

# **Aberdeenshire Licensing Boards**

## **North, Central and South Divisions**

### **Gambling Act 2005**

#### **Section 349**

#### **Statement of Principles**

## **Background**

The consultation period for this document took place between 1<sup>st</sup> October and 30<sup>th</sup> November 2006.

The finalised version of the Statement of Principles was approved at a joint meeting of the divisional licensing boards on 15<sup>th</sup> December 2006. As the Central and North divisional Licensing Boards did not have a quorum at that meeting, the decision to approve was homologated at their Quarterly Meetings on 17<sup>th</sup> and 19<sup>th</sup> January 2007 respectively.

This policy statement will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

## **Publication**

The Statement of Principles will be published on Aberdeenshire Council's website on 31<sup>st</sup> January 2007. It can be found at [www.aberdeenshire.gov.uk](http://www.aberdeenshire.gov.uk). Paper copies are available on request from the undernoted offices.

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## PART A

### 1 Introduction

- 1.1 This statement of licensing principles was approved by the Aberdeenshire North, Central and South Divisional Licensing Boards on 15<sup>th</sup> December 2006 and was published via Aberdeenshire Council's website on 31<sup>st</sup> January 2007 at [www.aberdeenshire.gov.uk](http://www.aberdeenshire.gov.uk) .
- 1.2 It was drafted at a time when a number of statutory regulations, operating and personal licence conditions, codes of practice and guidance had not been published. Should anything in these documents impact upon the content of this statement, amendments may be required prior to final publication.
- 1.3 All references to the Gambling Commission's Guidance for Local Authorities refer to the Guidance published in April 2006 available on [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk) .
- 1.4 We will carry out our role under the Gambling Act 2005 (the Act) in a transparent manner and in the public interest.
- 1.5 We are committed to avoid duplication with other legislation and regulatory regimes as far as possible. Legal requirements under other legislation such as health and safety and fire precautions are not replicated in this statement.
- 1.6 This statement has been developed taking into account the statutory guidance from the Gambling Commission and we will give appropriate weight to the views of the persons and organisations consulted.
- 1.7 Section 349 of the Act requires licensing authorities to publish a statement of principles, which will be applied in exercising their functions under the Act. This statement fulfils that statutory requirement for the Aberdeenshire North, Central and South Licensing Boards.
- 1.8 This statement of principles will be applied during the three-year period from 31 January 2007. It will be kept under review and revised, if appropriate, during that three-year period.
- 1.9 This document should be read in conjunction with the Act, regulations made under the Act and guidance issued by the Gambling Commission. This is deigned to be a strategic gambling statement, not an operational guide.
- 1.10 In exercising our functions under the Gambling Act 2005, the Aberdeenshire North, Central and South Licensing Boards, as a licensing authority, will have regard to the statutory licensing objectives, which are set out at Section 1 of the Act:

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

1.11 Section 153 of the Act requires us, in making decisions concerning premises licences and temporary use notices, to aim to permit the use of premises for gambling in so far as we think it is:

- ◆ In accordance with any relevant code of practice issued by the Gambling Commission
- ◆ In accordance with any relevant guidance issued by the Gambling Commission
- ◆ Reasonably consistent with the licensing objectives, and
- ◆ In accordance with this Statement of licensing principles

1.12 Nothing in this statement will:

Override the right of any person to make an application under the Act or to have that application considered on its individual merits, undermine the right of any person to make representations on an application or to seek a review of a licence where there is legal power to do so.

1.13 Under this legislation unmet demand is not a criterion for a licensing authority in considering an application and in accordance with Gambling Commission Guidance for Licensing Authorities, “moral objections to gambling are not a valid reason to reject applications for premises licences”. Therefore we will consider any application in accordance with the Act, on its own merits, without regard to demand or moral objection to gambling in general.

1.14 A scheme of delegation will be prepared in accordance with the Act and Gambling Commission Guidance to ensure effective management of this authority’s functions under the Act. This scheme of delegation will be made publicly available.

## **2 A Profile of Aberdeenshire**

Aberdeenshire is a predominantly rural area in the north east of Scotland. Traditionally, it has been economically dependent upon the primary sector (agriculture, fishing, forestry) and related processing industries. Within the last 30 years, the emergence of the oil and gas

industry and the development of the service sector have broadened Aberdeenshire's economic base, leading to rapid population growth.

Aberdeenshire extends to 6,313 sq km (2,437 sq miles), representing 8% of Scotland's overall territory. The landscape varies from mountainous Cairngorms, through rich agricultural lowlands to rugged coastline.

Aberdeenshire's population represents 4.5% of Scotland's total, standing at 232,850 (2004), a 2.6% rise since 2003, and a 50% increase since 1971. major towns are Peterhead (17,891), Fraserburgh (12,116), Inverurie (10,794), Westhill (10,054) and Ellon (9,465). The population has a higher proportion of younger age groups than the rest of Scotland, reflecting employment-driven in-migration in recent decades.

Aberdeenshire is divided into six Areas for the purposes of administration and provision of services. These are Banff and Buchan, Buchan, Formartine, Garioch, Marr and Kincardine and Mearns.

Banff and Buchan has a population of 35, 476. Fishing and agriculture and important industries, together with associated processing and service activity. The area is relatively self-contained, and in recent years has seen a small decline in population. It does, however, have marketable tourism assets in its spectacular coastline, attractive coastal villages and visitor attractions. Economic dependency, peripherality, and the future of the Common Fisheries/Agricultural Policies, are key issues.

Buchan has a population of 39,177. Peterhead is the largest town in Aberdeenshire; the principal white fish landing port in Europe; and a major oil industry service centre. Equally important is the nearby gas terminal at St. Fergus. Attempts are being made to counter the negative effects of several recent key company closures and economic threats. Inland, the area is dependent upon agriculture, and many villages have seen a decline in population and services. Issues affecting the Banff and Buchan area also apply here, as does the future of the oil and gas industry.

Formartine has a population of 38,452. Formartine has experience rapid population growth, particularly around Ellon and Old Meldrum, and in the southeast where development has spread outwith Aberdeen. By contrast, the area around Turriff retains strong dependency on the traditional agricultural economy. The area's coastline and rural environment also offer recreation potential.

Garioch has a population of 44, 812. Centred on Inverurie, a traditional rural market town, Garioch has also experience rapid growth due to its proximity to Aberdeen. Significant growth in population, services and employment is anticipated in the A96 corridor and in Westhill. The area is largely agricultural, but is also strongly affected by the City's

economy and the oil and gas sector. Garioch holds growing potential for tourism in its environment and archaeological heritage.

Marr has a population of 34,495. To the west, the spectacular mount environment of the Cairngorms National Park sustains a well-developed tourist industry based on heritage and outdoor pursuits. Forestry and livestock farming are key industries, particularly in remoter areas. To the east, Marr has experience population growth due to its strong commuter links with the City.

Kincardine and Mearns has a population of 40,437. Transport links with Aberdeen have encouraged very rapid population growth, especially to the north of the area. Existing settlements such as Portlethen and Stonehaven have greatly expanded, along with industrial activity. The southern part is more self-contained, with the fertile Mearns area sustaining a strong agricultural economy. Small-scale tourism activity exists along its attractive coastline and former fishing villages.



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### **3 Consultation on the statement of licensing principles**

- 3.1 Aberdeenshire North, Central and South Licensing Boards are required by the Act to publish a statement of principles, which it proposes to apply when exercising its licensing functions. This statement must be published at least every three years. This statement must also be reviewed from time to time and any amended parts re-consulted upon. This statement must then be re-published.
- 3.2 We will consult widely on this draft statement of principles before finalising and publishing it. A list of the persons we have sent this document to is attached at **Appendix 1**. The document is available on the Aberdeenshire Council licensing website at: [www.aberdeenshire.gov.uk](http://www.aberdeenshire.gov.uk)
- 3.3 The Act requires that the following parties are consulted by each licensing authority:
- ◆ The Chief of Police
  - ◆ One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area
  - ◆ 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 function under the Act

### **4 Declaration**

- 4.1 In producing the final licensing statement, this licensing authority declares that it has had regard to the licensing objectives of the Act, the guidance issued by the Gambling Commission and responses from those consulted on the statement.

### **5 Responsible Authorities**

- 5.1 We are required under Section 157(h) of the Act to designate, in writing, a body that is competent to advise the authority about the protection of children from harm.
- 5.2 We designate the Grampian Child Protection Agency, an inter-agency body representing the statutory, private and voluntary sectors.
- 5.3 We do so because it operates throughout the whole of the area covered by the North, Central and South divisional boards and because it has the specialist knowledge and expertise to fulfil this role.
- 5.4 The Responsible Authorities under the Act are:
- ◆ the Aberdeenshire North, Central and South divisional Licensing Boards

- ◆ The Gambling Commission
- ◆ The Chief Constable, Grampian Police
- ◆ The Chief Fire Officer, Grampian Fire & Rescue Service
- ◆ Aberdeenshire Council, Planning Development Service
- ◆ Aberdeenshire Council, Environmental Health Service
- ◆ The Grampian Child Protection Committee
- ◆ H M Revenue & Customs

Subject to any other party being prescribed by Regulation by the Secretary of State. The contact addresses for these authorities are shown at: **Appendix 2**

## **6 Interested Parties**

- 6.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Act as follows:

“A person is an interested party in relation to an application for, or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the application is made, the person:

- 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)”

- 6.2 We are required by regulations to state the principles we will apply in exercising our powers under the Act to determine whether a person is an interested party.

- 6.3 We will decide each case on its merits. We will not apply a rigid rule to our decision-making but will apply local knowledge and integrity to each decision. We will consider the examples provided in the Gambling Commission's Guidance to Licensing Authorities.

## **7 Exchange of Information**

- 7.1 In fulfilling its functions and obligations under the Act, the Board will exchange relevant information with other regulatory bodies and will establish protocols as necessary. In exchanging such information the Boards will conform to the requirements of the Act, data protection and

freedom of information legislation as well as the Gambling Commission's Guidance to Licensing Authorities.

- 7.2 Contact details of those persons making representations and of their representations will be made available to applicants for a licence. Should a hearing take place they will form part of a public document. Any persons who lodges representations or applies for a review of a premises licence will be informed that these details will be disclosed.

## **8 Enforcement**

- 8.1 In exercising our functions under the Act with regard to the inspection of premises we will be guided by the Gambling Commission's Guidance and our approach will be:

- ◆ Proportionate
- ◆ Accountable
- ◆ Consistent
- ◆ Transparent
- ◆ Targeted

- 8.2 We will adopt a risk-based inspection programme. Premises will be subject to a scheme of routine inspection, the frequency of which will be determined by the risks posed; those premises considered to pose the greatest risk will be subject to more frequent inspections than those presenting a lower risk.

- 8.3 This authority will reserve stating the criteria we will use for risk-based inspections until such time as the Gambling Commission has published its own risk criteria and a risk model for premises licences has been devised.

- 8.4 The main enforcement and compliance role for this licensing authority in terms of the Act will be to ensure compliance with premises licence and other permissions, which it authorises.

- 8.5 According to the principle of transparency, if this licensing authority adopts any enforcement and compliance protocols, copies will be available upon request.

- 8.6 The Authority recognises that certain bookmakers have a number of premises within its area. In order to ensure that any compliance issues are recognised and resolved at the earliest stage, operators are request to provide the authority with a single named point of contact and contact details, who should be a senior individual, and whom the authority will contact first should any compliance queries or issues arise.

## **9 Licensing Authority Functions**

9.1 This licensing authority 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

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

- ◆ 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

9.3 We will not be involved in licensing remote gambling. Regulation of remote gambling will fall to the Gambling Commission through operator's licences.

## PART B

### 10 Premises Licences

#### General Principles

- 10.1 Premises licences will be subject to the restrictions set out in the Act and regulations, as well as to specific mandatory and default conditions which will be detailed in regulations issued under the Act.
- 10.2 We may exclude default conditions and also attach other conditions, where we believe it is appropriate.
- 10.3 In making decisions about premises licences we will aim to permit the use of premises for gambling in so far as we think it is:
- ◆ In accordance with any relevant code of practice issued by the Gambling Commission
  - ◆ In accordance with any relevant guidance issued by the Gambling Commission
  - ◆ Reasonably consistent with the licensing objectives, and
  - ◆ In accordance with this statement of licensing principles
- 10.4 Premises are defined in the Act as “any place”. Different premises licences cannot apply in respect of a single premises at different times. We will assess each case on its individual merits to decide as a matter of fact, whether different parts of a building can properly be regarded as being separate premises. We note the Gambling Commission’s advice in this area.
- 10.5 An applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed. The Gambling Commission Guidance advises that reference to “the premises” is to the premises in which gambling may now take place, so the premises must be ready to be used for gambling. Each case will be a question of fact and degree.
- 10.6 In considering an application for a premises licence no regard will be had to the expected demand for the facilities proposed to be provided in the premises for which a premises licence is sought.
- 10.7 In accordance with the Gambling Commission’s Guidance we will pay particular attention to the protection of children and vulnerable persons from harm or exploitation by gambling, as well as to issues of crime and disorder.
- 10.8 This authority has not adopted any specific policy in relation to areas where gambling premises should not be located. Should any such

policy be adopted this statement will be updated and the policy will be publicly available.

- 10.9 Any future policy would not preclude an application for a premises licence being made: the onus will be upon the applicant to show how any potential concerns could be overcome.
- 10.10 This licensing authority will seek to avoid any duplication with other statutory/regulatory systems wherever possible, including the statutory planning regime.
- 10.11 We will not consider whether a licence application is likely to be awarded planning consent or building warrant approval in considering an application for a premises licence. Aberdeenshire Council's Planning Service is a responsible authority under the Act and has the opportunity to make representations should it consider appropriate, otherwise the two regimes will be properly separated.
- 10.12 We will carefully consider any concerns raised about licensing conditions, which cannot be met by licensees due to planning restrictions, should such a situation arise.

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

- 10.13 The Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. Its guidance envisages that attention is paid to the proposed location of gambling premises in terms of this licensing objective.
- 10.14 Where an area has known high levels of organised crime, we will consider carefully whether it is suitable to locate there and whether conditions should be imposed such as the provision of door stewards.
- 10.15 We recognise the Gambling Commission's distinction between disorder and nuisance, disorder meaning activity, which is more serious and disruptive than mere nuisance, which is not a Gambling Act licensing objective. We will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, to assess a disturbance.
- 10.16 In considering licence applications, this licensing authority will particularly take into account the following:
- ◆ The design and layout of the premises;
  - ◆ The training given to staff in crime prevention measure appropriate to those premises;

- ◆ Physical security features installed in the premises, which may include matters such as the position of cash registers or the standard of CCTV that is installed;
- ◆ Where premises are subject to age restrictions, the procedures in place to conduct age verification checks; and
- ◆ The likelihood of any violence, public order or policing problems if the licence is granted.

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

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

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

10.18 The Gambling Commission Guidance for Local Authorities states that this objective relates to preventing children from taking part in gambling as well as the restriction of advertising so that gambling products are not aimed at children or are particularly attractive to them.

10.19 We will consider them whether specific measures are required at individual premises to promote the licensing objective. Appropriate measures may include supervision of access points or machines, or segregation of areas. We will consult with the Child Protection Committee on any application that indicates there may be concerns over access for children or vulnerable persons.

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

10.21 This licensing authority will consider promotion of this licensing objective on a common sense, case-by-case basis.

Conditions on premises licences

10.22 Any conditions we attach to licences will be proportionate and will be:

- ◆ Relevant to the need to make the premises building 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 aspects

Decisions on individual conditions will be made on a case-by-case basis. The control measures, which this licensing authority may consider using, include door stewards and appropriate signage for adult only areas. This licensing authority will expect licence applicants to offer their own suggestions as to ways in which the licensing objectives can be met effectively.

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

#### Door Supervisors

10.24 In accordance with the Gambling Commission Guidance, this licensing authority may consider whether there is a need for door supervisors in terms of the licensing objectives relating to children and vulnerable persons and the prevention of crime.

10.25 The Gambling Act 2005 has amended the Security Industry Act 2001, so that door supervisors at casinos or bingo premises cannot be licensed by the Security Industry Authority.

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

10.27 The authority will impose the requirement for CCTV, door supervisors and/or the separation of different operational areas within the premises for the protection of the public in circumstances where there is clear evidence, from the history of trading at specific premises, that such premises cannot be adequately supervised from the counter and that any one or more of such requirements are both necessary and proportionate.

## **11 Adult Gaming Centres**

11.1 This licensing authority will have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measure to ensure that persons under 18 years of age do not have access to the premises.

11.2 Appropriate licence conditions may cover issues such as:

Proof of age schemes, CCTV, door supervisors, supervision of entrances/machine areas, physical separation of areas, location of entry notices/signage, specific opening hours, self-barring schemes, provision of information leaflets/helpline numbers for support organisations such as GamCare.

This list is merely indicative and not intended to exclude other conditions in appropriate cases.

## **12 Family Entertainment Centres**

12.1 We will have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that persons under 18 years of age do not have access to the adult only gaming machine areas.

12.2 We will expect applicants as part of their application to offer their own measure to promote the licensing objectives. Appropriate licence conditions may cover such issues as:

CCTV, supervision of entrances/machine areas, physical separation of areas, location of entry notices/signage, specific opening hours, self-barring schemes, provision of information leaflets/helpline numbers for support organisation such as GamCare, measures/training for staff on how to deal with suspected school children on the premises.

This list is merely indicative and not intended to exclude other conditions in appropriate cases.

12.3 In accordance with the Gambling Commission's Guidance, we will ensure that we are sufficiently aware of any conditions that apply to operating licences, for instance those covering the way in which the area containing the Category C or higher machines, should be delineated.

12.4 This licensing authority will also make itself aware of any mandatory or default conditions on premises licences, when they have been published.

## **13 Casinos**

- 13.1 This licensing authority has not passed “no casino” resolution under Section 166 of the Act but is aware that it has power to do so.
- 13.2 Section 165 of the Act gives us the power to decide not to issue further casino licences in our area.
- 13.3 The licensing authority reserves the right to review this situation.

## **14 Bingo Premises**

- 14.1 This licensing authority notes that the Gambling Commission Guidance states:

“It is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted, licensing authorities should ensure that:

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

- 14.2 The Gambling Commission will issue further guidance on the particular issues that should be taken into account in relation to the suitability and layout of bingo premises and we will consider such guidance when it is published.

## **15 Betting Premises**

- 15.1 The Act contains a single class of licence for betting premises. There will be different types of premises which require licensing including betting offices on tracks, that have a separate premises licence from the track licence.
- 15.2 It is noted that the Gambling Commission’s Guidance for Local Authorities states “Section 181 contains an express power for licensing

authorities to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence or to a casino premises licence (where betting is permitted in the casino)".

- 15.3 When considering whether to impose conditions to restrict the betting machines in particular premises, we will take into account the size of the premises, the number of counter positions available for person-to-person transactions and the ability of staff to monitor the use of the machines by children and young people, or by vulnerable persons.

## **16 Tracks**

- 16.1 The Act contains rules, which apply to applicants for a premises licence in relation to a track. The applicant need not hold an operating licence because the betting that is provided upon the track will be provided by other operators, who come on-course. Since those people will require the necessary operating licences, the Act allows the track operator to obtain a premises licence without also having to hold an operating licence. This track premises licence then authorises anyone upon the premises with an operating licence to offer betting facilities.

- 16.2 Tracks are different from other premises in that there may be more than one premises licence in effect, each covering a specified area of the track. In accordance with the Gambling Commission Guidance, this authority will especially consider the impact of the third licensing objective in this area.

- 16.3 There may be some specific considerations with regard to the protection of children and vulnerable persons from being harmed or exploited by gambling, the need to ensure entrances to each type of premises are distinct and that children are excluded from gambling or betting areas where they are not permitted to enter.

- 16.4 Children and young persons will be permitted to enter track area where facilities for betting are provided on days when dog racing takes place, although they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

- 16.5 Premises licence applicants will have to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities.

- 16.6 Appropriate licence conditions may be:

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

This list is merely indicative and is not intended to exclude other conditions in appropriate cases.

- 16.7 The Gambling Commission will issue guidance addressing where such machines may be located on tracks and any special considerations that should apply to promote the licensing objectives and in particular the third one.
- 16.8 We note the Commission's Guidance that licensing authorities need to consider the location of gaming machines at tracks, and applicants for licences at tracks will need to demonstrate that, where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, these machines will be located in areas from which children are excluded.
- 16.9 We have a power under the Act to restrict the number of betting machines, their nature and the circumstances in which they are made available, by attaching a licence condition to a betting premises licence.
- 16.10 In accordance with the Gambling Commission's Guidance in relation to betting premises away from tracks, we will take into account the size of the premises and the ability of staff to monitor the use of the machines by vulnerable people when determining the number and nature of machines permitted.
- 16.11 This licensing authority also notes that the Commission's Guidance is that it would be preferable for all self-contained premises operated by off-course betting operators on track to be the subject of separate premises licences. This would ensure a clear division of responsibilities.

#### **Condition on rules being displayed**

- 16.12 In accordance with the Commission Guidance we will attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public.

#### **Applications and plans**

- 16.13 Regulations are awaited, setting out specific requirements for applications for premises licences. We are in accordance with the Gambling Commission's suggestion:

"To ensure that licensing authorities gain a proper understanding of what they are being asked to licence they should, in their licensing policies, set out the information that they will require, which should include detailed plans for the racetrack itself and the area that will be used for temporary "on-course" betting facilities (often known as the

“betting ring”) and in the case of dog tracks and horse racecourses fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities.”

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

- 16.14 We will give sympathetically consider applications for re-sites within the same locality as existing premises and to applications lodged seeking extensions to premises that are already licensed. We will do so on the basis that such applications must enhance the quality of facilities provided within such premises for the benefit of the betting public.

## **17 Travelling Fairs**

- 17.1 The licensing authority will consider whether the applicant falls within the statutory definition of a travelling fair.
- 17.2 Where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, it will fall to this licensing authority to decide whether the statutory requirement, that the facilities for gambling amount to no more than an ancillary amusement at the fair, is met.
- 17.3 The 27-day statutory maximum for the land being used for a fair is per calendar year and applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. The licensing board will work with the departments of the Council and neighbouring authorities to ensure that land which crosses our boundaries is monitored so that statutory time limits are not exceeded.

## **18 Provisional Statements**

- 18.1 This licensing authority notes the Gambling Commission Guidance which states that “it is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence” and that “requiring the building to be complete ensures that the authority could, if necessary, inspect it fully”.
- 18.2 In terms of representations about premises licence applications following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account by this authority unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant’s circumstances.

In addition, this authority may refuse the premises licence or grant it on terms different to those attached to the provisional statement only by reference to matters

- a) Which could not have been raised at the provisional licence stage, or
- b) Which, in the authority's opinion, reflects a change in the operator's circumstances.

18.3 This authority has noted the Gambling Commission's Guidance that licensing authorities should not take into account irrelevant matters such as the likelihood of the applicant obtaining planning consent or building consent for the proposal.

## **19 Reviews**

19.1 A premises licence may be reviewed by the licensing authority of its own accord for any appropriate reason or following the receipt of an application for a review by an interested party or responsible authority. It is for the licensing authority to decide whether the review should be carried out.

19.2 Section 200 of the Act provides that licensing authorities may initiate a review in relation to a particular class of premises licence or in relation to particular premises. Officers may be involved in the initial investigations of complaints leading to a review, or may try informal mediation or dispute resolution technique prior to a full-scale review being conducted by the authority.

19.3 An application for a review may be rejected if the licensing authority thinks that the grounds on which the review is sought:

- ◆ Are not relevant to the principles that must be applied by the licensing authority in accordance with Section 153
- ◆ Are frivolous or vexatious
- ◆ "will certainly not" cause the authority to revoke or suspend a licence or to remove, amend or attach conditions to the premises licence
- ◆ are substantially the same as the grounds cited in a previous application for review relating to the same premises, or as representations made at the time the application for a premises licence was considered. In both these circumstances we will take into account the period of time that has passed since the applications or representations were made.

## PART C

### **20 Unlicensed family entertainment centre gaming machine permits**

- 20.1 Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. The applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.
- 20.2 Unlicensed FECs will be 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. Permits cannot be issued to vessels or vehicles.
- 20.3 We note that a licensing authority can grant or refuse a licence but cannot attach conditions to this type of permit.
- 20.4 This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm is not limited to harm from gambling, but includes wider child protection considerations.
- 20.5 The Gambling Act 2005 states that a licensing authority may prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit. This is mirrored in the Gambling Commission's Guidance. The efficiency of such policies and procedures will each be considered on their merits and may include a training policy.
- 20.6 Except as detailed about, this licensing authority has not adopted any further statement of principles, but if we do so it will be made publicly available.

### **21 Prize Gaming Permits**

- 21.1 The Act states that a licensing authority may "prepare a statement of principles that they propose to apply in exercising their functions under this Schedule" which "may, in particular, specify matters that the licensing authority propose to consider in determining the suitability of an applicant for a permit"
- 21.2 This licensing authority has not prepared a statement of principles but our adopted approach is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate an understanding of the limits to stakes and prizes that are set out in regulations and that the gaming offered is within the law.
- 21.3 In making out decision on an application for this permit we do not need to have regard to the licensing objectives but we will have regard to any Gambling Commission Guidance.

21.4 There are conditions in the Act with which the permit holder must comply, but we as the licensing authority cannot attach conditions.

## **22 Temporary Use Notices**

22.1 Temporary use notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. They may only be granted where a relevant operating licence has been granted.

22.2 We note the statutory guidance where “premises” is defined as including “any place” and we will look at, amongst other things, the ownership/occupation and the control of the premises when considering any particular case.

22.3 A set of premises may not be the subject of a temporary use notification for more than 21 days in a period of 12 months.

22.4 In our consideration of temporary use notice applications we will apply any regulations made under the provisions of the Act.

## **23 Occasional Use Notices**

23.1 Where there is betting on a track on 8 days or less in a calendar year betting may be permitted by an occasional use notice, without the need for a full premises licence.

23.2 We will ensure that the statutory limit of 8 days in a calendar year is not exceeded. We will consider the definition of a “track” and whether the applicant is permitted to avail him/herself of this notice.

23.3 We will maintain a register of all applications.

**SCHEDULE OF CONSULTEES TO THE DRAFT STATEMENT OF PRINCIPLES**

This document was made available on the Aberdeenshire Council website at:  
[www.aberdeenshire.gov.uk](http://www.aberdeenshire.gov.uk)

This document was sent to all the consultees listed below and will be sent to any other interested party on request.

The consultation period was 8 weeks from 1<sup>st</sup> October 2006 until 30<sup>th</sup> November 2006. Thereafter, the responses were considered by the Boards and this policy statement approved at a joint meeting of the three divisional licensing boards on 15<sup>th</sup> December 2006.

1. All members of the North Aberdeenshire Licensing Board
2. All members of the Central Aberdeenshire Licensing Board
3. All members of the South Aberdeenshire Licensing Board
4. All elected members of Aberdeenshire Council
5. The Gambling Commission, Victoria Square House, Victoria Square, Birmingham, B2 4BP
6. The Chief Constable, Grampian Police, Police Headquarters, Aberdeen and to the South Command Area Officer per Inverurie Police Station, Blackhall Road, Inverurie, and to the North Command Area Officer per the Licensing Admin Unit, Banff Police Station, High Shore, Banff
7. The Chief Fire Safety Officer, Grampian Fire & Rescue Service, Headquarters, Aberdeen – and to the local Fire Safety Officers within Aberdeenshire
8. The Director of Planning and Environmental Services, Aberdeenshire Council.
9. The Director of Social Services, Aberdeenshire Council
10. The Grampian Child Protection Committee
11. H M Revenue & Customs, National Registration Unit, Portcullis House, 21 India Street, Glasgow G2 4PZ
12. The Chairman, British Casino Association, 38 Grosvenor Gardens, London SW11 0EB

13. Association of British Bookmakers Limited, Regency House, 1-4  
Warwick Street, London, W1B 5LT

14. All Community Councils within Aberdeenshire.

**SCHEDULE OF RESPONSIBLE AUTHORITIES**

**GAMBLING ACT 2005**

1. Aberdeenshire North Divisional Licensing Board
2. Aberdeenshire Central Divisional Licensing Board
3. Aberdeenshire South Divisional Licensing Board
4. The Gambling Commission
5. The Chief Constable, Grampian Police
6. The Chief Fire Safety Officer, Grampian Fire and Rescue Service
7. The Planning Service, Aberdeenshire Council
8. Environmental Health Service, Aberdeenshire Council
9. Grampian Child Protection Committee
10. H M Revenue & Customs