

## Pwyllgor Deddf Trwyddedu 2003

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Man Cyfarfod  
**Ystafell Bwyllgor A - Neuadd y Sir,  
Llandrindod, Powys**

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Dyddiad y Cyfarfod  
**Dydd Llun, 12 Hydref 2015**

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Amser y Cyfarfod  
**2.00 pm**

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Neuadd Y Sir  
Llandrindod  
Powys  
LD1 5LG

I gael rhagor o wybodaeth cysylltwch â  
**Carol Johnson**  
01597 826206  
carol.johnson@powys.gov.uk

05/10/2015

### AGENDA

<b>1.</b>	<b>YMDDIHEURIADAU</b>	<b>LAC12 - 2015</b>
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Derbyn ymddiheuriadau am absenoldeb.

<b>2.</b>	<b>COFNODION</b>	<b>LAC13 - 2015</b>
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Awdurdodi'r Cadeirydd i lofnodi cofnodion cyfarfod blaenorol y Pwyllgor a gynhaliwyd ar y dyddiad canlynol fel cofnod cywir.  
(Tudalennau 3 - 6)

<b>3.</b>	<b>DATGANIADAU O DDIDDORDEB</b>	<b>LAC14 - 2015</b>
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Derbyn unrhyw ddatganiadau o ddiddordeb gan Aelodau yn ymwneud ag eitemau i'w hystyried ar yr agenda.

<b>4.</b>	<b>ADOLYGU POLISI TRWYDDEDU POWYS</b>	<b>LAC15 - 2015</b>
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Ystyried yr ymatebion i'r ymgynghoriad ar Adolygu Polisi Trwyddedu Powys.  
(Tudalennau 7 - 30)

<b>5.</b>	<b>DATGANIAD O'R EGWYDDORION DRAFFT, DEDDF HAPCHWARAE 2005</b>	<b>LAC16 - 2015</b>
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Ystyried yr ymatebion i'r ymgynghoriad.  
(Tudalennau 31 - 54)



# LAC13 - 2015

## MINUTES OF A MEETING OF THE LICENSING ACT 2003 COMMITTEE HELD AT THE CHAMBER, LLANDRINDOD WELLS ON 3<sup>RD</sup> SEPTEMBER, 2015

**PRESENT:** County Councillor D.G. Thomas [Chair]

County Councillors K.W. Curry, V.E. Evans, W.J. Evans, P. Harris, D.R. Price, P.J. Medlicott, K.F. Tampin, D.A. Thomas and J.M. Williams.

<b>1.</b>	<b>APOLOGIES</b>	<b>ALC4-2015</b>
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Apologies for absence were received from County Councillors D.R. Jones, G.M. Jones, F. H. Jump and A.G. Thomas.

<b>2.</b>	<b>MINUTES</b>	<b>ALC5- 2015</b>
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The Chair was authorised to sign the Minutes of the meetings held on 9<sup>th</sup> May, 2013, 14<sup>th</sup> May, 2014 and 13<sup>th</sup> May, 2015 as correct records.

<b>3.</b>	<b>DECLARATIONS OF INTEREST</b>	<b>ALC6- 2015</b>
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There were no declarations of interest.

<b>4.</b>	<b>REVIEW OF LICENSING POLICY FOR POWYS</b>	<b>ALC7-2015</b>
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The Committee received the report on the review of the Licensing Policy. The review took account of the experience over the last 10 years of considering applications and information from other local authorities and responsible authorities. A four week consultation would be undertaken with those organisations as required under the Act. Comments were made that the Chief Fire Officer should be consulted rather than the Fire Authority. It was agreed that Brecon should be included in the list of main towns in the Profile of Powys.

<b>RESOLVED:</b>	<b>Reason for decision:</b>
<b>To consult on a new Licensing Act 2003 Statement of Licensing Policy.</b>	<b>In accordance with the Licensing Act 2003 to prepare and publish a Statement of Licensing Policy to come into effect January 2016.</b>

<b>5.</b>	<b>LICENSING ACT 2003 - TEN YEARS ON</b>	<b>ALC8-2015</b>
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The Committee received the report on the ten years of the Licensing Act. It was noted that the Office for National Statistics now indicates that the highest rate of drinking was in the over 45s. Members questioned whether the consumption of alcohol had reduced over the 10 year period or whether there was a change in the way alcohol was consumed. It was commented that young people may not binge drink at licensed premises but local experience shows that they "pre-load" prior to going out.

<b>RESOLVED:</b>	<b>Reason for decision:</b>
<b>The Committee noted the report.</b>	

<b>6.</b>	<b>DRAFT STATEMENT OF PRINCIPLES, GAMBLING ACT 2005</b>	<b>ALC9-2015</b>
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The Committee received a report on the draft Statement of Principles, Gambling Act 2005 [copy filed with the minutes].

The most recent Gambling Commission guidance has requested that Local Authorities should produce statements which reflect the local area. A four week consultation would be undertaken with those organisations as required under the Act. Comments were made that the Chief Fire Officer should be consulted rather than the Fire Authority. It was agreed that Brecon should be included in the list of main towns in the Profile of Powys. Comment was made on the poor response at the last consultation and that at this consultation named people should be sent the consultation and be asked to respond even if this was “no comments”. In response to a question regarding the protection of vulnerable adults from using betting machines excessively the Senior Licensing Officer advised that the Gambling Commission and Government were due to publish new guidelines to protect such individuals. However, the onus was on the operators, but it was noted that they made most money from such machine betting.

<b>RESOLVED:</b>	<b>Reason for decision:</b>
<b>To consult on a new Gambling Act 2003 Policy.</b>	<b>In accordance with the Gambling Act 2005 to prepare and publish a Licensing Policy to come into effect January 2016.</b>

<b>7.</b>	<b>NATIONAL EISTEDDFOD</b>	<b>ALC10-2015</b>
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The Committee received a report from the Senior Licensing Officer [copy filed with the minutes] regarding the work of the Team and the National Eisteddfod and other major events in the County.

It was noted that there had been no complaints regarding any events on the National Eisteddfod site or at any event in Meifod. The Committee noted the other national and international events in the County. In response to a question, officers advised that no complaints had been received regarding the licensed premises in Builth which had earlier in the year been reviewed by a Licensing Sub-Committee. The premises had employed a noise consultant who had monitored noise levels throughout the show week.

It was noted that licence fees were set nationally. Overall the department was able to cover costs of supporting and monitoring large events from all fees received.

<b>RESOLVED:</b>	<b>Reason for decision:</b>
<b>The Committee noted the report.</b>	

<b>8.</b>	<b>MINUTES OF LICENSING SUB-COMMITTEES</b>	<b>ALC11-2015</b>
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The Chairs presiding at the meetings held on the following dates were authorised to sign the minutes as correct records:

2013 - 21st May, 9th September and 1st November  
2014 - 25th July, 15th September, 16th October and 11th November  
2015 - 9th March, 31st March and 20th April.

The Committee noted that mandatory training would take place on 28<sup>th</sup> September, 2015 and the next meeting would be on 12<sup>th</sup> October, 2015.

County Councillor D.G. Thomas  
Chair

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

# LAC15 - 2015

CYNGOR SIR POWYS COUNTY COUNCIL.

## LICENSING ACT COMMITTEE

12<sup>th</sup> October 2015

**REPORT AUTHOR:** Senior Licensing Officer

**SUBJECT:** Review of Licensing Policy for Powys

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**REPORT FOR:** Decision

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### 1. Introduction

- 1.1 Section 5 of the Licensing Act 2003 places a duty on a local licensing authority to determine its policy periodically with respect to the exercise of its licensing functions. A revised policy is required to be published in January 2016. At the last meeting in September members agreed to commence consultation on a brand new policy.

### 2. Consultation

- 2.1 The consultation exercise has been undertaken with the agreed stakeholders and responsible authorities, in addition the draft policy was also available to view on the council's website and invited any comments
- 2.2 Responses have been received from:
- The Mid and West Wales Fire Authority,
  - The Council's Safeguarding Unit
  - The Council's Environmental Protection Officer

These responses have been considered and where appropriate the policy has been amended. These amendment to the policy have been highlighted in the attached final draft policy (Annex A)

### 3. Decision

- 3.1 Members are invited to recommend to Full Council on 21<sup>st</sup> October that the final draft Licensing Policy made under the Licensing Act 2003, be approved to commence on 1st January 2016

<b>Recommendation:</b>	<b>Reason for Recommendation:</b>
<b>That the Licensing Policy set out at Annex A to this report be placed on the agenda for Full Council on 21<sup>st</sup> October with a recommendation that it be approved</b>	<b>To comply with the statutory duty contained in Section 5 of the Licensing Act</b>

Contact Officer	Tel:	Fax:	Email:
Sue Jones	01597 827389	01874 612323	susan.jones@powys.gov.uk

<b>Relevant Portfolio Member(s):</b>	Councillor John Powell
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<b>Relevant Local Member(s):</b>	N/a
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## **LICENSING ACT 2003**

# **STATEMENT OF LICENSING POLICY**

January 2016

Tudalen 9

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## 1. INTRODUCTION

Powys County Council is designated as a Licensing Authority for the purposes of the Licensing Act 2003 and is responsible for granting premises licences, club premises certificates, temporary event notices and personal licences in the County for the sale and/or supply of alcohol, the provision of regulated entertainment and late night refreshment. The authority has delegated its licensing functions to the Licensing Act Committee. Members of this committee will be responsible for administration of the Council's function assisted by officers. The decision making arrangements between Licensing Sub Committees and officers is set out in this policy statement.

Section 5 of the Act requires a licensing authority to prepare and publish a statement of its licensing policy at least every 5 years. The authority must ensure the policy is published before it can carry out any function in respect of individual applications and notices made under the terms of the Act. During the five year period the policy must be kept under review and the licensing authority may make any revisions to it as it considers appropriate. If the licensing authority determines and publishes its policy in this way, a new five year period commences on the day it is published.

The policy has been prepared in accordance with the requirements of the Act and having regard to guidance issued under section 182 of the Act.

The policy sets out a general approach to the making of licensing decisions by the Licensing Authority but does not undermine the right of any individual to apply for a variety of permissions and to have any such applications considered on its individual merits.

## 2. PROFILE OF POWYS

Powys is a very large rural authority with the lowest population density of all the Welsh authorities, a high proportion of residents are over retirement age. The main towns in Powys are: Newtown, Ystradgynlais, Welshpool, Machynlleth, Llanidloes, Rhayader, Llandrindod Wells, Knighton, Presteigne, Brecon, Crickhowell, Hay on Wye and Builth Wells. In addition there are a number of smaller towns, villages and rural settlements.

Powys has over 1000 licensed premises including:

- Pubs, bars and nightclubs
- Cinemas
- Theatres
- Schools and Community Premises
- Restaurants
- Hotels & Guest Houses
- Members Clubs
- Shops and Supermarkets
- Late Night Food Venues

In the region of 2000 personal licences have been issued by the Authority also.

Powys is host to a number of nationally recognised events including the Royal Welsh Agricultural Show, Hay Literary Festival, The Greenman Festival, Brecon Jazz and a multitude of smaller events, festivals, music events and local shows that take place annually, many of these involve licensable activities authorised by way of a Premises Licence or Temporary Event Notice. The authority processes in the region of 700 Temporary Event Notices every calendar year.

In Brecon a successful Community Alcohol Partnership (CAP) exists to tackle underage drinking in the local community through co-operation between alcohol retailers/licensees and local stakeholders. By providing advice, guidance and resources CAP supports the community in Brecon in to deliver a coordinated, localised response to underage alcohol misuse.

### 3 PURPOSE/OBJECTIVES

The purpose of this policy is to describe how the Council will carry out its functions as a Licensing Authority to promote the four licensing objectives specified in the Act, that are

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance;
- The protection of children from harm.

### 4 CONSULTATION

In reviewing the policy in accordance with the Act, the licensing authority will consult with:

- The Relevant Responsible Authorities ( see Annex A)
- Persons/bodies representative of local premises holders;
- Persons/bodies representative of local club premises certificate holders;
- Persons/bodies representative of local personal licence holders; and
- Persons/bodies representative of businesses and residents in Powys.

The views of all persons will be taken into consideration when determining the policy and any other relevant changes.

### 5 CUMULATIVE IMPACT POLICY, LATE NIGHT LEVY & EARLY MORNING RESTRICTION ORDER

The Licensing Authority currently has no plans to introduce any of the above. However, should it choose to do so during the life of this policy, full consultation will be undertaken and the details will be published on the licensing pages of the Council's website. The absence of a special policy will not prevent a responsible authority or other person making representations on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.

### 6 ADMINISTRATION

The Council's licensing team administers all aspects of the Licensing Act 2003 including applications, representations, processing annual fees, and requests for assistance and advice. The licensing team can be contacted as follows:

For enquiries in the North of Powys:

Licensing Team  
Council Offices  
Neuadd Maldwyn  
Severn Road  
Welshpool  
Powys  
SY21 7AS

[licensingmont@powys.gov.uk](mailto:licensingmont@powys.gov.uk)

Tel: 0845 6027037

For enquiries in the South of Powys:

Licensing Team  
Council Offices  
Y Gwalia  
Ithon Road  
Llandrindod Wells  
Powys  
LD1 6AA

[licensingbandr@powys.gov.uk](mailto:licensingbandr@powys.gov.uk)

All application requirements are specified in the regulations made under the Act in addition guidance notes for applicants have been prepared and are available on the Council's web site. The licensing team can also be contacted for advice and guidance with an application. Only

complete applications that contain all of the information required by the Act will be accepted. Electronically submitted applications are encouraged and can be made through the gov.uk website

## 7 APPLICATIONS ADMINISTERED & DELEGATION ARRANGEMENTS

The authority processes the following types of applications under The Licensing Act 2003:

<b>Matter to be dealt with</b>	<b>Licensing Sub Committee</b>	<b>Officer</b>
Application for personal licence	If a representation made	If no representation made
Application for personal licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If a representation made	If no representation made
Application for provisional statement	If a representation made	If no representation made
Application to vary premises licence/club premises certificate	If a representation made	If no representation made
Application to vary designated personal licence holder	If Police representation	All other cases,
Request to be removed as designated personal licence holder		All cases
Application for transfer of premises licence	If Police representation	All other cases
Applications for Interim Authorities	If Police representation	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious etc.		All cases
Determination of a Police or Environmental Health representation to a temporary event notice	All cases	
Determination of applications to disapply the mandatory condition for a DPS for community premises licensed for sale of alcohol		All cases
Determination of applications for minor variations to premises licence/club premises certificate		All cases

## 8 LICENSING ACTIVITIES

Licensable activities that require an authorisation by way of a Premises Licence, Club Premises Certificate or Temporary Event Notice are:

- the sale of alcohol by retail;
- the supply of alcohol by or on behalf of a club;
- the provision of regulated entertainment i.e.
  - the performance of a play,
  - exhibition of film,
  - indoor sporting event,
  - boxing or wrestling entertainment [indoor and outdoor],
  - performance of live music,
  - playing of recorded music,
  - a performance of dance,
  - entertainment of a similar description to performance of live music, playing of recorded music and dance).

**NB - Only where the entertainment takes place in the presence of a public audience for the purpose of entertaining that audience. Private entertainment is not considered regulated unless it is subject to a charge made with a view to profit.**

- the provision of late night refreshment (hot food and drink between 11pm and 5am)

Certain activities in relation to the provision of entertainment and the provision of hot food and hot drink are exempt from licensing requirements. Details of these exemptions can be found in the Licensing Act 2003. In addition significant changes to the scope of regulated entertainment have been made by The Live Music Act 2012 the Description of Entertainment (Amendment) Order 2013 and the Deregulation Act 2015; for the most up to date position on whether or not entertainment is considered regulated under the Act please contact the Licensing Team.

## 9 BARE KNUCKLE BOXING

Bare knuckle boxing can be considered as 'boxing or wrestling entertainment' under the Licensing Act 2003. Professional boxing in the UK is licensed by the British Boxing Board of Control (BBBC). The BBBC does not condone or support bare knuckle boxing. In addition the degree of violence and the likelihood of serious injury to the boxers are factors for a licensing authority to consider in assessing an application to carry out bare knuckle boxing. Also relevant are the licensing objectives in relation to preventing disorder and public nuisance. The crowds at boxing events have generally been considered more of a threat to these objectives than performances of other martial arts (such as judo), which is why indoors and outdoors boxing has historically been licensed. For these reasons a policy decision has been made in order to promote the four licensing objectives under the licensable activity of boxing:

- No bare knuckle boxing event will be permitted.
- No bare knuckle combined fighting sport will be permitted.
- No event advertised or promoted as bare knuckle boxing or bare knuckle fighting will be permitted.

## 10 SEXUAL ENTERTAINMENT

There is an exemption under the Local Government (Miscellaneous Provisions) Act 1982 that allows premises to provide sexual entertainment no more than 11 times per year and no more frequently than monthly. Should premises choose to use this exemption and there be related concerns, this may lead to a review of the premises licence and the imposition of conditions

## 11 PLANNING

The licensing authority usually expects applicants to ensure that they have planning consent for the intended use and hours of application, or otherwise have lawful status, before making an application for a premises licence, to avoid any conflict between planning and licensing. Where the terminal hour has been set as a condition of planning and these are different to the licensing hours, the applicant must observe the earlier closing time

## 12 LICENSING HOURS

When determining individual licence applications for premises the licensing hours will be decided having regard to the individual merits of each application. The presumption will be to grant the hours as requested unless there are objections to those hours raised by responsible authorities or other persons on the basis of the licensing objectives. However as a guide to applicants the Responsible Authorities are less likely to object to applications with the following closing times:

- Pubs & Bars 11pm Sunday to Thursday / Midnight Friday & Saturday
- Nightclubs 1am Sunday to Thursday / 2am Friday & Saturday
- Restaurants and Cafes 11pm Sunday to Thursday / Midnight Friday & Saturday
- Off Licences 11pm Monday to Sunday
- Takeaway Food – Midnight Sunday to Thursday / 1am Friday and Saturday
- Hotels / Guest Houses – 24 hour for residents only

These hours are not pre-determined and each application will be considered on its own merits. For applications within the above hours there is no presumption that the application will be automatically granted in cases where relevant representations have been made

The licensing authority will closely examine the hours of business for premises that are situated in predominantly residential areas and will impose strict conditions relating to noise control where representations are received and it is considered necessary. Limitations will only be imposed restricting the times alcohol can be sold for consumption off the premises for premises such as supermarkets and stores if representations are received and there is evidence that the extended hours cause the premises to be a focus of disorder and disturbance.

The above hours should **not** be used as a guide for applications relating to the provision of licensable activities in an area which is either wholly or partly outside or within a temporary structure such as a tent or marquee that has the potential to disturb local residents.

## 13 LARGE EVENTS & FESTIVALS

Organisers of larger occasional events involving 500 or more people will be required to submit an application for premises licences. The Licensing Authority strongly recommends that event organisers contact licensing officers early in the planning stages of the event. Applicants of particularly large events (more than 2000 people) are encouraged to contact The Powys Safety Advisory Group ([emergency.planning@powys.gov.uk](mailto:emergency.planning@powys.gov.uk)) to establish a multi-agency meeting consisting of the emergency services and other council services such as Highways and Public Health, preferably in advance of an application being submitted. The group can offer advice to the applicant on the expectation of the content of the application and operating schedule and also provides an opportunity for the applicant to give in person an overview of the event and the way it will be managed, that is not so easily captured in an application form.

The Following table is included as a suggested minimum period of time prior

to an event for submitting a complete application, following consultations with the responsible authorities.

<b>Maximum number of attendees at any time</b>	<b>Minimum notice period</b>
500 - 999	Not less than 2 months
1000 – 2999	Not less than 3 months
3000 - 4999	Not less than 4 months
5000 - 19999	Not less than 5 months
20000 – 49999	Not less than 6 months
50000 -	Not less than 7 months

Organisers of large events are encouraged HSE guidance document 'The Event Safety Guide'

## **14 TEMPORARY EVENT NOTICES (TENS)**

The temporary event notice system is a relatively light touch approach to authorise licensable activities for one-off events where the number of persons attending does not exceed 499. The duration of a TEN must not exceed 168 hours (1 week). Only the police and Environmental Health are invited to comment on a TEN.

A TEN is simply a notification given by an individual to the Licensing Authority giving notice of an event involving licensable activities that are due to take place. Examples of where a TEN can be used include:

- To authorise a licensable activity at a premises not currently licensed
- To temporarily extend the hours for providing a licensed activity at an existing licensed premises
- To temporarily provide licensable activities not authorised by the premises licence

Applicants for TENS must bear in mind the statutory timescales that require them to be served on the authority at least 10 clear working days before they have effect, this does not include the date the notice is received by the authority or the date of the event. The Act allows for the serving of a late TEN with 5 clear working days between the receiving of the notice and the event, but it should be noted that if such a TEN is objected to under the licensing objectives by either the Police or Environmental Health then there is no appeal against this decision.

TENS served less than 5 clear working days before the event are returned to the applicant unprocessed; there are **no** circumstances that enable the authority to authorise a TEN served outside the statutory timescales. Applicants must therefore be mindful of bank holidays and postage delays. The quickest and easiest method for an applicant to serve a TEN is electronically through the gov.uk website or by contacting a Licensing Officer who can e-mail a blank notice for completion and e-mailing back, the applicant need not serve copies on the Police and Environmental Health in this instance as electronic copies will be forwarded to them by the licensing officer

Where the Police or Environmental Health object to a TEN under one of the licensing objectives the TEN is referred to a hearing for decision, with the exception of late TENS where there is no recourse when relevant objections are made. Guidance notes giving applicants further details and advice on the use of TENS are available on the council's web site.

## **15 OPERATING SCHEDULE & LICENCE CONDITIONS**

The operating schedule will form the basis of conditions attached to any licence granted. Conditions volunteered in Operating Schedules should be:

- Clear
- Enforceable
- Proportionate
- Relevant
- Expressed in plain language capable of being understood by those expected to comply with them



The licensing authority shall either reword or ignore meaningless, unenforceable conditions/statements made in operating schedules, where necessary and on consultation with the applicant. **If they are covered adequately by other legislation they will not be included on the licence.** Applicants should be aware that breaching the conditions of a Premises Licence or Club Premises Certificate is a criminal offence. Therefore, applicants should only volunteer conditions in their operating schedule that they are willing and able to comply with.

During the consultation procedure responsible authorities may make relevant representations requesting that the applicant consider agreeing to further conditions, if all concerned agree these conditions will be added to the licence, once granted, and the need for a hearing can be dispensed with. The Licensing Authority also has the power to attach conditions to a licence at a hearing if it is considered appropriate for the promotion of the Licensing Objectives.

When considering the wording of licence conditions to attach to a licence the authority will have regard to the Institute of Licensing document – Guidance on Premises Licence Conditions (once finalised and published)

## 16 REPRESENTATIONS

When an application is made for the grant, variation or review of a premises licence or club premises certificate, representations about the application can be made by responsible authorities or other persons.

Representations must be made to the Licensing Authority within the statutory period of 28 days beginning on the day after the relevant application is received by the Licensing Authority.

Representation can be made either in support of an application or to express representations to an application being granted. The Authority can only accept relevant representations. A representation is 'relevant' if it related to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives.

Relevant representations can be made by any person, regardless of their geographical location in relation to the premises. However the Licensing Authority will usually give greater weight to representations that are made by persons who can demonstrate that they would be directly affected by the carrying out of licensable activities at the premises concerned.

**Petitions** – Petitions may be submitted but are not as informative as individual correspondence and as such may be given less weight when considered by a licensing sub-committee. A petition will only be accepted if it identifies:

- the name and address of the application,
- the licensable activities and hours,
- reasons for the representation
- which of the licensing objectives are relevant

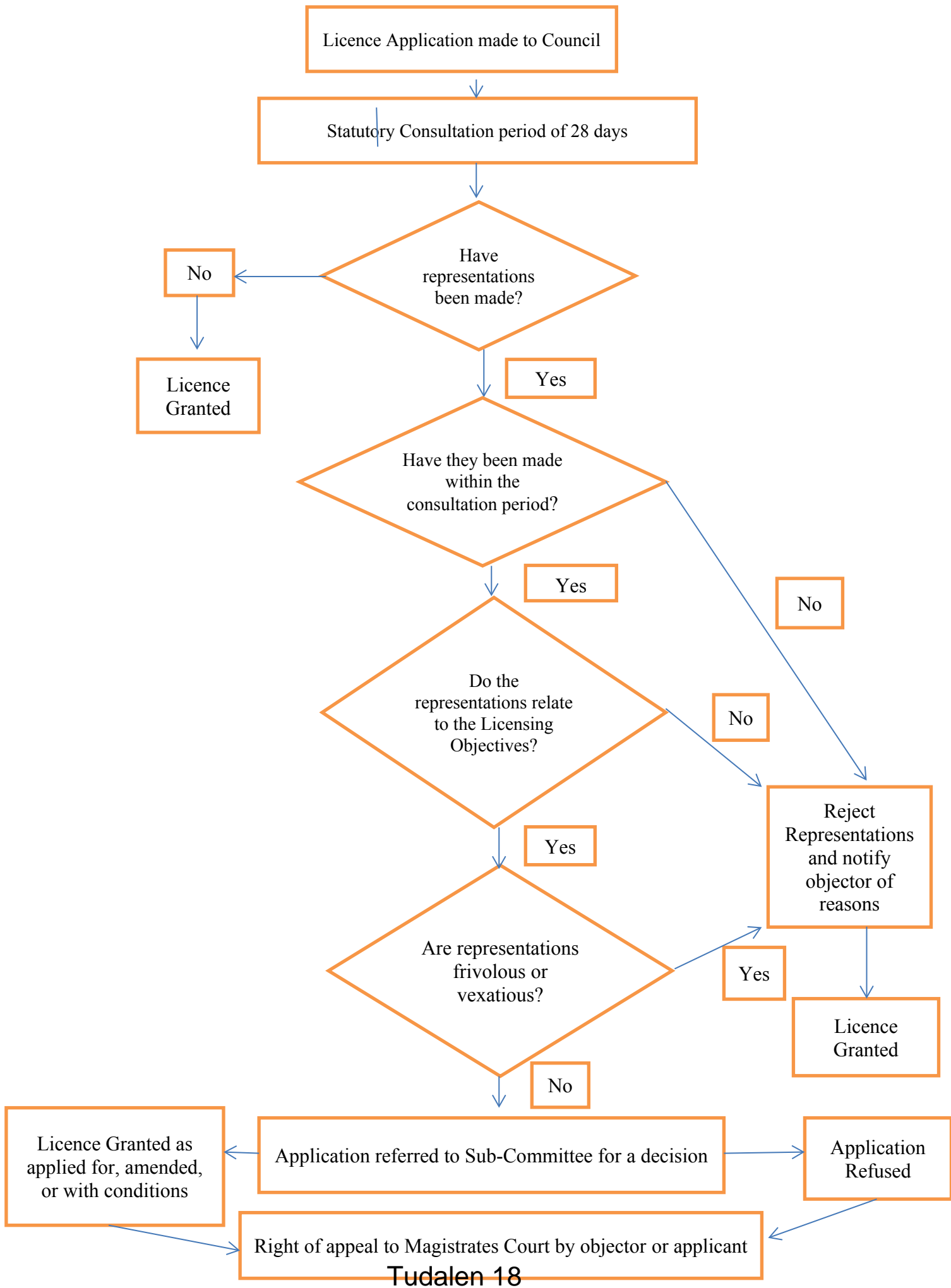
Each petitioner must give their name, full address including postcode.

The Licensing Authority will reject as invalid any representations deemed to be frivolous or vexatious. A representation might be considered to be vexatious if it appears to be intended to cause aggravation or annoyance. Frivolous representations are essentially categorised by a lack of seriousness. Decisions as to the validity of representations will normally be made by officers of the Licensing Authority. In borderline cases the benefit of the doubt about any aspect of a representation will be given to the person making and a subsequent hearing would then provide for the person making the representation to amplify and clarify it.

The licensing authority will inform persons who have made irrelevant, frivolous or vexatious representations that their representation will not be considered.

Where relevant representation have been received regarding an application then the application is referred to a Licensing Sub-Committee for a hearing for determination

Where a notice of a hearing is given to an applicant the licensing authority is required to provide the applicant with copies of the relevant representations that have been made.



## 17 PREVENTION OF CRIME AND DISORDER

Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people can be a source of crime and disorder problems. The Licensing Authority will expect operating schedules to satisfactorily address these issues, applicants are recommended to seek advice from the Licensing Authority and the Police. Where an applicant is considering installing CCTV as part of the operating schedule then advice should be sought from the Police Licensing Officer. Dyfed Powys Police have available an Operational Requirement Guidance document for premises that use CCTV, for further details contact the Police Licensing Officer

There is a County-wide pub watch network in place run by licensees, they promote good practice, sharing information, disseminating best practice and provide a forum for the responsible authorities to engage with licensees when necessary. The Licensing Authority encourages all licensees to actively participate in their local pub watch scheme

## 18 PUBLIC SAFETY

The Licensing Authority will expect operating schedules to satisfactorily address issues concerning public safety, and are advised to seek advice from the relevant bodies e.g. Health and Safety Enforcement Officers and Mid and West Wales Fire Authority. The Licensing Authority expects that applicants meet the requirement for both a Health & Safety Risk Assessment and Fire Risk Assessment under the relevant provisions, where necessary.

## 19 THE PREVENTION OF PUBLIC NUISANCE

Licensed premises can have significant potential to impact adversely on persons in the vicinity and further afield through public nuisances that arise from their operation. Applicants **must** demonstrate in their operating schedule suitable and effective measures to prevent nuisance **failure to address this objective is likely to lead to an objection**

Particular regard should be had to minimise the potential for public nuisance that may arise from premises where:

- They are situated in residential or noise sensitive areas and/or
- Extended opening hours are proposed

Where an application has been made for either a one-off event or for a premises that is either wholly or partly outside or within a temporary structure such as a tent or marquee consideration needs to be given to the needs of local residents and the applicant will be required to offer controls so that local residents will not suffer noise nuisance; these should be proportionate to the nature/scale and duration of the event and also to the proximity to local residents. In some circumstances it will be appropriate to submit a noise management plan. Applicants should seek advice at an early stage from Environmental Protection Officers in relation to whether a Noise Management Plan in accordance with The Noise Council Code of Practice is required.

The Licensing Authority recognises that beyond the immediate vicinity of the premises the control that a licence holder can exert over its patrons diminishes and individuals who engage in anti-social behaviour are accountable in their own right.

Smoking & External areas - Legislation preventing smoking indoors at public premises has resulted in many customers of licensed premises and clubs using external areas. Premises licence holders, designated premises supervisors and applicants must have regard to how this has an impact on the four licensing objectives.

## 20 THE PROTECTION OF CHILDREN FROM HARM

Nothing in this policy shall limit or restrict access of children to *premises unless there is an overriding requirement of necessity* to prevent harm to children. However, the 2003 Act details a number of offences restricting access to licensed premises including not allowing un-accompanied children under 16 to premises licensed for the supply of alcohol between midnight and 5am. An applicant may choose to impose further restrictions deemed appropriate for the individual premises. In cases where conditions are agreed or offered in relation to children in licensed premises, the wording of the condition needs to clarify the age of the restriction e.g. either children under 16 or under 18 years of age.

## 21 ENFORCEMENT

The Licensing Authority has established joint enforcement protocols with Dyfed Powys Police and the Mid and West Wales Fire Authority and other responsible authorities where appropriate on joint enforcement issues.

The Licensing Authority will carry out audits of licensing premises conditions, usually in the form of routine licensing inspections in accordance with a risk assessment in order to ensure that the High risk premises receive the greatest priority.

The authority will investigate complaints alleging breaches of the Act or licence conditions with a view to establishing if offences have been committed

The authority has an Enforcement Policy that encourages a graduated approach where there is evidence of an offence, the range of enforcement options include:

- Offering advice/guidance (verbal or written)
- Informal written warnings
- Cautions
- Prosecutions
- Review of Licence

## 22 ANNUAL FEES

Amendments made to the Licensing Act 2003 by the Police Reform and Social Responsibility Act 2010 give councils the power to suspend premises licences and club premises certificates where the annual fee required by regulations is not paid.

The council will suspend any licence or certificate where the required fee is not paid by the 'due date', which is annually on the anniversary of the date that the licence was first granted. The council will follow the below procedure:-

Upon notification/discovery that an annual fee is not paid, the council will give notice to the licence/certificate holder, in writing,

**• that the licence/certificate will be suspended 14 days from the date of the notice.**

• It will also state that the suspension will not become effective if the fee is paid prior to the suspension date.

• If an administration error is claimed, the suspension date may be 21 days from the due date; or the date of suspension on the 14 day notice, whichever is later.

**• A copy of the notice will also be served on the designated premise supervisor/premises manager if they are not the premises licence holder.**

When the full payment is made the council will immediately lift the suspension, and confirm this in writing.

Where a licence/certificate is suspended and licensable activities are provided the council will consider prosecuting the provider for offences under section 136 of the Licensing Act 2003

## **ANNEXES**

Annex A – List of Responsible Authorities and contact details

Annex B - Mandatory conditions under the Act

Annex A

**POWYS COUNTY COUNCIL AREA****RESPONSIBLE AUTHORITIES****CONTACT DETAILS****Notice to responsible authority**

In the case of an application for a premises licence under section 17, a provisional statement under section 29, a variation of a premises licence under section 34, a review under section 51, a club premises certificate under section 71, a review under section 87 or a variation of a club premises certificate under section 84, the person making the application shall give notice of his application to each responsible authority by giving to each authority a copy of the application together with its accompanying documents, if any, on the same day as the day on which the application is given to the relevant licensing authority.

**The Police**

The Licensing Officer,  
Dyfed Powys Police  
Llanidloes Police Station  
9 Lôn Glandwr,  
Llanidloes,  
Powys  
SY18 6DD

Tel: 07968 220 697

**The Fire Service**

The Licensing Officer,  
Mid & West Wales Fire & Rescue Service,  
Powys Command HQ, Parc Noyadd Park,  
Llandrindod Wells, Powys, LD1 5DF.

Tel: 0370 6060699

**Health Authority**

Jayne Ingram-Jones,  
Senior Administration Officer,  
Powys Local Public Health Team,  
Public Health Wales,  
The Courtyard,  
Bronllys, Brecon,  
Powys, LD3 0LU.

Tel: 01874 712738  
FAX: 01874 712739

**Child Protection**

**Safeguarding Manager,**  
1 High Street,  
Llandrindod Wells,  
Powys, LD1 3AG.

Tel: (01597) 827325  
Tudalen 22

**Planning****Brecknockshire**

Development Control Manager  
 Economic and Community Regeneration Directorate  
 Neuadd Brycheiniog  
 Cambrian Way, Brecon,  
 Powys, LD3 7HR.

Tel: (01874) 612272

OR

Brecon Beacons National Park Authority  
 Plas y Ffynon  
 Cambrian Way, Brecon,  
 Powys, LD3 7HR.

Tel: (01874) 624437

If you are unsure which of the above should receive a copy of your application, please telephone one of the above offices for advice.

**Radnorshire**

Development Control Manager  
 Economic and Community Regeneration Directorate  
 The Gwalia  
 Ithon Road, Llandrindod Wells,  
 Powys, LD1 6AA.

Tel: (01597) 827169

**Montgomeryshire**

Development Control Manager  
 Economic and Community Regeneration Directorate  
 Neuadd Maldwyn  
 Severn Road, Welshpool,  
 Powys, SY21 7AS.

Tel: (01938) 551259

**Trading Standards****Brecknockshire**

Trading Standards Officer  
 Brecon Office  
 Neuadd Brycheiniog  
 Cambrian Way, Brecon,  
 Powys, LD3 7HR,

Tel: (01874) 623420

Tel: (01874) 612227

**Radnorshire**

Trading Standards Officer  
Brecon Office  
Neuadd Brycheiniog  
Cambrian Way, Brecon,  
Powys, LD3 7HR.

Tel: (01874) 623420

Tel: (01874) 612227

**Montgomeryshire**

Trading Standards Officer  
Newtown Office  
The Park, Newtown,  
Powys, SY16 2NZ.

Tel: (01686) 617524

If you are unsure which of the above should receive a copy of your application, please telephone one of the above offices for advice.

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**Environmental Protection****Brecknockshire**

Environmental Protection Officer  
Environmental Health Offices  
Neuadd Brycheiniog  
Cambrian Way, Brecon,  
Powys, LD3 7HR.  
Tel: (01874) 612250

**Radnorshire**

Environmental Protection Officer  
Environmental Health Offices  
The Gwalia  
Ithon Road, Llandrindod Wells,  
Powys, LD1 6AA.  
Tel: (01597) 827168

**Montgomeryshire**

Environmental Protection Officer  
Environmental Health Offices  
Neuadd Maldwyn  
Severn Road, Welshpool,  
Powys, SY21 7AS.  
Tel: (01938) 551299

If you are unsure which of the above should receive a copy of your application, please telephone one of the above offices for advice.

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**Health and Safety****Brecknockshire**

Health and Safety Officer  
 Environmental Health Offices  
 Neuadd Brycheiniog  
 Cambrian Way, Brecon,  
 Powys, LD3 7HR.

Tel: (01874) 612411

**Radnorshire**

Health and Safety Officer  
 Environmental Health Offices  
 Neuadd Brycheiniog  
 Cambrian Way, Brecon,  
 Powys, LD3 7HR.

Tel: (01874) 612411

**Montgomeryshire**

Health and Safety Officer  
 Environmental Health Offices  
 Neuadd Maldwyn  
 Severn Road, Welshpool,  
 Powys, SY21 7AS.

Tel: (01938) 551313

If you are unsure which of the above should receive a copy of your application, please telephone one of the above offices for advice.

Enforcement of the Health & Safety at Work Act 1974 etc. is undertaken by the Health & Safety Executive or inspectors of the local authority Environmental Health Section. The allocation of responsibility is described in The Health and Safety at Work (Enforcement Authority) Regulations.

The majority of premises in the Service Industry sector are the responsibility of the inspectors employed by the Local Council. To simplify the application process the Local Council Health & Safety Officers will identify the limited number of applications, which are for premises inspected by the Health & Safety Executive and will forward those applications on your behalf. The Local Council Health & Safety Officers will inform applicants when applications have been forwarded to the Health and Safety Executive.

**Additional Responsible Authorities**

1. Any Licensing Authority (other than the relevant licensing authority) in whose area part of the premises is situated.
2. In relation to a Vessel: -
  - a navigation authority (within the meaning of section 221(1) of the Water Resources Act 1991 (c.57) having functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is, or is proposed to be, navigated at a time when it is used for licensable activities,
  - the Environment Agency,

- the British Waterways Board, or
- the Secretary of State

### Definition of a Responsible Authority

#### 1. "Responsible authority" means any of the following-

- (a) the chief officer of police for any police area in which the premises are situated,
- (b) the fire authority for any area in which the premises are situated,
- (c) the enforcing authority within the meaning given by section 18 of the Health and Safety at Work etc. Act 1974 for any area in which the premises are situated,
- (d) the local planning authority within the meaning given by the Town and Country Planning Act 1990 (c.8) for any area in which the premises are situated,
- (e) the local authority by which statutory functions are exercisable in any area in which the premises are situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health,
- (f) a body which-
  - (i) represents those who, in relation to any such area, are responsible for, or interested in, matters relating to the protection of children from harm, and
  - (ii) is recognised by the licensing authority for that area for the purposes of this section as being competent to advise it on such matters,
  - (g) any licensing authority (other than the relevant licensing authority) in whose area part of the premises is situated,
- (h) in relation to a vessel-
  - (i) a navigation authority (within the meaning of section 221(1) of the Water Resources Act 1991 (c.57) having functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is, or is proposed to be, navigated at a time when it is used for licensable activities,
  - (ii) the Environment Agency,
  - (iii) the British Waterways Board, or
  - (iv) the Secretary of State,
- (J) For the purposes of sections 13(4) and 69(4), the local weights and measures authority (within the meaning of section 69 of the Weights and Measures Act 1985(a)) for any area in which the premises is situated is a responsible authority.

## **Mandatory conditions**

### **Alcohol**

No supply of alcohol may be made under the premises licence-

- a) at a time when there is no designated premises supervisor in respect of the premises licence, or
- (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

### **Films**

The admission of children to the exhibition of any film must be restricted in accordance with the film classification.

### **Door Supervisors**

Door supervisors will be correctly registered with the SIA.

### **Mandatory Conditions for Club Premises Certificates**

The supply of alcohol for consumption off the premises can only be made at a time when the premises are open for the purposes of supplying alcohol, in accordance with the club premises certificate, to members of the club for consumption on the premises.

Any alcohol supplied for consumption off the premises must be in a sealed container.

Any supply of alcohol for consumption off the premises must be made to a member of the club in person.

### **Mandatory Conditions from 6<sup>th</sup> April 2010**

The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children-

- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to-

- (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
- (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
- (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;
- (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on—
  - (i) the outcome of a race, competition or other event or process, or
  - (ii) the likelihood of anything occurring or not occurring;
- (e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

The responsible person shall ensure that—

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
  - (i) beer or cider: ½ pint;
  - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
  - (iii) still wine in a glass: 125 ml; and
- (b) customers are made aware of the availability of these measures.

## Mandatory Licensing Condition from 28<sup>th</sup> May 2014

A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

For the purposes of the condition set out in paragraph 1

- (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(a);
- (b) “permitted price” is the price found by applying the formula —  $P = D + (D \times V)$  where —
  - (i) P is the permitted price
  - (ii) D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
  - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence —
  - (i) the holder of the premises licence,
  - (ii) the designated premises supervisor (if any) in respect of such a licence, or
  - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) “valued added tax” means value added tax charged in accordance with the Value Added

Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

- (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day. is present and able to prevent a supply of alcohol (in relation to premises in respect of which there is a club premises certificate). Paragraph 3 provides that the permitted price is rounded up to the nearest penny. Paragraph 4 provides that a change to the permitted price which would apply as a result of a change to the rate of duty or VAT charged in relation to alcohol would not apply until the expiry of the period of 14 days beginning on the day on which the change in the rate of duty or VAT takes effect.

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

# LAC16 - 2015

## CYNGOR SIR POWYS COUNTY COUNCIL

### LICENSING ACT 2003 COMMITTEE

12<sup>th</sup> October 2015

**REPORT AUTHOR:** Senior Licensing Officer

**SUBJECT:** Draft Statement of Principles, Gambling Act 2005

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**REPORT FOR:** For decision

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## 1. INTRODUCTION

- 1.1 On 3<sup>rd</sup> September 2015, the Statement of Principles for the Gambling Act 2005 was presented to you in draft form. It was decided that the document should be sent out for public consultation.

## 2. CONSULTATION

- 2.1 The document was sent out to all the consultees as required by the Gambling Act 2005. Any comments were to be made to the department by the 2<sup>nd</sup> October 2015.

## 3 COMMENTS

- 3.1 The amendments highlighted by the committee have been made.
- 3.2 The Gambling Commission asked that we consider adding some more information on risk assessments. The amendments have been included in the new document
- 3.3 The Campaign for Fairer Gambling has contacted all licensing authorities in England and Wales, which requested we consider their recommendations in relation to Fixed Odds Betting Terminals,(FOBT), under age test purchasing and tighter licence conditions. Their recommendations were considered and the underage sales and the tighter licence conditions have been included in the Statement of Principles.
- 3.4 It was felt that if we included the reduction in FOBT, we may be open to legal challenge from any new betting shop operators opening in the area.
- 3.5 Corals made representations with regard to the risk assessments, which are required to be carried out by operator. Their comments were noted and changes were made to the policy where appropriate.

3.6 Gosschalks Solicitors made representations on behalf of the Association of British Bookmakers. The comments were once again in relation to the risk assessments, and were in line with Corals comments. .

#### 4 Powys County Council

4.1 Members are invited to recommend to Full Council on 21<sup>st</sup> October that the final draft Statement of Principles made under the Gambling Act 2005, be approved to commence on 1st January 2016

<b>Recommendation:</b>	<b>Reason for Recommendation:</b>
For approval to be sent to Full Council.	N/A

<b>Contact Officer</b>	<b>Tel:</b>	<b>Fax:</b>	<b>Email:</b>
Nigel Williams	01938551328	01938551248	nigel.williams@powys.gov.uk
Relevant Portfolio Member(s):	Councillor W John T Powell		
Relevant Local Member(s):	N/A		



**POWYS COUNTY COUNCIL**

**GAMBLING LICENSING POLICY**  
**STATEMENT**

**2016 - 2019**



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## **1. Introduction**

We have produced this statement, to become active in January 2016, as required by Section 349 of the Gambling Act 2005 (referred to in this statement as “the Act”) and having had regard to the Gambling Commission’s formal guidance issued under Section 25 of the Act, the licensing objectives and to the views of those that we have consulted. We consulted widely upon this statement before finalising and publishing. Details of consultees are listed at Appendix 3 to this statement.

This statement must be published at least every three years. The statement may also be reviewed from “time to time” and any amended parts re-consulted upon.

We intend that this document should provide information and guidance on the general approach that we will take to licensing. A series of advice sheets with more specific guidance is available from <http://www.gamblingcommission.gov.uk>

Nothing in this policy takes away the right of any person to make an application under the Act and to have that application considered on its merits; nor does it undermine the right of any person to object to an application or to seek a review of a licence where the law provides that they may do so. Applications will be considered in line with our statement of general principles, below.

## **2. Profile of Powys**

Powys is a very large rural authority with the lowest population density of all the Welsh authorities, a high proportion of residents are over retirement age. The main towns in Powys are: Newtown, Brecon, Ystradgynlais, Welshpool, Machynlleth, Llanidloes, Rhayader, Llandrindod Wells, Knighton, Presteigne, and Builth Wells. In addition there are a number of smaller towns, villages and rural settlements.

Powys has a low number of authorisations issued under the Gambling Act 2005, there are no Casinos, Bingo halls, Licensed Adult Gaming Centres or Family Entertainment Centres, and it is unlikely that operators would consider locating such premises in Powys due to the low population density. However, there are 8 betting premises in Powys 4 in the North and 4 in the South; these are located in Newtown, Welshpool, Llandrindod Wells, Brecon and Ystradgynlais. The biggest cluster of betting shops is in Newtown which is currently home to 3 licensed betting shops.

Of these betting shops 2 are independently run the others are all national chains.

Powys currently has 50 premises benefiting from a club premises certificate issued under the Licensing Act 2003, the South of Powys is home to the largest number of clubs, of these currently 20 of benefit from either a Club Gaming Permit or Club Machine Permit which permits higher pay out machines.

There are roughly 400 pub/bars in Powys of which half benefit from a notification authorising up to 2 category D machines, only 3 premises benefit from a Gaming Machine Permit authorising more than 2 such machines.

The area hosts a number of temporary gambling activities notably trotting races authorised by way of Temporary use notices.

### **3. General Statement of Principles**

In carrying out our licensing functions in accordance with the Act, particularly with regard to premises licences, we will aim to permit the use of premises for gambling as long as it is considered to be :-

- (a) in accordance with any relevant Codes of Practice issued by the Gambling Commission
- (b) in accordance with any relevant Guidance issued by the Gambling Commission
- (c) in accordance with this Statement of Principles, and
- (d) reasonably consistent with the licensing objectives.

We will not seek to use the Act to resolve matters that are better dealt with by other legislation. Licensing is not the primary mechanism for general control of nuisance and the antisocial behaviour of people once they are away from licensed premises.

We will ensure that in dealing with applications under the Act we follow the required procedures, and only take into account issues that are relevant. Specifically we will not have regard to “demand” when considering applications for gambling premises; nor will we consider the suitability of applicants for premises licences (which is a matter for the Gambling Commission). We will not reject an application on moral grounds. If we do decide to reject an application, we will make known our reasons for doing so.

Our current Council Constitution (including the scheme of delegation) details the way that we will discharge our functions under this Act. Delegated functions are detailed in Appendix 1 to this statement.

Where an application is for a new premises licence, the responsible authorities may visit to check that gambling facilities meet all necessary legal requirements.

Where there are no representations (objections), licences and permissions will be granted subject only to any appropriate mandatory conditions (Section 167 of the Act) and any conditions having at least the effect of appropriate default conditions made under Section 168. Additional conditions will only be imposed on a premises licence, where there is evidence that the mandatory and default conditions need to be supplemented in the particular circumstances of that application.

If there are objections that can't be resolved informally, or we intend to impose extra conditions, we will hold a public hearing at which our licensing sub-committee will hear evidence and make a decision in accordance with the Act.

This statement is not intended to override the right of any person to make an application under the Act, and to have that application considered on its merits. Equally, this Statement of Principles is not intended to undermine the right of any person to make representations about an application or to seek a review of a licence where provision has been made for them to do so.

#### **4. Licensing Objectives**

The Act lays out three licensing objectives;

##### **Preventing gambling from being a source of crime and disorder**

The Gambling Commission takes the leading role in preventing gambling from being a source of crime, and maintains rigorous licensing procedures aiming to prevent criminals from providing facilities for gambling. Applicants need an operating licence from the Commission before we will issue a licence to use premises for gambling.

We will not issue a premises licence to someone who does not hold an operator's licence, we are not generally concerned with the suitability of an applicant. Where concerns about a person's suitability arise we will bring those concerns to the attention of the Commission.

If an application for a licence or permit is received in relation to premises which are in an area noted for particular problems with organised crime, we will, in consultation with the Police and other relevant authorities, consider whether specific controls need to be applied to prevent those premises from being a source of crime. This could include a requirement for Security Industry Authority (SIA) registered door supervisors

Disorder will only be considered under this Act if it amounts to activity which is more serious and disruptive than mere nuisance, and where it can be shown that gambling is the source of that disorder. A disturbance might be serious enough to constitute disorder if police assistance was required to deal with it; we will then consider how threatening the behaviour was to those who could see or hear it, and whether those people live sufficiently close to be affected or have business interests that might be affected.

"Disorder" is generally a matter for the Police; we will not use this Act to deal with general nuisance issues, for example, parking problems, which can be better dealt with using alternative powers.

When making decisions relating to disorder, we will give due weight to comments made by the police.

## **Ensuring gambling is conducted in a fair and open way**

The Gambling Commission does not expect local authorities to become concerned with ensuring that gambling is conducted in a fair and open way.

The Commission, through the operating and personal licensing regime, will regulate the management of the gambling business and the suitability and actions of an individual.

Because betting track operators do not need an operating licence from the Commission we may, in certain circumstances, require conditions of licence relating to the suitability of the environment in which betting takes place.

## **Protecting children and vulnerable people from being harmed or exploited by gambling**

The intention of the Act is that children and young persons should not be allowed to gamble, and should be prevented from entering those gambling premises which are “adult-only” environments.

Codes of Practice, including advice about access by children and young persons may be published by the Gambling Commission for specific kinds of premises. Applicants will be expected to heed this advice where applicable. We expect steps to be taken to prevent children from taking part in, or being in close proximity to, gambling. This may include restrictions on advertising to ensure that gambling products are not aimed at children, nor advertised in such a way that makes them particularly attractive to children.

When determining a premises licence or permit we will consider whether any additional measures are necessary to protect children, such as the supervision of entrances, the segregation of gambling from areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises like pubs, clubs and betting tracks.

In seeking to protect vulnerable people we will include 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, perhaps due to a mental impairment, alcohol or drugs.

We will always treat each case on its own individual merits and when considering whether specific measures are required to protect children and other vulnerable people will balance these considerations against the overall principle of aiming to permit the use of premises for gambling.

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.

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.

In accordance with the suggestion in the Gambling Commission's Guidance for local authorities, this authority designates the Powys Safeguarding Children Board for this purpose.

## **5. THE COUNCIL'S FUNCTIONS**

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

The licensing of 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 via issuing 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 (under the Licensing Act 2003) 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 Act 2003, where there are more than two machines;

Registering *small society lotteries* below prescribed thresholds;

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 'information exchange');

Maintaining registers of the permits and licences that are issued under these functions;

The exercise of its powers of compliance and enforcement under the 2005 Act in partnership with the Gambling Commission and other relevant responsible authorities.

## **6. Responsible Authorities**

Responsible authorities are identified in the legislation, and have to be notified about licence applications so that they can identify any risks. The responsible authorities that we recognise are listed below, contact details for each of the responsible authorities will be sent on request.

- The Gambling Commission
- The Chief of Powys Police
- Fire and Rescue Service
- Planning Department Powys County Council
- Environmental Protection, Powys County Council
- Safeguarding Team, Powys County Council
- HM Revenue and Customs
- Licensing Department Powys County Council
- any other person prescribed for the purposes of this section by regulations made by the Secretary of State.

Any concerns expressed by a Responsible Authority cannot be taken into account unless they are relevant to the application itself and the licensing objectives. However, each representation will be considered on its own individual merits.

## **7. Interested Parties**

An interested party is someone who:

- 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, or
- represents persons in either of the two groups above.

We will require written evidence that a person/body “represents” someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representations be considered is sufficient. Whilst this may not apply to those elected ward members or MP or Community Councillors, those persons should be aware of the need to represent the whole of the community that they represent and not just the vocal “minority”.

In determining whether someone lives sufficiently close to a particular premises so as to be affected, we will take into account, among other things :

- the size of the premises



- the nature of the premises
- the distance of the premises from the person making the representation
- the nature of the complainant
- the potential impact of the premises

In determining whether a person has a business interest which could be affected the Council will consider, among other things:  
the size of the premises the catchment area of the premises, and  
whether the person making the representation has business interests in the catchment area that might be affected

If an existing gambling business makes a representation that it is going to be affected by another gambling business starting up in the area, we would not consider this, in the absence of other evidence, as a relevant representation as it does not relate to the licensing objectives and instead relates to demand or competition.

We may consider a representation to be either frivolous or vexatious, and reject it. This will generally be a matter of fact given the circumstances of each individual case but, before coming to a decision we will normally consider:

- who is making the representation and whether there is a history of making representations that are not relevant,
- whether it raises an issue relevant to the licensing objectives, or
- whether it raises issues specifically to do with the premises which are the subject of the application

## **8. Exchange of Information**

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 it and the Gambling Commission. It is also required to include the principles it will apply in exercising its functions under section 350 of the Gambling Act 2005 with respect to the exchange of information between it and other persons listed in Schedule 6 of the Gambling Act 2005.

The principle this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that 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 Secretary of State under the powers provided in the Gambling Act 2005.

Details of applications and representations which are referred to a Licensing Sub-Committee for determination will be detailed in reports that are made publicly available in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000. Personal details of people making representations will be disclosed to applicants and only be withheld from

publication on the grounds of personal safety where the Licensing Authority is asked to do so.

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

## 9. Enforcement

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

This licensing authority's principles are that:

It will be guided by the Gambling Commission's Guidance to Licensing Authorities 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.

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

Powys County Council has adopted and implemented a risk-based inspection programme, based on;

- The licensing objectives;
- Relevant codes of practice;
- Guidance issued by the Gambling Commission, in particular at Part 36;
- The principles set out in this statement of licensing policy.

The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions, which it authorises. There may also be a programme of test purchasing for under age sales, to ensure the operators are following their procedures.

The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the licensing authority but should be notified to the Gambling Commission.

## **10. Risk assessments**

Such risk assessments are required from, existing operators, new applicants, and from existing premises licensees seeking to vary a licence. The code requires all operators of:

Casino's, AGC's, Bingo Premises, FEC's, Betting shops and remote betting intermediaries to assess local risks to the licensing objectives, and to have policies, procedures and control measures in place to mitigate those risks.

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

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

- Information held by the licensee regarding self-exclusions and incidences of underage gambling,
- Staff training, including refresher training, especially in areas such as intervention when customers show signs of excessive gambling and age verification
- Layout of premises to ensure staff have unobstructed views of persons using the premise or where this is not possible,, evidence of how this can be achieved.
- Arrangement for localised exchange of information regarding self exclusions
- and gaming trends.
- Urban setting such as proximity to schools, commercial environment, factors affecting footfall,
- Known problems in the area such as problems arising from street drinkers, youths participating in anti-social behaviour, drug dealing activities, etc.

Matters relating to children and young persons, including;

- Institutions, places or areas where presence of children and young persons should be expected such as schools, youth clubs, parks, playgrounds and entertainment venues such as bowling alleys, cinemas etc.
- Any premises where children congregate including bus stops, café's, shops, and any other place where children are attracted,
- Areas that are prone to issues of youths participating in anti-social behaviour
- Recorded incidents of attempted underage gambling

Matters relating to vulnerable adults, including;

- Information held by the licensee regarding self-exclusions and incidences of underage gambling,
- Arrangement for localised exchange of information regarding self exclusions and gaming trends.
- Proximity of premises which may be frequented by vulnerable people such as hospitals, residential care homes, medical facilities, doctor's surgeries, council housing offices, addiction clinics or help centres, places where alcohol or drug dependant people may congregate, etc.

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

## **11. Premises licences**

A premises licence can authorise the provision of facilities at the following:

- casino premises
- bingo premises
- betting premises, including betting tracks
- adult gaming centres
- family entertainment centres

Premises can be "any place" but the Act generally prevents more than one premises licence applying to any one place. A single building could be subject to more than one premises licence provided they are for different parts of the building and those parts can be reasonably regarded as being separate "premises".

This will allow large, multiple unit premises such as tracks, shopping malls or service stations to obtain discrete premises licences, with appropriate safeguards in place. We will pay particular attention if there are issues about sub-divisions of a single building or plot and mandatory conditions relating to access between premises are observed. We will not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partition, can properly be regarded as different premises. Whether different parts of a building can properly be regarded as being separate premises will depend on the individual circumstances of the case.

A particular requirement might be for entrances and exits from parts of a building covered by one or more licences to be separate and identifiable so that the separation of the premises is not compromised and people are not allowed to “drift” accidentally into a gambling area. It should normally be possible to access the premises without going through another licensed premises or premises with a permit. We would also expect customers to be able to participate in the activity named on the premises licence.

The Council has not passed a resolution under section 166(5) of the Gambling Act 2005 to not issue casino premises licences. If such a resolution were considered in the future, the Council would carry out a full public consultation and consider all responses before passing such a resolution.

We will not turn down applications for premises licences where relevant objections can be dealt with through the use of licence conditions.

Other than an application for a betting premises licence for a track, we are not able to issue a premises licence unless the applicant holds the relevant operating licence from the Gambling Commission.

When considering applications for premises licences we will not take into account either the expected “demand” for facilities or the likelihood of planning permission or building regulation approval being granted, as well as “moral” objections to gambling. Equally, the grant of a premises licence would not prejudice or prevent any action that may be appropriate under the law relating to planning or building regulations.

We are aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to our decision-making. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated.

We will only issue a premises licence once we are satisfied that the premises is ready to be used for gambling in the reasonably near future. Where we have agreed to grant a licence but substantial building works or alterations are still required we will impose a condition requiring the premises to be inspected on completion of the work and prior to the issue of the licence. Where the construction of a premises is not yet complete, or if they need alteration, or the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made as having a right to occupy the premises is a pre-condition to making a Premises Licence application.

We will apply a two stage consideration process if there is outstanding construction or alteration works at the premises:

- should the premises be permitted to be used for gambling;
- can appropriate conditions be imposed to cater for the situation that the premises is not yet in the state in which they should be before gambling takes place.

We are entitled to decide whether or not it is appropriate to grant a licence subject to conditions.

Applicants for premises licences are encouraged to propose any prohibitions or restrictions of their own in circumstances where it is felt that the presence of children would be undesirable or inappropriate.

## **12. Licence conditions**

In particular cases we may find it necessary to impose conditions beyond appropriate mandatory and default conditions. Any such conditions will be relevant to the need to make the building suitable for use 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. We will not have recourse to a pool of standard conditions.

We will also ensure that where category C or above machines that are on offer in premises to which children are admitted are located in an area of the premises which is separated by a physical barrier to prevent access other than through a designated entrance; the designated area is supervised and observed by staff or the licence holder.

Examples of conditions which are likely to be attached in certain circumstances include those relating to opening hours, segregation of gambling from non-gambling areas frequented by children, CCTV, staffing levels at certain times, SIA licensed door supervisors, appropriate signage for adult only areas, age limits, or keeping children and young persons away from gaming machines. We will also expect the applicant to offer their own suggestions as to way in which the licensing objectives can be promoted effectively.

We will not seek to control those matters specified in the Act with conditions:

- which make it impossible to comply with an operating licence condition imposed by the Gambling Commission, relating to gaming machine categories or method of operation,
- which specify that membership of a club or other body is required, or
- in relation to stakes, fees, winnings or prizes.

Duplication with other statutory or regulatory regimes will be avoided as far as possible. The need for conditions will be assessed on the specific merits of each application.

## **Reviews**

A request for a review of a premises licence can be made by interested parties or responsible authorities, however, we will decide if the review is to be carried out on the basis of the following:

- In accordance with any relevant Code of Practice and/or guidance issued by the Gambling Commission
- Consistent with the licensing objectives
- In accordance with our statement of principles.

We will also consider whether or not the request for a review is frivolous, vexatious, or repetitious or whether we would wish to alter/revoke or suspend the licence.

We can also initiate a review of a premises licence on the basis of any reason which we think is appropriate, including if a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

Once a valid application for a review has been received by us, representations can be made by responsible authorities and interested parties during the statutory consultation period. The purpose of the review will be to determine whether we should take any action in relation to the licence. The options available are:

- Add, remove or amend a licence condition;
- Remove or amend a default condition, such as opening hours;
- Suspend the premises licence for a period not exceeding 3 months;
- Revoke the licence.

### **13. Gaming Machines**

Gaming machines include all types of gambling activity which can take place on a machine, including betting on “virtual” events.

The Act itself prescribes the number and category of gaming machines that are permitted in each type of gambling premises.

Subject to the provisions of the Act, gaming machines can be made available in a wide variety of premises, including :

- betting premises, (including tracks )
- adult gaming centres
- family entertainment centres
- clubs
- pubs and other alcohol licensed premises
- travelling fairs

A machine is not a gaming machine if the winning of a prize is determined purely by the player’s skill. However, any element of “chance” imparted by the action of the machine would bring it within the definition of a gaming machine.

We will encourage permit and premises licence holders to adopt applicable codes of practice which may be introduced by the amusement industry or Gambling Commission, from time to time.

## **14. Temporary Use Notices**

These allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. We would 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. Premises that might be suitable for a temporary use notice would include hotels, conference centres and sporting venues. A temporary use notice may only be granted to a person or company holding a relevant operating licence.

Temporary use notices may only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single overall winner. Equal chance gaming is gaming which does not involve playing or staking against a bank and gives equally favourable chances to all participants. Examples of equal chance gaming include games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.

## **15. Occasional Use Notices**

We have very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. Whilst tracks are normally thought of as permanent racecourses, this can also include land which has a number of uses for example agricultural land upon which a point-to-point meeting takes place. Land used temporarily as a track can qualify, provided races or sporting events take place or will take place there. The track need not be a permanent fixture.

## **16. Lotteries**

All lotteries are unlawful unless they are run in accordance with an operating licence issued by the Gambling Commission - unless they are "exempt" lotteries as defined by the Act. One of those exemptions is for "small societies lotteries," which we will allow, after registration.

A society will be allowed to register with us if it is "non-commercial", in other words, if it is established and conducted :

- for charitable purposes ;
- for the purpose of enabling participation in, or of supporting, sport, athletic or a cultural activity; or
- for any other non-commercial purpose other than for private gain.



APPENDIX 1

<b>Matter to be dealt with</b>	<b>Full Council</b>	<b>Sub-Committee</b>	<b>Officers</b>
Three year licensing policy	X		
Policy not to permit casinos	X		
Fee Setting – when appropriate	X		
Application for premises licenses		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn.
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application to transfer a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence		X	

Application for a club gaming/club machine permits		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Cancellation of a club gaming/club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

X – indicates at the lowest level to which decisions can be delegated.

## APPENDIX 2

### Contact Details for Responsible Authorities.

#### Gambling Commission

Gambling Commission  
Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP  
0121 230 6666

#### Police

The Licensing Officer,  
Dyfed-Powys Police,  
Llanidloes Police Station,  
9 Lon Glandwr,  
Llanidloes,  
Powys  
SY18 6DD

08453302000  
07968220697

#### Fire Authority

The Licensing Officer,  
Mid & West Wales Fire & Rescue Service,  
Garth Road, Builth Wells,  
Powys, LD2 3AR.

Tel: 0370 6060699

#### Planning

Development Control Manager  
Economic and Community Regeneration Directorate  
The Gwalia  
Ithon Road, Llandrindod Wells,  
Powys, LD1 6AA.

Tel: (01597) 827169  
OR

Brecon Beacons National Park Authority  
Plas y Ffynon  
Cambrian Way, Brecon,  
Powys, LD3 7HR

Environmental Protection

Brecknockshire

Environmental Protection Officer  
Environmental Health Offices  
Neuadd Brycheiniog  
Cambrian Way, Brecon,  
Powys, LD3 7HR.

Tel: (01874) 612250

Radnorshire

Environmental Protection Officer  
Environmental Health Offices  
The Gwalia  
Ithon Road, Llandrindod Wells,  
Powys, LD1 6AA.

Tel: (01597) 827168

Montgomeryshire

Environmental Protection Officer  
Environmental Health Offices  
Neuadd Maldwyn  
Severn Road, Welshpool,  
Powys, SY21 7AS.

Tel: (01938) 551299

Child Protection

Childrens Services,  
1 High Street,  
Llandrindod Wells,  
Powys, LD1 3AG.

Tel: (01597) 827325

HM Customs & Excise

## **HM Revenue and Customs**

Cumbernauld Accounting Team  
St Mungo's Road  
Glasgow  
G70 5WY

### **APPENDIX 3**

The following are 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

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol