

PERTH AND KINROSS LICENSING BOARD

Board Meeting: 13 December 2018

DRAFT STATEMENT OF PRINCIPLES – GAMBLING ACT 2005

Report by Clerk to the Licensing Board

PURPOSE OF REPORT

This report advises of the consultation responses received on the Draft Statement Of Principles – Gambling Act 2005 and asks the Board to finalise its Statement of Principles to have effect from 31 January 2019 until 30 January 2022.

1. BACKGROUND / MAIN ISSUES

- 1.1 Section 349 of the Gambling Act 2005 requires all Licensing Boards to prepare and publish every three years a statement of the principles that it proposes to apply in exercising its functions under the Act. The content of the Statement of Principles is largely dictated by the legal framework, and therefore there is limited scope for the Licensing Board to deviate from this.
- 1.2 The Board's Statement of Principles lasts for a maximum of three years, but can be reviewed and revised by the Board at any time. A draft Statement of Principles for 2019-2022 has been prepared and is attached as an Appendix to this report.
- 1.3 It should be noted that when the Licensing Board considered its Licensing Policy Statement for alcohol, it indicated it wished to explore the possibility of limiting the number of gaming machines permitted on alcohol licensed premises. For members clubs, a Club Gaming Permit or a Club Gaming Machine Permit allows for a maximum of 3 category B, C or D machines. No increase on 3 machines is possible. For certain other alcohol licensed premises with on sales and which contain a bar at which alcohol is served (where alcohol is not served only with food, i.e. a restaurant), there is an automatic entitlement to 2 category C and/or D machines provided the Board is notified of this. A premises licence holder can also apply for further category C or D machines under an alcohol licensed premises gaming machine permit. No specific legal test is given for determining such an application; however, the Board has the power to limit the number and types of machines. If a limit of, say, 4 is put into policy then it will be for an applicant seeking more than 4 to explain and persuade the Board why that application should be granted. An example policy is set out in the Draft Statement of Principles at Section 24 and specifically 24.4. It is stressed the limit of 4 is an example. It is for the Board to decide whether to have such a policy and what the number should be set at.

It has been ascertained that the only alcohol licensed premises with more than 2 gaming machines are:

- Sandeman – 6
- Foundry – 4
- Twa Tams – 3

Should such a policy be brought in, these permits will remain in place; however, the policy will apply to any request to change the permits at these premises.

Gambling Commission Guidance states that gambling must remain ancillary to the main purpose of the premises. The purpose of such a policy would be to ensure gambling remains ancillary and to ensure such gaming machines can be adequately supervised by staff or by other means.

- 1.4 In accordance with Section 349 (3) of the Act, the final Statement of Principles must be produced following consultation with:
 - The Chief Constable of Police Scotland
 - One or more persons who appear to the Board to represent the interests of persons carrying on gambling business in the Board's area
 - One or more persons who appear to the Board to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act.
- 1.5 The list of persons to be consulted is deliberately wide and this will enable the Board to undertake a comprehensive consultation exercise with anyone who may be affected or otherwise have an interest.
- 1.6 The Guidance issued by the Gambling Commission in September 2015 advises that consultation should follow best practice as set out by the Department for Business, Innovation and Skills including allowing 12 weeks for responses to the consultation.

2. PROPOSALS

- 2.1 The purpose of this report is to update the Board on the consultation responses received on the Draft Statement of Principles in order that the Board finalises its Statement of Principles to have effect from 31 January 2019 until 30 January 2022.
- 2.2 The Board should consider whether they wish to include a limit on the number of machines permitted under an alcohol licensed premises gaming machine permit.

3. CONCLUSION AND RECOMMENDATIONS

The Board is requested to:

- (i) Consider the consultation responses received;
- (ii) Approve the Statement of Principles under the terms of the Gambling Act 2005 for the purpose of publication.

Author(s)

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Approved

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Lisa Simpson	Clerk to Perth and Kinross Licensing Board	
Date 29 November 2018		

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Council Text Phone Number 01738 442573

1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

Strategic Implications	Yes / None
Statement of Policy	No
Resource Implications	
Financial	No
Workforce	No
Assessments	
Equality Impact Assessment	Yes
Consultation	
Internal	Yes
External	Yes
Communication	
Communications Plan	No

3. Assessments

3.1 Equality Impact Assessment

A full EFIA has determined that the proposal is **relevant** for the purposes of EFIA, with the following outcome being decided:”

1. No major change is required. The Policy, Practice, Project, Service Reform or Budget Option is robust and can continue without amendment

4. Consultation

4.1 Internal consideration and external consideration will take place on the draft Statement of Principles as set out in the report. The consultation on the draft Statement of Principles will be advertised within the local press.

5. APPENDICES

1. Perth and Kinross Licensing Board draft Statement of Principles 2019-2022
2. Consultation responses

**PERTH AND KINROSS
LICENSING BOARD
STATEMENT
OF
PRINCIPLES**

GAMBLING ACT 2005, Section 349

DRAFT 2019-2022

FOREWORD

Consultation on this document took place between 28 September 2018 and 9 November 2018. The Statement of Gambling responses received and consideration given to those comments will be available on request to the Clerk to Perth and Kinross Licensing Board, Council Building, 2 High Street, Perth, PH1 5PH.

This Statement of Principles will be published on the Licensing Board's web-site at www.pkc.gov.uk by selecting from the 'Browse' section Law and licensing/ Licences, permits and permissions/ Licences – gambling and is available for inspection at the Licensing Section, Perth and Kinross Council, 2 High Street, Perth, PH1 5PH between 9 a.m. and 5 p.m. Mondays to Fridays.

GAMBLING ACT 2005

STATEMENT OF PRINCIPLES

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PART A – GENERAL PRINCIPLES

1 Introduction

- 1.1 Section 349 of the Gambling Act 2005 (the Act) requires licensing authorities to prepare and publish a statement of principles which will be applied in exercising their functions under the Act. This Statement of Principles fulfils that statutory requirement for Perth and Kinross Licensing Board.
- 1.2 This Statement of Principles was adopted by Perth and Kinross Licensing Board (the licensing authority) on xxx. This Statement of Principles will have effect from 31 January 2019 until 30 January 2022. During that period it will be subject to review and revisal, as appropriate. It will be available on line at www.pkc.gov.uk
- 1.3 This statement has been developed taking into account the statutory guidance from the Gambling Commission and giving appropriate weight to the views of persons and organisations consulted. All references to the Gambling Commission's Guidance for Local Authorities refer to the Guidance published in September 2015 with updates in September 2016 and is available on www.gamblingcommission.gov.uk.
- 1.4 We will carry out our role under the Act in a transparent manner and in the public interest.
- 1.5 We are committed to avoid duplication with other legislation and regulatory regimes as far as possible. Legal requirements under other legislation such as health and safety and fire precautions are not replicated in this statement.
- 1.6 This document should be read in conjunction with the Act, regulations made under the Act and guidance issued by the Gambling Commission. This is designed to be a strategic gambling statement, not an operational guide. The contents are not a full or authoritative statement of the law and do not constitute professional or legal advice.

2 Licensing Objectives

2.1 In exercising its functions under the Gambling Act 2005, Perth and Kinross Licensing Board, as a licensing authority, will have regard to the statutory licensing objectives, which are set out in Section 1 of the Act: -

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

2.2 Section 153 of the Act requires us, in exercising our functions in relation to premises licences and temporary use notices, to aim to permit the use of premises for gambling in so far as we think it is: -

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with this Statement of Principles.

2.3 Nothing in this statement shall override the right of any person to make an application, make representations on an application, or apply for a review of a licence. Each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

3 Content of Statement

3.1 A summary of matters dealt with in this statement is shown as an Index on page 3 of this document.

3.2 The licensable activities covered by this statement are: -

Premises Licences

- Adult gaming centres
- Betting premises
- Bingo
- Casinos
- Licensed family entertainment centres
- Provisional statements
- Tracks
- Travelling fairs

Permits, Temporary and Occasional Use Notices and other activities

- Club gaming and club machine permits
- Gaming machines on alcohol licensed premises
- Occasional use notices
- Prize gaming
- Temporary use notices
- Unlicensed family entertainment centres
- Registration of small society lotteries

- 3.3 A scheme of delegation has been prepared in accordance with the Act and Gambling Commission Guidance to ensure the effective management of the Board's functions under the Act.

4 **Geographical Application of Statement**

- 4.1 Perth and Kinross Licensing Board's geographical remit extends to the same area covered by Perth and Kinross Council. Perth and Kinross is located at the heart of Scotland and covers 5286 square kilometres. It is characterised by a diverse mix of rural and urban communities, from the main population centre of Perth and towns such as Auchterarder, Blairgowrie, Crieff, Kinross and Pitlochry, to remote communities such as Kinloch Rannoch. According to the 2011 census Perth and Kinross had a population of 146,652.

- 4.2 A map indicating the extent of Perth and Kinross is shown below.



5 Consultation Process

5.1 Perth and Kinross Licensing Board is required by the Gambling Act 2005 to publish a statement of the principles which it proposes to apply when exercising its functions. This statement must be prepared and published at least every three years. It may also be reviewed from time to time and in the light of any such review, it may be revised. Any such revision will be subject to consultation and publication before it takes effect.

5.2 The Act requires that the following parties are consulted by each licensing authority: -

- the Chief Constable for the licensing authority's area;
- one or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area; and
- one or more persons who appear to us to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act.

5.3 We will consult widely on this Statement of Principles before finalising and publishing it. A list of the persons we will send this document to is set out below: -

1. The Gambling Commission, Victoria Square House, Victoria Square, Birmingham B2 4BP.
2. The Chief Constable, Police Scotland, Divisional Headquarters, Barrack Street, Perth PH1 5SF.
3. The Chief Fire Officer, Scottish Fire and Rescue Service, 401 High Street, Perth, PH1 1PL.
4. Executive Director, (Housing & Environment), Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth, PH1 5GD – Planning and Development.
5. Executive Director, (Housing & Environment), Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth, PH1 5GD – Environmental Health.
6. Executive Director, (Education and Children's Services), Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth, PH1 5GD.
7. HM Revenue & Customs, National Registration Unit, Portcullis House, 21 India Street, Glasgow G2 4PZ.
8. Dr Drew Walker, Directorate of Public Health, NHS Tayside, Kings Cross, Clepington Road, Dundee, DD3 8EA.
9. The Chairman, British Casino Association, 38 Grosvenor Gardens, London, SW1W 0EB.
10. Association of British Bookmakers Limited, Regency House, 1-4 Warwick Street, London, W1B 5LT (as represented by Mr Roderick MacKenzie, Harper MacLeod LLP, Solicitors, The Ca'd'oro, 45 Gordon Street, Glasgow, G1 3PE.
11. Chief Executive, Premier Bingo Club, Per KE Entertainments Ltd, 39 Rosslyn Street, Kirkcaldy, KY1 3HS.

12. Chief Executive, Fair City Amusements Ltd, 4A Jeanfield Road, Perth, PH1 1PH.
13. The Racecourse Association Ltd, Winkfield Road, Ascot, Berkshire, SL5 7HX.
14. Chief Executive, Perth and Kinross Association of Voluntary Services, The Gateway, North Methven Street, Perth, PH1 5PP.
15. GamCare, 2nd Floor, 7-11 St John's Hill, London, SW11 1TR.

6 Declaration

- 6.1 In producing this statement, Perth and Kinross Licensing Board declares that it had regard to the licensing objectives of the Gambling Act 2005 and the guidance issued by the Gambling Commission.

7 Responsible Authorities

- 7.1 A responsible authority under the Act must be notified of applications in relation to premises licences and is entitled to make representations in relation to them.
- 7.2 We are required under section 157(h) of the Act to designate, in writing, a body competent to advise the licensing authority about the protection of children from harm. In such designation, the following principles are applied:-
 - 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; and
 - whether the body has experience in relation to protection of children issues.
- 7.3 We designate Education and Children's Services, Perth and Kinross Council for the purpose of providing advice about protection of children from harm.
- 7.4 The list of responsible authorities in respect of Perth and Kinross Licensing Board is:
 1. The Gambling Commission, Victoria Square House, Victoria Square, Birmingham, B2 4SP.
 2. The Chief Constable, Police Scotland, Western Division, Divisional Headquarters, Barrack Street, Perth, PH1 5SF.
 3. The Chief Fire Officer, Scottish Fire and Rescue Service, 401 High Street, Perth, PH1 1PL.
 4. Executive Director, (Housing & Environment), Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth, PH1 5GD – Planning and Development.
 5. Executive Director, (Housing & Environment), Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth, PH1 5GD – Environmental Health

6. The Executive Director, (Education and Children's Services), Perth and Kinross Council, Pullar House, 35 Kinnoull Street, Perth, PH1 5GD.
7. HM Revenue & Customs, National Registration Unit, Portcullis House, 21 India Street, Glasgow, G2 4PZ.

8 Interested Parties

8.1 The Act identifies interested parties in relation to an application for or in respect of a premises licence and who can make representations in writing about that application or apply for a review of an existing licence, namely a person who in the opinion of the licensing authority: -

- lives sufficiently close to the premises to be likely to be affected by the authorised activities;
- has business interests that might be affected by the authorised activities; or
- represents persons who satisfy either of the two sub-paragraphs above.

8.2 Perth and Kinross Licensing Board will consider whether a person is an interested party on a case by case basis judging each possible interested party on their own merits.

8.3 In determining whether a person "lives sufficiently close to the premises to be likely affected" or "has business interests that might be affected" by the authorised activities, the licensing authority may have regard to such factors as it considers appropriate to the circumstances including: -

- the size of the premises;
- the nature of the activities taking place on the premises;
- the distance of the premises from the location of the person making the representation or from the business interests;
- in respect of a person, the circumstances of the complainer. This does not cover the personal characteristics of the complainer, but the nature of the interest of the complainer. For example, the licensing authority may apply a different interpretation for a private resident, a residential school for children with truanting problems or a residential hostel for vulnerable adults;
- what might, in the opinion of the licensing authority, be reasonably regarded as a likely or potential impact of the particular premises upon the person or business interests; and
- such other factors as it considers are relevant.

8.4 In determining whether a person is regarded as representing persons in either of the two other categories above, the licensing authority may request that that person demonstrates in writing:-

- that they have specifically been requested to represent that person(s) and/or business interests in relation to the submission of the representation; and/or
- that, in the case of a body, it represents a significant number of persons falling under either of the two categories above.

9 Responsible Authorities and Interested Parties - Representations

- 9.1 Representation made by a responsible authority or interested party which is not withdrawn will normally result in a hearing taking place unless the applicant and/or interested party consent to the application being determined without a hearing.
- 9.2 In certain circumstances, however, a hearing need not take place. For example, where the licensing authority considers that the representation: -
- is vexatious;
 - is frivolous; or
 - will certainly not influence the authority's determination of the application.

10 Disclosure / Exchange of Information

- 10.1 In fulfilling its functions and obligations under the Act, the licensing authority will exchange relevant information with other regulatory bodies and will establish protocols as necessary. In exchanging such information, the licensing authority will conform with the requirements of the Act, data protection and freedom of information legislation as well as the Gambling Commission's Guidance to Licensing Authorities.
- 10.2 Contact details of those persons making representations and details of their representations will be made available to applicants for a licence. Should a hearing take place, they will form part of a public document. Any party who lodges representations or applies for a review of a premises licence will be informed that these details will be disclosed.

11 Enforcement

- 11.1 The Act provides various bodies including the licensing authority with power to authorise persons to undertake inspections for a variety of purposes. Furthermore, the licensing authority has the capacity to report various offences that are specified within the Act for prosecution. Any proposal to undertake an inspection or initiate criminal proceedings will be considered on its own merits.
- 11.2 In exercising our functions under the Act with regard to the inspection of premises we will be guided by the Gambling Commission's Guidance and our approach will be: -
- proportionate;

- accountable;
 - consistent;
 - transparent; and
 - targeted.
- 11.3 In carrying out our enforcement responsibilities, we will normally adopt a risk based approach. Premises will be subject to a scheme of routine inspection, the frequency of which will be determined by the risks posed; those premises considered to pose the greatest risk will be subject to more frequent inspections than those presenting a lower risk.
- 11.4 Criteria which may normally contribute to an assessment to determine the level of risk that applies to premises may include: -
- the size of the premises;
 - the proximity of the premises to identified vulnerable persons;
 - whether any complaints are received in relation to the premises and, if so, the nature and number of complaints that are considered relevant;
 - information submitted from relevant persons or bodies; and
 - such other factors as the particular circumstances of the individual situation warrant.
- 11.5 The main enforcement and compliance role for this authority under the Act will be to ensure compliance with premises licences and other permissions which it authorises. According to the principle of transparency, this authority shall make available upon request copies of any enforcement and compliance protocols which it may adopt.
- 11.6 It is recognised that premises licensees may have a number of premises including in this Authority's area and may not personally be present on the premises. In order to ensure that any compliance issues are recognised and resolved at an early stage, operators are requested to provide this Authority with a named point of contact and contact details, who should be a senior individual responsible for the particular premises, and whom the Authority may contact, in addition to the premises licensee, should any compliance queries or issues arise.

12 Licensing Authority Functions

- 12.1 This authority will make decisions upon applications or notifications made for:-
- premises licences
 - provisional statements
 - temporary use notices
 - occasional use notices
 - permits required under the Act
 - registrations required under the Act

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

- adult gaming centres
- betting premises
- bingo
- casinos
- club gaming and club machine permits
- licensed family entertainment centres
- unlicensed family entertainment centres
- permits for gaming machines on alcohol licensed premises
- prize gaming and prize gaming permits
- registration of small society lotteries
- tracks
- temporary and occasional use notices
- travelling fairs

12.3 We will provide information to the Gambling Commission regarding details of licences issued and will maintain registers of the permits and licences that are issued under these functions.

PART B – PREMISES LICENCES

13 Premises Licences

- 13.1 Premises licences will be subject to the requirements set out in the Gambling Act 2005 and regulations, including specific mandatory and default conditions. We may also exclude default conditions and attach other conditions where that is considered appropriate.
- 13.2 In considering an application for a premises licence no regard will be had to the expected demand for the facilities proposed to be provided in the premises for which a premises licence is sought or moral objections to gambling in general. Expected demand or moral objections to gambling are not criteria which we can consider under the Act or under the terms of the Gambling Commission's Guidance for Licensing Authorities. These matters do not relate to the licensing objectives.
- 13.3 In exercising our functions in relation to premises licences, we shall aim to permit the use of premises for gambling in so far as we think it is: -
- in accordance with any relevant Code of Practice issued by the Gambling Commission;
 - in accordance with any relevant guidance issued by the Gambling Commission;
 - reasonably consistent with the licensing objectives; and
 - in accordance with this Statement of Principles.
- 13.4 Premises are defined in the Act as "any place", including vessels and vehicles and must be premises which are ready to be used i.e. not under construction. More than one premises licence cannot apply in respect of a single premise at the same time unless the premises can be configured acceptably so as to constitute different premises. Artificial or temporary separations are not acceptable. We will assess each case on its individual merits to decide as a matter of fact whether different parts of a building can properly be regarded as being separate premises.
- 13.5 In accordance with the Gambling Commission's Guidance to Local Authorities 5th edition, we will pay particular attention to:-
- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to, or closely observe gambling where they are prohibited from participating.
 - Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not 'drift' into a gambling area. In this context it should normally be possible

to access the premises without going through another licensed premises or premises with a permit.

- Customers should be able to participate in the activity named on the premises.

13.6 In determining whether two or more proposed premises are truly separate, factors which could assist in making a decision include:-

- Is a separate registration for business rates in place for the premises?
- Is the premises' neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?

13.7 This authority has not adopted any specific policy in relation to areas where gambling premises should not be located although it will pay particular regard to the proximity of gambling premises to properties and places regularly frequented by children and other vulnerable persons. Should any such policy be adopted, this statement will be updated and the policy will be publicly available.

13.8 Any future policy will not preclude an application for a premises licence being made. The practical onus will be on the applicant to show how any potential concerns could be overcome.

13.9 In making a determination in respect of a premises licence, we shall not consider whether or not an application is likely to be awarded planning permission or building approval. We will consider carefully any concerns about conditions which cannot be met by licensees due to planning restrictions, should such a situation arise.

Objective 1: Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime

13.10 The Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. Its Guidance envisages that attention is paid to the proposed location of gambling premises in terms of this licensing objective. We recognise the Commission's distinction between disorder and nuisance. Disorder means an activity that is more serious and disruptive than mere nuisance, which is not a Gambling Act objective. We will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, to assess a disturbance.

Objective 2: Ensuring that gambling is conducted in a fair and open way

13.11 The Gambling Commission has stated that it would generally not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will relate either to the management of the business and therefore subject to an operating licence, or to an individual and therefore subject to a personal licence. Both of these are the responsibility of the Gambling Commission.

13.12 However, in relation to the licensing of tracks the premises licence may need to contain conditions to ensure that the environment in which betting takes place is suitable.

Objective 3: Protecting children and other vulnerable persons from being harmed or exploited by gambling

13.13 The Gambling Commission Guidance for Local Authorities states that “harmed or exploited by gambling” means preventing children and vulnerable people from taking part in or being in close proximity to gambling and controlling advertising so that gambling products are not aimed at vulnerable people or advertised in such a way that makes them particularly attractive to such people.

13.14 We will consider whether specific measures are required at individual premises to promote this licensing objective. Appropriate measures may include supervision of access points or machines or segregation of areas. We will consult with Education and Children’s Services, Perth and Kinross Council on any application that indicates there may be concerns over access for children or vulnerable persons.

13.15 The term “vulnerable persons” is not defined but the Gambling Commission states that it will, for regulatory reasons, assume that this group includes people who gamble more than they want to, people who gamble beyond their means and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.

Applications

13.16 In light of the three licensing objectives, in considering licence applications, we will have regard to the following: -

- the design and layout of the premises;
- the training given to staff in crime prevention measures appropriate to those premises;
- physical security features installed in the premises, which may include matters such as the position of cash registers or the standard of CCTV that is installed;
- where premises are subject to age-restrictions, the procedures in place to conduct age verification checks; and

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

13.17 Whilst each application will be considered on its own merits, factors to which the licensing authority may in particular have regard to when determining an application include:-

- proximity of gambling premises to properties regularly frequented by children and other vulnerable persons;
- the suitability of the premises for gambling in the context of the licensing objectives;
- the type of gambling that is proposed at the premises;
- any information provided by the applicant showing how it is proposed to overcome any licensing objective concerns; and
- whether any relevant objections to an application could be addressed by the use of one or more conditions.

Conditions

13.18 Any conditions we attach to licences will be proportionate and will be: -

- 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 consistently related to the scale and type of premises; and
- reasonable in all other respects.

Decisions on individual conditions will be made on a case by case basis. The control measures which we may consider using include door supervisors, supervision of adult gaming machines and appropriate signage for adult only areas.

13.19 We may consider specific measures for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances, segregation of gambling and non-gambling areas frequented by children, the supervision of gaming machines in non-adult gambling specific premises and the display of notices regarding age restrictions.

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

- any condition on the premises licence which make it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required. The Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs; and
- conditions in relation to stakes, fees, winning or prizes.

13.21 In circumstances where the licensing authority proposes to attach or reject conditions as part of a decision it will give reasons as required by the Act. Reasons will also be given if the licensing authority determines to reject an application.

Door Supervisors

13.22 In accordance with the Gambling Commission's Guidance, Perth and Kinross Licensing Board may consider whether there is a need for door supervisors in terms of the licensing objectives relating to children and vulnerable persons and the prevention of crime.

13.23 A condition for door supervision may be attached to a premises licence requiring that one or more persons be responsible for guarding the premises against unauthorised access or occupation, outbreaks of disorder or against damage.

13.24 The Gambling Act 2005 has amended the Security Industry Act 2001, so that door supervisors at casinos or bingo premises are not also licensed by the Security Industry Authority. However, door supervisors at other premises may require to be licensed by the Security Industry Authority.

13.25 The Board may formulate a policy relating to registration with the licensing authority of all door supervisors working at casinos or bingo premises. This would be in recognition of the nature of the work which might include searching individuals, dealing with potentially aggressive and young and vulnerable persons. If so, the policy will be made available publicly.

14 Adult Gaming Centres

14.1 An adult gaming centre consists of premises for which a premises licence is granted to make certain prescribed gaming machines available only to persons aged eighteen years and over. The following machines can be provided: -

- up to four category B3 or B4 gaming machines;
- any number of category C gaming machines; and
- any number of category D gaming machines.

14.2 This licensing authority will have particular regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that persons under 18 years of age do not have access to the premises. Appropriate licence conditions may cover but are not limited to issues such as: -

proof of age schemes, CCTV, door supervisors, supervision of entrances/gaming machine areas, physical separation of areas, location of entry, location of adult gaming machines, notices/signage, specific opening

hours, self barring schemes, provision of information leaflets/help line numbers for organisations such as GamCare.

- 14.3 We will normally expect the applicant to identify the type of gaming machine which will be placed on the premises and their location.

15 Licensed Family Entertainment Centres

- 15.1 A licensed family entertainment centre consists of premises for which a premises licence is granted to provide, subject to certain restrictions, gaming machines. Persons under 18 years old will not be permitted to use certain gaming machine categories that the premises licence might authorise. There may be need for segregation between the different gaming machine types.

- 15.2 This licensing authority will particularly have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that persons under 18 years of age do not have access to adult only gaming machine areas. Appropriate licence conditions may cover but are not limited to issues such as: -

proof of age schemes, CCTV, door supervisors, supervision of entrances/ gaming machine areas, physical separation of areas, location of entry, location of adult gaming machines, notices/signage, specific opening hours, self barring schemes, provision of information leaflets/help line numbers for organisations such as GamCare.

- 15.3 We will normally expect the applicant to identify the types of gaming machine which will be placed on the premises and their location.

16 Casinos

- 16.1 Perth and Kinross Licensing Board has not passed a “no casino” resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should the Board decide in the future to pass such a resolution, this statement will be updated with details of that resolution.

- 16.2 Perth and Kinross is not presently listed as an area for a Regional, Large or Small Casino.

17 Bingo Premises

- 17.1 Bingo does not have a statutory definition.

- 17.2 The holder of a bingo premises licence will be able to offer any type of bingo game, whether cash or prize. Furthermore, the holder of the licence may make available for use: -

- up to four category B gaming machines (B3 or B4);
- any number of category C machines; and

- any number of category D machines.

17.3 Perth and Kinross Licensing Board notes Gambling Commission Guidance, which states that it is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted, Perth and Kinross Licensing Board shall seek that:-

- all such machines are located in an area of the premises separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
- at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

17.4 This licensing authority will have particular regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that persons under 18 years of age do not have access to adult only gaming machines. Appropriate licence conditions may cover but are not limited to issues such as: -

proof of age schemes, CCTV, door supervisors, supervision of entrances/gaming machine areas, physical separation of areas, location of entry, location of adult gaming machines, notices/signage, specific opening hours, self barring schemes, provision of information leaflets/help line numbers for organisations such as GamCare.

17.5 We will normally expect the applicant to identify the types of gaming machine which will be placed on the premises and their location.

17.6 Whilst each application will be considered on its merits, factors to which we may in particular have regard when determining an application of this nature include the suitability and layout of bingo premises.

18 Betting Premises

18.1 The Act contains a single class of licence for betting premises. There will be different types of premises which require a license, including betting offices on tracks that have a separate premises licence from the track licence. The regional, large and small categories of new casinos permitted under the Act will be entitled to provide facilities for betting without a separate betting premises licence. Licence holders may, subject to certain restrictions, make available for use up to 4 gaming machines. Other than in the case of tracks,

for which special rules apply, children and young persons will not be able to enter licensed betting premises.

- 18.2 We note the Gambling Commission's Guidance for Local Authorities which states that "Section 181 [of the Act] contains an express power for licensing authorities to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence or to a casino premises licence (where betting is permitted in the casino)". When considering whether to impose a condition to restrict the number of betting machines in particular premises, we will 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 such machines by children and young people or by vulnerable persons.

19 Tracks

- 19.1 Tracks are sites (including horse racecourses and dog tracks) where races or other sporting events take place.
- 19.2 The Act contains rules which apply to applicants for a premises licence in relation to a track. The applicant need not hold an operating licence because the betting that is provided upon the track will be provided by other operators, who come on-course. Since those people will require the necessary operating licence, the Act allows the track operator to obtain a premises licence without also having to hold an operating licence. This track premises licence then authorises anyone upon the premises with an operating licence to offer betting facilities.
- 19.3 For betting to take place on a track a betting premises licence will be required unless an occasional use notice or temporary use notice is in place.
- 19.4 Tracks are different from other premises in that there may be more than one premises licence in effect, each covering a specified area of the track.
- 19.5 There may be some specific considerations with regard to the protection of children and vulnerable persons from being harmed or exploited by gambling, the need to ensure entrances to each type of premises are distinct and that children are excluded from gambling or betting areas where they are not permitted to enter.
- 19.6 Children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, although they are still prevented from entering areas where gaming machines (other than category D machines) are provided.
- 19.7 Premises licence applicants will have to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities.

Appropriate licence conditions may cover but are not limited to issues such as:

proof of age schemes, CCTV, door supervisors, supervision of entrances/gaming machine areas, physical separation of areas, location of entry, location of adult gaming machines, notices/signage, specific opening hours, self barring schemes, provision of information leaflets/help line numbers for organisations such as GamCare.

- 19.8 We will follow guidance issued by the Gambling Commission addressing where gaming machines may be located on tracks and any special considerations that should apply to promote the licensing objectives and in particular the third objective.
- 19.9 The Act enables us to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence. In accordance with the Gambling Commission's Guidance in relation to betting premises away from tracks, we will take into account the size of the premises and the ability of staff to monitor the use of such machines by vulnerable people when determining the number and nature of machines permitted.
- 19.10 We note the Gambling Commission's Guidance that it would be preferable, though not mandatory, for all self-contained premises operated by off-course betting operators on track to be the subject of separate premises licences. This would ensure a clear division of responsibilities.
- 19.11 Applications should include detailed plans for the racetrack itself and the area that will be used for temporary "on-course" betting facilities (also known as the "betting ring") and in the case of dog tracks and horse racecourses fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities.

Plans should make clear what is being sought for authorisation under the track betting premises licence and what other areas are to be subject to a separate application for a different type of premises licence.

20 Travelling Fairs

- 20.1 We will consider whether the applicant falls within the statutory definition of a travelling fair i.e. a travelling fair which "wholly or principally" provides amusements.
- 20.2 A travelling fair must take place on a site that has been used for fairs for no more than 27 days per calendar year.
- 20.3 Travelling fairs do not require a permit or licence to provide category D gaming machines or equal chance prize gaming. It will fall to this authority to decide whether the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

21 Provisional Statements

- 21.1 A provisional statement may be applied for where we deem that premises have not been completed to our satisfaction.
- 21.2 It is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence and that requiring the building to be complete ensures that this authority could, if necessary, inspect it fully.
- 21.3 In terms of representations about premises licence applications following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account by this authority unless they concern matters which could not have been addressed at the provisional statement stage, or, in our opinion, they reflect a change in the applicant's circumstances.

Further, we may refuse the premises licence or grant it on terms different to those attached to the provisional statement only by reference to matters: -

- which could not have been raised by objectors at the provisional statement stage; or
- which in our opinion reflect a change in the operator's circumstances.

22 Reviews

- 22.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities. However, it is for the licensing authority to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below, as well as consideration as to whether the request is frivolous, vexatious, will certainly not cause the authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review: -
- in accordance with any relevant code of practice issued by the Gambling Commission;
 - in accordance with any relevant guidance issued by the Gambling Commission;
 - reasonably consistent with the licensing objectives; and
 - in accordance with the authority's statement of licensing policy.
- 22.2 We may also initiate a review of a licence on the basis of any reason which we think is appropriate.

- 22.3 Whilst we recognise the importance of the right of responsible authorities and interested parties to request reviews of premises licences, we would expect a reasonable interval between hearings for the same premises, and unless exceptional and compelling circumstances existed, would not hold a repeat hearing in respect of the same grounds within 12 months.

PART C – PERMITS/TEMPORARY AND OCCASIONAL USE NOTICES AND OTHER ACTIVITIES

23 Unlicensed Family Entertainment Centre Gaming Machine Permits

23.1 Where premises are not the subject of a premises licence but they wish to provide gaming machines, the applicant may apply to the licensing authority for this permit. This permit authorises the provision of category D gaming machines only. The applicant must show that the premises will be wholly or mainly used for making gaming machines available for use. Permits cannot be issued in respect of vessels or vehicles.

23.2 In addition to the statutory requirements, as part of any application for an Unlicensed FEC gaming machine permit, the licensing authority will require the following in order to ensure that adequate information is provided to enable a proper assessment to be made: -

- details of any permit granted to the applicant that has previously been refused, lapsed, surrendered or forfeited;
- details of any other permit held by the applicant in respect of other premises;
- the nature of the prizes;
- the proposed frequency of prize gaming at the premises;
- details of any training and training programme on the limits of stakes, prizes and permissible gambling relating to such permits; and
- details of any proposed precautions, including policies and procedures and, where appropriate, staff having undergone valid and up to date Disclosure Scotland checks, to secure the prevention of harm to persons under the age of eighteen and measures for implementing the same.

23.3 In considering any application the licensing authority will normally have regard to the following: -

- each case will be considered on its merits;
- any information received as part of the application process;
- the licensing objectives, any guidance and this statement, and will give particular weight to the protection of children and young persons; and
- such other factors as the licensing authority considers relevant.

23.4 We note that the Act imposes mandatory conditions on Unlicensed FEC gaming machine permits. We cannot impose any other conditions.

24 Alcohol Licensed Premises - Automatic Entitlement and Gaming Machine Permits

- 24.1 On notifying the licensing authority, premises licensed to sell alcohol for consumption on the premises *and contain a bar at which alcohol is served (where alcohol is not served only with food)* can, subject to certain restrictions, have *an automatic entitlement to 2 gaming machines of categories C and/or D.*
- 24.2 We have the power to remove this automatic authorisation if: -
- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
 - gaming has taken place on the premises in breach of section 282 of the Act;
 - the premises are mainly used for gaming; or
 - an offence under the Act has been committed on the premises.
- 24.3 An alcohol licensed premises gaming machine permit is required if more than 2 gaming machines are sought. The issue of such a permit replaces the automatic entitlement identified above.
- 24.4 *It is the policy of Perth and Kinross Licensing Board to permit up to 4 gaming machines of categories C and/or D under an alcohol licensed premises gaming machine permit. Where the application is for more than 4 gaming machines, the practical onus is on the applicant to explain why the permit should be granted.*
- 24.5 In addition to the statutory requirements, as part of any application for a permit, we will require the following in order to ensure that adequate information is provided to enable a proper assessment to be made: -
- a plan showing the location and category of gaming machine being sought; and
 - details of any proposed precaution for preventing persons under eighteen from using any category C gaming machine being sought and how it would be implemented.
 - *where more than 4 gaming machines are sought, an explanation as to why the permit should be granted.*
- 24.6 We may decide to grant an application with a smaller number of machines and/or a different category of machine but note that we cannot attach any other conditions.

25 Prize Gaming Permits

25.1 A prize gaming permit is a permit issued by the licensing authority to authorise the provision of facilities for gaming with prizes on specified premises.

25.2 In addition to the statutory requirements, as part of any application for a permit, we will require the following in writing in order to ensure that adequate information is provided to enable a proper assessment to be made: -

- details of any permit granted to the applicant that has previously been refused, lapsed, surrendered or forfeited;
- details of any other permit held by the applicant in respect of other premises;
- the nature of the prizes;
- the proposed frequency of prize gaming at the premises;
- details of any training and/or training programme on the limits of stakes, prizes and permissible gambling relating to such permits; and
- details of any proposed precaution to secure the prevention of harm to persons under the age of eighteen and measures for implementing the same.

25.3 In considering any application we will normally have regard to the following: -

- each case will be considered on its merits;
- any information received as part of the application process;
- the licensing objectives, any guidance and this statement, and will give particular weight to the protection of children and young persons; and
- such other factors as we consider relevant.

25.4 We note that the Act imposes mandatory conditions on prize gaming permits. We cannot impose any other conditions.

26 Club Gaming and Club Machines Permits

26.1 A club gaming permit authorises establishments to provide, subject to certain restrictions, no more than 3 gaming machines in total of categories B, C or D, equal chance gaming and other games of chance as prescribed in regulations.

26.2 Before granting the permit, we must be satisfied that the premises meet the requirements of a members club and that the majority of members are over 18.

26.3 A 48-hour period of membership rule applies in respect of all 3 types of gaming.

26.4 In circumstances where a club is only able or interested in the provision of gaming machines (as opposed to other forms of gaming), a club gaming

machine permit authorises establishments to provide gaming machines where the establishment is a members club as referred to above.

26.5 We note that we cannot attach conditions to either of these permits.

26.6 We note that we may only refuse an application on the grounds that: -

- the applicant does not fulfil the requirements of a member's or commercial club;
- the applicant's premises are used wholly or mainly by persons under the age of 18;
- an offence under the Act, or a breach of permit has been committed by the applicant while providing gaming facilities;
- a permit held by the applicant has been cancelled in the previous 10 years; or
- an objection to the application has been made by the Gambling Commission or the Police.

26.7 We note that in the case of a club registered under the Licensing (Scotland) Act 2005 we may only refuse an application on the grounds 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 10 years has been cancelled.

There is no right of objection by the Gambling Commission or the Police to such applications.

27 Temporary Use Notices

27.1 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. They may only be granted where a relevant operating licence has been granted.

27.2 The same premises may not be the subject of a temporary use notice for more than 21 days in any 12 month period, but may be the subject of several notices provided the total does not exceed 21 days.

27.3 It is for us to determine in each case what constitutes premises. We may consider ownership, occupation and control of the premises.

27.4 Where an objection has been received in relation to a temporary use notice, if we consider that it should not have effect or should have effect only with modification we may give a counter-notice.

- 27.5 A counter notice providing that a temporary use notice will not take effect will be given where the notice would contravene the maximum number of days available for premises.
- 27.6 The counter-notice can prevent the temporary use notice from having effect or may limit the temporary use notice in other various prescribed ways.
- 27.7 The principles that we will apply in deciding whether to issue a counter-notice will be the same as those in determining premises licence applications.

28 Occasional Use Notices

- 28.1 Where there is betting on a track on 8 days or less in a calendar year, betting may be permitted by an occasional use notice without the need for a premises licence.
- 28.2 The Act prescribes the requirements and process for using such notices, which includes giving notice to the licensing authority and copying it to prescribed parties.

29 Small Society Lotteries

- 29.1 A lottery is unlawful unless run in accordance with an operating licence issued by the Gambling Commission or it is an exempt lottery including non-commercial lotteries, private lotteries, customer lotteries and small society lotteries.
- 29.2 Perth and Kinross Licensing Board is responsible for the registration of small society lotteries in its area. These are non-commercial societies established and conducted:
- for charitable purposes;
 - for enabling participation in, or of supporting sport, athletics or a cultural activity; or
 - for any other non-commercial purpose other than private gain

Appendix 2

Comment on Perth Racecourse Association consultation response

Response	Comment
<p>I am writing on behalf of the Racecourse Association, the trade association for horse racecourses in Great Britain. We have reviewed the revision of statement of gambling licensing policy for Perth & Kinross Council and can confirm we are happy with the proposed amendments.</p>	<p>None</p>

Comments on Gamcare consultation response

Response	Comment
<p>1 Consider that proposals for new gambling premises which are near hostels or other accommodation or centres catering for vulnerable people, including those with learning difficulties, and those with gambling / alcohol / drug abuse problems, as likely to adversely affect the licensing objectives set out by the Gambling Commission. This is also relevant regarding the proximity to schools, colleges and universities.</p>	<p>Per the Draft Statement of Principals generally and Section 1.3 specifically, Nothing in this statement shall override the right of any person to make an application, make representations on an application, or apply for a review of a licence. Each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.</p> <p><u>Recommendation</u></p> <p>No change</p>
<p>2 A detailed local risk assessment at each gambling venue – pertinent to the environment immediately surrounding the premises as well as the wider local area – is a good way to gauge whether the operator and staff teams are fully aware of the challenges present in the local area and can help reassure the Local Licensing Authority that appropriate mitigations are in place.</p>	<p><u>Recommendation</u></p> <p>No change</p>
<p>3 Does the operator have a specific training programme for staff to ensure that they are able to identify children and other vulnerable people, and take appropriate action to ensure they are not able to access the premises or are supported appropriately?</p>	<p><u>Recommendation</u></p> <p>No change</p>

Response	Comment
<p>4 Does the operator ensure that there is an adequate number of staff and managers are on the premises at key points throughout the day? This may be particularly relevant for premises situated nearby schools / colleges / universities, and/or pubs, bars and clubs.</p>	<p><u>Recommendation</u></p> <p>No change</p>
<p>5 Consider whether the layout, lighting and fitting out of the premises have been designed so as not to attract children and other vulnerable persons who might be harmed or exploited by gambling.</p>	<p><u>Recommendation</u></p> <p>No change</p>
<p>6 Consider whether any promotional material associated with the premises could encourage the use of the premises by children or young people if they are not legally allowed to do so.</p>	<p><u>Recommendation</u></p> <p>No change</p>