made available to applicants to allow for negotiation and, in the event of a hearing being held, will form part of a public document.

Anyone making representation or applying for a review of a premises licence will be informed that these details will be disclosed.

11. Legislation

In undertaking its licensing function under the Gambling Act 2005, the Council must also consider other legislation, including:

- Section 17 of the Crime and Disorder Act 1988
- Licensing Act 2003
- Human Rights Act 1998
- Health and Safety at Work etc. Act 1974
- Environmental Protection Act 1990
- The Anti-social Behaviour Act 2003

Race Relations Act, 1976 (as amended)

However, the policy is not intended to duplicate existing legislation and regulation regimes that already place obligations on employers and operators.

12. Relationship with Planning Policies

When determining an application, regard cannot be given to planning or building control permissions and/or any planning restrictions.

Unmet demand is not a criterion that will be taken into consideration when determining an application for a premises licence under the Gambling Act 2005.

The issue of a provisional grant of a premises licence is a separate and distinct process to the granting of Planning Permission. Planning and Building Control permissions will have to be sought and approved before any development takes place.

13. National Strategies

The Council will also seek to discharge its responsibilities identified by other Government Strategies, so far as they impact on the objectives of the licensing function.

14. Local Strategies and Policies

The Council will consider applications with reference to other adopted local policies, including the following:

- The Councils' Corporate Visions, strategic aims and priorities
- Community Safety Strategy
- Enforcement Policy

15. Integrating Strategies

By consulting prior to this statement being published, the Licensing Authority will endeavour to secure proper integration with local crime prevention, planning, transport, tourism and cultural strategies.

16. Decision Making

Committee Terms of Reference

A Sub-Committee of three Councillors from the Licensing and Regulatory Committee will sit to hear applications where representations have been received from interested parties and responsible authorities.

Electoral Divisional Representatives will not sit on a Sub-Committee involving an application within their Division.

The Licensing and Regulatory Committee will also sit to determine general licensing matters that have been delegated to it by the Council that are not associated with the Gambling Act 2005.

Where a Councillor who is a member of the Licensing and Regulatory Committee is making or has made representations regarding a licence on behalf of an interested party, in the interests of good governance they will disqualify themselves from any involvement in the decision-making process affecting the licence in question.

A Sub-Committee will also refer to the Licensing and Regulatory Committee any matter it is unable to deal with because of the number of its members who are unable to take part in the consideration or discussion of any matter or vote on any question with respect to it.

The Licensing and Regulatory Committee will refer to the Council any matter it is unable to deal with because of the number of its members who are unable to take part in the consideration or discussion of any matter or vote on any question with respect to it.

Every determination of a licensing decision by the Licensing and Regulatory Committee or a Sub-Committee shall be accompanied with clear, cogent reasons for the decision. The decision and the reasons for that decision will be sent to the Applicant and those who have made relevant representations as soon as practicable. A summary of the decision shall also be posted on the Council's website as soon as possible after the decision has been confirmed, where it will form part of the statutory licensing register required to be kept by the Council.

The Council recognises that licensing applications should not be seen as a rerun of the planning application process and there will be a clear separation of the planning and licensing regimes to avoid duplication and inefficiency.

In order to avoid duplication with other statutory regimes as far as possible the Council will not attach conditions to a licence unless they are considered necessary for the promotion of the licensing objectives. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

17. Allocation of Decision making Responsibilities

The Head of Regulatory Services will deal with all other licence applications where either no representation have been received, or where representations have been received and withdrawn or it is agreed by the parties that a hearing is not necessary.

Decisions as to whether representations are irrelevant, frivolous or vexatious will be made by the Public Protection Manager who will make the decisions on whether representations or applications for licence reviews should be referred to the Licensing Committee or Sub-Committee. Where representations

are rejected, the person making that representation will be given written reasons as to why that is the case.

The Council is involved in a wide range of licensing decisions and functions and has established the Licensing Committee to administer them.

Appreciating the need to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process, the Committee has delegated certain decisions and functions and has established a Sub-Committee to deal with them.

Many of the decisions and functions will be purely administrative in nature and the grant of non-contentious applications, including for example, those licences and permits where no representations have been made, will be delegated to the Public Protection Manager.

Appendix 'B' sets out the agreed delegation of decisions and functions to Licensing and Regulation Committee, Sub-Committees and Officers.

This form of delegation is without prejudice to Officers referring an application to a Sub-Committee, to the Licensing and Regulation Committee, or to Council, if considered appropriate in the circumstances of any particular case.

18. Licensing Reviews

The Council will carry out a review of a premises licence where it has received a formal application for review in accordance with the Act that is relevant to one or more of the Licensing Objectives. Representations may be that activities, including the following, are taking place:

- Use of licensed premises for the sale and distribution of Class A drugs and the laundering of the proceeds of drugs crimes
- Use of licensed premises for the sale and distribution of illegal firearms
- Use of licensed premises for prostitution or the sale of unlawful pornography
- Use of licensed premises as a base for organised criminal activity
- Use of licensed premises for the organisation of racist, homophobic or sexual abuse or attacks
- Use of licensed premises for the sale of smuggled tobacco or goods
- The use of licensed premises for the sale of stolen goods
- Children and/or vulnerable persons are put at risk

Due consideration will be given to all relevant representations unless they fit the following:

- the grounds are frivolous
- the grounds are vexatious

- the grounds are irrelevant
 - the grounds will not cause the Licensing Authority to revoke or suspend a licence or to remove, amend or attach conditions on the Premises Licence
 - the grounds are substantially the same as the grounds cited in a previous application relating to the same premises
 - the grounds are substantially the same as representations made at the time the application for a Premises Licence was considered
- The Licensing Authority of its own volition may also review a Premises Licence.

19. Applications

An application for a Premise Licence can only be made by a person who either holds an Operating Licence authorising him to carry out the activity in respect of which a Premises Licence is sought, OR has made an application for an Operating Licence which has not been determined.

Applications for the grant, transfer or variation of a premises licence must be accompanied by an assessment that demonstrates how the applicant will promote all the Licensing Objectives in the form of a written Operating Schedule. The Applicant may ask the Council for advice as to the scope of information to be provided.

The level of detail to be provided will be advised by the Council and will be proportional to scale and nature of the application being made.

20. Assessment of Need

Unmet demand is not a criterion that will be taken into consideration when determining an application for a premises licence under the Gambling Act 2005

21. Conditions

Conditions will be applied to licences that are proportionate and appropriate to the business, organisation or individual concerned. The Council will principally draw upon the advice issued by the Gambling Commission and attach conditions relative to the given circumstances of each individual case.

Conditions attached to the premises licences will, so far as possible, reflect local crime prevention strategies. For example, the provision of closed circuit television cameras may be appropriate in certain premises.

Adult Gaming Centres

The Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling. The applicant will be expected to satisfy the Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises. Appropriate 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
- staff training in relation to proof of age schemes
- change machines
- advertising sources of help and other means of help for problem gamblers

This list is not mandatory or exhaustive, and is merely indicative of example measures.

As regards the protection of vulnerable persons, the Licensing Authority will consider measures such as the use of self-barring schemes, provision of information leaflets or helpline numbers for organisations such as GamCare.

Betting premises

Anyone wishing to operate a betting office will require a betting premises licence from the Council. Children and young persons will not be able to enter premises with a betting premises licence.

Betting premises will be able to provide a limited number of gaming machines and some betting machines.

Where the discretion of the Licensing Authority is engaged, and in order to ensure that the licensing objectives are met, it should be noted that the Authority has the power to restrict the number of betting machines, given the nature and circumstances in which they are made available. It will not generally exercise this power, unless there are good reasons/evidence to do so taking into account, amongst other things, the size of the premises and the level of management and supervision especially where vulnerable people are concerned.

Each application will be considered on its own individual merits.

Bingo premises

Bingo is a class of equal chance gaming and will be permitted in alcohol licensed premises and in clubs provided it remains below a certain threshold, otherwise it will be subject to a bingo operating licence which will have to be obtained from the Gambling Commission.

The holder of a bingo operating licence will be able to provide any type of bingo game including cash and prize bingo.

Commercial bingo halls will require a bingo premises licence from the Licensing Authority.

Amusement arcades providing prize bingo will require a prize gaming permit from the Council, exemptions apply for licensed & unlicensed Family Entertainment Centres & Adult Gaming Centres.

In each of the above cases it is important that where children are allowed to enter premises licensed for bingo, in whatever form, they are not allowed to participate in any bingo game, other than on category D machines. When considering applications of this type the Council will therefore take into account, among other things, the location of the games or machines, access to those areas, general supervision of the premises and the display of appropriate notices.

A limited number of gaming machines may also be made available at bingo licensed premises. Where category C or above machines are available in premises to which children are admitted, the Licensing Authority will seek to ensure that:

- all such machines are located in an area of the premises 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 the machines are located is arranged so that it can be observed by staff of the operator or the licence holder and
- at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

Casinos

There is no resolution to prohibit casinos in the County at present. However, the Council reserves its right to review this situation and may, at some time in the future, resolve not to permit casinos or, if licensed casinos are already operating, resolve not to permit any additional casinos.

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Should the Council choose to make such a resolution, this will be a resolution of Council following considered debate and the reasons for making the resolution will be given.

Door Supervisors

The Gambling Commission advises in its Guidance for Local Authorities that Licensing Authorities may consider whether there is a need for door supervisors in terms of the licensing objectives 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.

It is noted though that the Gambling Act 2005 has amended the Security Industry Act 2001 and that door supervisors at casinos or bingo premises need not be licensed by the Security Industry Authority (SIA).

The Licensing Authority would recommend/suggest that whenever door supervisors or security staff is employed at licensed premises, that their employers give serious consideration to them being licensed by the SIA.

Where the discretion of the Licensing Authority is engaged, in order to ensure that the statutory licensing objectives are met, the authority may make it a requirement/condition of a premises licence to employ SIA registered door supervisors.

Licensed Family Entertainment Centres

The Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas. Appropriate licence conditions may cover issues such as:

- proof of age schemes

- CCTV

- door supervisors

- supervision of entrances and/or machine areas

- physical separation of areas

- location of entry

- notices / signage

- specific opening hours

This list is not exhaustive.

Measures such as the use of self-barring schemes, provision of information leaflets or helpline numbers for organisations such as GamCare will be considered in order to protect children and vulnerable persons.

The Licensing Authority will refer to the Commission's website to see any conditions that apply to operator licences covering the way in which the area containing the category C machines should be delineated.

The Licensing Authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

Members' clubs and commercial clubs

Bingo may be provided at clubs and institutes either in accordance with a permit or providing that the limits in section 275 of the Act are complied with.

These restrictions limit the aggregate stake or prizes within any seven days to £2000, and require the Commission to be notified as soon as is reasonably practicable if that limit is breached.

Stakes or prizes above that limit will require a bingo operator's licence and the corresponding personal and premises licences.

Tracks

Only one premises licence can be issued for any particular premises at any time unless the premises is a 'track'. A track is a site where races or other sporting events take place.

Track operators are not required to hold an 'operators licence' granted by the Gambling Commission. Therefore, premises licences for tracks, issued by the Council are likely to contain requirements for premises licence holders about their responsibilities in relation to the proper conduct of betting. Indeed, track operators will have an important role to play, for example in ensuring that betting areas are properly administered and supervised.

Although there will, primarily be a betting premises licence for the track, there may be a number of subsidiary licences authorising other gambling activities to take place. Unlike betting offices, a betting premises licence in respect of a track does not give an automatic entitlement to use gaming machines.

When considering whether to exercise its power to restrict the number of betting machines at a track the Council will consider the circumstances of each individual application and, among other things will consider the potential space for the number of machines requested, the ability of track staff to supervise the machines, especially if they are scattered around the site, and the ability of the track operator to prevent children and young persons and vulnerable people betting on the machines.

The Licensing Authority is aware that the Gambling Commission may provide further specific guidance as regards tracks. We have taken note of the Guidance from the Gambling Commission which highlights that tracks are different from other premises in that there may be more than one premises licence in effect and that the track operator may not be required to hold an operator licence as there may be several premises licence holders at the track which will need to hold their own operator licences.

There may be some specific considerations with regard to the protection of children and vulnerable persons from being harmed or exploited by gambling and this authority would expect the premises licence applicants to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, although they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

Appropriate licence conditions may be:

- proof of age schemes
- CCTV
- supervision of entrances/machine areas
- physical separation of areas
- location of entry
- notices/signage
- specific opening hours
- the location of gaming machines

This list is not mandatory or exhaustive, and is merely indicative of example measures.

Measures such as the use of self-barring schemes, provision of information leaflets and helpline numbers for organisations such as GamCare will be considered suitable in relation to the protection of children and vulnerable people.

The Licensing Authority notes the Commission's view, that it would be preferable for all self-contained premises operated by off-course betting operators on tracks to be the subject of separate premises licences. This would ensure that there was clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

Betting machines at tracks

Licensing Authorities have a power under the Gambling Act 2005 to restrict the number of betting machines, their nature and the circumstances in which they are made available, by attaching a licence condition to a betting premises licence.

Condition on rules being displayed

In line with guidance from the Gambling Commission the Council will attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public, such as being could printed in the race-card or made available in leaflet form from the track office.

Travelling Fairs

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

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

22. Enforcement

The Council is a signatory to the Enforcement Concordat and will follow the principles set out in it. The concordat is based upon the principles of consistency, transparency and proportionality.

The enforcement concordat proposes that a graduated response is taken where offences against legislation are found or where licence conditions have been contravened. An isolated administrative offence such as failing to maintain certain records may be dealt with purely by way of a written warning.

More serious offences or repeated offences that have been committed over a period of time may result in referral to a Sub-Committee, the issue of a Formal Caution or the instigation of legal proceedings.

Premises will be subject to a scheme of routine inspection, the frequency of which will be determined by the risks posed by the premises i.e. those premises considered to pose a greater risk will be subject to more frequent inspections than those posing a lower risk.

When determining risk, consideration will be given to:

- the nature of the gambling activities carried out on the premises
- the location of the premises in relation to schools etc.

- the procedures put in place by the management to meet the licensing objectives

Additional random monitoring visits may be made, at the discretion of the licensing service, where it is considered necessary to meet the needs of the licensing objective or following receipt of complaint. The District will be monitored for unlicensed premises.

The Council will seek to work actively with the police in enforcing licensing legislation. It encourages the police to share information about licensees and licensed premises under the Crime and Disorder Act 1998.

The Authority recognises that certain companies may have a number of licensed premises within the District area. It would be of great assistance to the authority if operators provided a single point of contact, preferably senior management, with whom the authority might discuss in the first instances any areas of concern/advice.

23. Unlicensed Family Entertainment Centres

Where a premises does not hold a Premises Licence but wishes to provide gaming machines, it may apply to the Licensing Authority for this permit.

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

Relevant considerations to take into account would be the applicant's suitability, such as any convictions that they may have that would make them unsuitable to operate a family entertainment centre; and the suitability of the premises in relation to their location and issues about disorder

24. Prevention of Crime and Disorder

The Council will, when determining applications, consider whether the grant of a premises licence will result in an increase in crime and disorder.

The Gambling Commission, in its Guidance for Local Authorities, has noted that 'disorder is intended to mean activity that is more serious and disruptive than mere nuisance. Factors to consider in determining whether a disturbance was serious enough to constitute disorder would include whether police assistance was required and how threatening the behaviour was to those who could see or hear it.' The Council agrees with this statement

Applicants are encouraged to discuss the crime prevention procedures in their premises with the Council and Dyfed Powys Police before making a formal application.

In considering licence applications, the Council will particularly take into account the following:

Gambling Act 2005
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Dec 2012

I. The design and layout of the premises

II. The training given to staff in crime prevention measures appropriate to those premises

III. Physical security features installed in the premises. This may include matters such as the position of cash registers or the standard of CCTV that is installed

IV. Where premises are subject to age-restrictions, the procedures in place to conduct age verification checks

V. The likelihood of any violence, public order or policing problem if the licence is granted

25. Ensuring that gambling is conducted in a fair and open way.

Generally, the Commission would not expect Licensing Authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be a matter for either the management of the gambling business, and therefore subject to the Operating Licence, or will be in relation to the suitability and actions of an individual and therefore subject to the Personal Licence, both of which are the responsibility of the Gambling Commission.

26. The Protection of Children and other Vulnerable Persons

Access to licensed premises

With limited exceptions, the access of children and young persons to those gambling premises, which are adult only environments, will not be permitted. The Council will seek to limit the advertising for premises so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children.

The Council will consult with the Children's Services on any application that indicates there may be concerns over access for children or vulnerable persons.

The Council will judge the merits of each separate application before deciding whether to impose conditions to protect children on particular categories of premises. This may include such requirements as:

- Supervision of entrances
- Segregation of gambling areas from areas frequented by children
- Supervision of gaming machines in non-adult gambling specific premises

The 2005 Act provides for a Code of Practice on access to casino premises by children and young persons and the Council will work closely with the police to ensure the appropriate enforcement of the law.

Vulnerable Persons

The Council does not seek to prohibit particular groups of adults from gambling in the same way that it seeks to prohibit children but it will assume, for regulatory purposes, that 'vulnerable persons' includes:

- people who gamble more than they want to

- people who gamble beyond their means

- people who may not be able to make an informed or balanced decision about gambling due to a mental impairment, alcohol or drugs

27. Complaints against licensed premises

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

Where an interested party has made valid representations about licensed premises, or a valid application for a licence to be reviewed, the Council may initially recommend a conciliation meeting to address and clarify the issues of concern.

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

Due consideration will be given to all relevant representations unless they are considered to be frivolous, vexatious or repetitious

28. Glossary of Terms

Within this Statement of Policy, the following words and terms are defined as stated:

Act: Means the Gambling Act 2005

Applications: Means applications for Licences or Permits.

Code of Practice: Means any relevant code of practice under section 24 of the Gambling Act 2005

Council: Means Powys County Council

District: Means the area of Powys County Council

Interested Party: For the purposes of the Gambling Act 2005, a person is an interested party in relation to a premises licence if, in

the opinion of the Licensing Authority which issues the licence or to which the application is made, the person:

- Lives sufficiently close to the premises to be likely to be affected by the authorised activities;
- Has business interests that might be affected by the authorised activities; this could also include, for example, trade associations, charities, faith groups and medical practices.
- Represents persons who satisfy either of the above; for example Residents' and Tenants' Associations

When considering whether a person is an interested party, each case will be judged on its merits taking into consideration the relevant circumstances, including those contained in the Gambling Commission's Guidance to Local Authorities.

Licences: As defined in paragraph 5 and 6

Licensing Objectives: As defined in paragraph 3

Mandatory Means any specified condition provided by regulations to be

Condition: attached to a licence

Notifications: Means notifications of Temporary Use Notices and Occasional Use Notices.

Premises: Means any place and includes a vehicle, vessel or moveable structure

Regulations: Means Regulations made under the Gambling Act 2005

Responsible For the purposes of the Gambling Act 2005, the following

Authority: are responsible authorities in relation to premises:

- The Licensing Authority – (Powys County Council)
- The Gambling Commission
- Dyfed Powys Police
- Mid & West Wales Fire & Rescue Service

Environmental Health, Trading Standards, Health and Safety

Planning

Children Services, Directorate of Social Care and Housing

HM Revenues and Customs

Further Information

Further information about the Gambling Act 2005, the Statement of Principles and about the application process, including application forms and guidance notes, please contact:

Powys County Council
Licensing Section

1.The Gwalia
Llandrindod Wells
Powys
LD1 6AA
Tel: 0845 6027037
Fax: 01597 827275
E-mail: Licensingradnor@powys.gov.uk

2.Neaudd Maldwyn
Severn Road
Welshpool
Powys
SY21 7AS
Tel: 0845 6027037
Fax: 01938 551248
E-mail: Licensingmont@powys.gov.uk

3.Neaudd Brycheiniog
Cambrian Way
Brecon
Powys
LD3 7HR
Tel: 0845 6027037
Fax: 01874 612323
E-mail: Licensingbrecon@powys.gov.uk

TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

MATTER TO BE DEALT WITH	Full Council	Licensing & Regulatory Committee or Sub-Committee	Delegated to Senior Licensing Officer/Licensing Officer
Three year licensing policy	X		
Policy not to permit casinos	X		
Fee Setting - where appropriate Executive		Executive	
Application for premises licences		Where representations have been received & not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received & not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received & not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence		X	
Application for club gaming/club machine permits		Where representations have been received & not withdrawn	Where no representations received/ representations have been withdrawn
Cancellation of club gaming/club machine permits		X	

Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to temporary use notice		X	
Determination as to whether a person is an Interested Party			X
Determination as to whether representations are relevant			X
Determination as whether a representation is frivolous, vexatious or repetitive			X