

**ABERDEEN CITY LICENSING BOARD**

**GAMBLING ACT 2005**

**POLICY STATEMENT**

**JANUARY 2022 TO 2025**

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# GAMBLING ACT 2005

## POLICY STATEMENT

**6<sup>th</sup> EDITION**

### ABERDEEN LICENSING BOARD

#### PART A

##### **1 Introduction**

This Policy Statement sets out the principles by which Aberdeen City Licensing Board, as the Licensing Authority under the Gambling Act 2005 (referred to in this document as 'the Act'), intends to apply in discharging its functions to licence premises for gambling under 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 5<sup>th</sup> 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 2022** and will remain in place for a maximum period of 3 years to **31 January 2025**. 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 the 8<sup>th</sup> largest local authority in Scotland. The City is made up of 37 neighbourhoods. A map of the area is attached to this Policy document at Appendix 1

#### 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. Regulation of this function shall be the responsibility of the Commission.

#### 5. The Licensing Objectives

The Board must have regard to the licensing objectives set out in Section 1 of the Act. These are:

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

Premises Licences granted must be reasonably consistent with the three Licensing Objectives. With regard to these Objectives, the following will be considered:-

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

The Board is aware that there is a distinction between disorder and nuisance and that the prevention of nuisance is not a Licensing Objective under the Act.

#### What the Board will do:

- Whilst the Board is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime, it will pay attention to the proposed location, design and layout of gambling premises;
- The Board have the ability to attach additional conditions to premises licences and are entitled to include a requirement for door supervision.
- Where an area has known high levels of organised crime, the Board will consider carefully whether gambling premises are suitable to be located there.

#### What the Board will Expect of Licence Holders

- Up to date training given to staff in crime prevention measures appropriate to those premises;
- Provision of effective CCTV and physical security features installed in the premises.
- Where premises are subject to age-restrictions, the procedures in place to conduct age verification checks.

#### • **Ensuring that gambling is conducted in a fair and open way**

The Gambling Commission does not generally expect Licensing Authorities to be concerned with ensuring that gambling is conducted in a fair and open way. However, if the Board suspects that gambling is not being conducted in a fair and open way, it will bring this to the attention of the Commission.

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

In practice, the Objective of protecting children from being harmed or exploited by gambling often means preventing them from taking part in, or being in close proximity to, gambling.

There is no definition of the term 'vulnerable person' in the Act, but this could include people who are gambling beyond their means and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, or substance misuse of alcohol or drugs.

### What the Board will do:

- 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.
- 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.
- Impose additional conditions where necessary to protect children and other vulnerable persons from harm.
- consider carefully whether applications for Premises Licences in respect of gambling premises located close to schools, centres for gambling addicts, or residential areas where there may be a high concentration of families with children, should be granted, and will fully scrutinise the control measures outlined in an operator's local area risk assessment in this regard.

### What the Board will Expect of Licence Holders

- Consider the configuration of the premises;
- Consider the use of floor-walkers
- Provision of effective CCTV
- Supervision of entrances/machine areas;
- To display clear notices and signage both externally and internally regarding age restrictions and restricted areas;
- To implement a clear segregation of gambling and non-gambling areas;
- Supervision of access to gambling areas;
- Supervision of gambling machines
- With particular regard to vulnerable persons, measures such as the use of self-barring schemes, provision of information, leaflets, helpline numbers for organisations such as GamCare
- policy and procedures regarding the employment of young persons
- self-exclusion schemes;
- the display of a notice specifying opening hours;
- the display of gambling rules in prominent positions in or near betting areas;

## **6 Responsible Authorities**

A full list of the Responsible Authorities designated under the Act and their contact details are given in Appendix 2.

The Licensing Authority is required to designate, in writing, a body that is competent to advise it about the protection of children from harm. In accordance with the Gambling Commission's Guidance to Local Authorities, the Integrated Children's Services Partnership has been designated as the body competent to advise the Board about the protection of children from harm.

## **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)

Interested parties can be people who are democratically elected such as councillors and Members of Parliament.

Interested parties can also be trade associations, trade unions, residents' associations and tenants' associations. Providing that these people represent those living or having business interests in the area which might be affected, no specific evidence of authorisation is required.

Otherwise, the licensing authority will generally require a third party to produce some form of authorisation to speak on behalf of an interested party.

Whether a person is an interested party will be determined on a case by case basis.

## **8 Consultation**

In producing this Policy, the Licensing Board carried out a consultation before finalising and publishing it. In addition to the statutory consultees (listed below), the Board chose to consult with additional local groups and individuals. A full list of all groups and persons consulted is provided at Appendix 3.



The Act requires that the following parties are consulted by the Licensing Authority:-

- The Chief Officer of Police for the Authority's area;
- One or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area; and
- One or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's functions under the Act.

The other groups and people consulted included: -

- Organisations, working with people who are problem gamblers,
- Responsible Authorities under the Act.
- Public Health

## **9 Duplication with other Regulatory Regimes**

Duplication with other statutory/regulatory regimes will be avoided where possible. The Licensing Authority will not consider whether a licence application is likely to be granted Planning Permission or Building Control consent.

## **10 Local Area Profile**

In order to assist applicants, where there is an issue in a local area which impacts on how the applicant should complete their risk assessment, the Licensing Board has published a local area profile (LAP). The LAP is published as a separate document to this policy and does not form part of it.

The LAP may be reviewed by the Licensing Board at any time. Such a review would not constitute a review of this policy

## **11 Risk Assessments**

In order for location to be considered, the Licensing Authority will need to be satisfied that there is sufficient evidence that the particular location of the premises would be harmful to the licensing objectives. It is a requirement of the Gambling Commission's Licence Conditions and Codes of Practice (LCCP), under section 10, that licensees assess the local risks to the licensing objectives posed by the provision of gambling facilities at their premises and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must consider relevant matters identified in this policy

The LCCP also states that licensees must review (and update as necessary) their local risk assessments:

- a) to take account of significant changes in local circumstance, including those identified in this policy;
- b) when there are significant changes at a licensee's premises that may affect their mitigation of local risks;
- c) when applying for a variation of a premises licence; and
- d) in any case, undertake a local risk assessment when applying for a new premises licence.

The Board expects the local risk assessment to 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.

In every case the local risk assessment should show how vulnerable people, including people with gambling dependencies, are protected.

Other matters that the assessment may include:

- The training of staff in brief intervention when customers show signs of excessive gambling, the ability of staff to offer brief intervention and how the manning of premises affects this.
- Details as to the location and coverage of working CCTV cameras, and how the system will be monitored.
- The layout of the premises so that staff have an unobstructed view of persons using the premises.
- The number of staff that will be available on the premises at any one time. If at any time that number is one, confirm the supervisory and monitoring arrangements when that person is absent from the licensed area or distracted from supervising the premises and observing those persons using the premises.
- Arrangements for monitoring and dealing with underage persons and vulnerable persons, which may include dedicated and trained personnel, leaflets, posters, self-exclusion schemes, window displays and advertisements not to entice passers-by etc.
- The provision of signage and documents relating to games rules, gambling care providers and other relevant information be provided in both English and the other prominent first language for that locality.
- Where the application is for a betting premises licence, other than in respect of a track, the location and extent of any part of the premises which will be used to provide betting machines.

The Licensing Authority expects all licensed premises to have their local area risk assessment available on site for inspection by an authorised officer at all times when they are trading.

## **12 General Principles**

Premises Licences are subject to the permissions/restrictions set out in the Act as well as the specific mandatory and default conditions detailed in Regulations issued by the Secretary of State. The Licensing Board is able to exclude default conditions and also attach others, where it is thought appropriate.

Premises licences can authorise the provision of facilities on:

- casino premises
- bingo premises
- betting premises, including tracks and premises used by betting intermediaries
- adult gaming centre premises (for category B3, B4, C and D machines)
- family entertainment centre premises (for category C and D machines) (note that, separate to this category, the licensing authority may issue a family entertainment centre gaming machine permit, which authorises the use of category D machines only).

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.

Each case will be decided on its merits and will depend upon the type of gambling that is proposed, as well as taking into account how the applicant proposes that the Licensing Objective concerns can be overcome. 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.

The Licensing Board is required by the Act, in making decisions about Premises Licences, to permit the use of premises for gambling so far as it thinks it: -

- a) in accordance with any relevant Code of Practice under Section 24 of the Act;
- b) in accordance with any relevant Guidance issued by the Gambling Commission under
  - i. Section 25;
- c) reasonably consistent with the Licensing Objectives (Subject to paragraphs a) and b)) and

- d) in accordance with the Licensing Authority's Statement of Licensing Policy (subject to paragraphs a) and c)).

### **13 Conditions**

The Licensing Board is aware that the mandatory and default conditions imposed by the Gambling Commission will normally be sufficient to regulate gambling premises. In exceptional cases where there are specific risks or problems associated with a particular locality, specific premises or class of premises the Board may consider attaching individual conditions related to the Licensing Objectives.

Any conditions attached to Licences will be proportionate and will be:-

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

It is recognised that there are conditions which the Licensing Authority cannot attach to Premises Licences. These are: -

- any conditions on the Premises Licence which make it impossible to comply with an Operating Licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Act specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated);
- conditions in relation to stakes, fees, and the winning of prizes.

### **14 Definition of Premises**

In the Act 'premises' is defined as including 'any place'. It is for the Licensing Board (having due regard for the Gambling Commission Guidance) to determine on the merits of each application whether different parts of a building can be regarded properly as separate premises.

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 weekdays and a betting shop at weekends.

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.

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.

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.

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.

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.

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

## **15. Scheme of Delegation**

The Licensing Board has agreed a scheme of delegation for discharging its functions under the Act. 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.

## **16 Licensing Reviews**

Applications for a Review of a Premises Licence may be made by Responsible Authorities and Interested Parties

It is for the Licensing Board to decide whether the review is to be carried out.

This decision will generally be on the basis of whether the request for the review is relevant to the matters listed below: -

- Whether the grounds for the request raises issues relevant to the principles to be applied by the Licensing Board and set out within the Policy Statement.
- Whether the grounds for the request are frivolous or vexatious.
- Whether the grounds for the request would certainly not cause the Licensing Board to alter/revoke/suspend the Premises Licence;
- Whether the grounds for the request are substantially the same as previous representations or requests for a review.
- In accordance with any relevant codes of practice issued by the Gambling Commission.
- In accordance with any relevant guidance issued by the Gambling Commission.
- Reasonably consistent with the Licensing Objectives.

The Licensing Board can also initiate a review of a Licence 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.

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.

## **17. Compliance and Enforcement**

In exercising its functions regarding the inspection of premises the Licensing Board will follow best practice. This requires that actions should be:

- Proportionate – Intervention will only be when necessary. Remedies should be appropriate to the risk posed and costs identified and minimised.
- Accountable – The Authority must be able to justify decisions and be subject to public scrutiny.
- Consistent – Rules and standards must be joined up and implemented fairly.
- Transparent – Enforcement should be open, and regulations kept simple and user friendly.
- Targeted – Enforcement should be focused on the problems 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 main enforcement and compliance role of the Licensing Board in terms of the Act, is to ensure compliance with the Premises Licence and other permissions which it authorises. The Gambling Commission is the enforcement body for Operating and Personal Licences. Concerns about the manufacture, supply or repair of gaming machines are not dealt with by the Licensing Board but will be notified to the Gambling Commission.

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

Any complaints received in relation to 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.

## **18 Exchange of Information**

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 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.

## **19 Public Register**

The Licensing Board is required to keep a public register and share information in it with the Gambling Commission and others. Regulations prescribe what information should be kept in the register. Copies of the register may be provided upon request.



## **PART B**

### **1. LICENSABLE PREMISES**

#### **1.1 Provisional Statements**

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.

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.

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.

## **1.2 Casino Premises**

The Licensing Authority is empowered to pass a resolution not to issue new licences for casinos in its area. No such resolution has been made. The Board reserves its right to review this determination at any time in the future and shall update this Policy as appropriate.

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**

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.

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 support of 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.

Mandatory and default conditions, unless excluded by the Board, shall apply. The Board may also attach conditions to a bingo premises licence.

## **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.

Mandatory and default conditions, unless excluded by the Board, shall apply. The Board may also attach additional conditions where it considers it necessary to do so for the purposes of supporting the Licensing Objectives.

The Licensing Board has the power to restrict the number of Self -Service betting terminals (SSBTs) and their nature and the circumstances in which they are made available by attaching a licence.

When considering whether to impose a condition to restrict the number of SSBTs in particular premises, the licensing Board, amongst other things, shall take into account the ability of employees to monitor the use of the machines by children and young persons or by vulnerable people and the size of the premises.

## **1.5 Tracks**

Tracks are premises which include horse racecourses, dog tracks or other tracks where a race or other sporting event may take place.

Examples of tracks include:

- a horse racecourse (referred to in this guidance as 'racecourses')
- a greyhound track
- a point-to-point horserace meeting
- football, cricket and rugby grounds
- an athletics stadium
- a golf course
- venues hosting darts, bowls, or snooker tournaments
- a premises staging boxing matches
- a section of river hosting a fishing competition
- a motor racing event.

The Act does not define what may constitute a sporting event or race. The Board notes the Commission's position in its Guidance that the Licensing Board will need to determine this 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.

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.

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 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.

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.

## **1.6 Adult Gaming Centres**

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

No persons under the age of 18 years shall be permitted to enter an Adult Gaming Centre. The Board shall have 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.

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

## **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.

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.

## **PART C**

### **1. PERMITS**

The Act introduced a range of permits for gambling which are granted by Licensing Boards. Permits are required when premises provide a gambling facility but either the stakes and prizes are very low or gambling is not the main function of the premises. The permits regulate gambling and the use of gaming machines in a specific premises. With the exception of limiting machine numbers on Licensed Premises Gaming Machine permits, the Licensing Board may only grant or reject an application for a permit. No conditions may be added.

#### **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 Licensing Board requires the applicant to submit a scale plan of the premises showing the areas which the permit will cover together with any other areas under the control of the licensee. Generally, this will be at a scale of 1:100 but other scales may be submitted with prior agreement from the Licensing Board.

The Board will expect the applicant:

- To demonstrate that they have no relevant offences as per Schedule 7 of the Act;
- To demonstrate a full understanding of the maximum stakes and prizes permissible
- Provide evidence that employees are appropriately trained and have a full understanding of the maximum stakes and prizes permissible
- Provide evidence of staff training covering unsupervised and very young children being on the premises.

- Provide evidence that there are appropriate policies 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>

Section 273 of the Act sets out that 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 or D but only one B3A machine can be sited as part of this entitlement.

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](http://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).

The licensing Board has to satisfy itself that the club meets the requirements of the Act to obtain a club gaming permit.

In order to do this the Board will expect any application submitted to be accompanied by supporting documents covering the following points:

- The primary purpose of the Club's activities
- How the profits are retained by the Club
- The number of members
- The manner in which members participate in the club

### **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.

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.

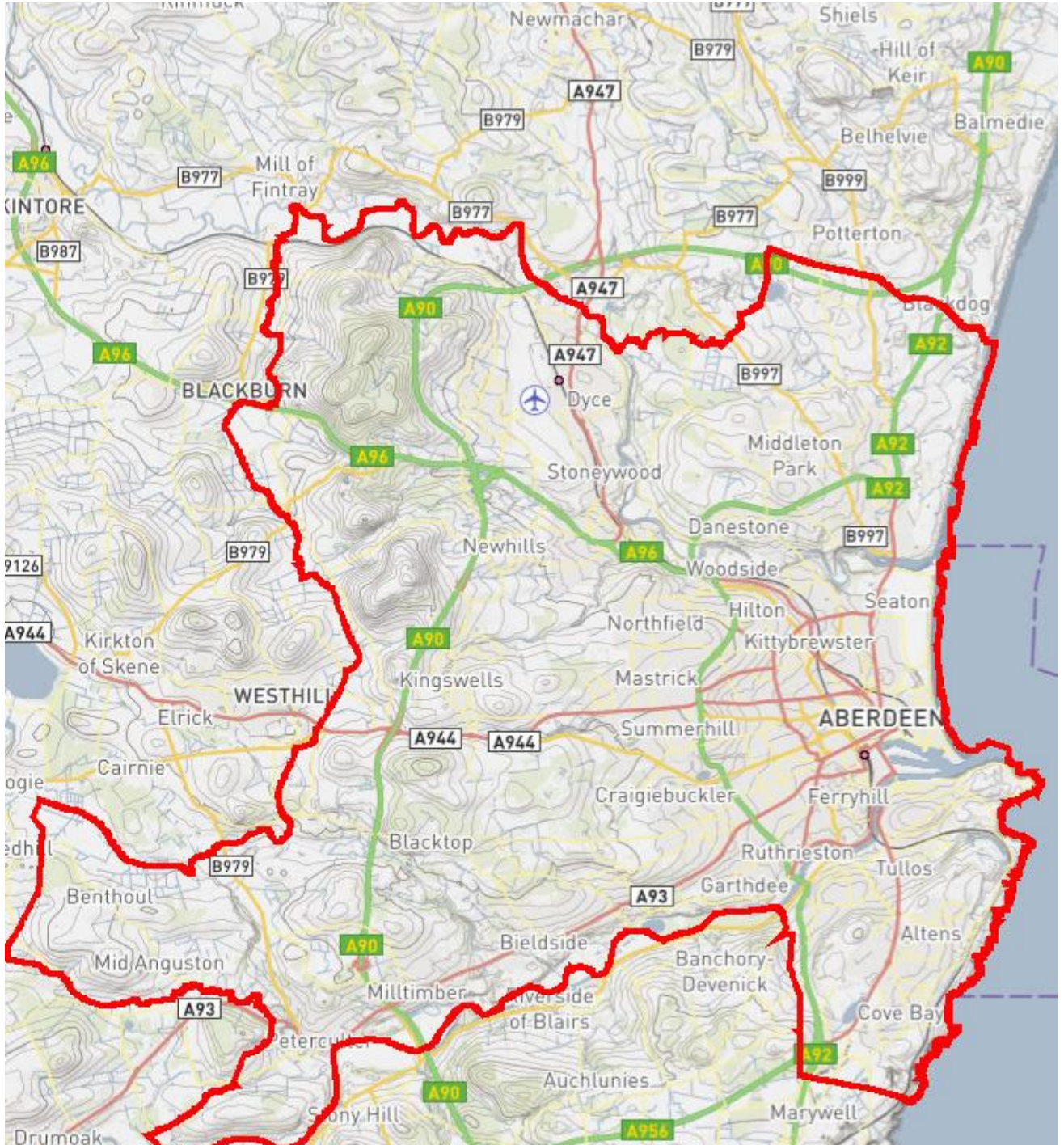
## **5 Travelling Fairs**

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

## MAP OF AREA



## **APPENDIX 2**

### **Contact Details for the Licensing Authority and Responsible Authorities**

#### **The Responsible Authorities are:**

- 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
- 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

**Any further enquiries or assistance can be obtained from the Licensing Authority on [licensing@aberdeencity.gov.uk](mailto:licensing@aberdeencity.gov.uk) . These addresses were correct at the time of going to print but are subject to change without notice. Any change made will not form part of a review of the Council's Statement of Licensing Policy**

## APPENDIX 3 -

### List of Consultees

The draft policy was placed on the Council Website and in accordance with the Act the following organisations and individuals were consulted as part of the formal consultation exercise on the Statement of Gambling Licensing 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



## APPENDIX 4

### 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		✓	

## **APPENDIX 5**

### **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,  
First Floor South,  
Marischal College,  
Broad Street, Aberdeen,  
AB10 1AB  
Email [licensing@aberdeencity.gov.uk](mailto:licensing@aberdeencity.gov.uk)  
[www.aberdeencity.gov.uk](http://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](mailto:info@gamblingcommission.gov.uk)