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To: Councillor Boulton, Convener; and Councillors Cameron, Councillor Donnelly, the Depute Provost, Lesley Dunbar, Grant, Greig, McLellan, Townson and John.

Town House,
ABERDEEN, 09 November 2018

LICENSING BOARD

The Members of the **LICENSING BOARD** are requested to meet in **Committee Room 2 - Town House** on **TUESDAY, 13 NOVEMBER 2018 at 10.30 am.**

FRASER BELL
CHIEF OFFICER - GOVERNANCE

B U S I N E S S

- 20 Licensing Policy Statement (Pages 3 - 36)
- 22 Gambling Policy Statement (Pages 37 - 80)

Website Address: www.aberdeencity.gov.uk

Should you require any further information about this agenda, please contact Arlene Dunbar ardunbar@aberdeencity.gov.uk 523411 or Karen Gatherum kgatherum@aberdeencity.gov.uk 522462

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ABERDEEN CITY LICENSING BOARD

COMMITTEE	Licensing Board
DATE	13 November 2018
TITLE OF REPORT	Statement of Licensing Policy

1. PURPOSE OF REPORT

To provide the Board with the final draft Statement of Licensing Policy for approval.

2. RECOMMENDATION(S)

It is recommended that the Board approve the final draft Statement of Licensing Policy for publication.

3. BACKGROUND/MAIN ISSUES

The draft Statement of Licensing Policy was published on 6 September and advertised on social media, in the press and trade publications. The consultation period expired on 31 October, following which the Board considered all responses to the consultation and instructed officers to prepare the final draft Statement of Licensing Policy. That final draft is enclosed as Appendix 1.

4. REPORT AUTHOR DETAILS

Sandy Munro, Solicitor
AleMunro@aberdeencity.gov.uk

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ABERDEEN CITY LICENSING BOARD
STATEMENT OF LICENSING POLICY
November 2018

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Introduction

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Preventing Crime & Disorder

The Board is committed to improving the quality of life for the people of the city by adopting and enforcing policies designed to increase community safety and reduce the threats of crime and disorder.

In terms of this licensing objective the Board considers there to be a number of factors including, but not limited to:

- Underage drinking
- Drunkenness
- Illegal substances
- Violent behaviour
- Anti-social behaviour
- Vulnerability

In order to combat the risks inherent with the sale of alcohol the Board will seek to operate a partnership approach with licence holders, applicants and partner agencies.

What the Board Will Do:

- Apply appropriate conditions to licences to mitigate the risk of potential crime or disorder, **including but not limited to a local condition on duty of care on all on-sales premises.**
- Ensure all policies are up to date and fit for purpose.
- Work closely with all stakeholders to ensure all relevant information is kept up to date and accessible.
- Endorse initiatives designed to prevent crime and disorder.
- Consider the review of licences where a breach of the licensing objective cannot be rectified by other means.

What the Board Will Expect of Licence Holders

- Effective and responsible management of premises **including evidence of written procedures for managing incidents.**
- Up to date training and supervision of staff.
- Provision of effective CCTV in and around premises.

- Provision of external lighting and security measures.
- Employment of SIA registered door supervisors when appropriate.
- Use of radiolink or other such scheme.
- Adherence to the Board's Drugs Policy.
- Enforcement of Challenge 25.
- Adoption of best practice guidance where available.
- Evidence of a relevant dispersal policy where appropriate.
- Co-operation with police and Licensing Standards Officers.

What the Board Will Expect of Partner Agencies

- Provision of all relevant up to date information as the Board requires.
- Involvement in mediation/intervention procedures to rectify any problem areas.
- Involvement in Premises Licence Review as a last resort.

A link to examples of the standard local conditions can be found in the [Supplementary Policy on General Licensing Matters](#).

Securing Public Safety

The Board is committed to ensuring the safety of persons within licensed premises as well as those in the surrounding areas.

When considering this licensing objective, a number of factors should be considered including, but not limited to:

- Capacity – this will be assessed by the Council’s Building Standards department to establish a maximum safe capacity figure in terms of the regulations. Please note the safe maximum operating figure may be smaller than the technical figure.
- Maintenance of premises.
- Fire safety.
- Suitability of glassware or alternatives to glass **including toughened or safety glass**.
- Disabled access and facilities.
- Nature of activities to be carried out on the premises.
- Vulnerability of patrons.

Again, the Board will look to operate a partnership approach with all stakeholders in order to ensure that public safety is not compromised by the operation of licensed premises.

What the Board Will Do:

- Promote education and awareness of potential risks.
- Apply additional licence conditions where appropriate for the purposes of this licensing objective.
- Facilitate effective communication between all relevant parties.
- Disseminate relevant information from partner agencies as widely as possible.
- Review licences as a last resort.

What the Board Will Expect of Licence Holders/Applicants:

- High standards of maintenance of premises.
- Membership of schemes to secure public safety such as radiolink and pubwatch.

- Glassware or alternatives to glassware including toughened or safety glass frequently cleared.
- Accurate disability access statements. Although these are only required for new applications the Board would encourage all existing premises to consider the preparation of an appropriate statement for publication.
- Clear and accurate signage in and around premises.
- Fully completed risk assessments where appropriate, for both premises and proposed activities to be carried out.
- Policies on crowd management and dispersal, both in the ordinary course of operation and in an emergency.
- Regular maintenance and testing of security and operating systems.
- Designation of a “safe space” within the premises in which vulnerable persons can be provided with assistance.
- Co-operation with Police Scotland and Licensing Standards Officers including access to all relevant policies and procedures such as dispersal policies and incident management.

What the Board Will Expect of Partner Agencies:

- Co-operative approach.
- Effective communication and the sharing of up to date relevant information.
- Involvement in a licence review as a last resort.

A link to examples of the standard local conditions can be found in the Supplementary Policy on General Licensing Matters.

Preventing Public Nuisance

The Board believes that licensed premises have the potential to have a significant impact on communities. It wishes to maintain and protect the amenity of the surrounding neighbourhoods whilst recognising the valuable cultural and social aspects of such premises.

Whilst licensing powers are not the main statutory mechanism for dealing with public nuisance in general the Board will interpret public nuisance in a wider sense where it relates to the operation of licensed premises, and in particular issues such as noise and litter.

Again, a number of factors should be considered including, but not limited to:

- Location of premises. In particular the proximity to residential or noise sensitive premises such as medical facilities, sheltered housing, schools, places of worship, nurseries and suchlike.
- Hours of operation. Closely related to the location of the premises, the hours of operation should reflect what is appropriate for the surrounding neighbourhood. **The terminal hours indicated in the Supplementary Policy on Licensed Hours are the maximum available and will not be suitable for all premises.**
- Nature of activities. Any activities carried on in the licensed premises should not be detrimental to the ambience of the locality.
- Outdoor areas. The Board will include a Supplementary Policy on this issue, but applicants will require to ensure that the inclusion of an outdoor licensed area in any premises is appropriate and will not contravene the licensing objective of preventing public nuisance.
- Smoking areas. These should be designed to minimise public nuisance and regularly monitored to cut down on noise and litter.
- Noise from patrons entering and exiting the premises.

What the Board Will Do:

- Consider the proximity of proposed licensed premises to noise sensitive premises when considering applications.
- Ensure that licensed hours and activities are appropriate for the type of premises and locality. **The terminal hours indicated in the Supplementary Policy on Licensed Hours are the maximum available and will not be suitable for all premises.**
- Improve communication between the trade, partners and local communities.
- Impose additional licence conditions where appropriate to prevent public nuisance.
- Highlight best practice where available and increase awareness and education on potential areas of risk.

What the Board Will Expect of Licence Holders/Applicants:

- Take a proactive approach to public nuisance with a risk-based approach.
- Be mindful of the location of the premises, hours of operation and activities.
- Comply with all conditions of the premises licence.
- Ensure appropriate control measures are in place and staff training is up to date and relevant.
- Consider public nuisance when establishing the design and layout of the premises.
- Adequate supervision of any outdoor area, smoking area and patrons entering/exiting the premises.
- Sharing of best practice via trade groups.
- Participation in communication to resolve any issues that may arise.
- **Co-operation with Police Scotland and Licensing Standards Officers including access to all relevant policies and procedures such as dispersal policies and incident management.**

What the Board Will Expect of Partners:

- Enforcement of other statutory powers where appropriate.
- Sharing of relevant information.
- Participation in dialogue to resolve potential issues.

A link to examples of the standard local conditions can be found in the Supplementary Policy on General Licensing Matters.

Protecting and Improving Public Health

The Board recognise that excessive consumption of alcohol can cause or exacerbate a number of health problems. All applicants will be expected to demonstrate measures to be taken to protect public health, and all licence holders will be expected to maintain those standards and take all necessary steps to prevent excessive consumption.

Whilst licensing is an important tool in the protection of public health it will not be sufficient in isolation and accordingly the Board will be interested in hearing from and working alongside relevant partners and interested parties where appropriate.

Factors to be considered in connection with this particular licensing objective include, but are not limited to:

- Access to alcohol by vulnerable persons
- Excessive consumption
- Irresponsible promotion of alcohol
- Education of unit strength of alcohol

What the Board Will Do:

- Utilise local conditions on licences where appropriate.
- Liaise with public health organisation, the local licensing forum and other relevant parties.
- Monitor the number and capacity of premises, public health data and overprovision policies.
- Contribute to raising awareness of the licensing system.

What the Board Will Expect of Licence Holders/Applicants

- Proactive layout of off-sales premises to discourage impulse buying.
- Adequate staff training, including refusals policy and incident recording.
- Availability of low/non-alcoholic products and soft drinks.
- Licensed hours reflective of operating hours.
- Awareness of irresponsible promotions.

What the Board Will Expect of Partner Agencies:

- Effective communication of relevant trends and information.

- Provision of accurate statistics to assist with Board policy and decision making.
- Participation in efforts to increase public awareness of initiatives to protect and improve public health.

A link to examples of the standard local conditions can be found in the [Supplementary Policy on General Licensing Matters](#).

Protecting Children and Young Persons from Harm

The Board recognises that the question of access to licensed premises by children and young persons is not one that can be answered with a one size fits all type of approach. The suitability of premises will depend on a number of factors including layout of the premises, activities or services available, and typical customer demographic.

Applicants and licence holders should also be aware that access for children and young persons will bring with it additional responsibilities and may result in additional conditions being attached to the licence.

What the Board Will Do:

- Assess all applications for suitability of access for children and young persons.
- Impose additional conditions where necessary to protect children and young persons from harm.
- Limit the hours during which children and young persons have access if appropriate.
- Limit activities which may take place on the licensed premises during hours in which children and young persons have access if appropriate.

What the Board Will Expect of Licence Holders/Applicants

- Consider the ambience of premises and what is appropriate in terms of children and young persons' access.
- Ensure facilities are appropriate to the areas of the premises to which children and young persons are to be afforded access.
- Vigilance against underage drinking and proxy purchasing.
- Strict enforcement of Challenge 25.
- Comprehensive and up to date staff training.
- Restrict access for children and young persons to appropriate hours and parts of the premises.

What the Board Will Expect of Partner Agencies:

- Communication of relevant information.
- Sharing of best practice or initiatives designed to improve standards.
- Participation in mediation in the event of issues or licence review hearings as a last resort.

A link to examples of the standard local conditions can be found in the Supplementary Policy on General Licensing Matters.

Supplementary Policy – Licensed Hours

Whilst all applications will be dealt with on their own merits the Board considers it necessary for the promotion of the licensing objectives to set parameters with respect to licensed hours. Any application seeking hours outwith those detailed below will be expected to satisfy the Board that there are legitimate grounds for departing from policy and demonstrate that the granting of such hours would not be contrary to the licensing objectives.

Off-Sale Premises

Maximum trading hours for off-sale premises are set by statute. The Board have no power to grant off-sales hours prior to 1000 or after 2200 hours. It should be noted that these are the maximum permitted hours and the Board may restrict these hours if it can be shown to be necessary for the promotion of the licensing objectives.

	<u>Earliest Opening Hour</u>	<u>Latest Terminal Hour</u>
All off-sales premises	1000	2200

On-Sale Premises

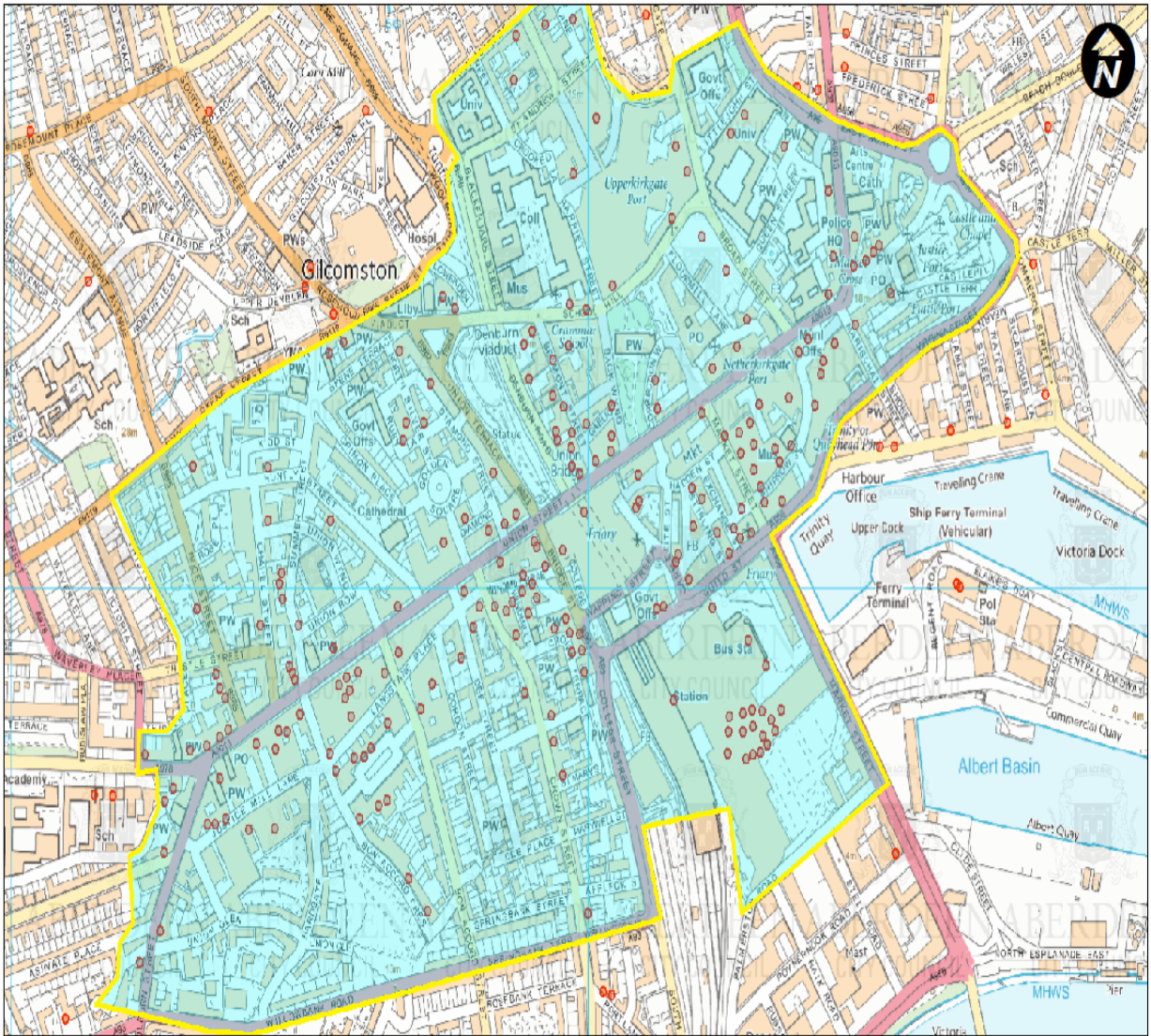
The Board considers it appropriate to distinguish hours within the city centre from outlying areas. The city centre area is that shown delineated on the undernoted map.

The hours stated below are the earliest acceptable opening hour and latest acceptable terminal hour, and not the maximum permissible hours. **The terminal hours stated below are the latest permissible and will not be appropriate for all premises. It will be the responsibility of the licence holder or applicant to demonstrate that the premises is suitable for the hours sought. Additional conditions will normally be added to all premises seeking licensed hours after 1am including but not limited to CCTV, door stewards and radiolink. A link to examples of the standard local conditions can be found in the Supplementary Policy on General Licensing Matters.**

The Board considers 15 hours continuous trading to be reasonable within any 24-hour period and so the opening or terminal hour should be adjusted accordingly to comply with this requirement.

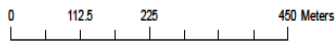
The opening hours for casinos remains in line with the statutory hours in terms of the Gambling Act 2005, namely 1200 – 0600 daily.

<u>Outwith City Centre</u>	<u>Earliest Opening Hour</u>	<u>Latest Terminal Hour</u>
Sunday to Thursday	1000	0000
Friday & Saturday	1000	0100
<u>City Centre</u>	<u>Earliest Opening Hour</u>	<u>Latest Terminal Hour</u>
Sunday to Thursday	1000	0200
Friday & Saturday	1000	0300



Current City Centre Area

1:5,000



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Supplementary Policy – Occasional Licences and Extended Hours

Occasional Licences

In terms of the legislation only a Premises Licence holder, Personal Licence holder or a Voluntary Organisation can apply for an Occasional Licence. The Board consider Occasional Licences should only be used for one-off events and should not be used to circumvent standard licensing procedures.

Accordingly, the Board will not normally grant the following, unless there are exceptional circumstances:

- A series of Occasional Licences for the same premises where an application for a Premises Licence would be more appropriate.
- Occasional Licences for premises holding a Provisional Premises Licence where there are outstanding issues preventing an application for Confirmation from being lodged.
- Occasional Licences for child-focussed events, **being events held specifically for children as opposed to family events at which children may be present.**

Any application for an Occasional Licence must comply with the Board's Supplementary Policy on licensed hours. Additional conditions may be added to an Occasional Licence to uphold the licensing objectives covering matters including staff training, access for children and young persons, and alternatives to glassware.

Police Scotland and Licensing Standards Officers will have 21 days in which to provide comment upon applications. Applications for Occasional Licences must **therefore** be submitted at least 4 weeks in advance of the event to allow sufficient time for the applications to be processed. The Board consider that it would be difficult to justify a shorter processing period under s57(4) for any events except for funeral functions.

Extended Hours Applications

The holder of a Premises Licence may apply for an extension of regular licensed hours in connection with:

- A special event or occasion to be catered for on the premises, or
- A special event of local or national significance.

The Board expect licence holders to anticipate and incorporate recurring events into the Premises Licence and only to apply for Extended Hours for one-off events that could not have reasonably been anticipated.

Any application must be submitted by the licence holder and not the Designated Premises Manager unless he or she has written authorisation from the licence holder to do so. Applications must be made at least 4 weeks in advance of the event.

General Extensions

The Board will consider annually whether any scheduled events would justify a general direction under s67 and will publish a list of qualifying events and the degree of the extension in January each year to enable the trade and other stakeholders to plan accordingly. **Such a list may be added to during the course of the year should the need arise.**

Such extensions will only be available to premises whose standard hours conform to the 15-hour maximum trading specified in the Supplementary Policy on Licensed Hours.

Supplementary Policy – External Drinking Areas

The Board recognises that the incorporation of outdoor areas within the licensed footprint of premises can enhance the operation of such premises but considers that it also attracts additional responsibilities on the part of the licence holder to uphold the licensing objectives.

Before an application to licence an outdoor area will be considered the area in question must benefit from the necessary planning permission and, if required, a pavement permit from the Roads Department of Aberdeen City Council.

All outdoor areas must be delineated on the layout plan forming part of the premises licence and outdoor drinking should be included as an activity within the body of the licence. The Board will expect premises who currently utilise unlicensed outdoor areas to incorporate such areas within the premises licence by way of variation.

Applicants and licence holders must demonstrate that the areas will not contravene the licensing objectives, in particular with regard to noise, litter and antisocial behaviour. The areas must be regularly monitored, and glassware removed.

The Board will routinely attach additional conditions where an outdoor area is licensed including but not restricted to:

- Outdoor area to be clearly demarcated onsite.
- Use of the area to cease at 2200 hours.
- No amplified music or entertainment to take place in the outdoor area.

The terminal hour may be further restricted, and drinks may be required to be decanted into alternatives to glassware if appropriate.

[A link to examples of the standard local conditions can be found in the Supplementary Policy on General Licensing Matters.](#)

Overprovision – On-Sales Premises

The Board recognises that overprovision is a serious consideration that can have important repercussions. In coming to a decision on overprovision of on-sales premises it was considered appropriate to align the locality areas with those identified as appropriate for different opening hours. Accordingly, the Board identified two localities for on-sales overprovision, namely city centre and outwith the city centre. The boundary of the city centre area is that illustrated in the Supplementary Policy on Licensed Hours. The Board then sought evidenced views on overprovision within those two localities and is grateful to all respondents who took the time to submit a viewpoint.

The Board primarily considered the evidence of crime statistics provided by Police Scotland. These related primarily to the licensing objectives of Preventing Crime and Disorder, Securing Public Safety and Preventing Public Nuisance. The Board found it particularly pertinent that Police Scotland believed that whilst evidence of crimes in which alcohol consumption was a significant factor could be provided, it was not felt that there was sufficient evidence to justify a finding of overprovision in either of the identified localities. Police Scotland had identified a smaller area within the city centre locality which could possibly have been considered but accepted that it was for the Board to identify localities for the purposes of overprovision.

The Board also recognised that the other responses received to the consultation were of mixed opinions and there was no consensus for either locality.

In summary, the Board recognises that there are issues relating to the Licensing Objectives that correlate with the operation of licensed premises. However, the Board considers a declaration of overprovision to be a serious undertaking that should only be taken when adequately supported by the available evidence. On balance the Board is currently of the opinion that whilst there is evidence of the correlation mentioned above that evidence falls short of establishing the causal link that is required by the regulatory framework to justify overprovision. Accordingly, the Board has determined that currently there is not overprovision of on-sales premises within either locality.

The Board will continue to assess all applications on their merits and will expect all applicants to demonstrate compliance with the licensing objectives and all relevant parts of the Board's Statement of Licensing Policy. The Board will also work with partner agencies to keep the policy under review and ensure that it remains fit for purpose.

Overprovision: Off-Sales

In cognisance of the nature of the evidence received during previous overprovision consultations as well as the specific challenges raised by attempts to attribute meaningful evidence to smaller localised areas, the Board established the whole Board area as one locality for the purposes of off-sales overprovision only. The Board then sought evidenced views on overprovision within that locality and is grateful to all respondents who took the time to submit a viewpoint.

The Board noted the evidence provided by NHS Grampian and Alcohol Focus Scotland primarily relating to the licensing objective of Protecting and Improving Public Health. The Board recognises that there are health issues caused by the consumption of alcohol and note that the majority of alcohol is reportedly sold from off-sales premises. Additionally, the Board is concerned that hospital admissions for alcohol related causes are above the Scottish average. However, it also recognised that the evidence provided by both NHS Grampian and Alcohol Focus Scotland indicated that most people tended to travel larger distances by vehicle to purchase alcohol, and that the rise of home deliveries had also to be taken into consideration. Both agencies accepted that there was no simple method of establishing a numerical formula to assist with the calculation of any saturation point.

The Board also considered the evidence of crime statistics provided by Police Scotland. These related primarily to the licensing objectives of Preventing Crime and Disorder, Securing Public Safety and Preventing Public Nuisance. The Board found it particularly pertinent that Police Scotland believed that whilst evidence of crimes in which alcohol consumption was a significant factor could be provided, it was not able to provide a body of evidence linking crimes specifically to off-sales premises. Police Scotland also suggested it could not support the idea that were there half the number of premises there would be half the number of crimes. Again, it highlighted that there was not a simple numerical answer to this problem. The Board also noted that Police Scotland suggested that the issue may be one of alcohol consumption as opposed to the regulated sale from off-sale premises.

As well as the evidence provided by respondents to the consultation the Board also considered that it had been operating without an overprovision policy for the recent period, and that this did not appear to have resulted in any identifiable increase in the number or capacity of premises, nor indeed harm associated from the operation of those premises.

In summary, the Board recognises that there are issues of harm that correlate with the operation of off-sales premises. However, the Board considers a declaration of overprovision to be a serious undertaking that should only be taken when adequately supported by the available evidence. On balance the Board is currently of the opinion that whilst there is evidence of the correlation mentioned above that evidence falls short of establishing the causal link that is required by the regulatory framework to

justify overprovision. Accordingly, the Board has determined that currently there is not overprovision of off-sales premises within the locality.

The Board will continue to assess all applications on their merits and will expect all applicants to demonstrate compliance with the licensing objectives and all relevant parts of the Board's Statement of Licensing Policy. The Board will also work with partner agencies to keep the policy under review and ensure that it remains fit for purpose.

SCHEME OF DELEGATION

This Scheme of Delegation details the powers of the Licensing Board for Aberdeen City in terms of the Licensing (Scotland) Act 2005. This Scheme of Delegation was approved by the Board on 10 October 2017.

The Board recognises that any application should only be determined by the Board where necessary and any straightforward matters should be considered by the Clerk or any member of the Clerk's staff having authority to do so, to save resources and to create as little inconvenience to applicants as possible.

The Board therefore agrees that only those applications and matters which by statute are required to be considered by the Board will be submitted to them for determination and other applications will be determined by the Clerk (or Depute Clerk or persons appointed to assist them) in accordance with the following Scheme of Delegation.

1. MATTERS RESERVED TO THE LICENSING BOARD			
	Nature of Function/ Application	Relevant Provision in Licensing (Scotland) Act 2005	Function
1.1.	Determination of Licensing Board Policy	s.6 and Sch.1 para 10(2)(a)	Determining the Board's policy for the purposes of a Licensing Policy Statement or any Supplementary Licensing Policy Statement;
1.2.	Determination of Overprovision of Licensed Premises	s.7 and Sch.1 para 10(2)(b)	Determining, for the purposes of any such statement, whether there is overprovision of licensed premises, or licensed premises of any particular description, in any locality;
1.3.	Premises Licence Application	s.23 and Sch.1 para 10(2)(c)	Determining a premises licence application;
1.4.	Premises Licence Major Variation Application	s.30 and Sch.1 para 10(2)(d)	Determining a premises licence variation application where the variation sought is not a minor variation;
1.5.	Premises Licence Transfer Application (Conviction)	s.33, s.34 and Sch.1 para 10(2)(e)	Determining an application for the transfer of a premises licence where the applicant has been convicted of a relevant or foreign offence;

1.6.	Provisional Premises Licence Confirmation (Refusal)	s.46 and Sch.1 para 10(2)(i)	Refusing an application for confirmation of a provisional premises licence;
1.7.	Temporary Premises Licence	s.47	Determining a temporary premises licence application;
1.8.	Personal Licence (Conviction)	s.74 and Sch.1 para 10(2)(f)	Determining a personal licence application, or a personal licence renewal application where the applicant has been convicted of a relevant or foreign offence;
1.9.	Conducting a Hearing	s.39, s83(7) s.84 and Sch.1 para 10(2)(g)	Conducting a hearing under the Act, including taking any of the following steps: At a review hearing in respect of a premises licence where necessary in terms of the licensing objectives flowing from the sale of alcohol: Issuing a written warning to the premises licence holder; Revoking or suspending the premises licence; or Making a variation of the premises licence; or Making an order revoking, suspending or endorsing a personal licence.
1.10	Closure Order	s.97 and Sch.1 para 10(2)(h)	Making a Closure Order;

2. MATTERS DELEGATED TO SUB-COMMITTEE

	Nature of Function/ Application	Relevant Provision in Licensing (Scotland) Act 2005	Function
2.1	Occasional Licence (Objection/ Contrary to Policy)	s.59 and Sch.1 para 10(1)	Determining whether or not the Licensing Board will hold a hearing to determine an application for an occasional licence where an objection,

			representation or a notice recommending refusal from the Chief Constable or Licensing Standards Officer or where the application is contrary to the terms of the Board's Policy;
2.2	Occasional Licence (Objection)	s.59 and Sch.1 para 10(1)	Where a decision has been taken by the Convenor/Sub-Committee not to hold a hearing in terms of section 59(4) of the Act, the determination of the application following an opportunity for the applicant to comment on the representation in terms of section 59(5);
2.3	Extended Hours Application (Objection/Contrary to Policy)	s.70 and Sch.1 para 10(1)	Determining whether or not the Board will hold a hearing to determine an application for extended hours where an objection, representation or a notice recommending refusal from the Chief Constable or Licensing Standards Officer or where the application is contrary to the terms of the Board's Policy;
2.4	Extended Hours Application (Objection)	s.70 and Sch.1 para 10(1)	Where a decision has been taken by the Convenor/Sub-Committee not to hold a hearing in terms of section 70 (2) of the Act, the determination of the application following an opportunity for the applicant to comment on the representation in terms of section 70(3);

3. MATTERS DELEGATED TO THE CONVENOR			
	Nature of Function/ Application	Relevant Provision in Licensing (Scotland) Act 2005	Function
3.1	Notice of Convictions	s44(7A), s83(7A)	Determining whether to hold a licence review hearing or to take no further action upon receipt of a notice from the Chief Constable which does not contain a recommendation to vary, suspend, revoke or endorse the licence in question
3.2	Occasional Licence or Extended Hours ("Fast Track")	ss.57(4) and 69(4) and Sch.1 para 10(1)	Determining whether an application for an occasional licence or occasional extension requires to be dealt with quickly.
3.3	Personal Licence (Licence Previously Surrendered – Hearing)	s.74(7)	Where the applicant has surrendered a personal licence within the period of 3 years prior to an application for a further personal licence being made by that person to decide whether the reasons for surrender of the previous personal licence warrant consideration of the application by the relevant Board;
3.4	Power to Relieve Procedural Errors	s.135 and Sch.1 para 10(1)	To relieve any applicant or other party to proceedings before the Board of any failure to comply with any procedural provision if the failure is due to a mistake, oversight or other excusable cause, and it is considered appropriate in all of the circumstances to relieve the failure.
3.5	Rejection of Frivolous or	s.22(4), s.36(6), s.58(3)	Determining whether to reject a notice of objection or representation or request for

	Vexatious Objections		a premises licence review received by the Board where they consider it to be frivolous or vexatious;
3.6	Premises Licence Review Proposal	s.37 and Sch.1 para 10(1)	Determining whether to make a premises licence review proposal;

4. MATTERS DELEGATED TO THE CLERK OR DEPUTE CLERKS TO THE LICENSING BOARD OR ANY PERSONS APPOINTED TO ASSIST THEM			
	Nature of Function/ Application	Relevant Provision in Licensing (Scotland) Act 2005	Function
4.1	Premises Licence Minor Variation Application	s.29 and Sch.1 para 10(1)	Determining any premises licence variation application where the variation sought is a minor variation, including for the avoidance of doubt a change of Designated Premises Manager;
4.2	Premises Licence Application or Variation Application Hearing Attendance	Sch.1 para 10(1)	Determining whether to request an Applicant to attend a hearing for a premises licence application or a variation application where there are no representations or objections and the application is not contrary to the Board's Policy;
4.3	Premises Licence Transfer Application (No Conviction)	s.33, s.34 and Sch.1 para 10(1)	Determining any application for the transfer of a premises licence where the applicant has not been convicted of a relevant or foreign offence;
4.4	Provisional Premises Licence Confirmation	s.46 and Sch.1 para 10(1)	Determining any application for confirmation of a provisional premises licence – where no variation (other than a minor variation) has been made to the operating plan or layout plan for the

			premises to which the licence relates since the provisional licence was issued or since a variation of the provisional premises licence was granted;
4.5	Obtaining Further Information for the Purposes of a Review Hearing	s.38(5) and (6), and Sch.1 para 10(1)	To exercise the powers under section 38(5) and (6) for the purposes of a review hearing to obtain further information, request any person to attend to provide information and/or request production of any document at a review hearing;
4.6	Premises Licence (Licence Production)	s.49(3) and Sch.1 para 10(1)	To require a premises licence holder to produce the premises licence;
4.7	Occasional Licence (No Objection)	s.59 and Sch.1 para 10(1)	Determining an application for an occasional licence – where no objections or representations have been received, nor a notice recommending refusal from the Chief Constable or any report from the Licensing Standards officer recommending refusal;
4.8	Occasional Licence Conditions	s.60 and Sch.1 para 10(1)	To impose conditions under section 60 in respect of an occasional licence as necessary or expedient for the purpose of any licensing objective;
4.9	Extended Hours Application (No Objection)	s.70 and Sch.1 para 10(1)	Determining an application for extended hours where no objections or representations have been received nor a notice recommending refusal from the Chief Constable or any report from the Licensing Standards Officer recommending refusal;

4.10	Personal Licence (No Conviction)	s.74 and Sch.1 para 10(1)	Determining a personal licence application, or a personal licence renewal application where the applicant has not been convicted of a relevant or foreign offence;
4.11	Personal Licence (Licence Previously Surrendered)	s.77(6)	To grant personal licences where the applicant has previously surrendered their personal licence under section 77(6) or their licence has been revoked under s.87(3);
4.12	Revocation of Personal Licence	s.87(3) and Sch.1 para 10(1)	The revocation of a personal licence where the licence holder has not complied with the requirements of Section 87(1) of the Act;

5. Other Matters

Any matters which are not the subject of a specific delegation in terms of this Scheme of Delegation and are not prescribed by the Licensing (Scotland) Act 2005 shall be determined by the Clerk (or any person appointed to assist the Clerk) as appropriate unless the nature of such matter is considered to be appropriate to be determined by the Licensing Board at a meeting arranged by the Clerk in consultation with the Convenor of the Licensing Board.

6. Exercise of Delegated Power

The Clerk, Depute Clerk and any other member of staff appointed to assist them may elect not to use their delegated powers in a particular case, in which case the matter will be referred to the Licensing Board.

7. Legislation

These delegations are subject to any necessary alterations arising from amendments to Legislation, Regulations, Codes of Practice or Government Circulars. In the event of a conflict between the terms of this Scheme of Delegation and the relevant legislation, the Scheme of Delegation shall be deemed amended to accord with the provisions of the said relevant legislation.

Supplementary Policy – Hearing Procedures

Where an application requires to be determined by a hearing at a meeting of the Licensing Board all parties will be provided with 14 days' notice in writing of the time and location of the hearing. The Board will endeavour to make any reasonable adjustments to cater for any additional requirements of any party to a hearing if made aware of those requirements in advance.

Where the hearing is in respect of an application the following procedure will be followed:

1. The applicant will be invited to address the Board in support of the application and make reference to any representation or objection received.
2. The person(s) making any representation or objection will be invited to address the Board in support of the representation or objection.
3. The applicant will be invited to respond to any points raised by the person(s) making the representation or objection.
4. Members will be invited to address questions to all parties.
5. The person(s) making the representation or objection will be invited to sum up. No new evidence may be introduced at this stage.
6. The applicant will be invited to sum up. No new evidence may be introduced at this stage.
7. The Board may elect to seek legal advice in private if required but must return to the public forum before any decision is made.
8. The Board will come to a decision.

Where the hearing is in respect of a review application as a result of a complaint the following procedure will be followed:

1. The complainer will be invited to address the Board in support of the complaint.
2. The Licensing Standards Officer will be invited to address the Board in support of the report required in terms of s38(4) of the Licensing (Scotland) Act 2005.
3. The licence holder will be invited to address the Board in response to the complaint.
4. The complainer will be invited to respond to any points raised by the licence holder.
5. Members will be invited to address questions to all parties.
6. The licence holder will be invited to sum up. No new evidence may be introduced at this stage.

7. The complainant will be invited to sum up. No new evidence may be introduced at this stage.
8. The Board may elect to seek legal advice in private but must return to the public forum before any decision is made.
9. The Board will come to a decision.

Supplementary Policy – General Licensing

Alcohol Deliveries

The Board are aware that a number of premises are keen to offer a delivery service for alcohol, particularly those that offer delivery of food. It is the view of the Board that responsibility lies with the licence holder to ensure that the delivery person has adequate training to safeguard the licensing objectives, and in particular has procedures in place to ensure that no deliveries are made to underage customers.

Additional conditions may be attached to premises licences in such cases, and deliveries of alcohol will generally only be permitted as part of a delivery of food, unless from a dedicated off-sales premises.

Agent of Change

The Agent of Change principle in planning terms clearly places the responsibility for mitigating any detrimental impact of noise on neighbours with those responsible for any change in the position. For example, where a new residential or commercial property is to be developed within the vicinity of an existing licensed music venue, the responsibility for mitigating any adverse impact should sit with the developer, as the “agent of change”. Conversely, if a new music venue is proposed, or an existing venue is to be varied, that responsibility would be with the licence holder.

The Board considers it appropriate to have regard to the agent of change principle in licensing terms when determining the weight to be given to various arguments.

Licences Ceasing to Have Effect

Section 28(5)(b) provides that a licence will cease to have effect where the licensed premises ceases to be used for the sale of alcohol. In order to avoid any misunderstandings, the Board expect any licence holder to notify the licensing department in writing if the premises is going to be closed for any length of time with an explanation of the reason for closure and an expectation of when the premises intends to reopen. If a premises has been closed for 6 months the licence will be referred to the next Board Meeting for review.

Personal Licences

The Board considers that it is imperative that any training certificate enclosed with an application for a Personal Licence is up to date. As Personal Licence holders require to refresh training every 5 years the Board thinks it is reasonable to require any

training certificate submitted with an application for a Personal Licence to be no more than 5 years old. Where a Personal Licence has been surrendered or revoked and a subsequent application is made the Board will accept a training certificate over 5 years old only if it is accompanied by an up to date refresher training certificate.

Conditions

Examples of the standard local conditions which may be attached to licences can be found here:

Hyperlink to webpage to be inserted

ABERDEEN LICENSING BOARD

COMMITTEE:	ABERDEEN CITY LICENSING BOARD
DATE	13 NOVEMBER 2018
TITLE OF REPORT	GAMBLING POLICY STATEMENT

1. PURPOSE OF REPORT

To recommend that Aberdeen City Licensing Board ('the Board') agree to the adoption of the revised Statement of Policy in terms of Section 349(1) of the Gambling Act 2005 ('the Act').

2. RECOMMENDATION(S)

2.1 That the Board notes the contents of the report; and

2.2 Approves Appendix 1 for publication in accordance with the statutory timescales.

3. BACKGROUND/MAIN ISSUES

3.1 Section 349 (1) of the Act requires all licensing authorities to prepare and publish every three years a statement of the principles that they propose to apply in exercising their function under the Act during the three-year period to which the policy applies.

The Licensing Authority Statement of Policy will last for a maximum of three years but can be reviewed at any time. The Board's current policy runs from January 2016 to January 2019.

The Policy requires to be published by 3 January 2019 and will come into effect on 31 January 2019. The final version of the policy 2019-2022 is attached at appendix 1.

3.2 The Board undertook a statutory consultation process which concluded on 2 November 2018. Those persons/bodies consulted were:

- The Chief Constable of Police Scotland
- Chief Fire Officer, Scottish Fire & Rescue Service
- The Gambling Commission
- Integrated Children and Family Services
- Premises Licence Holders
- Community Councils
- Licensing Agents

- Aberdeen City Council – Councillors
- National Casino Forum
- Association of British Bookmakers Ltd
- GamCare
- Gamble Aware
- NHS Grampian

3.3 Consultation Response

There were 6 responses received by close of consultation. Responses were received from Police Scotland, GamCare, Gamble Aware, Kincorth Leggat Community Council, Integrated Children and Family Services and the Association of British Bookmakers. The full responses are provided in Appendix 2.

Officers have noted the comments contained therein and the Policy has been amended to reflect the comments received from the Association of British Bookmakers and Integrated Children and Family Services.

The following paragraphs of the policy have been amended and are highlighted in red in Appendix 1:

- Page 6 – Paragraph 5.3.1
- Page 13 – Paragraph 10.1.16 and
- Page 23 – Paragraph 1.4.

Comments received from Police Scotland, GamCare and Gamble Aware will be included in a further consultation exercise regarding the adoption of a local area profile. The results of that consultation will be brought back before the Board early in 2019. The comments from Kincorth Leggat Community Council are noted.

4. APPENDICES
Appendix One - draft Statement of Policy for 2019-2022.
Appendix Two – Collated responses.
5. REPORT AUTHOR DETAILS

Arlene Dunbar
Registered Paralegal
ardunbar@aberdeencity.gov.uk
01224 523411

ABERDEEN CITY LICENSING BOARD

GAMBLING ACT 2005

POLICY STATEMENT

FIFTH EDITION

JANUARY 2019 -2022

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GAMBLING ACT 2005
POLICY STATEMENT
FIFTH EDITION
ABERDEEN LICENSING BOARD

PART A

1 Introduction

This is the Policy Statement (the Policy) that Aberdeen City Licensing Board (the Board) is required to publish in terms of Section 349(1) of the Gambling Act 2005 (the Act)

The Policy has been prepared having regard to the licensing objectives as detailed in Section 1 of the Act, the Guidance to Licensing Authorities 5th edition September 2015 ('the Guidance') issued by the Gambling Commission ('the Commission') the provisions of the Act itself and subsequent Regulations made under it.

The Policy will come into effect on 31 January 2019 and will remain in place for a maximum period of 3 years to 31 January 2022. The Policy will be reviewed, updated and modified as and when the Board considers it appropriate and at least every three years.

2 Declaration

In adopting the final Policy the Board has had regard to, the licensing objectives of the Act, the Commission's Guidance and responses from those persons consulted.

3 Geographical Area

The Board's area covers the same territory as the Aberdeen City Council area. Aberdeen is a thriving, cosmopolitan port in the North-east of Scotland with a population of, 228,990 covering an area of 184.47 square kilometres (71.22 square miles). Traditional industries such as fishing and farming still flourish in and around the city which also enjoys two first class universities. Its buoyant modern economy is fuelled by the oil industry, earning the city its epithet 'Global Energy City'.

4. Scope – Licensing Functions

This Board will make decisions upon applications or notifications made for:

- premises licences
- temporary use notices
- occasional use notices
- permits as required under the Act and
- registrations as required under the Act

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

- casinos
- bingo premises
- betting premises
- tracks
- adult gaming centres
- licensed family entertainment centres
- unlicensed family entertainment centres
- club gaming permits
- prize gaming and prize gaming permits
- occasional use notices
- temporary use notices
- registration of small society lotteries

The Board shall not be involved in licensing remote gambling as defined in Section 4 (1) of the Act. Regulation of this function shall be the responsibility of the Commission.

5. THE LICENSING OBJECTIVES

In exercising its functions under the Act the Board must have regard to the licensing objectives set out in Section 1 of the Act. These are:

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

The Board will, when determining applications, consider whether the grant of a premises licence will constitute a potential source of crime or disorder or result in an increase in crime and disorder.

The Board agrees with the Commission's distinction between disorder and nuisance in its Guidance, being: "licensing authorities should generally consider disorder as activity that is more serious and disruptive than mere nuisance. Factors to consider in determining whether a disturbance was serious enough to constitute disorder would

include whether police assistance was required and how threatening the behaviour was to those who could see or hear it.”

In considering premises licence applications, the Board shall take into account the following:

- The design and layout of the premises;
- Training given to staff in crime prevention measures appropriate to those premises;
- Physical security features installed in the premises. This 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;
- The likelihood of any violence, public order or policing problem occurring if the licence is granted.
- In relation to preventing disorder, the Board have the ability under s.169 of the Act to attach additional conditions to premises licences and are entitled to include a requirement for door supervision, as provided for in s.178 of the Act.

5.2 Ensuring that gambling is conducted in a fair and open way

The Board notes that the Commission has stated in its Guidance that it would not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be a matter for either the management of the gambling business, and therefore subject to the Operating Licence, or will be in relation to the suitability and actions of an individual and therefore subject to the Personal Licence. Both of the foregoing are the responsibility of the Gambling Commission.

However, if the Board suspects that gambling is not being conducted in a fair and open way, the Board notes in particular the Commission’s comments in its Guidance that the Board ought to bring this to the attention of the Commission. The Board shall endeavour to do so should said suspicion arise.

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

5.3.1 Protecting Children

In accordance with its obligation under Section 157 (h) of the Act, the Board has designated the Integrated Children’s Services Partnership as the body competent to advise the Board about the protection of children from harm.

The Board considers this the best body to fulfil this function because the Partnership lead integrated planning, strategy and policy development to improve outcomes for children and young people on behalf of the Aberdeen City Community Planning Partnership. The Partnership has senior representation from Aberdeen City Health and Social Care Partnership and Aberdeen City Council, **Integrated Children and Family Services**, Culture and Sports Services, NHS Grampian, Police Scotland, the Children's Panel, Aberdeen Council of Voluntary Organisations and Aberdeen Youth council.

The Board will consult with the Integrated Children Services Partnership on any application that indicates there may be concerns over access for children or young persons.

The Board will seek to limit the advertising for premises so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children.

5.3.2 Access to Licensed Premises

With limited exceptions, the intention of the Gambling Act is that children and young persons should not be permitted to gamble and should be prevented from entering those gambling premises which are adult only environments.

Significant weight will be given to all matters relating to the protection of children and young persons. An applicant for a premises licence must comply explicitly with the Act regarding the permitted access or exclusion of children and young persons. No children or young person must be permitted to have access to, close observation of, or an invitation to participate in any gambling activities. Where the Board determines that there may be a risk of harm to children in relation to particular premises, it may exclude or limit the access of children to the premises at specific times or when certain activities are taking place.

The Board notes the Commission's comments in its Guidance that it should consider whether staff will be able to adequately supervise the gambling premises, as adequate staffing levels is a factor to consider regarding the prevention of underage gambling

It further notes that the Commission expects the Board to work with operators to consider how any impediments to the supervision of premises might be most appropriately remedied.

Supervision also applies to premises that are themselves not age-restricted (e.g. bingo and family entertainment centre (FEC) premises) but which make gambling products and facilities available.

In pursuance of this licensing objective, the Board may consider appropriate conditions to attach to each premises licence on an individual basis. These may include one or more of the following from this non-exhaustive list:

- The configuration of the premises;
- The use of floor-walkers
- Installation of CCTV
- Supervision of entrances;
- The display of clear signage both externally and internally indicating that entrance to the premises is restricted to those aged 18 years and over;
- Clear segregation of gambling and non-gambling areas;
- Supervision of access to gambling areas;
- Supervision of gambling machines;

5.3.3 Vulnerable Persons

The Board notes that the term 'vulnerable persons' is not statutorily defined. However, it shall be assumed that this group includes the following:

- ;
- people who gamble beyond their means; and
- people who may not be able to make an informed or balanced decision about gambling due to a mental impairment, excessive alcohol consumption or drug taking.

Applicants for premises licences, permits and authorisations will be expected to have an awareness that for some people gambling activities can present both potential and actual harm. Applicants will also be required to comply with any Code of Practice and Guidance issued by the Commission in this regard.

The Board shall consider, on a case by case basis, whether any special considerations should apply in relation to particular premises to ensure the protection of vulnerable persons which will need to be balanced against the Board's objective to aim to permit the use of premises for gambling.

6 Responsible Authorities

For the purposes of Section 157 of the Act, the following are Responsible Authorities in relation to premises:

- The Gambling Commission, Victoria Square House, Victoria Square, Birmingham B2 4BP
- Police Scotland, The Chief Constable, Force Headquarters, Queen Street, Aberdeen AB10 1ZA
- The Scottish Fire & Rescue Service The Chief Fire Officer, Headquarters, 19 North Anderson Drive, Aberdeen AB15 6TP
- Building Standards, Strategic Place Planning, Aberdeen City Council, LGN, Marischal College, Broad Street, Aberdeen, AB10 1AB
- Environmental Services, Operations and Protective Services, Aberdeen City Council, L3S, Marischal College, Broad Street, Aberdeen, AB10 1AB
- Committee Services, Town House, Broad Street, Aberdeen, AB10 1AQ
- Integrated Children's Services Partnership, James Simpson, L2N, Marischal College, Broad Street, Aberdeen, AB10 1AB
- H M Revenue and Customs, National Registration Unit, Portcullis House, 21 India Street, Glasgow G2 4PZ

7 Interested Parties

Interested Parties may make representations in writing about licence applications or apply for a review of an existing licence. In terms of Section 158 of the Act, an Interested Party is a person who:

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- b) has business interests that might be affected by the authorised activities, or
- c) represents persons who satisfy paragraph a) or b)

In determining whether a person is an Interested Party in relation to a particular premises, the Board shall consider each case on its own merits. No uniform rule may attach to the Board's decision making in this regard. The Board also notes the examples in the Commission's Guidance with regards to who may constitute an Interested Party, such as people who are democratically elected, bodies such as trade unions and residents' and tenants' associations.

Interested parties can be persons who are democratically elected such as councillors and MP's. No specific evidence of being asked to represent an interested person will be required as long as the Councillor / MP represents the ward likely to be affected. Other than these however, this Authority will generally require written evidence that a person/body (e.g. an advocate / relative) '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 representation is sufficient.

8 Consultation

In terms of section 349(3) of the Act the Board has consulted the following parties in the preparation of this Policy:

- The Chief Constable of Police Scotland
- Chief Fire Officer, Scottish Fire & Rescue Service
- The Gambling Commission
- Integrated Children's Services Partnership
- Aberdeen City Child Protection Committee
- Premises Licence Holders
- Community Councils
- Licensing Agents
- Aberdeen City Council - Chief Officers
- Aberdeen City Council - Group Leaders
- Aberdeen City Council – Chief Executive
- National Casino Forum
- Association of British Bookmakers Limited
- GamCare
- Gamble Aware
- NHS Grampian

9 POLICIES

9.1 Relationship between planning permission, building regulations and granting of a premises licence.

In determining applications, the Board should not take into consideration matters that are not related to gambling and the licensing objectives

The Board notes that, in accordance with Section 210 of the Act, one such example would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.

In accordance with the Commission's Guidance, the Board also notes that, when dealing with a premises licence application for finished buildings, it shall not take into account whether those buildings have complied with necessary planning or building consents. Fire or health and safety risks shall also not form part of the consideration for a premises licence as these issues fall under other statutory regimes.

The Board may, however, consider carefully the impact of planning and/or building control restrictions (if any) on a licence holder's ability to comply with any conditions that may attach to the licence.

9.2 Door Supervision

The Board may consider it appropriate to attach a condition to a premises licence requiring door supervision during opening hours or between specified opening hours.

The Board may also specify the level of door supervision required.

Door supervision shall have the meaning ascribed to it in Section 178 of the Gambling Act 2005. As per paragraph 33.5 of the Commission's Guidance, the Board notes that in house employees working as door supervisors who are employed at casino or bingo premises do not require to be licensed by the Security Industry Authority.

In terms of Section 178 of the Act, the Board notes that if a door supervisor is required by the Private Security Industry Act 2001 to hold a licence under that Act authorising him or her to fulfil their functions under that Act, then that requirement shall be treated as if it were a condition of the premises licence by virtue of Section 178.

9.3 Local Area Profile

Paragraph 6.47 of the Commission's Guidance suggests that a licensing authority may find it useful to complete its own assessment of the local environment as a means of 'mapping out' local areas of concern, which can

be reviewed and updated to reflect changes to the local landscape. Such an assessment is referred to in the Guidance as a local area profile.

The Board notes that the completion of a local area profile is not a requirement on licensing authorities. The Board takes the view that at present the landscape of gambling in the city of Aberdeen does not necessitate the carrying out of a local area profile. The Board considers that the terms of its Policy provides sufficient clarity for operators as to the relevant factors in its decision making. The position may change in future and the Board may look to amend its policy to introduce a local area profile. Meantime the Board will continue its proactive engagement with responsible authorities and will take steps to facilitate constructive engagement with licensees.

9.4 Risk Assessments

The Board notes Social Responsibility condition 10.1.1 of the Commission's Licence Conditions and Codes of Practice which places an obligation on all non-remote casino, adult gaming centre, bingo, family entertainment centre, betting and remote betting intermediary (trading room only) licences, except non-remote general betting (limited) and betting intermediary licences to carry out local risk assessments.

The condition requires licensees to "assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks". In carrying out the risk assessments "licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy".

The local risk assessment must consider as a minimum:

- the location of services for children such as schools, playgrounds, leisure/community centres and other areas where children will gather;
- the demographics of the area in relation to vulnerable groups;
- whether the premises is in an area subject to high levels of crime and/or disorder.
- how vulnerable people, including people with gambling dependencies are protected.

Condition 10.1.1 is supported by an ordinary condition which states that "Licensees should share their risk assessment with licensing authorities when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise on request."

The Board will expect licensees to produce local risk assessments upon request. Taking cognisance of the Commission's Guidance at paragraph 6.45 if there are any concerns prompted by new or existing risks to the licensing objectives, the Board will request sight of the local risk assessments and will expect licensees to have clear measures in place to address specific concerns.

10 DECISION MAKING

10.1 General Principles

- 10.1.1 Every application received shall be dealt with fairly and shall be seen to be dealt with fairly and shall be considered on its own merits.
- 10.1.2 In considering an application for a premises licence, no regard shall be had to the expected demand for the facilities proposed to be provided in the premises for which a premises licence is sought.
- 10.1.3 The Board is aware that considerations such as moral or ethical objections to gambling are not a valid reason to reject applications for premises licences. This is because such objections do not relate to the licensing objectives. A decision by the Board shall not be based on a dislike of gambling by any member, nor of a general notion that it is undesirable to allow gambling premises in an area.
- 10.1.4 In determining whether the location of proposed gambling premises is acceptable to the Board in light of the licensing objectives, the Board shall consider very carefully the proximity of those proposed premises in relation to the following factors in the following non-exhaustive list:
- a) a school or other educational facility;
 - b) a centre for gambling addicts or other vulnerable persons;
 - c) a centre for children and young persons and
 - d) a residential area with a high concentration of families with children.
- 10.1.5 The Board shall aim to permit the use of premises for gambling in so far as the Board think it:
- a) is in accordance with any relevant Code of Practice issued by the Commission under Section 24 of the Act,
 - b) is in accordance with any relevant Guidance issued by the Commission under Section 25 of the Act,
 - c) is reasonably consistent with the licensing objectives (subject to paragraphs a) and b) above and
 - d) is in accordance with this Policy.

- 10.1.6 Premises Licences shall be subject to the statutory requirements of the Act and associated Regulations, as well as mandatory conditions. The Board may exclude default conditions and attach additional conditions **where the Board consider it appropriate to support the Licensing Objectives.**
- 10.1.7 Premises Licence holders shall comply with relevant Codes of Practice issued by the Commission and the Commission's Guidance where relevant. The Codes of practices can be found on the Commission's website at <http://www.gamblingcommission.gov.uk/for-gambling-businesses/Compliance/LCCP/Licence-conditions-and-codes-of-practice.aspx>
- 10.1.8 The Board shall avoid so far as possible duplication with other regulatory and legislative regimes.
- 10.1.9 In the Act, 'premises' is defined as including 'any place'. Section 152 of the Act prevents more than one premises licence applying to any place. However, the Board notes that the Commission's Guidance indicates that the proper application of Section 152 means that different premises licences cannot apply in respect of single premises at different times. There is therefore no temporal element to a premises licence. Premises therefore cannot, for example, be licensed as a bingo club on week days and a betting shop at weekends.
- 10.1.10 The Board also notes that the Commission's Guidance indicates that there is no reason in principle why a single building cannot be subject to more than one premises licence, provided that those licences are for different parts of the building, and the different parts of the building can reasonably be regarded as being different premises. The Board shall also pay particular attention with regard to the sub-division of a single building or plot to ensure that mandatory conditions relating to access between these premises are adhered to.
- 10.1.11 The Board takes note of the Commission's Guidance that in most cases the expectation will be that a single building or plot will be the subject of an application for a licence. This does not, however, mean that the single building or plot cannot be the subject of separate premises licences for example for the basement and ground floor. However, the Board agrees with the

Commission that areas of a building that are artificially or temporarily separated (for examples by ropes or moveable partitions) cannot properly be regarded as different premises.

- 10.1.12 The Board also agrees with the Commission that whilst different configurations may be appropriate under different circumstances in determining whether a single building may be regarded as different premises, the crux of the matter shall be whether the proposed premises may be regarded as being genuinely separate premises that merit having their own licence and are not an artificially created part of what is readily identifiable as a single premises.
- 10.1.13 Consideration as to whether different parts of a building may be regarded as being different premises shall be one of fact and degree and the Board shall determine each case on an individual, case by case basis.
- 10.1.14 However, in determining whether two or more proposed premises may be regarded as truly separate, the Board may consider the following factors from the following non-exhaustive list:
- a) the location of the premises;
 - b) whether there is separate registration for business rates in place for the premises;
 - c) whether each of the premises may be accessed from the street or a public passageway
 - d) whether the premises may be only accessed from other gambling premises.
 - e) whether the premises' neighbouring premises are owned by the same person or someone else.
- 10.1.15 In considering applications for multiple premises licences for a building and those relating to a discrete part of a building used for other non-gambling purposes, the Board shall consider the following factors from the following non exhaustive list:
- a) the third licensing objective which seeks to protect children from being harmed by gambling. This means not only preventing children from taking part in gambling, but also preventing them from being in close proximity to gambling. Premises should therefore 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.

- b) 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.
- c) Customers ought to be able to participate in the activity named on the premises licence.

10.2 Scheme of Delegation

In terms of Section 155 of the Act, the Board may arrange for the discharge of some of its functions by:

- (a) any member of the Board,
- (b) any committee established by the Board,
- (c) the clerk of the Board, or
- (d) any member of staff provided under paragraph 8(1)(b) of schedule 1 to the Licensing (Scotland) Act 2005

The Board cannot delegate all of its functions.

Those functions that can be delegated are set out in Appendix 4.

The Board reserves the right, to determine all applications and relevant matters under the Act.

10.3 Licensing Reviews

Section 200 of the Act provides that the Board may review any matter connected to the use made of the premises if it has reason to suspect that a licensing condition is not being observed, or for any other reason which gives it cause to believe that a review may be appropriate.

The Board may carry out a review of a premises licence in accordance with Section 197 of the Act where it has received a formal application for review

The Board may reject an application for a review under Section 198 if it thinks that the grounds on which the review is sought:

- a) do not raise an issue relevant to the principles to be applied in accordance with Section 153 of the Act;
- b) are frivolous;
- c) are vexatious;
- d) will certainly not cause the authority to wish to take action of a kind specified in Section 202 (1) of the Act;
- e) are substantially the same as the grounds specified in an earlier application under Section 197 of the Act in respect of the premises licence; or
- f) are substantially the same as representations made under Section 161 of the Act in relation to the application for the premises licence.

In terms of action following a review, the Board may:

- a) revoke the licence;
- b) suspend the licence for a specified period not exceeding three months;
- c) exclude a condition attached to the licence under Section 168 of the Act or remove or amend an exclusion;
- d) Add, remove or amend a condition under Section 169 of the Act.

10.4 Enforcement

In exercising their functions under Part 15 of the Act with regard to the inspection of premises, the Board shall be guided by the Commission's Guidance and their approach shall endeavour to be:

- proportionate – regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised
- accountable – regulators must be able to justify decisions, and be subject to public scrutiny
- consistent – rules and standards must be joined up and implemented fairly
- transparent – regulators should be open, and keep regulations simple and user friendly
- targeted – regulation should be focused on the problem and minimise side effects.

The Board shall adopt a local risk-based approach whereby the main determinant shall be the risk posed to the three licensing objectives by premises. A risk-based inspection programme shall also be implemented whereby premises will be subject to a scheme of routine inspection, the frequency of which will be determined by the risk posed by the premises.

Those premises considered to pose a greater risk will be subject to more frequent inspections than those that are considered to pose a lower risk.

When determining risk, consideration will be given to: -

- the nature of the gambling activities carried out on the premises
- the location of the premises in relation to schools, vulnerable adult centres or residential areas where there may be high concentrations of families with children.
- the number of complaints received (if any) in relation to particular premises
- the procedures put in place by management of the premises to ensure compliance with the licensing objectives

In determining whether to undertake an inspection of premises, the Board shall determine each case on its own merits.

The Board notes that its main enforcement and compliance role in terms of the Act is to ensure compliance with premises licences and associated conditions and other issues relating to the premises themselves. The Board in particular, notes that the enforcement body for personal and operating licences is the Commission.

However, notwithstanding the foregoing, and in accordance with the Commission's Guidance, the Board upholds the view that the Commission, the Board itself, and the police, are all parties to the enforcement regime created under the Act.

10.5 Exchange of Information

If so required by the Commission under Section 29 of the Act, the Board shall exchange any information it receives through the application process with the Commission and other regulatory bodies in accordance with its obligations and functions under the Act. The Board notes that said information must form part of its register and must be in its possession prior to disclosure. This obligation is also subject to data protection and freedom of information legislation.

The Board shall maintain a register of all premises licences and permits issued by it and shall ensure that this register is available for public inspection at all reasonable times.

The licensing authority policy statement must set out how it will approach information exchange with other persons or bodies under the Act, and whether it intends to establish any protocols in this regard. The policy statement should also include the authority's approach to data protection and freedom of information, in particular, how information will be protected, whether the confidentiality of those making representations will be maintained,

what information will be shared with other agencies or persons and how information can be accessed by data subjects.

The Board will act in accordance with the provisions of the Act in its exchange of information with the Commission and other parties listed in Schedule 6 of the Act. the Act includes the provision that any disclosure of information must comply with data protection legislation (as defined by section 3 of the Data Protection Act 2018). The Board will also have regard to any Guidance issued by the Gambling Commission to Licensing Authorities on this matter, as well as any relevant regulations issued by the Secretary of State and the Scottish Ministers under the powers provided in the Act. Should any protocols be established as regards information exchange with other bodies then they will be made available.

10.6 Complaints against Licensed Premises

The Board may investigate complaints against licensed premises in relation to matters relating to the licensing objectives

Any complaints received in relation to particular premises or a class of premises may affect the general risk rating of those premises. Complaints received by the Board in relation to particular or a class of premises may also initiate the Board's right of review under Section 200 of the Act.

PART B

1. LICENSABLE PREMISES

1.1 Provisional Statements

In terms of Section 204 of the Act, a person may make an application for a provisional statement in respect of premises that:

- they expect to be constructed;
- that they expect to be altered, or
- that they expect to acquire a right to occupy.

The Board notes the Commission's Guidance which states that:

'Developers may wish to apply for provisional statements before they enter into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. It is also possible for an application for a provisional statement to be made for premises that already have a premises licence, either for a different type of gambling or the same type'.

Whilst applicants for a premises licence must hold or have applied for an operating licence from the Commission (except in the case of a track), and they must have the right to occupy the premises in respect of which their premises licence application is made, these restrictions do not apply to applicants for provisional statements.

In its consideration of an application for a provisional statement, the Board shall not speculate on, nor take into account, the likelihood of an operating licence being granted by the Commission.

If a provisional statement is granted by the Board, the Board is aware that it is constrained in the matters it may consider when an application for a premises licence is subsequently made in relation to the same premises. In terms of any representations made in relation to the application for the premises licence, the Board shall disregard said representations unless it thinks that those representations:

- address matters that could not have been addressed in representations in relation to the application for the provisional statement, or
- reflect a change in the applicant's circumstances.

In considering an application for a provisional statement, the Board shall not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with planning or building law.

The Board may refuse the premises licence application (or grant it on terms or conditions not included in the provisional statement), only by reference to matters:

- which could not have been addressed in representations at the provisional statement stage
- which, in the Board's opinion, reflect a change in the operator's circumstances
- where the premises has not been constructed in accordance with the plan and information submitted with the provisional statement application.

In determining whether premises have been constructed in accordance with the plan, the Board notes that the Commission in its Guidance advises that there must be a substantial change to the plan. In this regard, the Board will endeavour to discuss any concerns that it has with the applicant before making a decision.

The Board notes the Commission's Guidance in paragraphs 7.59 – 7.65 inclusive detailing the circumstances in which it is appropriate to grant a full licence for premises that are yet to be constructed.

1.2 Casino Premises

In terms of Section 166 of the Act, currently the Board has resolved not to make a resolution prohibiting the issue of casino licences in the Board's area.

The Board reserves its right to review this determination at any time in the future and shall update this Policy as appropriate.

The Board also notes Part 17 of the Commission's Guidance in relation to casinos.

In terms of The Gambling Act 2005 (Mandatory and Default Conditions) (Scotland) Regulations 2007 (SSI 2007 No 266), mandatory and default conditions, unless excluded by the Board, shall apply. The Board may also attach conditions to a casino premises licence in terms of Section 169 of the Act.

1.3 Bingo Premises

The Board notes that there is no statutory definition of 'bingo' in terms of the Act although two types of bingo are commonly understood:

- cash bingo, where the stakes paid make up the cash prizes that are won
- prize bingo, where various forms of prizes are won, not directly related to the stakes paid.

A bingo premises licence holder may generally be able to offer any type of bingo game, whether it be cash bingo or prize bingo.

The Board notes that it will need to satisfy itself that bingo can be played in any bingo premises for which it issues a premises licence. This shall be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.

Section 172(7), as amended of the Act provides that the holder of a bingo premises licence may make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises. Premises in existence before 13 July 2011 are entitled to make available eight category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. Regulations state that category B machines at bingo premises should be restricted to sub-category B3 and B4 machines, but not B3A lottery machines.

The Board also notes the Commission's Guidance at paragraph 18.9 with regard to the unusual circumstance whereby an existing bingo premises covered by one premises licence applies to vary the licence to split the premises into one or more separate licensed premises. The Board notes the Commission's position that it is not permissible for all of the gaming machines to which each of the licences brings an entitlement to be grouped together within one of the licensed premises.

The Board notes that 'Under the Act, children and young persons (anyone up to the age of 18) cannot be employed in providing any facilities for gambling on bingo premises, and children (under 16) cannot be employed, in any capacity, at a time when facilities for playing bingo are being offered. However, young persons, aged 16 and 17, may be employed in bingo premises (while bingo is being played), provided the activities on which they are employed are not connected with the gaming or gaming machines'

Children and young persons are permitted into bingo premises; however, they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are permitted.

In accordance with the licensing objective 'protecting children and other vulnerable persons from being harmed or exploited by gambling', the Board may require an applicant to prove that sufficient measures are in place to prevent children, young persons and vulnerable persons from having access to Category B and C machines.

In terms of The Gambling Act 2005 (Mandatory and Default Conditions) (Scotland) Regulations 2007 (SSI 2007 No 266), mandatory and default conditions, unless excluded by the Board, shall apply. The Board may also attach conditions to a bingo premises licence in terms of Section 169 of the Act. An example of said conditions may be as follows:

- proof of age scheme;

- the provision of CCTV;
- physical security measures on the premises;
- supervision of entrances;
- measures to ensure the physical separation of gambling areas where category C or above gaming machines are made available for use;
- supervision of age restricted areas of the premises;
- self-exclusion schemes;
- the display of clear notices and signage both externally and internally regarding age restrictions and restricted areas;
- the display of a notice specifying opening hours;
- policy and procedures regarding the employment of young persons
- the display of posters and information leaflets indicating the contact details of relevant organisations set up to assist people wishing to seek help and advice regarding gambling related issues.

1.4 Betting Premises

The Act contains a single class of licence for betting premises. However, within this single class of licence there are different types of premises which require licensing. This part of the Policy alludes to betting that takes place other than at a track (previously known as a licensed betting office).

No children and young persons (those under 18 years of age) shall be allowed entry to premises with a betting premises licence at any time. Special rules apply to tracks. Children and young persons are not allowed to be employed at premises with a betting premises licence

The Board notes the Commission's Guidance in respect of Self Service Betting Terminals (SSBTs).

Section 172(8) provides that the holder of a betting premises licence may make available for use up to four gaming machines of category B,C or D. Regulations state that category B machines are restricted to B2, B3 and B4 machines.

In terms of The Gambling Act 2005 (Mandatory and Default Conditions) (Scotland) Regulations 2007 (SSI 2007 No 266), mandatory and default conditions, unless excluded by the Board, shall apply. The Board may also attach conditions to a betting premises licence in terms of Section 169 of the Act. The Board may attach additional conditions where it considers it necessary to do so for the purposes of supporting the Licensing Objectives. Examples of said conditions may be as follows:

- proof of age scheme;
- the provision of CCTV;
- physical security measures on the premises;
- supervision of entrances;
- measures in place to ensure the physical separation of gambling areas;
- self-exclusion schemes;
- the display of clear notices and signage both externally and internally regarding age restriction;
- the display of a notice specifying opening hours;
- the display of posters and information leaflets indicating the contact details of relevant organisations set up to assist people wishing to seek help and advice regarding gambling related issues.

In considering whether to impose conditions to restrict the number of betting machines in particular premises, the Board may consider the size of the premises and the ability of staff to monitor the use of such machines from the counter.

1.5 Tracks

Tracks are premises which include horse racecourses, dog tracks or other tracks where sporting events may take place. The Act does not define what may constitute a sporting event or race and the Board notes the Commission's comment in its Guidance that the Board may determine what constitutes such on a case by case basis.

A track premises licence permits the premises to be used for the provision of facilities for betting. If the licence holder wishes to provide a casino, bingo or other type of gambling on the track, a separate premises licence will be required. Tracks may therefore be subject to more than one premises licence.

If the Operator wishes to use the premises temporarily for gambling and there is no premises licence in effect, the Board may issue a temporary use notice.

Where there is betting on a track on eight days or less in a calendar year, an occasional use notice may be issued by the Board to permit betting on the premises.

An applicant for a premises licence need not hold an operating licence as the betting that is provided on the track is provided by third party operators. Third party operators require to hold an operating licence issued by the Commission.

However, each individual operator coming onto the track on race days does not require to hold a premises licence as they are covered by the premises licence held by the track premises licence holder.

As children and young persons are allowed to be present on a track whilst betting is taking place, the Board will consider carefully, before issuing additional premises licences for a track, any potential impact an accumulation of premises licences may have on the third licensing objective.

An applicant for a track premises licence requires to submit detailed plans of the premises to the Board. Whilst the Board agrees with the Commission in its Guidance that it is sometimes difficult to define the precise location of betting areas on tracks, the Board shall require the following from an applicant:

a detailed plan defining the site, any area to be used for temporary "on-course" betting facilities and, in the case of dog tracks and horse racecourses, any mobile pool betting facilities as well as any other proposed gambling facilities.

In determining whether a track is fit for the provision of gambling facilities, the Board notes the general principles for consideration as per the Commission's Guidance. Whilst each application may be considered on a case by case basis, the Board shall require each applicant to demonstrate that they have measures in place to safeguard the achievement of all three licensing objectives.

In terms of The Gambling Act 2005 (Mandatory and Default Conditions) (Scotland) Regulations 2007 (SSI 2007 No 266), mandatory and default conditions, unless excluded by the Board, shall apply. The Board may also attach conditions to a track premises licence in terms of Section 169 of the Act. An example of said conditions may be as follows:

- proof of age scheme;
- the provision of CCTV;
- physical security measures on the premises;
- supervision of entrances;
- measures in place to ensure the physical separation of gambling areas;
- supervision of gambling areas;
- appropriate siting of gaming machines;
- self-exclusion schemes;
- the display of clear notices and signage both internally and externally regarding age restricted areas;
- the display of a notice specifying opening hours;
- the display of gambling rules in prominent positions in or near betting areas;
- the display of posters and information leaflets indicating the contact details of relevant organisations set up to assist people wishing to seek help and advice regarding gambling related issues.

1.6 Adult Gaming Centres

An Adult Gaming Centre premises licence authorises the licence holder to make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises and any number of category C or D machines.

Premises in existence before 13 July 2011 are entitled to make available four category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. Regulations specify that the category B machines should be restricted to sub-category B3 and B4 machines.

Where two separate Adult Gaming Centres have been created adjacent to each other by splitting pre-existing premises, it is not permissible to locate eight category B3 machines in one of the resulting premises with none in the other one as the gaming machine entitlement for that premises would be exceeded.

No persons under the age of 18 years shall be permitted to enter an Adult Gaming Centre. The Board shall have particular regard to the location of, and entry to, an Adult Gaming Centre to ensure that opportunities for children to have access are minimised. In this regard the Board will expect applicants to offer their own measures to promote, in particular, the third licensing objective.

In terms of The Gambling Act 2005 (Mandatory and Default Conditions) (Scotland) Regulations 2007 (SSI 2007 No 266), mandatory conditions shall apply. There are currently no default conditions specific to Adult Gaming Centres. The Board may also attach conditions to an Adult Gaming Centre licence in terms of Section 169 of the Act. An example of said conditions may be as follows

- proof of age scheme;
- the provision of CCTV;
- supervision of entrances;
- physical security measures on the premises;
- measures in place to ensure the physical separation of areas;
- self-exclusion schemes;
- the display of notices and signage externally stating access to the premises is restricted to persons 18 years of age and over;
- the display of notices both internally and externally stating use of gaming machines is restricted to persons 18 years of age and over.
- the display of a notice specifying opening hours;
- members of staff appropriately trained;
- the display of posters and information leaflets indicating the contact details of relevant organisations set up to assist people wishing to seek help and advice regarding gambling related issues.

1.7 Licensed Family Entertainment Centres

A Licensed Family Entertainment Centre is a premises for which a licence is granted to provide any number of category C and D gaming machines. A licensed FEC is classified as 'premises' and only premises that are wholly or mainly used for making gaming machines available may hold an FEC premises licence (s.238 of the Act). As a result, it is generally not permissible for such premises to correspond to an entire shopping centre, airport, motorway service station or similar. Typically, the machines would be in a designated, enclosed area.

FECs are commonly located at seaside resorts, in airports and at motorway service stations, and cater for families, including unaccompanied children and young persons. The Board will take into account this specific risk when considering applications and when inspecting such premises. Whilst persons under 18 years of age are permitted entry to the premises, no persons under 18 years of age may be permitted access to those areas of the premises where category C gaming machines are situated. The Board shall require that category C machines be situated in a separate area to ensure the segregation and supervision of machines that may only be played by those over 18 years of age. For categorisation of gaming machines, see Appendix 3.

In terms of The Gambling Act 2005 (Mandatory and Default Conditions) (Scotland) Regulations 2007 (SSI 2007 No 266), mandatory conditions shall apply. There are currently no default conditions specific to Licensed Family Entertainment Centres. The Board may also attach conditions to a Licensed Family Entertainment Centre licence in terms of Section 169 of the Act. An example of said conditions may be as follows

- proof of age scheme;
- the provision of CCTV;
- supervision of entrances;
- physical security measures on the premises;
- measures in place to ensure the physical separation of areas for category C gaming machines
- self-exclusion schemes;
- the display of clear notices and signage both internally and externally regarding age restricted areas;
- the display of a notice specifying opening hours;
- the display of posters and information leaflets indicating the contact details of relevant organisations set up to assist people wishing to seek help and advice regarding gambling related issues.

PART C

1. PERMITS

The Act provides that a licensing authority may prepare a statement of principles that it proposes to apply when exercising its functions in considering applications for permits. In particular, this statement may specify matters that the licensing authority proposes to consider in determining the suitability of an applicant for a permit. This power is also mirrored in the Commission's Guidance.

Subject to the above considerations, the Board currently have not adopted any further statement of principles. Should it do so at any time in the future, the Board shall update this Policy as appropriate.

1.1 Unlicensed Family Entertainment Centre Gaming Machine Permits

Unlicensed Family Entertainment Centres are able to offer only category D machines in reliance on a gaming machine permit. Any number of category D machines can be made available with such a permit, subject to other considerations such as fire regulations and health and safety. Permits cannot be issued in respect of vessels or vehicles.

The applicant must show that the premises will be wholly or mainly used for making gaming machines available for use. A permit cannot be granted for an entire shopping centre, airport or bowling alley, for example.

The Board may not refuse an application unless it has notified the applicant of the intention to refuse and the reasons for it, and given the applicant an opportunity to make representations orally or in writing or both.

The Board may also only grant an application for a permit if it is satisfied that the application has been made by a person who occupies or plans to occupy the premises to be used as an unlicensed family entertainment centre, if the applicant is an individual, he or she is aged 18 or over and the Board has consulted the Chief Constable on the application.

The Board notes that it may grant or refuse a permit but cannot attach conditions

The Board notes in particular the Commission's suggestion in its Guidance that, given that these premises may appeal to young persons and children in particular, the Board may wish to give weight to matters relating to child protection issues when determining the suitability of an applicant. In this regard, the Board may consider asking applicants to demonstrate:

- the suitability of the applicant;
- that s/he has no relevant offences as per Schedule 7 of the Act;
- the s/he has a full understanding of the maximum stakes and prizes permissible
- evidence that employees are appropriately trained and have a full understanding of the maximum stakes and prizes permissible
- evidence that there are appropriate policy and procedures in place to protect children and young persons from harm;

The Board will give significant weight to all issues relating to the protection of children and young persons in pursuance of the third licensing objective.

1.2 Club Gaming Permit

A Club Gaming Permit authorises Members' Clubs (but not Commercial Clubs as defined in the Act) to provide, subject to certain restrictions, no more than 3 gaming machines of categories B, C or D, equal chance gaming and other games of chance as prescribed in regulations namely pontoon and chemin de fer.

The Club Gaming Permit also allows a Club to provide facilities for gambling provided the gambling meets a number of conditions.

The Board may grant or refuse a permit. The Board may refuse an application for a permit only on one or more of the following statutory grounds:

- that the applicant is not, in the case of an application for a club gaming permit, a members' club or a miners' welfare institute, or
- that the applicant is not, in the case of an application for a club machine permit, a members' club, a commercial club or a miners' welfare institute;
- that the applicant's premises are used wholly or mainly by persons under the age of eighteen;
- that an offence or a breach of a condition of a permit has been committed in the course of gaming activities carried on by the applicant;
- that a permit held by the applicant has been cancelled in the last ten years ending with the date of the application; or
- an objection to the application has been made by the Gambling Commission and/or the Chief Constable.

Whilst the Board cannot attach any conditions to a Club Gaming Permit, where a club has gaming machines, it is required to comply with the code of practice issued by the Commission on the location and operation of machines,

which can be found on the Commission's website.
<http://www.gamblingcommission.gov.uk/for-gambling-businesses/Compliance/Sector-specific-compliance/Arcades-and-machines/Gaming-machine-categories/Gaming-machine-categories.aspx>

By virtue of Section 273 of the Act, a club gaming permit shall be subject to the condition that no child or young person may use a category B or C gaming machine on the club's or institute's premises and the holder shall comply with any relevant provision of a Code of Practice under Section 24 of the Act about the location and operation of a gaming machine.

1.3 Club Machine Permit

If a Members' Club does not wish to have the full range of facilities permitted by a club gaming permit or if they are a commercial club not permitted to provide non-machine gaming, they may apply to the Board for a club machine permit.

A club machine permit allows the holder to have up to 3 gaming machines of categories B3A, B4, C and D) (The Board may grant or refuse a permit, but it may not attach any conditions.

However, by virtue of Section 273 of the Act, a club machine permit shall be subject to the condition that no child or young person may use a category B or C gaming machine on the club's or institute's premises and the holder shall comply with any relevant provision of a Code of Practice under Section 24 of the Act about the location and operation of a gaming machine.

The Board shall expect all permit holders to adhere to both the conditions specified in the Code of Practice on Gaming Machine Permits (available from www.gamblingcommission.gov.uk) and to follow the best practice guidelines in that document.

The Board may only refuse an application on the same grounds as a club gaming permit (see paragraph 4.9 above).

1.4 Prize Gaming Permit

Section 288 defines gaming as prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming.

A prize gaming permit is a permit issued by the Board authorising a person to provide facilities for gaming with prizes on specified premises.

The Board will specify the form and manner in which an application must be made and will specify the information and supporting documents required. These may include:

- plans of the proposed building;
- relevant insurance certificates;
- evidence demonstrating the suitability of the applicant;
- confirmation of intended opening hours;
- confirmation of the types of gaming to be offered;
- evidence demonstrating a full understanding both by the applicant and employees of the limits to stakes and prizes that are set out in Regulations;
- confirmation of appropriate levels of management supervision at all times during opening hours;
- confirmation that appropriate levels of security shall be in place at all times during opening hours;

- confirmation that appropriate CCTV will be in place at the premises;
- evidence that members of staff are appropriately trained;
- any other documents or information that the Board may direct

The Board may grant or refuse an application for a permit but cannot add conditions.

However, Section 293 of the Act sets out four conditions with which permit holders must comply to lawfully offer prize gaming. These are:

- the limits on participation fees, as set out in The Gambling Act 2005 (Limits on Prize Gaming) Regulations 2007
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played
- the prize for which the game is played must not exceed the amount set out in The Gambling Act 2005 (Limits on Prize Gaming) Regulations 2007 (if a money prize), or the prescribed value (if a non-monetary prize)
- participation in the gaming must not entitle the player to take part in any other gambling

The Board may grant a permit only if it has consulted the Chief Constable about the application.

The Board may not refuse an application unless it has notified the applicant of the intention to refuse and the reasons for it and given the applicant an opportunity to make representations orally or in writing or both.

1.5 Alcohol Licensed Premises – Gaming Machine Permit

On written notification to the Board, premises licensed to sell alcohol for consumption on the premises and that have a bar at which alcohol is served, without a requirement that alcohol is served only with food have an automatic entitlement to 2 gaming machines of category C or D under Section 282 of the Act. (see appendix 3 for machine categorisation)

The Board has no discretion to consider the notification or refuse it. However, upon the giving of at least 21 days' notice to the licensee, the Board may remove this automatic entitlement if it thinks that:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives

- gaming has taken place on the premises that breaches a condition of Section 282 of the Act – for example, the gaming machines have been made available in a way that does not comply with requirements on the location and operation of gaming machines
- the premises are mainly used for gaming
- an offence under the Gambling Act 2005 has been committed on the premises

An Alcohol Licensed Premises Gaming Machine Permit is required if more than 2 gaming machines are sought. The issue of such a permit will replace and not be in addition to the automatic entitlement to 2 gaming machines. The Board may issue licensed premises gaming machine permits for any number of category C or D machines.

Holders of licensed premises gaming machine permits are required to comply with a code of practice issued by the Commission on the location and operation of machines, <http://www.gamblingcommission.gov.uk/for-gambling-businesses/Compliance/Sector-specific-compliance/Arcades-and-machines/Gaming-machine-categories/Gaming-machine-categories.aspx>

The Board will specify the form and manner in which an application must be made and will specify the information and supporting documents required. The Board will require that the following information is submitted along with the application:

- a plan showing the location and category of gaming machine being sought; and
- evidence of measures in place to prevent persons under the age of eighteen years from using any category of gaming machine

The Board may decide to grant an application with a smaller number of machines and/or a different category of machine but cannot attach any other conditions.

2 Occasional Use Notices

Where there is betting on a track on eight days or less in a calendar year betting may be permitted by an occasional use notice without the need for a full premises licence. The calendar year will commence on 1 January.

In considering an application for an occasional use notice the Board will consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice

A notice must be given in writing to the Board and be copied to the Chief Constable. The notice must be given only by a person who is responsible for the administration of events on the track, or by an occupier of the track.

The notice must specify the day on which it has effect, and may be given in relation to consecutive days providing the overall statutory limit of 8 days is not exceeded in a calendar year

The Board shall maintain a record of the number of notices served in relation to each track in a calendar year to ensure that the statutory limit of 8 days is not exceeded.

3 Temporary Use Notices

Temporary use notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that may be suitable for a temporary use notice could 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.

A set of premises may not be the subject of a Temporary Use Notice for more than 21 days in a period of 12 months but may be the subject of several notices provided that the total does not exceed 21 days. In determining what may constitute a set of premises for the purposes of a Temporary Use Notice, the Board notes the Commission's Guidance that this will be a question of fact in the particular circumstances of each notice that is given. In considering whether a place falls within the definition of a set of premises, the Board shall look at, amongst other things, the ownership/occupation and control of the premises.

An application for a Temporary Use Notice must be submitted to the Board not less than 3 months and one day before the day on which the gambling event will begin.

In addition, a copy of the notice must also be served on:

- The Gambling Commission
- The Chief Constable
- H M Revenue and Customs
- If applicable, any other licensing authority in whose area the premises are situated

(see Appendix 2 for relevant addresses)

The person who is giving the temporary use notice must ensure that the notice and the copies are with the recipients within seven days of the date of the notice.

Each application for the grant of a Temporary Use Notice will be considered and determined on its individual merits.

4 Registration of Small Society Lotteries

Small society lotteries are non-commercial societies which are established and conducted:

- for charitable purposes as defined in s.2 of the Charities Act 2006
- for the purpose of enabling or participation in, or supporting., sport, athletics or a cultural activity; or
- for any other non-commercial purpose other than private gain.

Small Society Lotteries whose principal office is located within the City of Aberdeen require to register with the Board.

All applications for registration must be made in the form specified by Scottish Ministers and accompanied by all necessary documents specified by Scottish Ministers or required by the Board.

When considering an application for registration the Board may request further information from an applicant such as:

- evidence that the application is on behalf of a bona fide non-commercial society (e.g.: a copy of the terms and conditions of the non-commercial society's constitution);
- evidence that all persons to be connected with the promotion of the lottery have no relevant convictions or cautions recorded against them;
- details of the purpose of the Society and the purpose of the fund raising;
- confirmation of the appointment of two members of the society who have the authority to sign and complete the required financial returns.
- evidence that an external lottery manager holds an operator's licence issued by the Gambling Commission.

The Board shall record details of the society on a register and this register shall be made available for public inspection at a reasonable time upon request.

If the Board is intending to refuse an application to join the register the applicant will be notified in writing of the reasons why it is considering refusal, and the evidence on which it has based that preliminary conclusion. The applicant will then be given the opportunity to provide further evidence in support of the application or to make representations regarding these matters.

5 Travelling Fairs

Travelling Fairs wholly or principally provide amusements and must be on a site that has been used for fairs for no more than 27 days per calendar year.

The Board will consider whether the applicant falls within the statutory definition of a travelling fair and that the facilities for gambling amount to no more than an ancillary amusement. The Board will monitor and keep a record of the number of days a piece of land is used as a fair to ensure the maximum statutory 27 days is not exceeded in a calendar year.

APPENDIX 1

FURTHER INFORMATION

Further information about the Gambling Act 2005, this Statement of Principles and about the application process, including application forms and guidance notes can be obtained from:

The Clerk to the Licensing Board
Legal Services,
Governance,
Aberdeen City Council,
Business Hub 6,
First Floor South,
Marischal College,
Broad Street, Aberdeen,
AB10 1AB
Email licensing@aberdeencity.gov.uk
Direct Dial: 01224 522449 Direct Fax: 01224 522491
Tel 01224 522000
www.aberdeencity.gov.uk

Information is also available from the

Gambling Commission
Victoria Square House
Victoria Square
Birmingham B2 4BP
Tel: 0121 230 6500
Fax: 0121 233 1096
info@gamblingcommission.gov.uk
www.gamblingcommission.gov.uk

APPENDIX 2

RELEVANT ADDRESSES

- Gambling Commission
Victoria Square House
Victoria Square
Birmingham B2 4BP
Tel: 0121 230 6500
Fax: 0121 233 1096
info@gamblingcommission.gov.uk
www.gamblingcommission.gov.uk
- Chief Constable
- Divisional Co-ordination Unit
Police Scotland
Aberdeen Division
Police Headquarters
Queen Street
Aberdeen
AB10 1ZA
www.scotland.police.uk/forces-welcome
- H M Revenue & Customs
National Registration Unit
Portcullis House
21 India Street
Glasgow
G2 4PZ
www.hmrc.gov.uk

APPENDIX 3

Scheme of Delegation

Matter to be dealt with	Licensing Board	Sub-Group of Licensing Board	Officers
Final approval of three year licensing policy	✓		
Policy not permit casinos	✓		
Fee Setting (when appropriate)			✓
Application for premises licences		Where representations have been received and not withdrawn	Where no representations have been received/representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations have been received/representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations have been received/representations have been withdrawn
Review of a Premises Licence		✓	
Application for a club gaming/club machine permits		Where objections have been made (not withdrawn)	Where no objections made/objections have been withdrawn
Cancellation of club gaming/club machine permits		✓	
Applications for other permit			✓
Cancellation of licensed premises gaming machine			✓

permits			
Consideration for temporary use notice			✓
Decision to give a counter notice to a temporary use notice		✓	

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