

# **East Ayrshire Licensing Board**

## **Statement of Principles under the Gambling Act 2005, Section 349**



EAST AYRSHIRE  

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LICENSING BOARD

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## 1. Introduction

- 1.1 Under Section 349 of the Gambling Act 2005 (the Act) the Council is required to publish a statement of principles which it proposes to apply when exercising its functions under the Act.
- 1.2 This Statement of Principles has been developed in accordance with the statutory guidance issued by the Gambling Commission and is intended to fulfil the obligation imposed on East Ayrshire Licensing Board by Section 349 of the Act. The original Statement of Principles was applied from 31 January 2007 for a period of 3 years during which time it has been subject to further review as appropriate.
- 1.3 All references to the Gambling Commission's Guidance for Local Authorities refer to the Gambling Commission's Guidance to Local Authorities 5<sup>th</sup> Edition dated September 2015, available on [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk).
- 1.4 In carrying out its statutory role and fulfilling its responsibilities under the Gambling Act 2005 (the Act), the East Ayrshire Licensing Board will at all times act in an open and transparent manner and in accordance with public interest.
- 1.5 This document should be read in conjunction with the Act, regulations made under the Act and guidance issued by the Gambling Commission and is intended to be a strategic statement of principles rather than an operational guide.
- 1.6 In exercising our functions under the Gambling Act 2005, the East Ayrshire Licensing Board, will have regard to the statutory licensing objectives, which are set out at Section 1 of the Act. This Statement of Principles is intended to be reasonably consistent with the Licensing Objectives which are:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
  - Ensuring that gambling is conducted in a fair and open way
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling
- 1.7 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
- 1.8 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 a legal power to do so.

- 1.9 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. Furthermore, in accordance with Gambling Commission Guidance for licensing authorities, “moral or ethical objections to gambling are not a valid reason to reject applications for premises licences” and therefore no regard will be had to such objections when consideration is given to applications for premises licences.
- 1.10 A scheme of delegation will be prepared in accordance with the Act and Gambling Commission Guidance to ensure effective management of the Licensing Board’s functions under the Act. This scheme of delegation will be made publicly available through the Board’s Publication Scheme in terms of the Freedom of Information (Scotland) Act, 2002.

## 2. A Profile of East Ayrshire

East Ayrshire covers a land area of 490 square miles in west central Scotland, 30 miles southwest of Glasgow. The population of East Ayrshire in 2015 was estimated to be 122,060, of which there were 59,186 males and 62,874 females.

There are 23 main communities and settlements in a diverse geographical area, embracing both rural and urban areas. Established as a result of local government reorganisation in 1996, the area does not reflect any natural or traditional community, stretching as it does down the eastern length of the County of Ayrshire.

As at September 2021 there were in force within East Ayrshire in each of the relevant categories of licences and permits the following:-

Adult Gaming Centres	2
Automatic Entitlement – Category C & D	56
Betting Offices	17
Bingo Licences	0
Casino Licences	0
Club Gaming Permit	0
Club Machine Permit	18
Family Entertainment Centres	0
Licensed Premises Gaming Machine Permit	3
Occasional Use Notices	0
Prize Gaming / Prize Gaming Permits	0
Small Society Lotteries	95
Temporary Use Notices	0
Track Betting Licences	0
Unlicensed Family Entertainment Centres	2



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

- 3.1 The East Ayrshire Licensing Board is required by the Gambling Act 2005 to publish a statement of the principles which it proposes to apply when exercising its functions. This statement must be published at least every three years. The statement must also be reviewed from time to time and any amended parts re-consulted upon. The statement must be then re-published.
- 3.2 The Gambling Act requires that the following parties are consulted by each licensing authority:
- the Chief Officer 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 functions under the Gambling Act 2005

The East Ayrshire Licensing Board consulted widely before finalising and publishing their Statement of Principles. A list of the persons sent a copy of the Statement for consultation purposes is attached at Appendix I.

#### **4. Declaration**

- 4.1 In producing this revised Statement of Principles, the East Ayrshire Licensing Board declares that it has had regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission and responses from those consulted on the statement.

#### **5. Responsible Authorities**

- 5.1 The East Ayrshire Licensing Board is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the Board about the protection of children from harm.

- 5.2 The principles are:

- the need for the body to be responsible for an area covering the whole of the Council's area; and
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

- 5.3 In this regard the Licensing Board designate the East Ayrshire Child Protection Committee on the basis that it is a multi agency body with strategic responsibilities across the whole of East Ayrshire and which is answerable to various democratically elected bodies including East Ayrshire Council in addition to the Scottish Police Authority Board and NHS Ayrshire and Arran. The responsible authorities under the Gambling Act 2005 are:-

- East Ayrshire Licensing Board
- the Gambling Commission;
- the Chief Constable, Police Scotland
- the Chief Fire Officer, Strathclyde Fire and Rescue Service
- East Ayrshire Child Protection Committee
- The East Ayrshire Adult Protection Committee (EAAPC)
- East Ayrshire Council, Planning & Economic Development, Planning and Building Standards Section

- East Ayrshire Council, Governance, Environmental Health Section
- H.M. Revenue & Customs

subject to any other party being prescribed by Regulation by the Secretary of State. Full points of contact and addresses for these responsible authorities are contained within 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 S158 the Gambling Act 2005 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 Board 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 Gambling Act 2005 to determine whether a person is an interested party. These are:-

- Each case will be decided on its own merits, taking account of all relevant circumstances.
- The East Ayrshire Licensing Board will consider, where relevant, the examples issued in the Gambling Commission Guidance.
- The East Ayrshire Licensing Board will take account of all relevant legal considerations, including, e.g. the Gambling Act 2005 and The Human Rights Act 1998 as well as the basic principles of natural justice.

6.3 In considering whether a person lives sufficiently close to a premises to be considered to be an interested party the following matters will be taken into account:

- The size of the premises
- The nature of the premises
- The distance of the premises from the habitual residence or workplace of the person making the representation
- The potential impact of the premises (numbers of customers, routes likely to be taken by those visiting the premises)
- The circumstances of the person and nature of their interests, which may be relevant to the distance from the premises

- 6.4 In determining whether a person or organisation “has business interests” the Licensing Board will adopt the widest possible interpretation and include residents’ and tenants’ association, trade associations, trades unions, partnerships, charities, faith groups and medical practices, as appropriate.
- 6.5 The Licensing Board will regard bodies such as trade associations, trade unions, residents’ and tenants’ associations, and professional advisors such as Solicitors, Advocates and Consultants, as capable of representing interested parties where they are satisfied that the interested party has asked for representation.
- 6.6 In principle, the Licensing Board will allow any person to represent an interested party but it may seek to have it confirmed that the person genuinely represents the interested party. The Licensing Board will generally require evidence that a person/body (e.g. an advocate or relative) represents someone. If persons representing interested parties are Councillors, Members of Parliament or Members of the European Parliament, then no specific evidence of being asked to represent an interested person will be required as long as they represent the area likely to be affected.
- 6.7 If individuals wish to approach Councillors to ask them to represent their views then those Councillors shall not sit on a Licensing Board that meets to determine the licence application. If there are any doubts then either interested parties or Councillors should contact the Licensing Section for advice.

## **7. Exchange of information**

- 7.1 In fulfilling its functions and obligations under Section 350 of the Gambling Act 2005, the Board will exchange relevant information with other regulatory bodies and will establish protocols as necessary. In exchanging such information the Board will conform to the requirements of the Gambling Act, General Data Protection Regulation (GDPR) and the Data Protection Act 2018 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 their representations will be made available to applicants for a licence. Should a hearing take place they will form part of a public document. Any party who lodges representations or applies for a review of a premises licence will be informed that these details will be disclosed.

## **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. The Board will only intervene when necessary, remedies will be appropriate to the risk posed, and costs identified and minimised.
  - Accountable - with decisions being justifiable and subject to public scrutiny.
  - Consistent - This Statement of Principles will be applied fairly and equally to all parties.



- Transparent
- Targeted - regulation should be focused on the problem, with a view to improving outcomes without imposing unnecessary burdens on business.

The Board will avoid duplication with other regulatory regimes so far as possible.

- 8.4 The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 will be to ensure compliance with premises licences and other permissions which it authorises and the Board will seek to work actively with the Police and other partner agencies in enforcing the licensing legislation. The responsible authorities will also monitor the East Ayrshire area for any unlicensed premises or gambling activity and ensure, where this is identified, it is reported to the Gambling Commission or other appropriate agency.
- 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 Gambling Commission will be the enforcement body for operating licences and personal licences. Similarly, concerns about manufacture, supply or repair of gaming machines will not be dealt with by the Licensing Board, but the Board will be alert to the way premises are operating and will notify the Gambling Commission if it becomes aware of matters of concern in the operation of the premises.

## **9. Licensing authority functions**

- 9.1 The East Ayrshire Licensing 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
- 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 The Licensing Board will not be involved in licensing remote gambling (any form of gambling that is provided remotely by gaming operators. This includes Internet gambling, interactive television gambling, and cell phone gambling). Regulation will fall to the Gambling Commission through operator licences.

## **10. Duplication with other Regulatory Regimes**

- 10.1 The Licensing Board will avoid duplication with other regulatory regimes. In particular, the Board's functions will be discharged separately from the functions of East Ayrshire Council as the local planning authority. The Board recognises that planning and licensing regimes are separate and that the processing of premises license applications, permits or permissions is a distinct exercise from the processing of planning applications.

The Council's planning policies are set out in its Development Plan and associated supplementary guidance as appropriate. Government guidance for the Planning system in the form of Scottish Planning Policy and Planning Advice notes are also relevant.

## **11. Local Area Profile**

Guidance issued by the Gambling Commission suggests that a licensing authority may find it useful to complete its own assessment of the local environment as a means of 'mapping out' local areas of concern, which can be reviewed and updated to reflect changes to the local landscape. Such an assessment is referred to in the Guidance as a local area profile.

In considering the location of premises seeking premises licence, issues of demand cannot be considered, however the location of gambling premises can be a major factor on the promotion of the objectives. The Board will pay particular attention to the suitability of a location for gambling activity in terms of the objective, protection of children and vulnerable persons from being harmed or exploited by gambling and the effect of crime and/or disorder in the area. Any application for a premises licence within close proximity to a school or other educational establishment, hostel, day care centre or other sensitive location where there is the potential for exposing children, young persons or other vulnerable persons to gambling must include detailed information as to how the proposals will be consistent with the objective, protection of children and vulnerable persons from being harmed or exploited by gambling.

## **12 Risk Assessments**

The Board notes Social Responsibility condition 10.1.1 of the Commission's Licence Conditions and Codes of Practice which places an obligation on all non-remote casino, adult gaming centre, bingo, family entertainment centre, betting and remote betting intermediary (trading room only) licences, except non-remote general betting (limited) and betting intermediary licences to carry out local risk assessments. The condition will have effect from 6 April 2016.

The condition requires licensees to "assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks". In

carrying out the risk assessments “licensees must take into account relevant matters identified in the licensing authority’s statement of licensing policy”.

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

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

## PART B

### 13. Licensing Objectives

13.1 As mentioned above the Act contains three licensing objectives (section 1) which underpin the functions of the Licensing Board. 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
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

13.2 The Licensing Board has attempted to assist applicants by setting out the criteria and considerations that they should have in mind when preparing an application under the Act.

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

13.3 The Gambling Commission will take 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.

13.4 The Licensing Board will take into account the following considerations, where relevant, in determining applications and reviews:

13.5 Whether the premises make or will make a contribution to the levels of crime and disorder and whether the applicant has demonstrated that he has, or intends to, implement sufficient controls to prevent the premises being a source of, and/or associated with crime or disorder, or being used to support crime, if the application is granted. Consideration which may be taken into account:-

- Where an area is known for high levels of crime the Licensing Board will consider carefully whether gambling premises are suitable to be located there and whether additional conditions may be necessary, such as the provision of

cctv, minimum levels of staffing and licensed door stewards and training given to staff in crime prevention measures appropriate to the premises.

- Whether there is a history of crime or disorder associated with the premises or its use by those involved in crime to associate or dispose of the proceeds of crime.
- Whilst issues of nuisance are not included specifically in the gambling objectives, the Licensing Board may consider when making decisions on the applications for premises licenses that extreme instances of public nuisance and persistent public nuisance may constitute disorder and criminal offences.
- Whether the layout, lighting and fitting out of the premises have been designed so as to minimise conflict and opportunities for crime and disorder.
- Whether sufficient management measures are proposed or are in place to prevent the premises being a source of, or associated with crime or disorder, or used to support crime either as a place of association or to avoid apprehension.

13.6 Applicants for premises licences will require to have an Operator's Licence from the Commission (except occupiers of tracks who do not propose to offer gambling themselves). Generally, the Licensing Board will not (unless evidence to the contrary comes to light) have to ascertain if the applicant is suitable to hold a premises licence. The Licensing Board will have to be satisfied that the application will be consistent with the licensing objectives and compliant with the Commission's Guidance, codes of practice and this statement of principles.

13.7 The Licensing Board will expect the applicant to have a good understanding of the local area in which they either operate, or intend to operate, a gambling premises. The applicant will have to provide evidence that they meet the criteria set out in this policy and demonstrate that in operating the premises they will be reasonably consistent with this objective.

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

13.8 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.

13.9 The Licensing Board will take into account the following considerations, where relevant in determining applications and reviews:

- Whether the premises will operate with such measures that will ensure that the gambling activity is conducted in a fair and open way.
- Whether the layout, lighting and fitting out of the premises have been designed so as to ensure gambling is conducted in a fair and open way.

- Whether sufficient management measures are proposed or are in place to ensure that gambling is conducted in a fair and open way.
- Whether the management and operation of the premises is open and transparent.

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

13.10 The Licensing Board will take into account the following considerations, where relevant in determining applications and reviews.

- Whether there are appropriate measures in place to protect children and other vulnerable persons from being harmed or exploited by gambling.
- Has the Operator a specific training programme for staff to ensure that they are able to identify children and vulnerable people and take appropriate action to be reasonably consistent with this objective, to exclude them from the premises or parts of the premises.
- If the premises is an adult only environment has the Operator taken effective measures to implement an appropriate proof of age scheme to ensure that no-one under the age of 18 is admitted to the premises or restricted areas.
- Whether the layout, lighting and fitting out of the premises have been designed so as to not attract children and other vulnerable persons who might be harmed or exploited by gambling.
- Whether sufficient management measures are proposed or are in place to protect children and other vulnerable persons from being harmed or exploited by gambling.
- Whether any promotional material associated with the premises could encourage the use of the premises by children or young people.
- The location of the premises may be a significant factor if, for example, the premises are located near a school, hostel or other sensitive premises.

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

13.12 We will therefore consider whether specific measures are required at individual premises to have regard of this licensing objective. Appropriate measures may include supervision of access points or machines, or segregation of areas. We will consult with the East Ayrshire Child Protection Committee on any application which gives rise to concern over access for children or vulnerable persons.

- 13.13 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
  - people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.”
- 13.14 The Adult Support and Protection (Scotland) Act 2007 refers to Adults at Risk of Harm and the definition of “adults at risk” are adults who:
- are unable to safeguard their own well-being, property, rights or other interests
  - are at risk of harm
  - because they are affected by disability, mental disorder, illness or physical or mental infirmity, are more vulnerable to being harmed than adults who are not so affected
  - due to another person’s conduct is causing (or likely to cause) the adult to be harmed
  - the adult is engaging (or is likely to engage) in conduct which causes (or is likely to cause) self-harm
- 13.15 East Ayrshire Licensing Board will consider promotion of this licensing objective on a case by case basis, giving due consideration to applying key values and principles in respect of the protection of children and vulnerable adults, and operating within the East Ayrshire Child Protection Procedures and the Supporting and Protecting People in East Ayrshire – Intergency Practitioner Guidance. Where requested, information/advice will be sought from the East Ayrshire Child Protection Committee and/or The East Ayrshire Adult Protection Committee (EAAPC).

## **14 Premises licences**

- 14.1 Any person or business that wishes to offer gambling for which an operating licence from the Gambling Commission is required, and which is premises based, must apply to the Licensing Board for a premises licence.
- 14.2 An application for a premises licence may only be made by persons (which includes companies or partnerships):
- who are aged 18 or over and
  - who have the right to occupy the premises and
  - who have an operating licence which allows them to carry out the proposed activity or
  - who have applied for an operating licence to allow them to carry out the proposed activity
- 14.3 Premises licences can authorise the provision of facilities on:
- (a) Casino premises
  - (b) Bingo premises
  - (c) Betting premises including tracks
  - (d) Adult gaming centre premises, or
  - (e) Family entertainment centre premises

- 14.4 For each premises type the Act makes it clear that the primary activity should be that described in the premises licence type. It is the Licensing Board's opinion that all gambling premises, whether subject to application or currently licensed, must operate primarily in the use of the licence type applied for or issued.

### **Plans of Premises**

- 14.5 Plans must show:

- The extent of the boundary or perimeter of the premises
- Where the premises include, or consist of, one or more buildings, the location of any external or internal walls of each such building
- Where the premises form part of a building, the location of any external or internal walls of the building which are included in the premises
- Where the premises are a vessel or part of a vessel, the location of any part of the sides of the vessel, and of any internal walls of the vessel, which are included in the premises
- The location of each point of entry and exit from the premises, including in each case a description of the place from which entry is made or to which the exit leads.

### **General Principles**

- 14.6 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

- 14.7 Premises are defined in the Act as "any place". Different premises licences Commission's Guidance in this area. 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. In this regard, the terms of Sections 17 to 21 of the Building (Scotland) Act 2003 a premises should not be occupied without the relevant permissions being in place.

- 14.8 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, however the terms of the licensing objectives may competently be considered.

- 14.9 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.

- 14.10 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.
- 14.11 This Licensing Board will seek to avoid any duplication with other statutory / regulatory systems where possible, including the statutory planning regime.
- 14.12 We will not consider whether a licence application is likely to be awarded planning or building warrant approval in considering an application for a premises licence. East Ayrshire Council's Planning Section is a responsible authority under the Act and has the opportunity to make representations should it consider it appropriate, otherwise the two regimes will be properly separated.
- 14.13 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.
- 14.14 This Licensing Board will give sympathetic consideration to applications which effectively seek to re-site existing premises within the same locality and to extensions of existing premises where the objective, in either instance, is to enhance the quality of the facility provided for the benefit of the betting public.

#### **Conditions on premises licences**

- 14.15 Premises Licences will be subject to mandatory and/or default conditions. These conditions are detailed in the Gambling Act 2005 (Mandatory and Default Conditions) Regulations 2007.
- 14.16 We may exclude default conditions and also attach other conditions, where we believe it is appropriate to ensure that the premises have regard of the licensing objectives.
- 14.17 Any conditions we attach to licences will be both necessary and 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 respects.

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 supervisors 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.

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



- 14.19 There is no evidence that the operation of betting offices has required CCTV, door supervisors or the separation of different operational areas within premises for the protection of the public. The authority will only impose the requirement for any of the above in circumstances where there is clear evidence, from the history of trading its 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.

### **Door Supervisors**

- 14.20 In accordance with the Gambling Commission Guidance this Licensing Board may consider whether there is a need for door supervisors in terms of the licensing objectives relating to children and vulnerable persons and the prevention of crime having regard to the fact that there is no evidence that the operation of betting offices require door supervisors for the protection of the public.
- 14.21 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.
- 14.22 This Board may formulate a policy relating to registration of all door supervisors working at casinos or bingo premises. This would be in recognition of the nature of the work which might include searching individuals, dealing with potentially aggressive and young and vulnerable persons. If so, the policy will be made available publicly.

### **Buildings Divided into more than One Premises**

- 14.23 Part 7 of the Commissions Guidance states that a building can, in principle, be divided into more than one premises, and subject to more than one premises licence provided they are for different parts of the building, and the different parts of the building can be reasonably regarded as being different premises.
- 14.24 Whether different parts of a building can be reasonably regarded as different premises will depend on the circumstances of the individual building and how any division is proposed. To agree to accept applications to grant or vary a licence for a building which has been divided, the Licensing Board will need to be satisfied that the different premises are genuinely separate premises and not an artificially created part of what is readily identifiable as a single premises.
- 14.25 In considering whether different areas of a building are genuinely separate premises the Licensing Board will take into account factors which will include: whether there are separate registrations for business rates in place for the premises, whether the premises are owned or operated by the same person, and whether the premises are operated independently of each other.

### **Separation of Premises within a Single Building**

- 14.26 When considering proposals to divide a building into genuinely separate premises the Licensing Board will also need to be satisfied that the form of separation between the premises is appropriate.
- 14.27 The separation between one premises and another must be clearly defined. Any barrier used to separate one premises from another must be permanent and constructed so the public cannot go from one premises to another. The Licensing Board would not, for example, be likely to consider that separation of

areas of a building by ropes, or by low level, or moveable partitions to be appropriate.

- 14.28 It may be acceptable for staff working in adjacent premises to have access through barriers between premises to enable them access to one premises from the other. The applicant must demonstrate that in providing this staff access there are suitable control measures in place that will ensure the safety and security of staff and that will effectively prevent the public from using the same access point to enter the other premises.

## **15 Adult Gaming Centres**

- 15.1 Adult Gaming Centres (AGCs) premises licences allow the holder of the licence to make gaming machines available for use on the premises. Persons operating an AGC must hold a gaming machines general operating licence from the Commission and must seek a premises licence from the Licensing Board.
- 15.2 Premises subject to a licence granted before 13 July 2011 are entitled to make available 4 category B3/B4 gaming machines, or 20% of the total number of gaming machines, whichever is the greater. Licences granted on or after 13 July 2011 are entitled to offer a maximum of 20% of the total number of gaming machines available for use on the premises categories B3 or B4, and may offer an unlimited number of category C or D machines.
- 15.3 Gaming machines are a form of gambling which is attractive to children and AGC's will contain machines of a similar format to the Category D machines on which children are allowed to play. However, no-one under the age of 18 is permitted to enter an AGC and applicants must be aware of the location of and entry to AGC's to minimise the opportunities for children to gain access.
- 15.4 Because gaming machines provide opportunities for solitary play and immediate payouts, they are more likely to engender repetitive and excessive play. East Ayrshire Licensing Board 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 premises.
- 15.5 The Licensing Board will expect applicants to offer their own measures to meet the licensing objectives, however appropriate measures / 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.

## **16 Family Entertainment Centres**

- 16.1 Generally, Family Entertainment Centres (FEC) must be operated by a person or body having an operating licence from the Gambling Commission (the Act also provides that there is a class of unlicensed FEC that may be run by individuals or bodies not holding an Operator's Licence). Gaming machines are a form of gambling which is attractive to children and FEC's will contain both Category D machines on which children are allowed to play and Category C machines on which they are not. FECs may offer unlimited numbers of Category C or Category D Machines.
- 16.2 The Act also provides that there is a class of unlicensed Family Entertainment Centres that may be run by individuals or bodies not holding an operating licence. Unlicensed FEC's do not require the operator to have a Gambling Commission operator's licence or premises licence from the local Licensing Board but do need to have a gaming machine permit. Unlicensed FEC's are permitted to offer unlimited Category D machines.
- 16.3 Because gaming machines provide opportunities for solitary play and for immediate payouts, they are more likely to engender repetitive and excessive play. The Licensing Board, in considering applications for FEC premises licences 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.
- 16.4 We will expect applicants as part of their application to offer their own measures to have regard of the licensing objectives. Appropriate licence conditions may cover issues such 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 organisations such as GamCare
  - measures / training for staff on how to deal with suspected school children on the premises suspected of truanting.

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

- 16.5 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.

## **17. Casinos**

- 17.1 East Ayrshire Licensing Board has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005 but is aware that it has the power to do so.
- 17.2 Section 166 of the Act gives us the power to decide not to issue casino premises licences in our area.
- 17.3 The East Ayrshire Licensing Board reserves the right to review this situation

## **18. Bingo premises**

- 18.1 Bingo premises may allow a maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4. Bingo premises are permitted to offer unlimited Category C or D machines. Premises licensed before 13 July 2011 are entitled to make available 8 Category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater.
- 18.2 This Licensing Board 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".

## **19. Betting premises**

- 19.1 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, and off-course betting premises. This is betting that takes place other than at a track, typically in a betting shop, and includes an entitlement to operate up to four gaming machines of Category B2, B3, B4, C or D and any number of betting machines.
- 19.2 It is noted that the Gambling Commission's Guidance for Local Authorities states "Section 181 contains an express power for the Licensing Board 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)".

19.3 The Licensing Board has discretion as to the number, nature and circumstances of use of betting machines. This Board will consider limiting the number of machines only where there is clear evidence that such machines have been or are likely to be used in breach of the licensing objectives. Where there is such evidence, this authority may consider, when reviewing the licence, the ability of staff to monitor the use of such machines from the counter.

## **20. Tracks**

20.1 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.

20.2 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.

20.3 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.

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

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

20.6 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.

20.7 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.

- 20.8 We have a power under the Gambling Act 2005 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.
- 20.9 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.
- 20.10 This Licensing Board 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**

- 20.11 In accordance with the Commission's 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**

- 20.11 Section 151 requires applicants for premises licences to submit plans of the premises with the application. This ensures that the Licensing Board have the necessary information to make an informed judgement about whether the premises are fit for gambling.
- 20.12 Plans for tracks need not be in a particular scale, but should be drawn to scale and should be sufficiently detailed to enable the Licensing Board to assess an application.
- 20.13 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.

### **21. Travelling fairs**

- 21.1 The licensing authority will consider whether the applicant falls within the statutory definition of a travelling fair.
- 21.2 Travelling Fairs may provide an unlimited number of Category D machines provided that facilities for gambling amount to no more than an ancillary amusement at the fair. 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.
- 21.3 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. This

licensing board will work with appropriate departments of the Council and neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

## **22. Provisional statements**

22.1 This licensing authority notes the Gambling Commission's 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".

22.2 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:

- which could not have been raised at the provisional licence stage
- which, in the authority's opinion, reflects a change in the operator's circumstances or proposed use of his premises
- where the premises has not been constructed in accordance with the plan and information submitted with provisional application.

22.3 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 or building warrant approval for the proposal.

## **23. Reviews**

23.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities, including the licensing authority. However, it is for the licensing authority to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below:

- Any relevant code of practice issued by the Gambling Commission;
- Any relevant guidance issued by the Gambling Commission;
- The licensing objectives
- The authority's statement of principles.

23.2 The Licensing Authority may reject an application for review if it thinks that the grounds of which the review is sought:

- (a) Are not relevant to the relevant code of practice or guidance issued by the Gambling Commission, the licensing objectives or the licensing authority's statement of principles;
- (b) Are frivolous;
- (c) Are vexatious;

- (d) Will certainly not cause the licensing authority to revoke or suspend the licence or to remove, amend or attach conditions on the premises licence;
  - (e) Are substantially the same as grounds cited in a previous application relating to the same premises;
  - (f) Are substantially the same as representations made at the time the application for the premises licence was considered.
- 23.3 General objections to gambling as an activity are not likely to be considered relevant reasons for a review. Other examples of irrelevant considerations include demand for gambling premises, issues relating to planning, public safety and traffic congestion.

## **PART C**

### **24 Permits**

- 24.1 Permits regulate gambling and the use of gaming machines in a premises which does not hold a premises licence. They are required when a premises provides gambling facilities but either the stakes are very low or gambling is not the main function of the premises.
- 24.2 The Licensing Board is responsible for issuing the following permits:
- (a) Unlicensed family entertainment centre gaming machine permits;
  - (b) Alcohol-licensed premises gaming machine permits
  - (c) Prize gaming permits
  - (d) Club gaming permits and club machine permits.
- 24.3 The Licensing Board can only grant or reject an application for a permit and cannot attach conditions. Therefore, the Licensing Board will consider a number of factors before determining an application for a permit to ensure that the permit holder and the premises are suitable for the proposed gambling activities.
- 24.4 In addition, the Licensing Board are responsible for receiving notifications from holders of alcohol licences under the Licensing (Scotland) Act 2005 that they intend to exercise their automatic entitlement to two gaming machines in their premises under S282 of the Act.

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

- 25.1 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.
- 25.2 Unlicensed Family Entertainment Centre's 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.
- 25.3 We note that a licensing authority can grant or refuse a licence but cannot attach conditions to this type of permit.



- 25.4 The Licensing Board will grant an application for a permit only if it is satisfied that the premises will be used as an unlicensed FEC, and following consultation with the Police.
- 25.5 The Licensing Board will require applicants to demonstrate:
- A full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
  - That the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act) and
  - That staff are trained to have a full understanding of the maximum stakes and prizes
- 25.6 As Category D machines have no age restrictions, these premises will particularly appeal to children and young persons. Therefore, the licensing authority will give particular weight to matters relating to child protection issues and 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. The efficiency of such policies and procedures will each be considered on their merits, however, may include:
- Measures/training for staff as regards suspected truant school children on the premises
  - Measures/training covering how staff would deal with unsupervised very young children being on the premises
  - Measures/training covering how staff would deal with children causing perceived problems on or around the premises
  - Measures/training covering how staff would identify the signs and symptoms of persons engaged in the illegal use of controlled drugs
- 25.7 This licensing authority will also encourage applicants to ensure that all gaming machines within their premises are not located in a position which would compromise public safety when evacuating the building insofar as gaming machines should not be located with loose or trailing wires or in a position within the premises which would compromise the means of escape in the event of an emergency.

## **26 Prize gaming permits**

- 26.1 This policy applies to applications for, or renewal of, prize gaming permits. Gaming is '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. Normally the prizes are determined by the operator before play commences.
- 26.2 Prize gaming may take place without a permit in various premises. These are casinos, bingo halls, adult gaming centres, licensed and unlicensed family entertainment centres and travelling fairs.
- 26.3 Given that prize gaming will particularly appeal to children and young persons, the licensing authority will give weight to child protection issues.
- 26.4 The applicant will be expected to set out the types of gaming that they are intending to offer and will also be expected to demonstrate:

- An understanding of the limits to stakes and prizes set out in regulations;
- That the gaming offered is within the law;
- Clear policies that outline the steps to be taken to protect children from harm.

26.5 It should be noted that there are conditions in the Act with which the permit holder must comply, but that the licensing authority cannot attach conditions. The conditions in the Act are:

- The limits on participation fees, as set out in regulations, must be complied with;
- 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 regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- Participation in the gaming must not entitle the player to take part in any other gambling.

26.6 There are conditions in the Gambling Act 2005 with which the permit holder must comply, but we as the licensing authority cannot attach conditions.

## **27. Temporary use notices**

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

27.2 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.

27.3 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.

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

## **28 Occasional use notices**

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

28.2 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.

28.3 We will maintain a register of all applications.

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

- 1 All elected members of the East Ayrshire Council.
- 2 The Gambling Commission, Victoria Square House, Victoria Square, Birmingham, B2 4BP.
- 3 The Chief Constable, Police Scotland, St Marnock Street, Kilmarnock KA1 1TJ.
- 4 The Chief Fire Officer, Scottish Fire & Rescue Service, Prevention & Protection Dept., Ayr Community Fire Station, 3 Station Road, Ayr KA8 0ES.
- 5 Department of Planning & Economic Development, Planning Section, East Ayrshire Council, Opera House, 8 John Finnie Street, Kilmarnock.
- 6 Governance, Environmental Health Section, Civic Centre South, John Dickie Street, Kilmarnock KA1 1HW.
- 7 The Head of Service, Children's Health, Care & Justice Services, East Ayrshire Council, The Johnnie Walker Bond, 15 Strand Street, Kilmarnock
- 8 The Head of Service, Locality Health & Care Services, East Ayrshire Council, The Johnnie Walker Bond, 15 Strand Street, Kilmarnock
- 9 The Independent Chair of the Child Protection Committee, Council Headquarters, London Road, Kilmarnock KA3 7 BU.
- 10 The Independent Chair of the Adult Protection Committee, Council Headquarters, London Road, Kilmarnock KA3 7 BU.
- 11 H.M. Revenue & Customs, Excise Processing Teams, BX9 1GL (or by e-mail : NRUBetting@Gaming@hmrc.gsi.gov.uk)
- 12 RAL Limited, Birch House Woodlands Business Park, Linford Wood, Milton Keynes, Buckinghamshire MK14 6EW
- 13 Association of British Bookmakers, Ground Floor, Warwick House, 25 Buckingham Palace Road, London, SW1W 0PP
- 14 All Community Councils within East Ayrshire (list is available on request).
- 15 The Scottish Licensed Trade Association, local representative.
- 16 All current holders of Premises Licences issued under the Gambling Act 2005 in East Ayrshire.
- 17 National Casino Industry Forum, Carlyle House, 235-237 Vauxhall Bridge Road, London SW1V 1EJ.

**SCHEDULE OF RESPONSIBLE AUTHORITIES**

**GAMBLING ACT 2005**

- 1 The Chief Executive, East Ayrshire Council, Council Headquarters, London Road, Kilmarnock KA3 7 BU.
- 2 The Gambling Commission, Victoria Square House, Victoria Square, Birmingham, B2 4BP.
- 3 The Chief Constable, Police Scotland, St Marnock Street, Kilmarnock KA1 1TJ.
- 4 The Chief Fire Officer, Scottish Fire & Rescue Service, Prevention & Protection Dept., Ayr Community Fire Station, 3 Station Road, Ayr KA8 0ES
- 5 Department of Planning & Economic Development, Planning Section, East Ayrshire Council, Opera House, 8 John Finnie Street, Kilmarnock.
6. Governance, Environmental Health Section, Civic Centre South, John Dickie Street, Kilmarnock KA1 1HW.
- 7 The East Ayrshire Child Protection Committee, Council Headquarters, London Road, Kilmarnock KA3 7BU.
- 8 The East Ayrshire Adult Protection Committee, Council Headquarters, London Road, Kilmarnock KA3 7BU.
- 9 H.M. Revenue & Customs, Excise Processing Teams, BX9 1GL (or by e-mail : NRUBetting@Gaming@hmrc.gsi.gov.uk)
- 10 NHS Ayrshire & Arran, Afton House, Public Health Department, Ailsa Hospital, Dalmellington Road, Ayr KA6 6AB

## GLOSSARY

### Adult Gaming Centres

Adult gaming centres are a category of gambling premises contained within the Act. Persons operating an AGC must hold a gaming machines general operating licence from the Gambling Commission and must seek a premises licence from the Licensing Board. The holder of an AGC premises licence may make available for use a maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4 and an unlimited number of Category C or D machines.

### Amusement Arcades

These are not referred to as such in the Act. See Adult Gaming Centres and licensed and unlicensed family entertainment centres.

### Betting

Betting means making or accepting a bet on the outcome of a race, competition, or any other event; the likelihood of anything occurring or not occurring; or whether anything is true or not true.

### Bingo

Bingo has no statutory definition in the Act. It has its ordinary and natural meaning. The distinction between cash bingo, where cash prizes are derived from the stakes, and prize bingo, where prizes were not directly related to the stakes paid, under the previous legislation has been removed for commercial operators, and the holder of a bingo operating licence will be able to offer any type of bingo game, whether cash or prize. That means that premises with a bingo premises licence, or a casino premises licence (where the operator holds a bingo as well as a casino operating licence), will be able to offer bingo in all its forms. So too will alcohol licensed premises, club and miners' welfare institutes (up to a total weekly prize value of less than £2,000).

Prize bingo is traditionally played in arcades, or travelling funfairs. For these operators, prize bingo is subsumed within the allowances for prize gaming in the Act. This means that adult gaming centres, both licensed and unlicensed family entertainment centres, travelling fairs and any premises with a prize gaming permit will be able to offer prize gaming, which includes prize bingo. There will be Government Regulations issued setting the prize limits.

### Equal Chance Gaming

This is a game where the chances of winning are equally favourable to all participants, and which does not involve playing or staking against a "bank". It is immaterial how the "bank" is described and whether or not it is controlled by a player.

### Exempt Activities

Private gaming (which is gaming that takes place in private dwellings and on domestic occasions) is exempt from licensing or registration providing that no charge is made for participating; only equal chance gaming takes place; and it does not occur in a place to which the public have access.

## **Non Commercial Gambling**

Non commercial gambling is when no part of the proceeds/profits will be for private gain. The proceeds/profits are the sums raised by the organisers, for example, by way of fees for entrance or participation, or by way of stakes, minus an amount deducted by the organiser in respect of costs reasonably incurred in organising the event including the provision of a prize. The following conditions would also have to apply:

- The profits will be for a purpose other than that for private gain;
- The players are informed that the purpose of the gaming is to raise money for a specified purpose other than that of private gain;
- The event must NOT take place in premises which either have a premises licence or on premises relying on a temporary use notice under the new act;
- The gaming must not be remote

Any Regulations made will need to be complied with and will include for example regulations limiting the amounts staked and limiting participation fees. If the profits from the activity used for a purpose other than that which was specified, an offence would be committed.

Gambling - Gambling is defined as either gaming, betting or participating in a lottery.

## **Games of Chance**

Includes games that involve both chance and skill. This includes games in which skill can eliminate an element of chance and includes games that are presented as involving an element of chance. It does not include a sport. Playing a game of chance need not involve other participants.

Gaming - Gaming means playing a game of chance for a prize.

## **Guidance**

The Gambling Commission under Section 25 of the Act are required to issue guidance on the manner in which local authorities are to exercise their functions under the Act, in particular, the principles to be applied by local authorities in exercising their functions under the Act.

## **Interested Parties**

Interested parties are defined under Section 158 of the Act. To accept a representation from an interested party, the Licensing Board must take the view that 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;
- (c) Represents persons in either of these groups.

## **Lottery**

A lottery is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance.

## **Licensed Family Entertainment Centres**

These premises require operating licences from the Gambling Commission. They will be able to offer gaming machines in categories C and D. Gaming machines are a form of gambling which is attractive to children and licensed FECs may contain machines of the Category D machines on which they are allowed to play as well as Category C which they are not permitted to play on.

## **Unlicensed Family Entertainment Centre**

These premises can provide category D machines providing prizes of up to £5 cash or £8 in goods. Stakes are limited to 10p (or 30p for a goods prize). They can also offer prize bingo.

## **Operating Licence**

The Act requires that individuals or companies who intend to provide facilities for certain types of gambling must obtain an operating licence from the Gambling Commission. In general, these licences cover the principal commercial forms of gambling operation. Operating licences may be issued for the following forms of gambling:

- A casino operating licence
- A bingo operating licence
- A general betting/pool betting operating licence
- A betting intermediary operating licence
- A gaming machine general operating licence (AGC/FEC)
- A gaming machine technical operating licence (to manufacture, supply, install, adapt, maintain or repair a gaming machine or part of a gaming machine)
- A gambling software operating licence (to manufacture, supply, install or adapt gambling software)
- A lottery operating licence.

## **Premises Licence**

A premises licence issued by a Licensing Board authorises the provision of facilities on casino premises, bingo premises, betting premises, including tracks, adult gaming centres and family entertainment centres.

## **Representations**

In dealing with applications the Licensing Board is obliged to consider representations from two categories of person, referred to in the Act as interested parties and responsible authorities.

## Gaming Machines – Categories

This table sets out the current proposals for the different categories with the maximum stakes and prizes that apply.

<b>CATEGORY</b>	<b>MAXIMUM STAKE</b> (from January 2014)	<b>MAXIMUM PRIZE</b> (from January 2014)	<b>PREMISES</b>
A	Unlimited	Unlimited	Casino
B1	£5	£10,000	Casino
B2	£100	£500	Betting premises/Tracks/Casino
B3	£2	£500	Bingo/AGC/all above
B3A	£2	£500	Members Club/Miners Welfare Institute
B4	£2	£400	Commercial Club/all above
C	£1	£100	FEC (with operating licence)/Alcohol licensed premises/all above
D money prize	10p	£5	Travelling fairs/unlicensed FEC/all above
D non-money prize	30p	£8	All above
D non-money prize (crane grab)	£1	£50	All above
D combined money/non money	10p	£8 (of which no more than £5 may be a money prize)	All above
D combined money/non money (coin pusher or penny falls)	20p	£20 (of which no more than £10 may be a money prize)	All above



## Gaming Machines by Premises Type

Premises Type	Gaming Tables (Minimum)	Gaming Machines
Large Casino (machine/table ratio of 5-1 up to maximum)	1	Maximum of 150 machines. Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine/table ratio)
Small Casino (machine/table ratio of 2-1 up to maximum)	1	Maximum of 80 machines. Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine/table ratio)
Pre – 2005 Act casino premises (no machine/table ratio)	N/A	Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead
Bingo	N/A	Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4** and no limit on category C or D machines
Betting Premises and Tracks Occupied by Pool Betting	N/A	Maximum of 4 machines categories B2 to D (except B3A machines)
Adult Gaming Centre	N/A	Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4** and no limit on category C or D machines
Family Entertainment Centre with Premises Licence	N/A	No limit on category C or D machines
Family Entertainment Centre with Permit	N/A	No limit on category D machines
Clubs or Miners' Welfare Institute (with permits)	N/A	Maximum of 3 machines in categories B31 or B4 to D*
Qualifying alcohol licensed premises	N/A	1 or 2 machines of category C or D automatic upon notification
Qualifying alcohol licensed premises (with gaming machine permit)	N/A	Number of category C – D machines as specified on permit
Travelling fairs	N/A	No limit on category D machines