

# Licensing & Regulatory Committee

Minutes of the meeting held on Wednesday 7 October 2015, at the Town Hall, Royal Leamington Spa at 2.30pm.

**Present:** Councillor Illingworth (Chairman); Councillors Ashford, Mrs Bunker, Davies, Edginton, Mrs Falp, Gifford, Gill, Quinney, Redford, Mrs Stevens and Weed.

Apologies for absence were received from Councillors Cain, Mrs Cain and Mann.

## 9. Substitutes

Councillor Mrs Bunker substituted for Councillor Murphy, and Councillor Edginton substituted for Councillor Miss Grainger.

## 10. Declarations of Interest

Councillor Illingworth declared an interest because he had responded to the consultation document on the Gambling Policy.

Councillor Mrs Falp declared an interest in respect of the approval of the confidential minutes dated 30 July 2015 because she knew the applicant.

The Chairman announced that the Deputy Chief Executive and Monitoring Officer (AJ) had urgent business to convey to the Committee about the operation of this Committee. The Chairman had agreed that this could be brought to this meeting. On advice from the Council's Solicitor, the meeting would go into closed session as the subject matter was subject to legal privilege.

## 11. Public and Press

**Resolved** that under Section 100A of the Local Government Act 1972 that the Public and Press be excluded from the meeting for the following item by reason of the likely disclosure of exempt information within the paragraphs of Schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006, as set out below:

Minute No.	Para Nos.	Reason
12	5	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
13	1	Information relating to an Individual
13	2	Information which is likely to reveal the identity of an individual
13	7	Information relating to any action taken or to be taken in connection

with the prevention, investigation or prosecution of crime.

The full minutes for the following items would be set out in the confidential minutes of the meeting.

12. **Urgent Item – Operation of the Licensing & Regulatory Committee**

The item would be detailed in full in the confidential minutes.

13. **Record of Licensing & Regulatory Panel Hearings**

The confidential minutes of the Licensing & Regulatory Panel Hearings held on 26 February, 5 May, 14 July, 30 July and 17 September 2015 were agreed as written and signed by the Chairman as a correct record, subject to one amendment of the minutes dated 30 July 2015.

The Chairman declared the meeting open to the Public.

14. **Minutes**

The minutes of the meetings held on 25 February, 7 April and 10 June 2015 were agreed as written and signed by the Chairman as a correct record.

15. **Record of Licensing & Regulatory Panel Hearings**

The minutes of the Licensing & Regulatory Panel Hearings held on 24 March, 13 April, 5 May, 1 June, 18 June, 8 July and 26 August 2015 were agreed as written and signed by the Chairman as a correct record.

16. **Revision of Gambling Policy**

The Committee considered a report from Health & Community Protection which set out the new Gambling Policy / Statement of Principles.

The main differences between the Council's current policy and the new one related to Social Responsibility and the requirement for operators to adhere to the new Codes of Practice and Guidance issued by the Gambling Commission.

Appendix 1 to the report gave a listing of responses received to the consultation document on the policy from the seven responses received and it was noted that two consultees had made comments on reference point 7.4 of the revised policy. The Committee agreed that the comment made on behalf of the Association of British Bookmakers was the one that would go forward in respect of reference point 7.4.

Members questioned whether the Council needed to set a policy on whether or not casinos would be permitted in the District which was within the remit of a Local Authority to decide. The Council's Solicitor advised that the Gambling Commission had just published relevant new guidance. The Committee requested that officers check the new guidance and if necessary bring a report to the Committee.

**Resolved** that the new Gambling Policy, as set out in Appendix 1 to the minutes, is recommended to Council.

The Chairman thanked the Places and Projects Team Lead for the report.

(The meeting ended at 3.12 pm)

## **GAMBLING ACT 2005 STATEMENT OF POLICY**

### **1. Introduction**

- 1.1 Warwick District Council, as the Licensing Authority ( "the Authority"), makes this Statement of Policy ("the Statement") in pursuance of its powers and duties under Section 349 of the Gambling Act 2005 ( "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 and its boundaries embrace an area of some 28,253 hectares with a population of 138,462 people. The District covers four towns, Royal Leamington Spa, Warwick, Kenilworth and Whitnash as well as a large rural area with 20 Parish Councils.
- 1.3 The Authority has consulted with the statutory consultees and a widespread cross section of the trade and other organisations, this list can be found in Appendix 1 of this document.
- 1.4 In preparing this Statement, the Authority has had regard to the provisions of the Act, the Guidance issued by the Gambling Commission and Regulations made by the Secretary of State. Due consideration has been given to the responses of all consultees and in determining the weight to be attached to particular representations the Authority has taken into account the following factors:
- Who is making the representation (what is their expertise or interest)
  - The relevance to the licensing objectives
  - how many others expressed the same or similar views

### **2. Gambling Act 2005**

- 2.1 The Act specifies licensing objectives which are central to the regulatory regime, 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 under section 24 of the Act.**
  - **In accordance with any relevant Guidance issued by the Gambling Commission under Section 25 of the Act.**
  - **In accordance with this Statement of Policy 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. The Gambling Commission will be responsible for issuing operating and personal licences.

2.5 This Statement will come into force on the 31st January 2016 and will have effect until 30<sup>th</sup> January 2019 being kept under review and revised or amended as required following consultation.

### **3. Authorised Activities**

3.1 '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.

3.2 The main functions of the Licensing 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 for prize gaming
- Consider notices given for the temporary use of premises for gaming
- Receive occasional use notices for betting at tracks and
- Register small societies lotteries

3.3 Spread betting is regulated by the Financial Services Authority. Remote Gambling is dealt with by the Gambling Commission. The National Lottery is regulated by the Gambling Commission.

### **4. General Statement of Principles**

4.1 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 racing tracks.

4.2 The Authority will not seek to use the Act to resolve matters more readily dealt with under other legislation. This Statement will avoid duplication with other regulatory regimes wherever possible. In considering applications, and taking enforcement action, under the Gambling Act the Authority will have regard to the provisions of the Human Rights Act.

4.3 To ensure the licensing objectives are met the Authority will establish a close working relationship with the Police, the Gambling Commission and other Responsible Authorities.

4.4 This Statement will not override the right of any person to make an application under the Act, make representations about an application or apply for a review of a licence. Each application will be considered on its own merits.

- 4.5 In its Guidance to Local Authorities the Gambling Commission suggest that Licensing Authorities should adopt a "Local Area Profile". A Local Area Profile is created by gathering information about a locality and any particular areas of concern within that locality. Where evidence is submitted to the Licensing Authority which identifies any areas of concern it is intended to produce a Local Area Profile separate to this Statement. Once adopted, the Local Area Profile would assist the Authority and Operators in identifying specific local risks within the District.

## **5. The Licensing Objectives**

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

5.1.1 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, or being associated with providing such facilities.

5.1.2 When applying to this Authority for a premises licence the applicant will have to hold an operating licence from the Commission before a licence can be issued so the Council will not be concerned with the suitability of the applicant. Where concerns about a person's suitability arise the Authority will bring those concerns to the attention of the Commission.

5.1.3 The Authority will have to be satisfied that the premises will not adversely affect the licensing objectives and are compliant with the Commissions Guidance, Codes of Practice and this Statement. The applicant will be expected to demonstrate that they have, or intend to implement, sufficient controls to prevent the premises being a source of crime and disorder, associated with crime and disorder or used to support to crime. This could include details of any risk assessments that have been carried out, measures relating to the design and layout of the premises to minimise opportunities for crime and disorder and the strategies for managing the premises.

5.1.4 Where an area is known to have high levels of crime the Authority will consider carefully whether the location is suitable for gambling premises. The Authority will expect the applicant to have a good understanding of the local area in which they either operate, or intend to operate and demonstrate how they will promote this objective in this location. Where representations are received, it may be necessary for appropriate conditions to be attached to the licence, for example, Licensed Door Supervisors, CCTV or minimum levels of staffing.

5.1.5 Where a particular premises has a history of crime and disorder or a history of use by those involved in crime as a place of association or a way to dispose of the proceeds of crime the Authority will give careful consideration as to whether it is suitable to be licensed under the Act. The Authority may decide that any licence that is granted should be subject to additional conditions to promote this objective.

5.1.6 Whilst issues of nuisance are not included specifically in the gambling objectives and cannot be addressed via the Gambling Act, the Authority may consider, that extreme instances of public nuisance and persistent public nuisance amount to crime and disorder and may refuse to grant a licence or impose additional conditions in circumstances where serious and persistent public nuisance is associated with the premises.

## **5.2 Ensuring Gambling is conducted in a fair and open way.**

5.2.1 Generally it is for the Gambling Commission to ensure that this licensing objective is complied with as this will be a matter that will primarily dealt with under either the operating licence or the personal licence. Where the Authority suspects that gambling is not being conducted in a fair and open way this will be brought to the attention of the Commission.

5.2.2 In relation to the licensing of tracks, as defined by section 353 of the Act the Authority's role will be different from other premises in that track operators will not necessarily have an operating licence. In those circumstances the premises licence may need to contain conditions to ensure that the environment in which betting takes place is suitable. In particular the Authority will consider whether the layout, lighting and fitting out of the premises have been designed so as to ensure that gambling is conducted in a fair and open way and whether sufficient management measures are proposed or in place. The Authority will also consider whether the operators have been compliant with enforcement agencies and whether the Commissions Codes of Practice have been complied with.

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

5.3.1 This objective intends to prevent children and young persons from taking part in, or being in close proximity to, gambling. This also means restricting advertising so that gambling products are not aimed at or are, particularly attractive to children.

5.3.2 The Act and Gambling Commission Guidance do not define the term vulnerable but the Commission states that for regulatory purposes it assumes "vulnerable persons" includes people who gamble more than they want to; people who are gambling beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to mental health issues, learning disabilities or substance abuse. This is the definition the Authority will use in its consideration of applications. Whilst the Act does not prohibit vulnerable groups in the same manner as children and young persons the Authority will consider whether or not measures have been taken to protect such a group. Any such considerations will be balanced against the Authority's aim to permit the use of premises for gambling and each application will be judged on its own merits.

5.3.3 The Authority will expect operators to put appropriate measures in place to protect children and other vulnerable persons. These could include, but are not confined to:

- Specific training programmes for staff to ensure that they are able to identify children and vulnerable people and take appropriate action to exclude them from the premises or part of the premises

- Effective measures to implement a proof of age scheme for adult only premises.
- Provision for self-barring schemes and access to information or helplines for organisations such as GamCare.
- Appropriate design and layout of the premises to ensure that they do not attract children or vulnerable people including appropriate signage and location of machines
- Effective management of the premises to include refusals logs and sufficient numbers of staff.
- Ensuring that any promotional materials do not encourage the use of the premises by children, or vulnerable people.

5.3.4 The licensing authority will pay particular attention to any codes of practice which the Gambling Commission issues in relation to specific premises such as casinos. It will consider this licensing objective on a case-by-case basis, and where necessary add conditions to promote this objective.

5.3.5 The Authority will carefully consider the location of the premises in relation to this objective.

## **6. Premises Licences**

6.1 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;

6.2 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'.

6.3 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.

6.4 Where the Authority has concerns about the use of premises for gambling these will generally be addressed through licence conditions.

6.5 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.

6.6 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.

6.7 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.



## **7. Location**

- 7.1 This licensing authority is aware that demand issues cannot be considered with regard to the location of premises either at a district wide or more local scale. However, it considers that the location of gambling premises can be a major factor on the promotion of the licensing objectives. The authority will pay particular attention to the suitability of a location for gambling activity in terms of the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.
- 7.2 Any existing Local Area Profile will be considered by the authority. This will assist operators to make their decisions using the information which may highlight sensitive areas which they can take into account of any sensitive locations within close proximity to proposed gambling premises.
- 7.3 Applicants will have to show that they have considered any potential impact of their proposed business on the licensing objectives and provide information on how they plan to reduce or remove any likely adverse impact on them.
- 7.4 The licensing authority will carefully consider proposals for new gambling premises that are in close proximity to hostels or other accommodation or centres catering for vulnerable people, including those with mental disabilities or learning difficulties, and those with problem gambling or with alcohol or drug abuse problems, in the light of the gambling objectives.
- 7.5 It should be noted that areas considered to be sensitive does not preclude any application being made and each application will be decided on its own merits.

## **8. Primary Activity**

- 8.1 The primary activity of each premises licence type is specified on the premises licence when it is issued. The licensing authority will take decisions in accordance with the Commission's Guidance and Codes of Practice on primary gambling activity, and will have regard to the advice which it issues from time to time, and will expect applicants to operate premises in line with the Commission's Guidance and conditions on their operator's licence. The council will monitor the operation of premises and report any potential breach of operating licence conditions to the Commission. Applications for new premises licences, or to vary an existing licence, will be expected to be clear that the premises are intended to be used for the primary gambling activity proposed.
- 8.2 It should be noted that the Act does not permit a premises to be licensed for more than one gambling activity.

## **9. Responsible Authorities**

- 9.1 These are generally public bodies that must be notified of all applications and who are entitled to make representation to the Authority if they are relevant to the licensing objectives.
- 9.2 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
- The Fire & Rescue Authority
- 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 )
- 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 22 (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.

9.3 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 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.

9.4 Details of the body designated for Warwick District Council and all other responsible authorities are available on [www.warwickdc.gov.uk](http://www.warwickdc.gov.uk) and a printed form is available from the Authority.

## **10. Interested Parties**

10.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence based on the principles detailed in section 2 of this policy statement.

An interested party is someone who-:

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities;
- b) has business interests that might be affected by the authorised activities, or
- c) represents persons in either of the two groups above

10.2 The principles the licensing authority will apply to determine whether a person is an interested party are:

- Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance for local authorities.
- Interested parties can be persons who are democratically. These include MPs, County and District Councillors, Town Councillors and Parish Councillors. No specific evidence of being asked to represent an interested person will be

required as long as the Councillor/MP represents the ward likely to be affected. Other than these persons, this authority will require written evidence that a person 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

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

## **11. Representations**

- 11.1 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.
- 11.2 The only representations likely to be relevant are those that relate to the licensing objectives, or that raise issues under this statement or the commissions Guidance or Codes of Practice. The Authority must determine the relevance of the representation.
- 11.3 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.
- 11.4 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.

## **12 Conditions of Licence**

- 12.1 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.
- 12.2 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.
- 12.3 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

12.4 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 machines 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.

### **13 Casinos**

13.1 There are currently no casinos operating in the district

13.2 Section 166(1) of the Act states that a Licensing Authority may resolve not to issue casino premises licences. There is no resolution to prohibit casinos in the District at present. The Council reserves the right to review this situation and may, at some point in the future resolve not to permit casinos. Should the Council choose to make such a resolution, this will be made in accordance with s166 of the Act and a resolution of full Council following considered debate.

### **14 Betting Machines in Betting Premises**

14.1 The Authority is aware of its power to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching licence condition to a betting premises licence.

14.2 In the event that the Authority considers whether to impose such a condition on any particular licence it may, among other things, take into account the size of the premises, the number of counter positions available for person to person transactions, and the ability of staff to monitor the use of the machines.

### **15 Bingo**

15.1 Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licence, for that or those excluded areas.

15.2 Section 172(7) of the Act provides that the holder of bingo premises licences may make available for use a number of category B gaming machines for use on the premises.

15.3 This authority also notes the Commission's Guidance in the unusual circumstances in which the splitting of pre-existing premises into two adjacent premises might be permitted. It is not permissible for all of the gaming machines to which each of the licenses brings an entitlement to be grouped together within one of the licensed premises.

- 15.4 New rules are laid down in the Act about the playing of bingo specifically in alcohol-licensed premises, clubs and miners welfare institutes. Where the level of bingo played in these premises, under the exempt gaming allowances, reaches a certain threshold, it will no longer be authorised by these allowances, and a bingo operating licence will be required by the Commission.
- 15.5 The holder of a bingo operating licence will be able to provide any type of bingo game including cash and prize bingo.
- 15.6 Commercial bingo halls will require a bingo premises licence from the Council.
- 15.7 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.
- 15.8 Children and young people are allowed into bingo premises, however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed, local authorities will ensure that:
- all such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
  - only adults are admitted to the area where the machines are located;
  - access to the area where the machines are located is supervised;
  - the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
  - at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

## **16 Tracks**

- 16.1 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.
- 16.2 Track operators are not required to hold an 'operator's 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.
- 16.3 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 officers, a betting premises licence in respect of a track does not give an automatic entitlement to use gaming machines.
- 16.4 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 on the machines.

## **17 Temporary Use Notices**

- 17.1 Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Use Notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.
- 17.2 The licensing authority can only accept a Temporary Use Notice from a person or company holding a relevant operating licence.
- 17.3 Regulations prescribed by the Secretary of State provide that Temporary Use Notices can only be used to permit the provision of facilities for equal chance gaming where the gaming is intended to produce a single winner, for example games such as backgammon, cribbage, bingo and poker.
- 17.4 There are a number of statutory limits as regards temporary use notices. Gambling Commission Guidance notes that the meaning of 'premises' in part 8 of the Act, is mentioned in Part 7 of the Gambling Commission Guidance. As with 'premises', the definition of 'a set of premises' will be a question of fact in the particular circumstances of each notice that is given. In the Act 'premises' is defined as including 'any place'. In considering whether a place falls within the definition of 'a set of premises', licensing authorities will need to look at, amongst other things, the ownership/occupation and control of the premises.
- 17.5 The licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission Guidance.

## **18 Occasional Use Notices**

- 18.1 The licensing authority has very little discretion as regards to these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. The licensing authority will need to consider the definition of a 'track' and whether the applicant is permitted to avail them from the notice.

## **19 Gaming Machines**

- 19.1 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. A machine that is capable of being used as a gaming machine whether or not it is currently operating as one would also be classified as a gaming machine.
- 19.2 The Authority is aware of its power to restrict the number of gaming machines in certain circumstances. In the event that the Authority considers whether to impose such a restriction on any particular permit it may, among other things, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons or by vulnerable persons.
- 19.3 The Authority will be unable to issue premises licences to authorise gaming machines in certain types of premises. These generally will be premises to which children and vulnerable people will have unrestricted access and would include take-away premises, taxi offices, supermarkets etc.

## **20    Unlicensed Family Entertainment Centre Gaming Permits**

- 20.1 Where a premises does not hold a Premises Licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.
- 20.2 The Gambling Act 2005 states that a Licensing Authority may “prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under Section 25. The Gambling Commission’s Guidance also states that in their three year licensing policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits and licensing authorities will want to give weight to child protection issues.
- 20.3 Guidance also states that an application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application, licensing authorities may wish to consider asking applicants to demonstrate:
- A full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
  - That the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and
  - That staff are trained to have a full understanding of the maximum stakes and prizes.
- 20.4 It should be noted that a licensing authority cannot attach conditions to this type of permit.
- 20.5 With regard to renewals of these permits, a licensing authority may refuse an application for renewal of a permit only on the grounds that an authorised local authority officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with pursuit of the licensing objectives.

## **21    (Alcohol) Licensed Premises Gaming Machine Permits**

- 21.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority. The licensing authority can remove the automatic authorisation in respect of any particular premises if:
- provision of the machines is not reasonably consistent with the pursuit of the ;
  - licensing objectives
  - gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with)

- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises

21.2 If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issues by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant*”.

This licensing authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff that will monitor that the machines are not being used by those under 18. Notices and signage may also help. As regards to the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

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

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

21.5 It should also be noted that the holder of a permit must comply with Gaming Machines in Alcohol Licensed Premises Code of Practice issued by the Gambling Commission about the location and operation of the machine.

## **22. Prize Gaming Permits**

22.1 The Gambling Act 2005 states that a Licensing Authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority propose to consider in determining the suitability of the applicant”.

22.2 This licensing authority has adopted a Statement of Principles that is available from the licensing department or at [www@warwickdc.gov.uk](http://www@warwickdc.gov.uk). Potential applicants/other interested persons are advised to read the Statement of Principles before applying to the Licensing Authority for a licence or permit.

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

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

- the limits on participation fees, as set out in regulations, must be complied with;



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

### **23. Club Gaming and Club Machine Permits**

- 23.1 Members clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Club Gaming machines permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in regulations. A Club Gaming machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).
- 23.2 Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968. A members club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations.
- 23.3 This Licensing Authority is aware that: "Licensing authorities may only refuse an application on the grounds that:
- the applicant does not fulfil the requirements for members or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
  - the applicants' premises are used wholly or mainly by children and/or young persons;
  - an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
  - a permit held by the applicant has been cancelled in the previous ten years;
- or
- an objection has been lodged by the Commission or the police.
- 23.4 It should be noted that there is a "fast track procedure available for premises which hold a Club Premises Certificate under the Licensing act 2003. As the Gambling Commission's draft Guidance for local authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced" and "The grounds on which an application under the process may be refused are:
- that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
  - that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or

- that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled

23.5 There are statutory conditions on club gaming permits that not child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

## **24. Lotteries**

24.1 In carrying out its functions in relation to Lotteries, the Authority will have regard to the Act, any guidance issued by the Commission from time to time and any Regulations issued by the Secretary of State.

24.2 The Act makes it illegal to promote lotteries unless they are licensed or within an exempt category. One such exemption relates to registered small society lotteries and the Council is responsible for registering small society lotteries, which are promoted by non-commercial organisations that are established for:

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

## **25. Exchange of Information**

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

## **26. Enforcement Protocols**

26.1 The Council will liaise with the Gambling Commission and other enforcing authorities on enforcement issues. These protocols will include agreements relating to joint inspections and joint strategies. This will provide a more efficient deployment of the Council's officers and other officers that are commonly engaged in enforcing gambling law and inspection of licensed premises. For example, these protocols should also provide for the targeting of resources towards high-risk premises and activities that require greater attention. A lighter touch will apply in respect of low risk premises, which are well run.

26.2 In general, action will only be taken in accordance with the principles of the Regulatory Compliance Code, Licensing Authority Enforcement Policy and the relevant provisions as they come into force of the Regulatory Enforcement and Sanctions Act 2008. To this end the key principles of consistency, transparency and proportionality will be maintained.

- 26.3 As per the Gambling Commission Guidance to Licensing Authorities, the Council will endeavour to avoid duplication with other regulatory regimes as far as possible.
- 26.4 The Council has adopted and implemented a risk based inspection programme based on:
- relevant codes of practice
  - guidance issued by the Gambling Commission
  - the licensing objectives
  - the principles set out in this statement of gambling policy
- 26.5 The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 will be to ensure compliance with the Premises Licences and other permissions, which it authorises. The Gambling commission will be the enforcement body for the Operator and Personal Licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines will not be dealt with by the licensing authority but will be notified to the Gambling Commission.

## **27. The Licensing Process**

- 27.1 The powers of the Council as a licensing authority under the Act may be carried out by the Licensing and Regulatory Committee and then put before Full Council. Applications under the Act will be dealt with in accordance with the Council's scheme of delegation. The attached table sets out how the Council will determine applications and other matters under the Act. (the table can be found as Appendix 2).
- 27.2 Application forms will be in the format prescribed by regulations. The form will need to contain information that describes the gambling activities to be provided, the operational procedures, hours, nature of the location, needs of the local community, etc. Most importantly, the applicant will have to detail the steps that will be taken to promote the three licensing objectives. Applicants should carry out a risk assessment before they apply for a licence.
- 27.3 Applicants are encouraged to fully consult the Police and other responsible authorities well in advance of submitting their applications. Application forms will be available on our website [www.warwickdc.gov.uk](http://www.warwickdc.gov.uk) this includes contact names for each of the responsible authorities that will be receiving applications. Most applications will require additional documentation and a fee to be included with the form. Incomplete applications will not be considered and will be returned to the applicant.
- 27.4 The Act requires licensing authorities to maintain a register of premises licences issued. The register must be available at any reasonable time to the public, who can request view copies of entries. The register is available online or located at:
- Licensing  
Health & Community Protection  
Warwick District Council  
Riverside House  
Milverton Hill  
Royal Leamington Spa  
CV32 5HZ

Effective 31<sup>st</sup> January 2016 Valid until 30<sup>th</sup> January 2019

## Appendix 1 to the Gambling Act 2005 – Statement of Policy

### **Consultees**

Association of British Bookmakers  
Beer & Pub Association  
Bingo Association  
British Amusement Catering Association  
National Casino Forum  
British Horse Racing Board  
Casino operators Association  
Chamber of Commerce  
Club & Institute Union  
GamCare  
Greyhound Racing Board  
Licensed Victuallers Association  
Responsibility in Gambling Trust  
Royal Society of Psychiatrists  
The Gambling Trade carrying on gambling business in Warwick District  
Town and Parish Councillors

### **Responsible Authorities;**

Chief Officer of Police (Warwickshire)  
Fire and Rescue Authority (Warwickshire)  
Enforcement Agency for Health and Safety  
Environmental Health  
The Gambling Commission  
The Licensing Authority  
The Planning Authority  
Safeguarding Children Board  
Public Health  
HM Revenue and Customs

**Summary of licensing authority delegations permitted under the Gambling Act applicable to England and Wales only**

<b>Matter to be dealt with</b>	<b>Full Council</b>	<b>Sub-committee of Licensing &amp; Regulatory Committee</b>	<b>Officers</b>
Final approval of the Licensing Authority Statement of Policy	X		
Policy not to permit casinos	X		
Fee setting (when appropriate)		X (if delegated by full council)	
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission or responsible authority	Where no representations received from the Commission or responsible authority
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 club gaming/club machine permits		Where objections have been made and not withdrawn	Where no objections made/objections have been withdrawn
Cancellation of club gaming/club machine permits		X	
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 the lowest level to which decisions can be delegated