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WARWICK DISTRICT COUNCIL

**GAMBLING ACT 2005 –
LICENSING POLICY**

STATEMENT OF PRINCIPLES

1. Introduction

1.1 Warwick District Council as the Licensing Authority (referred to in this Statement as "the Authority") makes this Statement of Principles in pursuance of its powers and duties under Section 349 of the Gambling Act 2005 (referred to in this Statement as "the Act") and sets out the Authority's approach in dealing with its responsibilities under the Act.

1.2 Warwick District is situated in the south of Warwickshire in the centre of England. Appropriately for England's heartland, Warwick District Council's boundaries are roughly heart-shaped, embracing an area of some 28,253 hectares with a population of 126,000 people. The District covers four towns, Royal Leamington Spa, Warwick, Kenilworth and Whitnash as well as a large rural area with 18 Parish Councils. It is acknowledged that the town centres have a large proportion of residential premises.

1.3 List of consultees

The Authority has consulted the following on the content of this Statement of Principles:-

- Holders of existing licences, permits and registrations who will be affected by the provisions of the Act.
- Town and Parish Councils
- Association of British Bookmakers
- British Amusement Catering Association
- British Casino Association
- Bingo Association
- British Horse Racing Board
- British Greyhound Racing Board
- Casino Operators Association
- Club & Institute Union
- Gamcare
- Responsibility in Gambling Trust
- Gamblers Anonymous
- Licensed Victuallers Association
- Lotteries Commission
- 250 members of the public chosen at random from the Citizens' Panel
- Responsible authorities as defined in 10.2
- Royal Society of Psychiatrists

1.4 In preparing this statement, the Authority has had regard to the provisions of the Act, the Guidance issued by the Gambling Commission, Regulations made by the Secretary of State and responses to its consultations.

1.5 This statement came into force on 30th January 2010, was reviewed in 2012, will have effect until 2016 and is being kept under review and revised or amended as required following consultation.

2. Gambling Act 2005

2.1 There are 3 licensing objectives which are central to the regulatory regime created by the Act. These are:-

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

2.2 In carrying out the licensing function under the Act the Authority will aim to permit the use of premises for gambling as long as it is considered to be :-

- in accordance with any relevant Codes of Practice issued by the Gambling Commission;
- in accordance with any relevant Guidance issued by the Gambling Commission;
- in accordance with this Statement of Principles; and
- reasonably consistent with the licensing objectives.

2.3 The Act provides for 3 categories of licence :

- operating licences;
- personal licences; and
- premises licences

2.4 The Authority will be responsible for issuing premises licences.

2.5 The Gambling Commission will be responsible for issuing operating and personal licences, spread betting is regulated by The Financial Services Authority, remote gambling is dealt with by the Gambling Commission and the National Lottery is regulated by The National Lottery Commission.

3. The Gambling Commission

3.1 The Gambling Commission has been established to regulate all commercial gambling in Great Britain (other than spread betting or the National Lottery).

3.2 The Commission has an overriding obligation to pursue and have regard to the licensing objectives set out below and to permit gambling so far as it thinks is reasonably consistent with them.

3.3 The Commission has issued guidance under Section 25 regarding the manner in which local authorities exercise their licensing functions under the Act and, in particular, the principles to be applied by local authorities.

3.4 The Commission will also issue one or more codes of practice under Section 24 of the Act about the manner in which facilities for gambling are provided, which may also include provisions about the advertising of gambling facilities.

3.5 The Gambling Commission can be contacted at: www.gamblingcommission.gov.uk

4. Authorised Activities

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

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

4.2 The main functions of the Authority are to:

- licence premises for gambling activities;
- grant permits for gambling and gaming machines in clubs;
- regulate gaming and gaming machines in alcohol licensed premises;
- grant permits to family entertainment centres for the use of certain lower stake gaming machines;
- grant permits for prize gaming;
- consider notices given for the temporary use of premises for gaming;
- consider occasional use notices for betting at tracks; and
- register small societies lotteries;

5. General Statement of Principles

5.1 The Authority recognises the wide variety of premises which will require a licence or a permit. These include casinos, betting shops, bingo halls, pubs, clubs, amusement arcades and race tracks.

5.2 In carrying out its licensing functions the Authority will have regard to any guidance issued by the Gambling Commission from time to time.

5.3 The Authority will not seek to use the Act to resolve matters more readily dealt with under other legislation and this statement avoids duplication with other regulatory regimes wherever possible. In considering applications, and taking enforcement action, under the Gambling Act the licensing authority will have regard to the provisions of the Human Rights Act and in particular

- Article 1, Protocol 1 – peaceful enjoyment of possessions. A licence is considered a possession in law and people should not be deprived of their possessions except in the public interest.
- Article 6 – right to a fair hearing.
- Article 8 – respect for private and family life. In particular, removal or restriction of a licence may affect a persons private life; and.
- Article 10 – right to freedom of expression.

5.4 To ensure the licensing objectives are met the Authority will establish a close working relationship with the police, the Gambling Commission and, where appropriate, other responsible authorities.

- 5.5 Where children and other vulnerable people are allowed access to premises where gambling takes place, the Authority may take whatever steps are considered necessary to either limit access generally or by introducing measures to prevent under age gambling.
- 5.6 The Authority will not normally seek to limit the access of children to any premises unless it receives representations to that effect or it believes it is right to do so for the prevention of their physical, moral or psychological harm.
- 5.7 Applicants seeking 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.
- 5.8 However, the overriding principle is that each application and the circumstances prevailing at each premises will be considered on their own individual merits.

6. **Preventing gambling from being a source of crime and disorder; being associated with crime and disorder or being used to support crime**

- 6.1 The Gambling Commission will play a leading role in preventing gambling from being a source of crime and will maintain rigorous licensing procedures that aim to prevent criminals from providing facilities for gambling.
- 6.2 The Authority also has a duty under Section 17 of the Crime and Disorder Act 1998 to exercise its functions with due regard to the likely effect of the exercise of those functions on, and to do all it reasonably can to prevent, crime and disorder in the District.
- 6.3 Anyone applying to the Authority for a premises licence will have to hold an operating licence from the Commission before a licence can be issued so the Authority will not be concerned with the suitability of an applicant. Where concerns about a person's suitability arise the Authority will bring those concerns to the attention of the Commission.
- 6.4 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, the Authority 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 door supervisors.
- 6.5 As far as disorder is concerned, there are already powers in existing anti-social behaviour and licensing legislation to deal with measures designed to prevent nuisance, whether it arises as a result of noise from a building or from general disturbance once people have left a building. The Authority does not therefore intend to use the Act to deal with general nuisance issues, for example, parking problems, which can easily be dealt with using alternative powers.
- 6.6 The Authority will only seek to address issues of disorder under the Act if the disorder amounts to activity which is more serious and disruptive than mere nuisance. A disturbance could be serious enough to constitute disorder if police assistance was required to deal with it. Another factor the Authority is likely to take

into account is how threatening the behaviour was to those who could see or hear it, whether those people live sufficiently close to be affected or have business interests that might be affected.

- 6.7 When making decisions in this regard the Authority will give due weight to any comments made by the police.

7. Ensuring gambling is conducted in a fair and open way

- 7.1 The Gambling Commission does not expect local authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will either be a matter for the management of the gambling business or will relate to the suitability and actions of an individual. Both issues will be addressed by the Commission through the operating and personal licensing regime.

- 7.2 Because betting track operators do not need an operating licence from the Commission the Authority may, in certain circumstances, require conditions of licence to ensure that the environment in which betting takes place is suitable.

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

- 8.1 With one or two limited exceptions, the intention of the Act is that children and young persons should not be allowed to gamble and should therefore be prevented from entering gambling premises which are 'adult-only' environments.
- 8.2 In practice, steps will generally be taken to prevent children from taking part in, or being in close proximity to, gambling. There may also be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children. In relation to casinos only, the Gambling Commission will be issuing a code of practice about access to casino premises for children and young persons.
- 8.3 When considering whether to grant a premises licence or permit the Authority will consider whether any 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, such as pubs, clubs, betting tracks etc.
- 8.4 As the term 'vulnerable persons' has not been defined, in seeking to protect vulnerable people the Authority will normally class as 'vulnerable' those 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.
- 8.5 The Authority 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 its considerations against the overall principle of aiming to permit the use of premises for gambling.

9. Premises licences

- 9.1 Section 150 of the Act permits the issue of premises licences authorising the provision of facilities at the following:-
- casino premises;
 - bingo premises;
 - betting premises, including tracks and premises used by betting intermediaries;
 - adult gaming centres;
 - family entertainment centres;
- 9.2 Premises can be 'any place' but the Act 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 genuinely regarded as being different 'premises'.
- 9.3 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 that people are not allowed to 'drift' accidentally into a gambling area.
- 9.4 Where the Authority has concerns about the use of premises for gambling these will generally be addressed through licence conditions.
- 9.5 Other than an application for a betting premises licence in respect of a track, the Authority is not able to issue a premises licence unless the applicant holds the relevant operating licence from the Gambling Commission.
- 9.6 When considering applications for premises licences the Authority will not take into consideration either the expected 'demand' for facilities or the likelihood of planning permission being granted.
- 9.7 The Authority will maintain a register of premises licences issued and will ensure that the register is open for public inspection at all reasonable times.

10. Responsible Authorities

- 10.1 These are generally public bodies that must be notified of all applications and who are entitled to make representations to the Authority if they are relevant to the licensing objectives.
- 10.2 Section 157 of the Act identifies the bodies that are to be treated as responsible authorities. In relation to the Authority's area, these are:
- The Licensing Authority itself
 - The Gambling Commission;
 - The chief officer of police/chief constable for the area in which the premises is wholly or partially situated
 - The fire and rescue authority for the same area
 - The local planning authority;
 - An authority with functions in relation to pollution of the environment or harm to human health

- A body designated in writing by the licensing authority as competent to advise about the protection of children from harm (see paragraphs 10.3 and 10.4 set out below)
- HM Revenue & Customs; and
- Any other person prescribed in regulations by the Secretary of State.

Section 211(4) provides that in relation to a vessel, but no other premises, responsible authorities also include navigation authorities within the meaning of section 221(1) of the Water Resources Act 1991 that have statutory functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is proposed to be navigated at a time when it is to be used for licensable activities. This would include the Environment Agency, the British Waterways Board and the Secretary of State.

10.3 The Authority is required to set out the principles to be applied in exercising its powers to designate, in writing, a body which is competent to advise about the protection of children from harm. The principles to be applied in designating such a body are:

- The body must be responsible for covering the whole of the Authority's area: and
- the body should be answerable to democratically elected persons rather than any particular vested interest groups etc.

10.4 Details of the body designated will be supplied on request.

11. Interested Parties

11.1 Section 158 of the Act defines interested parties. To accept a representation from an interested party, the licensing authority must be satisfied that the person:

- 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

11.2 In determining whether someone lives sufficiently close to a particular premises so as to be affected, the Authority 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; and
- the potential impact of the premises.

11.3 In determining whether a person has a business interest which could be affected, the Authority 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.

11.4 In determining whether a person represents those in the above categories, the Authority will consider representations from democratically elected representatives, such as local councillors and members of parliament, town and parish councils and trade associations, trade unions, residents and tenants associations and other similar bodies.

12. Representations

12.1 The Authority is obliged to consider representations from 'responsible authorities' and 'interested parties' and must determine whether or not representations are admissible. A representation is inadmissible if not made by a responsible authority or an interested party.

12.2 The Authority must determine the relevance of the representation. The only representations likely to be relevant are those that relate to the licensing objectives, or that raise issues under it in statement or the Commission's guidance or codes of practice.

12.3 Any concerns that responsible authorities have in relation to their own functions cannot be taken into account if they are not relevant to the application for a premises licence and the licensing objectives.

12.4 The Authority may, in certain circumstances, consider a representation to be either frivolous or vexatious. This will generally be a matter of fact given the circumstances of each individual case but before coming to a decision the Authority may consider the following:

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

13. Conditions of licence

13.1 Conditions imposed by the Authority may be general in nature by applying to all licences, or those of a particular type, or they may be specific to a particular licence.

13.2 The Authority will not generally impose conditions that limit the use of premises for gambling unless it is deemed to be necessary as a result of the requirement to act in accordance with the Gambling Commission's guidance, any codes of practice issued by the Commission, this Statement of Principles or in a way that is reasonably consistent with the licensing objectives.

13.3 Any conditions imposed by the Authority will be proportionate to the circumstances they are intended to address. In particular, the Authority will ensure that any conditions are:

- relevant to the need to make the premises suitable as a gambling facility;
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects
- decided on a case by case basis

13.4 The Authority will not consider imposing conditions:

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

14. Casinos

14.1 The Authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005 but is aware that it has power to do so. Should the Authority decide to pass such a resolution, it will update this policy statement with details of the resolution.

15. Betting

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

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

15.3 The Council has the power to restrict the number of betting machines, their nature and the circumstances in which they are made available. It will not generally exercise this power though unless there are good reasons to do so taking into account, among other things, the size of the premises and the level of management and supervision especially where vulnerable people are concerned.

15.4 Each application will be considered on its own individual merits.

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

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

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

15.8 When considering whether to exercise its power to restrict the number of betting machines at a track the Council will consider the circumstances of each individual application and, among other things will consider the potential space for the number of machines requested, the ability of track staff to supervise the machines,

especially if they are scattered around the site, and the ability of the track operator to prevent children and young persons and vulnerable people betting on the machines.

16. Bingo

- 16.1 The holder of a bingo operating licence will be able to provide any type of bingo game including cash and prize bingo.
- 16.2 Commercial bingo halls will require a bingo premises licence from the Council
- 16.3 **Under the auspices of their gaming machine permit, adult gaming centres may offer any type of prize gaming and unlicensed family entertainment centres may offer equal chance prize gaming without the need for a prize gaming permit.**
- 16.4 In each of the above cases it is important that where children are allowed to enter premises licensed for bingo, in whatever form, they are not allowed to participate in any bingo game. When considering applications of this type the Council will therefore take into account, among other things, the location of the games or machines, access to those areas, general supervision of the premises and the display of appropriate notices.
- 16.5 A limited number of gaming machines may also be made available at bingo licensed premises.
- 16.6 Bingo is a class of equal chance gaming and will be permitted in alcohol licensed premises and in clubs provided it remains below a certain threshold, otherwise it will be subject to a bingo operating licence which will have to be obtained from the Gambling Commission.

17. Gaming

- 17.1 A gaming machine can cover all types of gambling activity which can take place on a machine, including betting on 'virtual' events.
- 17.2 The Act itself prescribes the number and category of gaming machines that are permitted in each type of gambling premises.
- 17.3 Subject to the provisions of the Act, gaming machines can be made available in a wide variety of premises, including :
- casinos
 - bingo premises
 - betting premises, (including tracks)
 - adult gaming centres
 - family entertainment centres
 - clubs
 - pubs and other alcohol licensed premises
 - travelling fairs

- 17.4 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 cause it to be a gaming machine.
- 17.5 The Council will, where appropriate, seek to encourage permit and premises licence holders to adopt any codes of practice which may be introduced by the amusement industry from time to time.

18. Lotteries

- 18.1 All lotteries are unlawful unless they are run in accordance with an operating licence issued by the Gambling Commission or it is an 'exempt' lottery as defined by the Act.
- 18.2 One of those exemptions is in respect of what are termed "small societies lotteries" and the Council is responsible for registering these 'small' lotteries.
- 18.3 A society will be allowed to register with the Council if it is a 'non-commercial' lottery, in other words, 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.

- 18.4 The Council will maintain a register of small societies lotteries which it has registered.

19. Exchange of Information

- 19.1 Subject to the provisions of the Data Protection Act 1998 the Authority will share any information it receives, through the application process with the Gambling Commission and any of the bodies referred to in Schedule 6 of the Act. In doing so the Authority will have regard to the Act itself, any guidance issued by the Commission from time to time and any Regulations issued by the Secretary of State.

20. Enforcement Protocols

- 20.1 In general, the Gambling Commission will take the lead role on the investigation and, where appropriate, the prosecution of illegal gambling.
- 20.2 The Authority will work with the Commission, the police and other enforcing authorities to provide for the targeting of agreed problem or high-risk premises. A lighter touch will be applied to those premises which are shown to be well managed and maintained.
- 20.3 The overall aim is to permit the use of premises for gambling. With that in mind it is intended that action will generally be taken against problem premises through the review process.
- 20.4 In cases where more formal action is considered to be appropriate, the key principles of consistency, transparency and proportionality will be observed.

21. The Licensing Process

- 21.1 The Authority's licensing functions under the Act will be carried out by the Licensing Committee, supported by a number of Licensing Panels and by officers acting under the delegated authority of the Committee.
- 21.2 Where there are no areas of contention it is considered that many of the functions will be largely administrative. In the interests of efficiency and effectiveness these will, for the most part, be carried out by officers.
- 21.3 Where there are relevant representations in respect of an application the matter will be determined by the Licensing Committee or one of its Panels, as will any application for the review of a licence.
- 21.4 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, the Statement 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.

This Statement of Principles has been adopted at a time when a number of regulations, Operating / Personal Licence conditions, Codes of Practice and guidance are not yet published. Should anything in these, impact upon the content of this document it will need to be borne in mind and amended at a later stage. All references to the Gambling Commission's Guidance for local authorities refer to the Guidance published in April 2006.

Reviewed October 2012