



HEREFORDSHIRE
COUNCIL

Statement of Principles

Gambling Act 2005

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Part I

INTRODUCTION

1.0 General

- 1.1 The Gambling Act 2005 (hereafter referred to as “the Act”) requires licensing authorities to publish a Statement of Principles which they propose to apply when exercising their functions under the Act. The Statement of Principles must be published at least every three years and should be reviewed from “time to time” and any amended parts should be the subject of re-consultation. This is the second Statement of Principles to be published and will replace the initial statement of 2006-2009.
- 1.2 This Statement of Principles has been prepared as required by Section 349 of the Act and has had regard to the guidance issued to licensing authorities by the Gambling Commission under Section 25 of the Act, the licensing objectives and the views of those consulted. We have consulted widely upon this statement before finalising and publishing. A list of those consulted can be found at the rear. A full list of comments can be obtained by writing to the Licensing Section. The policy was approved at a meeting of the Full Council on 13th November 2009.
- 1.3 Its purpose is to set out the principles that the licensing authority proposes to apply in exercising its functions under the Act. Herefordshire Council as the licensing authority must carry out its functions with a view to promoting the gambling objectives and as such, these objectives provide a framework for the Statement of Principles. The licensing objectives are:
- Preventing gambling from being a source of crime or disorder; being associated with crime or disorder; or being used to support crime;
 - Ensuring that gambling is conducted in a fair and open way;
 - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 1.4 It should be noted that the Gambling Commission has stated that “the requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”.
- 1.5 Herefordshire Council is aware, in accordance with Section 153 of the Act, that in making decisions about premises licences and temporary use notices, it should aim to permit the use of premises for gambling insofar as 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 the Authority’s Statements of Principles
- 1.6 Nothing in this policy takes away the right of any person to make an application under the Act and to have that application considered on its merits; nor does it undermine the right of any person to object to an

application or to seek a review of a licence where the law provides that they may do so. Applications will be considered in line with our statement of general principles, below.

2.0 Licensing Authorities

Herefordshire Council is the licensing authority, its key functions being:

- Preparing a Statement of Principles for Gambling and reviewing it every three years.
- Licence premises for gambling activities, including the issue of provisional statements,
- Regulate and grant permits for gambling and gaming machines in clubs, including commercial clubs,
- Regulate gaming and gaming machines in alcohol licensed premises,
- Grant permits to family entertainment centres for the use of certain lower stake gaming machines,
- Grant permits for prize gaming,
- Receive and endorse notices given for the temporary use notices,
- Receive occasional use notices for betting at tracks,
- Register small societies lotteries,
- Maintain public registers,
- Monitoring and inspection of premises to ensure the conditions of the gambling premises licence are complied with,
- Ensuring applications are adequately consulted upon with Interested Parties and Responsible Authorities.
- Holding licensing committee hearings for applications that receive representations and
- Provide information to the Gambling Commission on issued licences.

- 2.1 The Gambling Commission regulates remote gambling and issues personal and operating licences for premises. Spread betting is regulated by the Financial Services Authority. The “National Lottery” is regulated by the National Lottery Commission.

3.0 Authorised Activities

- 3.1 ‘Gambling’ is defined in the Act as 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, and
 - a lottery is an arrangement where persons are required to pay in order to take part in an arrangement whereby one or more prizes are allocated by a process which relies wholly on chance.

4.0 General Statement of Principles

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

- in accordance with any relevant Codes of Practice issued by the Gambling Commission
 - in accordance with any relevant guidance issued by the Gambling Commission
 - in accordance with this Statement of Principles, and
 - reasonably consistent with the licensing objectives.
- 4.2 We will not seek to use the Act to resolve matters that are better dealt with by other legislation. Licensing is not the primary mechanism for general control of nuisance and the antisocial behaviour of people once they are away from licensed premises.
- 4.3 We will ensure that in dealing with applications under the Act we follow the required procedures, and only take into account issues that are relevant. Specifically we will not have regard to “demand” when considering applications for gambling premises; nor will we consider the suitability of applicants for premises licences (which is a matter for the Gambling Commission). We will not reject an application on moral grounds. If we do decide to reject an application, we will make known our reasons for doing so.
- 4.4 Our current Council Constitution (including the scheme of delegation) details the way that we will discharge our functions under this Act. Details are available from the Licensing Department.
- 4.5 Where an application is for a new premises licence, the responsible authorities may visit to check that gambling facilities meet all necessary legal requirements.
- 4.6 Where there are no representations (objections), licences and permissions will be granted subject only to any appropriate mandatory conditions (Section 167 of the Act) and any conditions having at least the effect of appropriate default conditions made under Section 168.
- 4.7 If there are objections that can't be resolved informally, or we intend to impose extra conditions, we will hold a public hearing at which our licensing sub-committee will hear evidence and make a decision in accordance with the Act.

5.0 Other Statements of Principles

- 5.1 Applicants for Prize Gaming Permits (PGP) and Unlicensed Family Entertainment Centres (UFEC) should be aware that, in addition to the ‘General Statement’ of Principles, the Authority has made a Statement of Principles in respect of PGP’s under paragraph 8 of Schedule 14 of the Act and in respect of UFEC’s under Paragraph 7 of Schedule 10 of the Act.
- 5.2 The purpose of these statement of principles is to clarify measures that the council will expect applicants to demonstrate when applying for a permit so that the council can determine the suitability of the applicant and the premises for a permit.
- 5.3 Within this process the council will aim to grant the permit where the applicant is able to demonstrate that:
- they are a fit and proper person to hold the permit,

- they have considered and are proposing suitable measures to promote the licensing objectives and
- they have a legal right to occupy the premises to which the permit is sought.

6.0 Preventing Gambling from being a Source of Crime and Disorder

- 6.1 The Gambling Commission takes the leading role in preventing gambling from being a source of crime and maintains rigorous licensing procedures aiming to prevent criminals from providing facilities for gambling. Applicants need an operating licence from the Commission before we will issue a licence to use premises for gambling.
- 6.2 We will not issue a premises licence to someone who does not hold an operator's licence and we are not generally concerned with the suitability of an applicant. Where concerns about a person's suitability arise we will bring those concerns to the attention of the Commission.
- 6.3 If an application for a licence or permit is received in relation to premises which are in an area noted for particular problems with organised crime, we will, in consultation with the Police and other relevant authorities, consider whether specific controls need to be applied to prevent those premises from being a source of crime. This could include a requirement for SIA registered door supervisors.
- 6.4 Disorder will only be considered under this Act if it amounts to an activity which is more serious and disruptive than mere nuisance, and where it can be shown that gambling is the source of that disorder. A disturbance might be serious enough to constitute disorder if police assistance was required to deal with it; we will then consider how threatening the behaviour was to those who could see or hear it and whether those people live sufficiently close to be affected or have business interests that might be affected.
- 6.5 "Disorder" is generally a matter for the Police; we will not use this Act to deal with general nuisance issues, for example, parking problems, which can be better dealt with using alternative powers.
- 6.6 When making decisions relating to disorder, we will give due weight to comments made by the police.

7.0 Ensuring Gambling is Conducted in a Fair and Open Way

- 7.1 The Gambling Commission does not expect local authorities to become concerned with ensuring that gambling is conducted in a fair and open way. The Commission, through the operating and personal licensing regime, will regulate the management of the gambling business and the suitability and actions of an individual.
- 7.2 Because betting track operators do not need an operating licence from the Commission we may condition the licence relating to the suitability of the environment in which betting takes place.

7.0 Protecting Children and Vulnerable People from being Harmed or Exploited by Gambling

- 7.1 The intention of the Act is that children and young persons should not be allowed to gamble, and should be prevented from entering those gambling premises which are 'adult-only' environments.
- 7.2 Codes of Practice, including advice about access by children and young persons, may be published by the Gambling Commission for specific kinds of premises. Applicants will be expected to heed this advice where applicable.
- 7.3 We expect steps to be taken to prevent children from taking part in, or being in close proximity to, gambling. This may include restrictions on advertising to ensure that gambling products are not aimed at children, nor advertised in such a way that makes them particularly attractive to children.
- 7.4 When determining a premises licence or permit we will consider whether any additional measures are necessary to protect children, such as the supervision of entrances, the segregation of gambling from areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises like pubs, clubs and betting tracks.
- 7.5 In seeking to protect vulnerable people we will include people who gamble more than they want to, people who gamble beyond their means, and people who may not be able to make informed or balanced decisions about gambling, perhaps due to a mental impairment, alcohol or drugs.
- 7.6 We will always treat each case on its own individual merits and when considering whether specific measures are required to protect children and other vulnerable people will balance these considerations against the overall principle of aiming to permit the use of premises for gambling.

8.0 Premises licences

- 8.1 A premises licence can authorise the provision of facilities at the following:
- casino premises
 - bingo premises
 - betting premises, including betting tracks
 - adult gaming centres
 - family entertainment centres
- 8.2 By distinguishing between premises types the Act makes clear that the main activity of the premises should be that described. Thus in a bingo premises the main activity should be bingo, with the gaming machines as an ancillary attraction to the premises. This principle also applies to betting premises licences. Subject to the gaming machine entitlements (and except in the case of tracks) the Act does not permit premises to be licensed for more than one of the above activities.
- 8.3 Where an application is made in respect of premises we will consider the following indicators in determining all premises licences:

- can the customer readily tell what sort of premises he/she is in e.g. can they distinguish a betting shop from a bingo premises or an AGC?
- the space allocated to the primary activity relative to that allocated to other gambling activities e.g. machine gaming
- is appropriate information provided to customers about how the gambling facilities work, and is it readily accessible?
- is the primary activity clearly promoted on the premises and by way of external advertising (e.g. newspapers, flyers, posters, signage, on the internet)?
- is the primary activity more popular than the ancillary facilities?

8.4 In the case of betting premises we will consider the following indicators in determining the application;

- is there a bet placing capacity (and where solely by terminal, are there more betting terminals than gaming machines)?
- is information available on details of events (e.g. races, competitions, likelihood of things occurring etc.) including the results of all such events, on which bets can be made?
- can customers receive pay outs on winning bets on the premises?
- the proportion of the gross gaming yield in the premises derived from betting rather than gaming machines;
- is the primary activity on the premises betting, which may be indicated by the relative popularity of the gaming machines?

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

8.6 This will allow large, multiple unit premises such as tracks, shopping malls or service stations to obtain discrete premises licences, with appropriate safeguards in place.

8.7 We will pay particular attention if there are issues about sub-divisions of a single building or plot and mandatory conditions relating to access between premises are observed.

8.8 In determining whether two or more premises are truly separate, the licensing authority will consider the following:

- Does the premises have different postal addresses?
- Does the premises have a separate registration for business rates?
- 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?
- Would the ordinary person on the street consider that they were one premises or two?

8.9 Whether different parts of a building can properly be regarded as being separate premises will depend on the individual circumstances of the case.

- 8.10 A particular requirement might be for entrances and exits from parts of a building covered by one or more licences to be separate and identifiable so that the separation of the premises is not compromised and people are not allowed to 'drift' accidentally into a gambling area. It should normally be possible to access the premises without going through another licensed premises or premises with a permit. We would also expect customers to be able to participate in the activity named on the premises licence.
- 8.11 The Secretary of State has appointed an independent Casino Advisory Panel to advise the Government on the areas in which small and/or large casinos may be located. The District of Herefordshire has not been identified as a suitable location for a casino. In addition the authority has passed a resolution under Section 166 not to issue casino premises licences.
- 8.12 We will not turn down applications for premises licences where relevant objections can be dealt with through the use of licence conditions.
- 8.13 Other than an application for a betting premises licence for a track, we are not able to issue a premises licence unless the applicant holds the relevant operating licence from the Gambling Commission.
- 8.14 When considering applications for premises licences we will not take into account either the expected 'demand' for facilities or the likelihood of planning permission or building regulation approval being granted, as well as 'moral' objections to gambling. Equally, the grant of a premises licence would not prejudice or prevent any action that may be appropriate under the law relating to planning or building regulations.
- 8.15 We are aware that demand issues cannot be considered with regard to the location of premises, but that considerations in terms of the licensing objectives are relevant to our decision-making. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated.
- 8.16 We will only issue a premises licence once we are satisfied that the premises is ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required. If the construction of a premises is not yet complete, or if they need alteration, or the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made.
- 8.17 We will apply a two stage consideration process if there is outstanding construction or alteration works at the premises:
- should the premises be permitted to be used for gambling;
 - can appropriate conditions be imposed to cater for the situation that the premises is not yet in the state in which they should be before gambling takes place?
- 8.18 We are entitled to decide whether or not it is appropriate to grant a licence subject to conditions.
- 8.19 Applicants for premises licences are encouraged to propose any prohibitions or restrictions of their own in circumstances where it is felt that the presence of children would be undesirable or inappropriate.

- 8.20 We will maintain a public register of Premises Licence applications received which may be viewed at the Council Offices during normal office hours which are generally Monday – Friday 9 am until 5 pm.

9.0 Responsible Authorities

- 9.1 Responsible authorities are identified in the legislation, and have to be notified about licence applications so that they can identify any risks. The responsible authorities that we recognise are listed below. Contact details for each of the responsible authorities can be obtained from the Licensing Section on request.

- The Gambling Commission
- The Chief of Police for the area
- Fire & Rescue Service
- Herefordshire Council Planning Department
- Connexions, Hereford
- HM Revenue and Customs
- Environmental Health Department
- Herefordshire Council Licensing Department
- Any other bodies identified in Regulation by the Secretary of State,
- For vessels, the Environment Agency, British Waterways Board, Secretary of State.

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

10.0 Interested Parties

- 10.1 An interested party is someone who:
- lives sufficiently close to the premises to be likely to be affected by the authorised activities, or
 - has business interests that might be affected by the authorised activities, or
 - represents persons in either of the two groups above.

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

- 10.3 In determining whether someone lives sufficiently close to particular premises so as to be affected, we will take into account, among other things:
- the size of the premises,
 - the nature of the premises,
 - the distance of the premises from the person making the representation,

- the nature of the complainant and
 - the potential impact of the premises.
- 10.4 In determining whether a person has a business interest which could be affected, the Council will consider, among other things:
- the size of the premises,
 - the catchment area of the premises and
 - whether the person making the representation has business interests in the catchment area that might be affected
- 10.5 If an existing gambling business makes a representation that it is going to be affected by another gambling business starting up in the area, we would not consider this (in the absence of other evidence) as a relevant representation as it does not relate to the licensing objectives and instead relates to demand or competition.
- 10.6 We may consider a representation to be either frivolous or vexatious and reject it. This will generally be a matter of fact given the circumstances of each individual case, but before coming to a decision we will normally consider:
- who is making the representation and whether there is a history of making representations that are not relevant,
 - whether it raises an issue relevant to the licensing objectives, or
 - whether it raises issues specifically to do with the premises which are the subject of the application.

11.0 Licence Conditions

- 11.1 In particular cases we may find it necessary to impose conditions beyond appropriate mandatory and default conditions. Any such conditions will be:
- relevant to the need to make the building suitable for use as a gambling facility;
 - directly related to the premises and the type of licence applied for and
 - fairly and reasonably related to the scale and type of premises and reasonable in all other respects.
- We will not have recourse to a pool of standard conditions.
- 11.2 We will also ensure that where category C or above machines (that are on offer in premises to which children are admitted) are located in an area of the premises which is separated by a physical barrier to prevent access (other than through a designated entrance) the designated area is supervised and observed by staff or the licence holder.
- 11.3 Examples of conditions which are likely to be attached in certain circumstances include those relating to opening hours, segregation of gambling from non-gambling areas frequented by children, SIA licensed door supervisors, appropriate signage for adult only areas, age limits, or keeping children and young persons away from gaming machines. We will also expect the applicant to offer their own suggestions as to any other ways in which the licensing objectives can be promoted effectively.
- 11.4 We will not seek to control those matters specified in the Act with conditions:
- which make it impossible to comply with an operating licence condition imposed by the Gambling Commission,

- relating to gaming machine categories or method of operation,
- which specify that membership of a club or other body is required, or
- in relation to stakes, fees, winnings or prizes.

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

12.0 Gaming Machine

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

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

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

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

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

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

13.0 Temporary Use Notices

13.1 These allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. We would object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises. Premises that might be suitable for a temporary use notice would include hotels, conference centres and sporting venues. A temporary use notice may only be granted to a person or company holding a relevant operating licence.

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

backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.

14.0 Occasional Use Notices

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

15.0 Lotteries

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

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

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

16.0 Exchange of Information

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

16.2 Subject to the provisions of the Data Protection Act 1998, we will share any information we receive through the application process with the Gambling Commission and any relevant responsible authority. In doing so we will have regard to the Act itself, any guidance issued by the Commission and to any Regulations issued by the Secretary of State. People can access personal information that we hold about them by contacting our Information Management Officer.

16.3 We are committed to being open about what we do and how we come to our decisions, in accordance with the spirit of the Freedom of Information Act 2000 (FOIA). An important feature of the FOIA is the requirement for each public authority to produce a publication scheme setting out what information it will publish as a matter of course, how and when it will be published, and whether this information will be free of charge or on payment. Copies of our FOI publication scheme are available on request from our Legal Department.

- 16.4 FOIA also provides the public with a general right of access to information held by public authorities, and subject to exemptions, be supplied with a copy of that information. Individual requests should be made in writing to the Information Management Officer or via the Council's website.
- 16.5 Unless restricted by the Gambling Act, details about applications, licences and representations will be made available in our public register. Representations that we accept will be copied in their entirety to applicants, to provide an opportunity for mediation and to ensure that the rights of the applicant are not compromised.

17.0 Enforcement Protocols

- 17.1 The main enforcement and compliance role for us 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 and will also take the lead role on the investigation and, where appropriate, the prosecution of illegal gambling. Any concerns about manufacture, supply or repair of gaming machines will not be dealt with by us but will be notified to the Gambling Commission.
- 17.2 We will work with the Commission, the Police and other enforcing authorities, having regard to any specific guidance produced by the Gambling Commission, relevant codes of practice, the licensing objectives and this statement of principles, to provide for the targeting of agreed problem or high-risk premises. A lighter touch will be applied to those premises which are shown to be well managed and maintained.
- 17.3 The overall aim is to permit the use of premises for gambling. With that in mind it is intended that action will generally be taken against 'problem' premises through the licence review process.
- 17.4 We will also be mindful of future developments, as regards the work of the Better Regulation Executive, whilst carrying out our regulatory functions.
- 17.5 We will endeavour to be proportionate, accountable, consistent, transparent and targeted. We will also endeavour to avoid duplication with other regulatory regimes as far as possible.

18.0 Reviews

- 18.1 A review of a premises licence can be made by interested parties or responsible authorities. However, we will decide if the review is to be carried out on the basis of the following:
- Is it accordance with any relevant Code of Practice and/or guidance issued by the GC?
 - Is it consistent with the licensing objectives?
 - Is it in accordance with our statement of principles?

- 18.2 We will also consider whether or not the request for a review is frivolous, vexatious, or repetitious or whether we would wish to alter/revoke or suspend the licence.
- 18.3 We can also initiate a review of a premises licence on the basis of any reason which we think is appropriate, including if a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.
- 18.4 Once a valid application for a review has been received by us, representations can be made by responsible authorities and interested parties during the statutory consultation period. The purpose of the review will be to determine whether we should take any action in relation to the licence. The options available are:
- Add, remove or amend a licence condition;
 - Remove or amend a default condition, such as opening hours;
 - Suspend the premises licence for a period not exceeding 3 months;
 - Revoke the licence.

List of Consultees

- All Responsible Authorities
- Premises license holders under the Gambling Act 2005
- Connexions – Hereford
- General Public through Herefordshire Council Website
- General Public through advertisement within a local paper
- District Councillors
- Parish Councils
- Representatives of the Gaming Industry, including suppliers of Gaming facilities and machines