

# **DRAFT**

# **Gambling**

# **Policy**

# **Statement**

# **2016 to 2019**

**Date policy adopted:**

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## Executive Summary

[To be completed following conclusion of consultation process.]

CONSULTATION VERSION

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[Page numbering to be inserted following conclusion of consultation process.]

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# **PART 1**

## **INTRODUCTION**

CONSULTATION VERSION

## PART 1 – INTRODUCTION

### 1.0 Background

- 1.1 Under Section 349 of the Gambling Act 2005 ('the Act'), licensing authorities are required to prepare a statement of principles that they propose to apply in relation to their regulatory responsibilities in relation to gambling. Shropshire Council ('the Council') is the Licensing Authority for the county of Shropshire (excluding the area that is the responsibility of Telford & Wrekin Council) and is fulfilling its legal duty to prepare a statement of principles through this Gambling Policy Statement ('the Policy').
- 1.2 The Council is required to publish the Policy at least every three years. It will also review the Policy from time to time and revise it when appropriate to do so. Any amendments to the Policy must be the subject of further consultation and the Policy, or relevant parts of the Policy, must then be re-published.

### 2.0 County area

#### Geographical profile

- 2.1 The geographical area to which this Policy applies is the administrative area of Shropshire Council as outlined in the map produced at **Appendix A** [map to be inserted following the conclusion of the consultation process].
- 2.2 Shropshire is a diverse, predominantly rural, inland county, situated on the far western edge of the West Midlands region. Shropshire borders Wales to the East, Telford and Wrekin and Staffordshire to the North West, Worcestershire and Herefordshire to the South and Cheshire to the North.
- 2.3 The population of Shropshire is 310,100 and has only 0.97 persons per hectare (319,730.32 hectares) or 251.21 persons per square mile (1234.49 square miles), compared to a national figure of 4.17 persons per hectare (13,027,843 hectares) or 1,079.8 persons per square mile (50,300.76 square miles). The County is one of the most sparsely populated local authorities in the country, with approximately 540 settlements widely dispersed and only five settlements have a population of over 10,000 (Shrewsbury, Oswestry, Ludlow, Bridgnorth and Market Drayton.)
- 2.4 The population of Shropshire continues to grow and is projected to rise to 334,700 by 2035 (an 8.6% rise 2012-2035). The number of households is projected to rise to 152,500 by 2035 (a 16% rise 2012-2035). The Shropshire Core Strategy 2011 has planned for 25,700 new homes in Shropshire between 2006 and 2026.

## Local area profile

- 2.5 The Council has undertaken a preliminary assessment of the local environment as a means of 'mapping out' local areas of concern, including actual and future emerging risks. The outcome of this assessment is produced at **Appendix B**.
- 2.6 It is recognised that this will need to be reviewed and updated on a regular basis to reflect changes to the local landscape and environment, particularly as the process to undertake the assessment and the techniques by which it can be made more effective are more fully understood by the Council. Formal consultation will be undertaken where changes to the profile are likely to have a significant impact on stakeholders and the areas of concern and risks associated with the local area; otherwise changes will be highlighted on an ongoing basis on the Council's website.
- 2.7 The profile takes account of a range of factors, data and information held by the Council and a wide range of partners and has been brought together through proactive engagement with both responsible authorities and other relevant organisations.
- 2.8 The profile aims to increase awareness of local risks and improve information sharing in order to facilitate constructive engagement with licensees and a more coordinated response to local risks. The Council encourages operators to use the local area profile to help inform them of specific risks that need to be considered in local risk assessments prior to submitting any new or variation to a premises licence application.
- 2.9 The profile aims to:
- enable the Council to better serve the Shropshire community by more accurately reflecting the community and the risks within it;
  - provide greater clarity for gambling premises operators as to the relevant factors in the Council's decision making process;
  - improve premises licence applications as operators will be able to incorporate necessary controls and measures to mitigate relevant risks in their applications;
  - enable licensing authorities to make robust but fair decisions, based on a clear, published set of factors and risks, which are therefore less susceptible to challenge; and
  - encourage a proactive approach to risk that is likely to result in an increase in compliance and a reduction in enforcement action.

## **3.0 Consultation and communication**

- 3.1 In determining the Policy the Council has consulted widely as set out in Part 5 of this Policy.
- 3.2 In order to deliver a transparent, accountable and efficient licensing service the Council is committed to proactive engagement, ongoing communicating

and consultation with all stakeholders, specifically including local operators. The Council wants to facilitate an open and constructive partnership with all stakeholders in order to improve compliance and reduce regulatory costs.

- 3.3 In particular, the Council welcomes the opportunity to communicate and consult with representatives of the gambling trade to enable and encourage the exchange of views and information in relation to the Policy, to mitigate risks to the licensing objectives, to ensure conditions are relevant, proportionate and necessary, to ensure changes in the law are widely communicated and understood and the need for licence reviews are reduced to a minimum. The specific methods to achieve this communication and consultation will be determined as required.

#### **4.0 Gambling Act 2005**

- 4.1 The Act consolidated and updated previous gambling legislation and created a framework for three different types of gambling: gaming, betting and lotteries. The Act contains the regulatory system that governs the provision of all gambling in Great Britain, other than the National Lottery and spread betting.

- 4.2 It contains three licensing objectives which underpin the functions that the Gambling Commission ('the Commission') and licensing authorities will perform. These objectives are central to the Act and are:

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

- 4.3 The Council will proactively promote these licensing objectives through the adoption, implementation and enforcement of this Policy. The Council, in accordance with Section 153 of the Act, will also aim to permit the use of premises for gambling providing that it is consistent with the licensing objectives.

#### **5.0 Regulating bodies**

##### Lead Government Department

- 5.1 The Department for Culture, Media and Sport (DCMS) is the lead government department for gambling issues. The government wants to ensure that the gambling industry is run responsibly so that it provides a safe and enjoyable leisure activity and continues to be an important source of revenue and jobs. It wants to keep gambling crime-free, make sure that gambling is fair and open and protect children and vulnerable adults.

## Gambling Commission

- 5.2 The Commission is an independent non-departmental public body and has is the main advisory body to national and local government on gambling. It is sponsored by the DCMS and the Chair of the Commission is appointed by the Culture Secretary. It is the unified regulator for gambling in Great Britain and is responsible for regulating gambling in accordance with the Act.
- 5.3 The Commission has responsibility for granting operating and personal licences for commercial gambling operators and personnel working in the industry. It also regulates certain lottery managers and promoters. To help fulfil its role, the Commission issues codes of practice for the gambling industry about the manner in which gambling facilities should be provided and guidance to licensing authorities on how to implement their responsibilities under the Act.
- 5.4 The Commission is required to aim to permit gambling, providing that it is consistent with the licensing objectives.
- 5.5 For further information about the Gambling Commission refer to the website <http://www.gamblingcommission.gov.uk/Home.aspx>

## Licensing Authorities

- 5.6 The Council is, by definition, the Licensing Authority for the purposes of the Act for the administrative area of Shropshire Council. Licensing authorities play a vital role and are key partners in gambling regulation, with a responsibility for overseeing gambling that takes place in gambling premises (non-remote gambling) in their local areas. This involves:
- setting the local framework for gambling through their statement of principles;
  - considering applications and issuing licences for premises where gambling takes place, with conditions where appropriate;
  - reviewing or revoking premises licences;
  - issuing permits for some forms of gambling; and
  - undertaking inspection and enforcement activities, including tackling illegal gambling.
- 5.7 Licensing authorities license gambling premises within their area, as well as undertaking functions in relation to lower stake gaming machines in clubs and miners' welfare institutes.
- 5.8 In addition, local authorities deal with the system of temporary and occasional use notices. These notices authorise premises that are not generally licensed for gambling purposes to be used for certain types of gambling for limited periods.
- 5.9 Licensing authorities do not have any regulatory responsibilities in relation to remote gambling, i.e. gambling that is typically undertaken by phone or online; this is the responsibility of the Commission.



## **6.0 Scope**

- 6.1 This Policy supersedes all previous Council policies relating to gambling.
- 6.2 The Policy forms the Council's mandate for managing local gambling provision and sets out how the Council views the local risk environment and therefore its expectations in relation to operators with premises in the administrative area of Shropshire Council.
- 6.3 In particular, the Policy is concerned with the licensing/permitting of and regulatory controls associated with betting shops, bingo halls, adult gaming centres, family entertainment centres, casinos, tracks<sup>1</sup>, alcohol licenced premises and clubs (members' clubs, miners' welfare institutes and commercial clubs) that have gaming ('fruit' machines), prize gaming and small society lotteries.
- 6.4 The Policy does not override the right of any person to make an application and to have that application considered on its own merits. In addition, it does not undermine the right of any person to make representations on an application or to seek a review of the licence where a legal provision is made for them to do so.
- 6.5 The Policy does NOT attempt to explain all the requirements of the Act for each type of gambling premises and the associated gambling activities. The requirements of the Act are detailed and complex; consequently, to ensure the provisions are fully understood, potential applicants and existing licence/permit holders are strongly encouraged, with respect to the type of premises and activity being considered to:
- make themselves familiar with the relevant provisions of the Act, regulations and orders;
  - consult the guidance available on the Commission's website;
  - seek advice from appropriate legal experts; and
  - discuss specific requirements with the Council's licensing team.
- 6.6 The Policy is not a stand-alone document and must be read in conjunction with relevant legislation, codes of practice and guidance. Whilst the Policy sets out the Council's position with respect to the Gambling Act 2005, the legal interpretation and application of the Act is ultimately a matter for the Courts.

## **7.0 Purpose**

- 7.1 The Policy acts as the primary vehicle for setting out the Council's approach to gambling regulation having taken into account public interest, local

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<sup>1</sup> Examples of tracks include: horse racecourses, greyhound tracks, point-to-point horserace meeting, football, cricket and rugby grounds, athletics stadium, golf course, venues hosting darts, bowls, or snooker tournaments, premises staging boxing matches, section of river hosting a fishing competition, motor racing events.

circumstances, issues, data, risk and the expectations that the Council has of operators who either currently offer gambling facilities or may do so in the future. This provides greater scope for the Council to work in partnership with operators and other local businesses, communities and responsible authorities to identify and proactively mitigate local risks to the licensing objectives.

- 7.2 The fundamental purpose of the Policy is to reduce the harm and exploitation that is caused by problem gambling; in particular, to safeguard children, young persons and vulnerable adults, and to reduce crime and disorder associated with gambling, whilst simultaneously recognising the contribution that responsible gambling<sup>2</sup> brings to supporting local businesses and the growth and prosperity of Shropshire's economy.
- 7.3 For the purposes of this Policy, the Council considers that vulnerable persons include people who gamble more than they want to, people who gamble beyond their means and people who may not be able to make informed or balanced decisions about gambling, including, but not limited to:
- children
  - young persons including students
  - homeless persons
  - persons who are affected by mental health, learning disabilities/difficulties, social isolation and constrained economic circumstances
  - persons who are affected by substance misuse relating to alcohol or drugs
  - first generation immigrants
  - persons from minority ethnic groups
  - persons who are affected by multiple deprivation
- 7.4 The Policy provides guidance to any person with an interest in the licensing and permitting of gambling activities; in particular, but not restricted to:
- persons who wish to apply for gambling licences and permits;
  - persons who hold existing licences and permits, including those that are the subject of review;
  - the Council, in its capacity as the licensing authority, including licensing officers and members of the relevant licensing committees;
  - the Gambling Commission;
  - licensing consultants, solicitors and barristers advising and/or representing applicants and licence/permit holders; and
  - magistrates and judges hearing appeals against Council decisions.
- 7.5 The Council is committed to the licensing objectives set out in the Act and is particularly concerned to ensure:
- that the action to promote the welfare of children and to protect them from harm is everyone's responsibility, in particular, prospective and existing

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<sup>2</sup> Responsible gambling occurs where operators provide socially responsible gambling products and players are able to control their play.

proprietors of gambling premises who will have dealings with children and families have a duty to report matters of concern that could relate to the safety of children, young persons and vulnerable adults to the relevant authorities (refer to **Appendix C** for further information);

- that the public are safeguarded from dishonest persons;
- that gambling premises and associated gambling activities are lawful;
- that premises used for gambling activities are safe and fit for the purpose for which they are licensed;
- that gambling activities do not lead to crime and disorder;
- where the Council has responsibility for determining the suitability of the applicant that they are a fit and proper person to hold the relevant gambling permit; and
- that regulation is not aimed at preventing legitimate gambling.

7.6 The Council will aim to ensure that its regulatory approach imposes the minimum burden necessary to promote the licensing objectives in the Act, having regard to its impact on different types and sizes of licence/permit applicant and licence/permit holder, and does not unduly hinder economic progress.

## **8.0 Review of the Policy**

8.1 The Policy will be prepared and published every three years. However, it will be the subject of continuous evaluation and from time to time reviewed and, where necessary, revised and published before any revision is given effect. At the time of review all relevant stakeholders will again be consulted. Any gambling trade representative may request a review of the policy at any time.

8.2 Currently the Policy does not fully address the licensing requirements for casinos on the basis that no such applications have, to date, been received by the Council. At such time as an application to licence a casino is received, the Council will work with the applicant to manage the application and the Policy will subsequently be reviewed to address the relevant casino licensing requirements.

8.3 The Council has not resolved not to issue casino premises licences under Section 166 of the Act, but it is aware that it has the power to do so. Should the Council become aware of any evidence to suggest that such a resolution is required, the Council will consult and update this Policy accordingly.

## **9.0 Regulatory and policy framework**

9.1 The operation of the Council's licensing service, as it relates to the licensing of gambling activities, is undertaken primarily in accordance with:

- the Gambling Act 2005, as amended;
- regulations and orders made under the Act;
- guidance issued by the Gambling Commission to local authorities; and

- the principles of better regulation, particularly as set out in the Regulators' Code (BRDO 14/705 April 2014)<sup>3</sup>.
- 9.2 In addition, the service is provided in accordance with all relevant Council policies, duties and responsibilities; in particular, those relating to:
- Protection of children, young persons and vulnerable adults
  - Better regulation and enforcement
  - Access to information
  - Public sector equality duty
  - Human rights<sup>4</sup>
- 9.3 So far as is reasonable practicable the Council will avoid duplication with other regulatory regimes. In particular, the Policy and associated conditions do not address health and safety at work, fire safety or planning requirements. Gambling trade representatives are required to ensure all relevant provisions are satisfied in these respects.

## **10.0 Licensing conditions and codes of practice requirements**

### Conditions and authorisations by virtue of the Act

- 10.1 There are specific sections of the Act that provide for conditions to be attached automatically to premises licences and for authorisations to be granted automatically in relation to:
- number of gaming machines
  - betting on virtual events
  - gambling in addition to casino games
  - access by children and young persons
  - giving of credit
  - door supervision
  - pool betting
  - Christmas day
- 10.2 The Secretary of State may make regulations requiring these conditions to be set out on the premises licence. The Council has no discretion to decide not to include them or to modify them. The table below summarises which sections of the Act apply to which types of premises licences (excluding casinos) and applicants/licencees are encouraged to make themselves familiar with the requirements of the relevant sections in relation to the particular type of premises and activity for which they are responsible.

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<sup>3</sup> Regulators' Code (previously the Regulators' Compliance Code), Department of Business, Innovation and Skills, 2014, issued under section 23 of the Legislative and Regulatory Reform Act 2006.

<sup>4</sup> Human Rights Act 1998, in particular, Article 1, Protocol 1 – peaceful enjoyment of possessions (a licence is considered a possession in law and people should not be deprived of their possessions except in the public interest); Article 6 – right to a fair hearing; Article 8 – respect for private and family life (in particular, removal or restriction of a licence may affect a person's private life); Article 10 – right to freedom of expression.

Premises Licence Type	Section of Gambling Act 2005						
	S.172	S.173	S.177	S.178	S.179	S.182	S.183
All	X			X			X
Bingo			X				
Betting		X					
Betting in respect of a track					X	X	

### Licensing conditions

- 10.3 The Act sets out mandatory conditions and default conditions and also permits the Council to attach further conditions or exclude any default condition.
- 10.4 The Council will clearly apply the mandatory conditions in all relevant circumstances.
- 10.5 Where there are regulatory concerns of an exceptional nature the Council may impose additional individual conditions in relation to matters that are already dealt with by mandatory conditions; however, these will relate to the licensing objectives.
- 10.6 The Council will apply the default conditions unless the Council is aware of, or made aware by a third party, of circumstances that indicate such conditions would be inappropriate or the applicant can demonstrate to the satisfaction of the Council why the conditions ought to be excluded. Where the Council excludes a default condition it will generally replace this condition with an alternative condition that achieves the desired outcome. Where the alternative condition is more restrictive than the excluded condition the Council will ensure that it sets out the regulatory reasons for doing so.
- 10.7 The Council may also apply further conditions. Conditions on premises licences will only be applied where they relate to gambling and as considered appropriate in light of the overarching principles to be applied by the Council. Where the Commission's Licence Conditions and Codes of Practice (LCCP) or other legislation places particular responsibilities or restrictions on an applicant or licence/permit holder, the Council will not impose the same responsibilities or restrictions through conditions on a premises licence.
- 10.8 Decisions on individual conditions will be made on a case by case basis and will only be applied where it is legally permissible, proportionate and necessary to do so; in particular, but not limited to, ensuring that gambling trade representatives:
- comply with the fundamental purpose of the Policy set out above;
  - provide only socially responsible gambling products;
  - take appropriate steps that are within their control to help players control their play;
  - take proactive steps to promote and achieve the three Gambling Act licensing objectives; and
  - comply with all relevant legislative requirements.

10.9 In particular, the Council will ensure that premises licence conditions are:

- relevant to the need to make the proposed building suitable as a gambling facility;
- directly related to the premises (including the locality and any identified local risks) and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises; and
- reasonable, taking into account all the circumstances associated with the particular licence application or variation.

10.10 The Council has considered the local area profile. Given the current position demonstrated by the profile it considers it unnecessary at this time to include specific conditions in relation to premises licences. Where specific risks associated with a particular locality emerge, the Council will consider the need for additional conditions on any premises licence.

10.11 With respect to self-service betting terminals (SSBT), the Council has the power to restrict the number, their nature and the circumstances in which they are made available by attaching licence conditions to a betting premises licence. When considering whether to impose a condition to restrict the number of SSBT in any particular premises, the Council amongst other things, will take into account the ability of employees to monitor the use of the machines by children and young persons or by vulnerable people, the size of the premises and the number of counter positions available for person-to-person transactions.

10.12 Where SSBT include the functionality to be marketed or presented in foreign languages, the Council will seek to ensure that the operator has considered the ordinary code provision about making the following information also available in those languages:

- the information on how to gamble responsibly and access to help referred to in the LCCP;
- the players' guides to any game, bet or lottery required to be made available to customers under provisions in LCCP; and
- the summary of the contractual terms on which gambling is offered, which is required to be provided to customers as a condition of the licensee's operating licence.

10.13 The Council cannot and will not attach conditions to premises licences that

- makes it impossible to comply with an operating licence condition
- relate to gaming machine categories, numbers, or method of operation
- requires membership of a club or body
- imposes conditions in relation to stakes, fees, winnings or prizes

### Codes of practice requirements

- 10.14 The Gambling Commission issue codes of practice under Section 24 of the Gambling Act 2005. Codes of practice include **social responsibility provisions** that must be adhered to by all licence/permit holders and **ordinary provisions** that are not compulsory but failure to take account of them can be used as evidence in criminal or civil proceedings.
- 10.15 Clearly licence/permit holders must adhere to all social responsibility provisions in full. In addition, the Council expects licence/permit holders to adhere to all ordinary provisions unless the Council is aware of, or made aware by a third party, of circumstances that indicate such provisions would be inappropriate or the applicant can demonstrate to the satisfaction of the Council why the provisions are not applicable or that they have satisfied the provisions by suitable alternative means that are equally effective and acceptable to the Council.
- 10.16 Specific attention is drawn to the provision that now formalises the requirement (with effect from 6 April 2016) for future and existing licensees to assess (and also review and update as necessary) 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 undertaking risk assessments, licensees must take into account relevant matters identified in this Policy.
- 10.17 Licensees are also expected to share their risk assessments with the Council when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise on request. Under the code of practice, the requirement to share risk assessments with the Council is not mandatory; however, the Council will expect licensees to do this unless there are exceptional circumstances that are accepted by the Council and which would exempt a licensee from the requirement to share their risk assessment.

### Where to find licensing conditions and codes of practice requirements

- 10.18 The relevant mandatory and default conditions can be found in the Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007 (SI 2007 No 1409) and within the document entitled '**Licence Conditions and Codes of Practice**' (LCCP) issued by the Gambling Commission.
- 10.19 The LCCP is not a static document and continues to evolve over time; however, at the time of writing this Policy, the current version of the LCCP was published in February 2015 (updated April 2015), with the majority of amendments effective from 8 May 2015.
- 10.20 The LCCP document is available on the Gambling Commission's website at <http://www.gamblingcommission.gov.uk/pdf/Latest-LCCP-and-Extracts/Licence-conditions-and-codes-of-practice.pdf>.

10.21 The Gambling Commission also provides sector specific extracts from the LCCP that are applicable to each type of licence. These are available at <http://www.gamblingcommission.gov.uk/Publications-consultations/Sector-specific-extracts-from-LCCP.aspx>.

CONSULTATION VERSION



# **PART 2**

## **LICENSING PRINCIPLES, PROCESS AND DELEGATION**

CONSULTATION VERSION

## **PART 2 – LICENSING PRINCIPLES, PROCESS AND DELEGATION**

### **11.0 Introduction**

- 11.1 This part of the Policy focusses on the functions that the Council undertakes and the principles the Council will follow when administering applications, reviewing conditions and setting fees. The Council expects compliance with these principles to assist applicants and licence holders to meet the statutory licensing objectives when undertaking gambling activities that are regulated by the Council.
- 11.2 This part also explains the roles and duties of the Strategic Licensing Committee, the Licensing Act Sub-Committee and officers of the Council.

### **12.0 Council licensing functions**

- 12.1 The Council seeks to ensure that gambling facilities are suitable and that gambling activities are conducted in such a manner to minimise the risks to the licensing objectives. The specific regulatory functions of the Council, including the activities that the Council is able to licence, as it relates to the licensing of gambling establishments and activities for which it has responsibility are:

- licensing premises where gambling activities take place by issuing premises licences, including provisional statements
- regulating gaming and gaming machines in members' clubs and miners' welfare institutes by issuing club gaming permits and/or club machine permits
- regulating gaming machines in commercial clubs by issuing club machine permits
- granting permits to family entertainment centres for the use of certain lower stake gaming machines
- regulating gaming and gaming machines on alcohol licensed premises by receiving notifications for the use of two or fewer gaming machines
- regulating gaming machines on alcohol licensed premises by issuing gaming machine permits where there are more than two gaming machines
- granting permits for prize gaming
- registering societies to allow them to hold small society lotteries;
- receiving and endorsing temporary use notices
- receiving occasional use notices
- providing information to the Gambling Commission regarding details of licences/permits issued (see information exchange)
- maintaining registers of the licences and permits issued
- setting and collecting licence/permit fees
- inspection, compliance and enforcement locally in relation to licences, permits and permissions issued under the above functions

- 12.2 With respect to premises licences and permits, the Council also has the regulatory responsibility for dealing with variations, change of circumstances, transfers, reinstatements and producing copies of lost, stolen or damaged

licences in accordance with specific regulatory provisions that relate to each licence or permit type.

- 12.3 The Council does not license operators of gambling establishments or individuals who work in the gambling industry. It also does not regulate the National Lottery. These licences are the responsibility of the Gambling Commission. A person considering becoming involved in the provision of gambling establishments and/or activities must ensure they have the appropriate operator and personal licences in place (or confirmation that such licences are not required) prior to approaching the Council for a premises licence and/or permit.

### **13.0 Overarching licensing principles**

- 13.1 The Council aims to provide a clear, consistent and responsive service to prospective and current licence/permit holders, members of the public and other relevant stakeholders.

- 13.2 The Council will seek to build and maintain good liaison and working relationships with the Commission, other regulators and law enforcement bodies, including sharing relevant information and, where appropriate, investigating offences.

- 13.3 In accordance with Section 153<sup>5</sup> of the Act, the Council will aim to permit the use of premises for gambling, i.e. it will seek to regulate gambling by using powers to moderate the impact on the licensing objectives rather than by starting out to prevent gambling altogether, providing it is:

- in accordance with the relevant code of practice issued by the Commission under Section 24 of the Act;
- in accordance with any relevant guidance issued to local authorities by the Commission under Section 25 of the Act (Guidance to licensing authorities 5<sup>th</sup> Edition March 2015, which can be found at <http://www.gamblingcommission.gov.uk/pdf/GLA5---March-2015.pdf>;
- reasonably consistent with the licensing objectives; and
- in accordance with this Policy.

- 13.4 Whilst the Council will aim to permit the use of premises for gambling, as set out above, it will not grant a licence/permit/registration if it believes that to do so will mean taking a course of action that does not accord with any relevant Commission code of practice or guidance, the licensing objectives or this Policy.

- 13.5 When determining whether to grant a licence/permit, the Council will not have regard to the expected demand for the gambling facilities that it is proposed to provide or whether the application is to be permitted in accordance with law relating to planning permission, building regulations approval or building consent. However, the Council, in terms of both the licensing and planning

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<sup>5</sup> References are made throughout this Policy to Section 153 of the Gambling Act 2005. In all cases, such references relate to the requirements set out in **paragraph xxxx [insert 'this' para no]**.

regimes, will consider carefully any conflict that may exist between licence conditions and planning/building regulation restrictions and will work with applicants and licence/permit holders to resolve such conflicts.

- 13.6 The Council will be mindful of the needs of the applicant but this will be balanced against the clear duty that the Council has to take account of the over-riding principles set out in Section 153 of the Act and the Council's desire to ensure the overall purpose of this Policy is delivered.
- 13.7 In all cases, licence/permit applications will be considered and determined on their own individual merits.
- 13.8 The Council will make general advice, relating to its functions under the Act, available through its website. In addition, on request, the Council will provide specific advice about compliance to prospective and actual licence/permit/registration holders and will, in partnership with the Commission, advise the public on what activities they may undertake without the need for specific permissions.
- 13.9 The Council will employ staff with the necessary skills and knowledge and will delegate to them the necessary powers they need to carry out licensing, compliance and enforcement functions.
- 13.10 In the event that the Council perceives a conflict between a provision of a Commission code of practice or guidance and this Policy or view as to the application of the licensing objectives, the Commission's codes and guidance will take precedence.
- 13.11 The Council will have regard to any other codes of practice or guidance that may from time to time be issued by the Gambling Commission and other relevant stakeholders.

#### **14.0 Principles adopted specifically in relation to the licensing objectives**

- 14.1 The general principles that the Council will apply when considering whether the licensing objectives are being met are set out below in relation to each of the objectives in turn. As there will inevitably be overlap between the objectives, the Council will apply the principles widely and across all the objectives where this is appropriate to do so. Applicants and licence/permit/registration holders will be expected to apply the same approach when considering the way in which the operation of their particular gambling activity will satisfy the licensing objectives.
- 14.2 In particular, in relation to all three licensing objective, the Council is likely to apply relevant conditions where these are determined by the Council's local area profile. In addition, it will also strongly expect operators to submit suggested conditions to mitigate risks based on their own risk assessments. Where operators fail to satisfy the Council that identified risks are sufficiently mitigated, the Council may conduct a review of the premises licence.

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

15.1 The Council's licensing, compliance and enforcement processes are designed to ensure that:

- only appropriate premises are granted premises licences for gambling activities;
- the appropriateness of premises licences to continue will be reconsidered in the light of any subsequent criminal and/or disorder activity or in connection with such activity;
- where it is within the control of the Council, i.e. with respect to certain permits and registrations, only suitable applicants are granted and allowed to retain such permits and registrations;
- compliance activity at licenced premises is targeted at those premises where there is the greatest risk of crime and disorder.

15.2 Whilst each case will be considered on its merits, where it is the responsibility of the Council to assess the suitability of applicants, it is likely to refuse an application or review a licence where there is evidence of convictions for relevant offences. Where such evidence is known to the Council and relates to persons who hold operator and personal licences, the Council will inform the Commission.

15.3 Whilst it is recognised that there is no clear line between nuisance and disorder, the Council considers disorder as activity that is more serious and disruptive than nuisance. The Council is more likely to consider disorder to be behaviour that others, who have seen and heard the disorder, feel threatened by and/or that requires police assistance. The Council cannot address concerns about nuisance under the Gambling Act.

15.4 The Council has specifically considered the location of premises and the controls that are necessary to prevent premises being associated with or used to support crime. In this respect, the Council has not, at this time, prohibited any specific areas where gambling premises may be located. If this position changes, the Council will update this Policy accordingly. Nevertheless, the Council is likely to refuse an application for a premises licence if the premises is in an area associated with unacceptable levels of crime that are creating burdens for the police and other enforcement agencies unless the applicant can sufficiently demonstrate, by way of their risk assessment and proposed conditions, how they would ensure the premises would not further increase the current levels of crime.

15.5 Where the Council determines it is necessary, the Council will give serious consideration to including a condition requiring door supervision to prevent disorder. Any person employed on door supervision will be required to hold a licence issued by the Security Industry Authority (SIA) unless the persons carrying out the door supervision are in-house employees at casino and bingo premises.

- 15.6 Where door supervision is being carried out by in-house employees at casino and bingo premises, the Council will expect a minimum of one supervisor for every 100 persons (or part thereof) to be in place. This is to take account of the nature of the door supervisor role that such employees will have to undertake, including the difficult tasks of dealing with potentially aggressive customers and searching individuals for the presence of offensive weapons.
- 15.7 The Council is aware of the concerns that exist in relation to fixed odds betting terminals (FOBT) and the potential links to criminal damage and disorder. The Council's initial local area profile has not highlighted this as either an existing or emerging risk in local communities. However, if this position changes, the Council will give due consideration to the need to apply conditions to betting shop premises licences including, but not limited to, recording and reporting all attacks on FOBT to the police and/or the Council.
- 15.8 Where there are voluntary initiatives/schemes aimed at addressing issues such as underage access, staff safety and security, the Council will expect applicants and licence/permit holders to have, as a minimum, considered the value that such initiatives/schemes would bring to the licensed premises and, where appropriate, to subscribe and actively promote the initiatives and schemes, e.g. The Safe Bet Alliances Voluntary Code on Safety and Security National Standards for Bookmakers
- 15.9 Where there are persistent or serious disorder problems or other evidence or information concerning criminality that causes the Council to question the suitability of an applicant, e.g. an operator is failing to act on the advice of officers of the Council to prevent crime and disorder occurring, the Council will bring this to the attention of the Commission without delay so that the Commission can consider the continuing suitability of the operator to hold an operating licence.
- 15.10 The adoption of these principles also support the Council's duty under Section 17 of the Crime and Disorder Act 1998, i.e. to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all it reasonably can, to prevent crime and disorder in Shropshire.
- 16.0 Objective 2: Ensuring that gambling is conducted in a fair and open way**
- 16.1 The Council is unlikely to deal with issues of fairness and openness on a frequent basis as these are likely to be matters for either the way specific gambling products are provided and, therefore, subject to the operating licence, or will be in relation to the suitability and actions of an individual and, therefore, subject to the personal licence. These are matters for the Gambling Commission.
- 16.2 However, where the Council suspects that gambling is not being conducted in a fair and open way the Council will bring this to the attention of the Commission so that it can consider the continuing suitability of the operator to hold an operating licence or of an individual to hold a personal licence.

16.3 In relation to the licensing of tracks, the Council's role is different from other licensed premises in that track owners will not necessarily have an operating licence. In these circumstances, the Council is more likely to apply conditions to the premises licence to ensure that the environment in which betting takes place is suitable; in particular to ensure that:

- rules are transparent to those who may wish to bet and that they know what to expect;
- rules are fair;
- easily understandable information about the rules is made available by licence holders to those who wish to bet, e.g. the rules are prominently displayed in or near to betting areas or distributed by other appropriate measures; and
- the terms and conditions on which bets are made are clear.

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

17.1 The Council considers this objective to include preventing children and vulnerable persons from taking part in gambling as well as restricting advertising so that gambling products are not aimed at, or are made particularly attractive to, children and vulnerable persons. Consequently, the Council is likely to reject an application or revoke an existing licence/permit where there is insufficient emphasis placed on<sup>6</sup>:

- explaining precisely what activity/activities the Council is being asked to authorise
- explaining the way in which gambling facilities will be managed/operated, including relevant plans
- determining the need for separate premises licences to ensure clarity of responsibilities
- staff training
- staff ability to adequately supervise entrances, whether directly or by CCTV or other means
- staff ability to adequately supervise gaming machines in non-adult gambling specific premises, whether directly or by CCTV or other means
- physical segregation of gambling and non-gambling areas frequented by children
- physical segregation of adult gambling areas from those areas suitable for children
- appropriate notices and signs for adult only areas
- with respect to tracks, distinct entrances to each type of premises
- excluding children from gambling areas where they are not permitted to enter
- the employment of door supervisors
- verifying the age of customers
- measures to deal with suspected truanting school children
- the location of entry

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<sup>6</sup> This list is not mandatory in its entirety but operators are expected to have considered these matters and made positive decisions on the need (or not) for specific actions. The list is also not exhaustive; it provides indicative measures that operators ought to consider.

- the location of gaming machines and betting machines
  - specific opening hours
  - the provision of information to support vulnerable persons and problem gamblers, including helpline contacts for organisations that provide support
  - self-exclusion schemes, where customers ask operators to refuse to accept their custom
- 17.2 This is particularly relevant to tracks that may be subject to one or more premises licences where each licence relates to a specified area of the track. The Council will work with operators to consider how any impediments to the supervision of premises might be most appropriately remedied.
- 17.3 Where the Council considers the structure or layout of premises to be an inhibition or potential inhibition to satisfying this licensing objective, the Council will expect the licensee to consider what changes are required to ensure the risk is mitigated. The Council will expect the licensee to consider the positioning of staff or CCTV, the use of floor-walkers and the relocation of the staff counter to enable direct line of sight. The Council will not unnecessarily expect licensees to make changes to the physical layout but will consider the proportionality of this against other measures that could be put in place.
- 17.4 Where category C or above gaming machines are on offer in any premises to which children are admitted (including buildings where multiple premises licences apply), the Council expects:
- all such machines to be located in an area of the premises which is separated from the remainder of the premises by a physical barrier that prevents access other than through a designated entrance;
  - only adults are admitted to the area where the 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 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.
- 17.5 The Council has specifically considered the location of premises and the controls that are necessary to protect children and other vulnerable persons from being harmed or exploited. In this respect, the Council has not prohibited any specific areas where gambling premises may be located; however, the Council is likely to refuse an application for a premises licence if it is located close to a mainstream school or a residential school for children with truanting problems or a hostel for vulnerable adults or a centre that provides support for problem gamblers unless the applicant can sufficiently demonstrate, by way of their risk assessment and proposed conditions, how they would overcome the anticipated concerns
- 17.6 Where there is a need and/or requirement to ensure under 18 year olds do not access gambling premises or make use of adult gaming machines, the Council expects applicants and licence/permit holders to:



- introduce a 'Challenge 25 policy' linked with effective ID challenges and proof of age schemes
  - use a 'challenge log' to record all age restriction challenges
  - ensure a system is in place to ensure that the circumstances in which a customer may or may not be permitted access is understood and consistently applied
  - have a mechanism in place to inform customers of the law and policies/procedures that are in operation at the premises
  - train staff to ensure the law and policies/procedures are understood, up-to-date and applied consistently, including setting out how staff's knowledge and understanding will be assessed.
- 17.7 The Council will pay significant regard to any guidance and codes of practice provisions, issued by the Commission, in relation to how gambling premises ought to be presented in order to prevent access by children.
- 17.8 Although the Council's role does not extend to the treatment or care of those who have gambling problems, the Council does have an interest in keeping up to date with developments and trends in work of this kind, in particular, to inform its local area profile.
- 17.9 Whilst the Act does not seek to prohibit 'vulnerable' groups of adults from gambling in the same way that it prohibits children, the Council has considered the need for special considerations in relation to the protection of vulnerable persons. This has been balanced against the Council's objective to aim to permit the use of premises for gambling. The Council has concluded that, in general, no special considerations are required and that the considerations in relation to protecting children will apply.
- 17.10 However, with respect to the nationally expressed concerns that exist in relation to the potentially adverse impact FOBT (and self-service betting terminals) may have on vulnerable adults (notwithstanding it is not currently a risk that is identified in the Council's Local Area Profile), the Council will give due consideration to the need to apply conditions to betting shop premises licences including, but not limited to, setting out minimum staffing levels to ensure sufficient staff are on the premises to enable staff to comprehensively promote responsible gambling, adequately protect players, particularly in relation to players who are deemed to be vulnerable (as defined within this Policy) and to prevent under 18 year olds accessing gambling facilities.

## **18.0 Delegation of Council licensing functions**

- 18.1 Licensing of the gambling industry, as set out at paragraph \*\*\* [insert paragraph number from 'licensing functions' section above], is a Council function that is delegated to the Strategic Licensing Committee. The Strategic Licensing Committee has delegated this function to the Licensing Act Sub-Committee and to officers of the Council who will determine all applications in accordance with this Policy.

- 18.2 The specific delegations are set out in the Council's Constitution, which is available at [link to website to be included when the policy consultation has been completed]. The relevant extract from the Constitution is produced at **Appendix D** of this Policy.
- 18.3 Officers and the Licensing Act Sub-Committee may elect not to exercise their delegated decision making authority in respect of any particular licence/permit application. This is likely to be the case where delegation may give rise to a risk of judicial review challenge, particularly on the basis of appearance of bias.
- 18.4 Whilst officers and the relevant committees will, in the majority of cases, follow the Policy, there may be specific circumstances where the Council believes it is right to depart from the Policy. This may also be the case in relation to the Gambling Commission Guidance to Licensing Authorities 5<sup>th</sup> Edition (March 2015). In either case, the Council will take account of the implications of any departure from the Policy and/or the Guidance and shall ensure there are strong reasons for such departure. In all cases, these reasons will be clearly expressed and explained.

## **19.0 Committees**

### Strategic Licensing Committee

- 19.1 This Committee is made up of 15 members of the Council. It deals with policy issues, including the setting of gambling licence fees where this is required and/or permitted by relevant legislation.

### Licensing Act Sub-Committee

- 19.2 This Committee is made up of a selection of Members from the Strategic Licensing Committee. Three Members will sit on hearings to determine new applications, variations, transfers, provisional statements and club gaming/club machine permits. In all cases, the Sub-Committee will only be convened where, in respect of the various applications, representations have been received and not withdrawn. In addition, Members will sit on hearings to deal with the decision to give a counter notice to a temporary use notice and in respect of any licence review. With respect to all other applications, officers have the delegated authority to make the necessary determinations.
- 19.3 Members on the Sub-Committee, when determining applications, making a decision to give a counter notice to a temporary use notice or hearing a licence review, will have regard to relevant gambling legislation, in particular the Gambling Act 2005 and associated regulations and orders, this Policy, the Gambling Commission Guidance to Licensing Authorities 5<sup>th</sup> Edition (March 2015), the Human Rights Act 1998, the Equality Act 2010, any relevant legal case law, other relevant Council policies and any other relevant guidance that may from time to time be made available by the Gambling Commission or other appropriate organisations or stakeholders.

## 19.4 Decisions

- 19.5 The Council will ensure that licensing and regulatory decisions are properly reasoned and evidence-based and taken at the most appropriate level. The Council will adopt a presumption in favour of decisions being made at the lowest appropriate level within the Council so that decisions of similar complexity and impact are generally made at similar levels within the Council.
- 19.6 The decisions that the Council can take, either by way of a Licensing Act Sub-Committee hearing, including where the hearing is for the purposes of a premises licence review, or by an officer under delegated authority, are dependent on the type of licence or permit being considered and the specific circumstances associated with the licence/permit.
- 19.7 However, broadly, the Council has the power to:
- grant or reject/refuse new and renewal applications
  - grant or reject/refuse applications for variations and transfers
  - revoke or cancel existing licences/permits under certain circumstances, including for the non-payment of fees
  - suspend a premises licence
  - add, remove, amend and exclude licence/permit conditions
  - review premises licences
- 19.8 In addition, the Council may choose to issue written warnings and prosecute (including offering a simple caution) in respect of specified criminal offences. Further details, in this regard, are provided in Part 4 of this Policy.
- 19.9 Any decision to grant, reject/refuse, revoke, cancel or suspend a licence/permit or to add, remove, amend or exclude conditions or to issue a written warning will be made in accordance with relevant legislative provisions, the Council's scheme of delegation and any other appropriate procedures. The Council will base any decision to reject/refuse, revoke or suspend on reasons that demonstrate that the licensing objectives are not being, or are unlikely to be, met, and/or objections do not relate to the licensing objectives.
- 19.10 When applications are to be determined, the officer and/or Licensing Act Sub-Committee will take into consideration the facts of the application, any information and evidence provided by the responsible authorities, any information and evidence from other interested parties, together with the options set out in the licensing officer's report. The licensing officer will not normally make a specific recommendation, but may do so in exceptional circumstances.
- 19.11 In order to provide applicants with the opportunity to consider and respond by way of written and/or verbal representations, as appropriate, the Council will provide the relevant details which have given rise to the need for an officer decision and/or hearing.

- 19.12 The Council will not turn down applications for premises licences where relevant objections can be dealt with through the use of conditions. Equally the Council will not attach conditions that limit the use of premises for gambling unless it is necessary to do so in accordance with the requirements set out in Section 153 of the Act. In determining applications for premises licences and permits, the Council will request as much information as it requires to satisfy itself that all the requirements set out at Section 153 of the Act are met.
- 19.13 Following the determination of an application by the Council (or any other regulatory enforcement decision), the applicant or licensee and any other relevant party will receive a copy of the decision in writing. The reasons for the decision will be clearly set out and will reflect the extent to which the decision has been made with regard to the Council's Policy and any Commission guidance. It will be delivered as soon as is practicable after the decision has been made. This will include information on the right of appeal, where this is relevant.
- 19.14 The Council will publish a register of licensing decisions. It may also publish details of licence applications that were refused, or withdrawn before they were determined, where it considers it in the public interest to do so. Such information will be published as soon as practicable after a decision has been taken, whether or not the decision is the subject of an appeal.

## **20.0 Appeals**

- 20.1 Parties aggrieved by a decision of the Council have a right of appeal to the Magistrates' Court. Appeals must be lodged with the Court in accordance with the relevant statutory provisions. The Council strongly advises parties to promptly seek appropriate independent legal advice if they wish to consider pursuing an appeal.
- 20.2 With respect to premises licences, parties aggrieved by a decision may further appeal to the High Court; however, this is only in respect of a point of law.
- 20.3 Any party to a decision may apply for judicial review (although the Court may decline an application) and ask the Court to grant a particular type of order if they believe that the decision taken by the Council is:
- illegal, i.e. beyond the powers available to the Council;
  - subject to procedural impropriety or unfairness with a failure in the process of reaching the decision; or
  - irrational such that no sensible person could have reached that decision.

## **21.0 Responsible authorities**

- 21.1 The Act requires applicants to give notice of premises licence applications to certain public bodies - 'responsible authorities' - that are listed in Section 157 of the Act. This requirement also applies to certain permit applications; however, the extent of the notice requirements applicable to permits are

generally less onerous and are different depending on the individual permit type.

21.2 Responsible authorities have the right to make representations, in writing, in relation to premises for which applications for gambling licences/permits have been submitted to the Council and in relation to any licence review. They may also apply to the Council for a review of an existing licence.

21.3 The responsible authorities are:

- The Council in its capacity as the licensing authority, the planning authority and the authority which has functions in respect of minimising or preventing the risk of pollution of the environment or of harm to human health
- Gambling Commission
- Chief Officer of Police for West Mercia Police
- Shropshire and Wrekin Fire & Rescue Authority
- Shropshire Safeguarding Children Board
- Her Majesty's Revenue and Customs (HMRC)
- In relation to a vessel (including pleasure boats), the navigation authorities, as defined in the Water Resources Act 1991, that have statutory functions in relation to the waters where the vessel is usually moored or berthed, or any waters where it is proposed to be navigated at a time when it is used for licensable activities, namely:
  - Environment Agency in England and Wales (Scottish Environment Protection Agency in Scotland)
  - British Waterways Board
  - Maritime and Coastguard Agency (Secretary of State for Transport)

The contact details for each of the responsible authorities are available on the Council's website at <https://shropshire.gov.uk/licensing/gambling-licences/gambling-act-2005-responsible-authorities/> [website details to be finalised after the consultation process is completed]

## **22.0 Body competent to advise about the protection of children from harm**

22.1 The principles that the Council will apply in exercising its powers to designate, in writing, a body competent to advise the Council about the protection of children from harm are set out below.

22.2 The body needs to:

- be responsible for the whole geographical administrative area of the Council;
- be independent and have an independent chair that can hold all agencies including the council to account, individually and collectively;
- comprise of a wide range of agencies, including lay members who represent the local community, that contribute to safeguarding and promoting the welfare of children;
- have statutory responsibilities for coordinating and monitoring the effectiveness of services that work together to safeguard and promote the welfare of children; and

- be reportable to democratically elected persons rather than any particular vested interest groups

22.3 Having taken into consideration the principles set out above, the Council has designated the Shropshire Safeguarding Children Board as the body competent to advise about the protection of children from harm and by doing so this Board is also a designated responsible authority under the provisions of the Gambling Act 2005.

### 23.0 Interested parties

23.1 Interested parties have the right to make representations in relation to premises for which applications for gambling licences/permits have been submitted to the Council and in relation to any licence review. Interested parties will be expected to submit their representations in writing to the Council. Interested parties may also apply to the Council for a review of an existing licence.

23.2 An 'interested party' is defined in Section 158 of the Act as a person who:

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

23.3 It is a matter for the Council to decide whether a person is an interested party with regard to a particular premises and this will be decided on a case by case basis. However, the principles that will be applied when determining whether a person is an interested party in relation to a premises licence, or in relation to an application for or in respect of a premises licence are set out below.

- The 'status' of each person in each case will be determined on their own merits.
- Specific regard will be given to what a potential interested party says about their status to make representations.
- Adherence to a set of strict and rigid rules will be avoided with a reasonable and proportionate approach adopted in each case.
- When determining whether a person 'lives sufficiently close to the premises', the Council will consider the following non-exhaustive list of relevant factors:
  - size of the premises
  - nature of the premises
  - distance of the premises from the location of the person making the representation
  - potential impact of the premises, e.g. number of customers, routes likely to be taken by those visiting the establishment
  - circumstances of the person who lives close to the premises; this is not their personal characteristics, but their interests which may be relevant to the distance from the premises

- living sufficiently close to the premises may be different for different parties, e.g. a private resident, a residential school for children with truanting problems, a residential hostel for vulnerable adults
- ‘Business interests’ will be given a wide interpretation and is deemed to include, but is not limited to, the activities of sole traders, partnerships, companies, charities, faith groups and medical practices.
- When determining whether business interests may be affected, the Council will consider the following non-exhaustive list of relevant factors:
  - size of the premises
  - ‘catchment’ area of the premises, i.e. how far people travel to visit the premises
  - whether the person making the representation has business interests in that catchment area that might be affected
  - nature and scope of the likely impact
- A representation, by an existing gambling business, stating that it is going to be affected by another gambling business starting up in the area will not be considered a relevant representation, unless it is supported by other specific evidence, as such a representation relates to demand or competition and not to the licensing objectives.
- Trade associations, trade unions, residents’ and tenants’ associations will generally not be viewed as interested parties unless they are representing a specific member who is held to be an interested party in accordance with the provisions of Section 158 of the Act.
- A school head or governor will generally not be viewed as an interested party unless they are representing the interests of pupils or parents who are held to be interested parties in accordance with the provisions of Section 158 of the Act.
- A community group will generally not be viewed as an interested party unless they are representing the interests of vulnerable people who are held to be interested parties in accordance with the provisions of Section 158 of the Act.
- Persons who are democratically elected, e.g. Councillors and Members of Parliament, are considered to be interested parties. The Council will not require such elected persons to provide evidence that they have been asked to represent any particular person providing the elected person represents the area/location that will be affected by the licence/permit application or review.

**[Note:** If any individual wishes to approach a Shropshire Council Councillor to act as their representative, care must be taken to ensure that the Councillor in question is not a member of the Strategic Licensing Committee and in particular absolutely must not be a member of the Licensing Act Sub-Committee dealing with the licence/permit application or licence review. If there is any doubt, the individual is advised to contact the Council’s Licensing Team for clarification.]

- Parish and Town Councils are also considered to be interested parties. The Council will not require such Councils to provide evidence that they have been asked to represent any particular person providing the geographical area (or

any location within this area) of the Council will be affected by the licence/permit application or review.

- In all other cases, any person wishing to represent an interested party/parties will be required to produce written evidence that the person(s) they are representing either live sufficiently close to the premises to be likely to be affected by the authorised activities or has business interests that might be affected by the authorised activities.

## **24.0 Review of premises licence**

- 24.1 A premises licence may be reviewed by the Council of its own volition on the basis of any reason it thinks is appropriate or following the receipt of an application requesting a review from a responsible authority or an interested party. However, where an application requesting a review is received from a third party, it is for the Council to decide whether the review is to be carried out.
- 24.2 The Council will carry out licence reviews in pursuit of the principles set out in Section 153 of the Act. All reviews will be determined by the Licensing Act Sub-Committee.
- 24.3 Before carrying out a review, the Council will normally undertake a process of ensuring compliance by a licence/permit holder through constructive discussions, an initial investigation by a Council officer, informal mediation and/or dispute resolution. If the concerns are not resolved then the Council will carry out a formal review and, where appropriate, may impose additional conditions or revoke the licence.
- 24.4 Where the Council is willing to enter into constructive discussions with the relevant licence/permit holder, the licence/permit holder will be asked, as a minimum, to provide an up-to-date local risk assessment which sets out the controls it has put in place to mitigate the risks that pertain to the concerns raised and to offer suggestions as to the nature of additional conditions that could be placed on the premises licence to mitigate the risks and address the concerns. Where the licence/permit holder fails to provide an up-to-date local risk assessment and/or does not offer reasonable or practical suggestions to mitigate the risks and address the concerns, the Council will carry out a review under the relevant provisions of the Act.
- 24.5 The Act does not provide a pre-defined list of issues that might prompt a licence review; however, the Council is likely to consider carrying out a review where there are reasonable concerns relating to:
- the licensing objectives being undermined or that compliance with the objectives is at risk;
  - the fundamental purpose of the Council's Policy being undermined or that compliance with the purpose is at risk;
  - complaints from residents, responsible authorities of other interested parties about the operation of the premises
  - premises licence conditions not being observed



- the premises operating outside of the principles set out in the Council's Policy
  - an inherent conflict with the Commission's codes of practice and guidance, the licensing objectives or the Council's own Policy;
- 24.6 The Council must follow prescribed procedures when undertaking a review as set down in the Gambling Act 2005 (Premises Licences) (Review) Regulations 2007 (SI 2007/2258), as amended.
- 24.7 Where a responsible authority or an interested party (the applicant) intends to submit a review application, they are strongly advised to contact the licensing team to discuss their concerns in advance of submitting their application. This is on the basis that the Council prefers to provide licence/permit holders the opportunity to first enter into constructive discussions to secure compliance without recourse to a formal licence review where it is practical to do so.
- 24.8 In the event that an application for a review is to be submitted, the following process applies:
- Applicant submits the application to the Council on the required form (the relevant form is available on the Council's website) together with a statement of the reasons why a review is being requested and with any supporting information and documents.
  - Applicant provides written notice of the application to the premises licence holder and to all responsible authorities (contact details are available on the Council's website) within seven days of making their application. Failure to do so will halt the application process until notice is received by all parties.
  - Representations (see paragraph xxx on how to make representations) to the application must be made within 28 days, commencing seven days after the date on which the application was received. During these seven days the Council will publish notice of the application in accordance with prescribed rules.
- 24.9 It is the Council's decision whether to grant an application for a review; however, it will do so, unless it considers that the grounds on which the review is sought are:
- not relevant to the licensing objectives, the Commission's codes of practice and guidance, or the Council's Policy<sup>7</sup>;
  - frivolous;
  - vexatious;
  - 'will certainly not' cause the Council to revoke or suspend a licence or remove, amend or attach conditions on the premises licence;
  - substantially the same as ground cited in a previous application related to the same premises, taking into account the period of time that has passed since the previous application or representations were made; or

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<sup>7</sup> General objections to gambling as an activity, that relate to demand for gambling premises, or raise issues relating to planning, public safety, and traffic congestion are unlikely to be considered an appropriate basis for review, and are, therefore, likely to lead to an application for review being rejected by the Council.

- substantially the same as representations made at the time the application for a premises licence was considered, taking into account the period of time that has passed since the previous application or representations were made.
- 24.10 Where the Council has given notice of its intention to initiate a review or having decided to grant a review following an application, the Council will carry out the review as soon as possible after the 28 day period for making representations has passed.
- 24.11 The purpose of the review will be to determine whether the Council should take any action in relation to the licence, namely:
- add, remove or amend a licence condition imposed by the Council;
  - exclude a default condition or remove or amend an exclusion;
  - suspend the premises licence for a period not exceeding three months; or
  - revoke the premises licence.
- 24.12 The Council may take the above action on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them. Equally, the Council may take the above action on the grounds that the premises licence holder was offering a type of gambling that they were not licensed for and therefore not permitted to offer.
- 24.13 The Council will hold a hearing, unless the applicant and any person who has made representations consent to the review being conducted without one. The licensing authority must have regard to any relevant representations when reviewing the matter, and must have regard to the principles in Section 153 of the Act.
- 24.14 Once the review has been completed the Council will notify its decision as soon as practicable to:
- the licence holder
  - the applicant for review (if any)
  - the Commission
  - any person who made representations
  - Chief Officer of Police, West Mercia Police
  - HMRC
- 24.15 The applicant, any person who made representations on the application, the person (if any) who applied for the review and the Commission may appeal a decision in respect of a licence review. See paragraph xxx in relation to appeals.

## **25.0 Making representations**

- 25.1 Any objections to premises licence applications or requests for a review must be based on the licensing objectives. The attention of applicants and persons

wishing to make representations is drawn, in particular, to the factors that will not be relevant to the exercise of the Council's functions, and will, therefore, not be considered for the purposes of applications or reviews. These factors include, but are not limited to:

- preventing public nuisance and anti-social behaviour (unlike the Licensing Act 2003, the Gambling Act 2005 does not include this as a specific licensing objective);
- the expected demand for gambling facilities;
- the law relating to planning or building matters, e.g. whether or not planning permission may be granted for a particular building;
- moral or ethical objections to gambling; and
- dislike of gambling, or a general notion that it is undesirable to allow gambling premises in an area (with the exception of the casino resolution powers).

25.2 Where applicants, responsible authorities and interested parties wish to make representations in respect of an application and/or licence review, the parties will be given the opportunity to provide written representations. Oral representations will only be allowed in exceptional circumstances.

25.3 Officers have the delegated authority to determine whether a representation, on the balance of probabilities, is irrelevant (does not relate to the licensing objectives), is frivolous or vexatious or is certain not to influence the determination of the application and such a decision would result in such representations not going before the Licensing Act Sub-Committee.

## **26.0 Exchange of information**

26.1 The principles that the Council will apply in relation to the exchange of information with the Commission and other persons/bodies are set out below.

26.2 The Council recognises that shared regulation depends on effective partnerships and collaboration and that the exchange of information between the Council and the Commission and other appropriate persons/bodies is an important aspect of this and benefits all parties.

26.3 Where the Council is required or wishes to exchange information with other persons/bodies, the information will be relevant and it will be appropriate, necessary and proportional to do so for the purposes of carrying out its functions under the Act and to also enable those other persons/bodies to carry out their functions under the Act.

26.4 The exchange of information will be undertaken in accordance with the Data Protection Act 1998 and the associated 'Guide to data protection' and the 'Data Sharing Code of Practice (May 2011) both published by the Information Commissioner's Office (ICO), or such other guidance that may from time to time be made available. Both the Guide and the Code of Practice are available on the ICO website at <https://ico.org.uk/>.

26.5 The Council has not established any information exchange protocols specifically for the purposes of the Gambling Act and does not currently intend to do so. However, where there are existing information exchange protocols established in relation to other matters, the Council will have due regard to any relevant principles set out in such protocols and apply them as if they were established for the purposes of information exchange with other persons/bodies under the Act. If at any time during the lifetime of this Policy it becomes necessary to establish specific information exchange protocols under the Gambling Act, the Council will take appropriate steps to do so.

#### Exchange of information between the Council and the Commission

26.6 The Council will share information about gambling activity across Shropshire to enable the Commission:

- to develop an overarching view of all gambling activity across Great Britain;
- to identify risks;
- to feed information and intelligence back to the Council (and to other licensing authorities) to support it to carry out its regulatory responsibilities;
- to avoid duplication or over-regulation and to maximise the efficient use of resources; and
- to fulfil its duty to advise the Secretary of State about the incidence of gambling and the manner in which it is conducted.

26.7 Specifically, the Council will provide information to the Commission where the information forms part of the registers that the Council is required to maintain under the Act and where information is in the Council's possession in connection with any provision of the Act.

#### Exchange of information between the Council and other persons

26.8 The Council will exchange information with other persons/bodies for use in the exercise of functions under the Act. These other persons/bodies are:

- a police officer or police force
- an enforcement officer
- a licensing authority
- HMRC
- the First Tier Tribunal
- the Secretary of State
- Scottish Ministers

26.9 Specifically, the Council is more likely to exchange information with West Mercia Police and licensing authorities that share geographical borders with the Shropshire Council area; however, the Council will also exchange information on a wider basis where it is appropriate to do so.

### Freedom of information

- 26.10 As a public body, the Council is subject to the provisions of the Freedom of Information Act 2000 (FOIA). Information disclosed in relation to freedom of information requests will be disclosed in accordance with the legislation and the 'Guide to freedom of information' issued by the ICO or such other guidance that may from time to time be made available. The Guide is available on the ICO website at <https://ico.org.uk/>.
- 26.11 The information submitted to the Council in pursuance of applications will be kept confidential unless it is necessary to share it for the purposes of the Council exercising its functions under the Act. The Council will undertake to keep personal names and addresses (in particular those provided in respect of Club Gaming Permit and Club Machine Permit applications) confidential; however, the Council cannot give an assurance that this confidentiality can be maintained in all circumstances because under the FOIA, there is a statutory Code of Practice with which the Council must comply and which deals, amongst other things, with obligations of confidence.
- 26.12 Persons who wish to access information about themselves that the Council may hold should submit a FOIA request.

### Confidentiality of those making representations

- 26.13 Representations, including personal information, will be subject to publication in accordance with the necessary regulatory processes associated with the processing of applications and reviews. In addition, representations, including personal information, may be subject to release to other parties or to disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).
- 26.14 If persons making representations want information, including personal data that they have provided to be treated as confidential, they must be aware that, under the FOIA, there is a statutory Code of Practice with which the Council must comply and which deals, amongst other things, with obligations of confidence.
- 26.15 In view of this, where persons want information and personal data to be treated as confidential, the Council expects persons making representations to explain why they regard the information and/or personal data they have provided as confidential. The Council will take full account of the explanation provided, but cannot give an assurance that the requested confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by an IT system will not, of itself, be regarded as binding on the Council.
- 26.16 The Council will give due consideration to all representations and treat any information and/or personal data as confidential where it may, on the balance of probabilities, have a disproportionate and unnecessary adverse impact on

any individual or business, particularly where they are not directly affected by the application or review that is the subject of the representation. Nevertheless, for the same reasons that are set out above, the Council cannot give an assurance that the information it may deem ought to be treated as confidential can be maintained as such in all circumstances.

## **27.0 Working in partnership**

- 27.1 The Council aims to work in partnership when dealing with matters relating to the licensing/permitting of gambling establishments and activities. Such partnerships will include (but are not restricted to) the Gambling Commission, relevant gambling trade associations, other local authorities, West Mercia Police, consumer groups and problem gambling support groups.
- 27.2 The Council works in partnership with the Gambling Commission specifically on a shared regulation approach. In doing so, the Council takes the lead on regulating local gambling and the Commission focusses on operators and issues of national or regional significance.
- 27.3 The Council will work cooperatively with local businesses to reduce the risk to the licensing objectives to acceptable levels. However, it must be recognised that the Council, as the primary local regulator, will ensure that all relevant provisions relating to the effective administration of the licensing functions are robustly enforced to take account of the Gambling Act licensing objectives and the fundamental purpose of this Policy.

## **28.0 Setting fees**

- 28.1 The Council's compliance and enforcement work and the costs of dealing with illegal gambling is covered by fees from premises licences and permits.
- 28.2 The Council aims to ensure that the income from fees, as nearly as possible, equates to the costs of providing the service to which the fees relate; in this respect, the Council is committed to continuous improvement across the fee setting process.
- 28.3 The Council aims to make its fee setting as transparent as possible. Costs are tracked to enable the Council to evidence, as much as is reasonably practicable, how it arrives at the specified fee levels. Fees are calculated on a cost recovery basis only.
- 28.4 The Strategic Licensing Committee reviews the fees annually under delegated authority from the Council.

# **PART 3**

## **ACTIVITIES SUBJECT TO AUTHORISATIONS**

CONSULTATION VERSION

## **PART 3 – ACTIVITIES SUBJECT TO AUTHORISATIONS**

### **29.0 Introduction**

- 29.1 This part of the Policy focusses on the activities that are subject to authorisations and sets out how applicants obtain and hold a licence, permit or registration and, where relevant, how they provide notifications. These steps will include the standards that applicants must attain and the conditions that apply.
- 29.2 Where appropriate and unless specifically indicated to the contrary, any reference to 'licence' is deemed to include a licence, permit, registration and notice and any reference to 'applicant' is deemed to include existing licence/permit/registration holders.

### **30.0 Appointments**

- 30.1 The Council runs an appointment system for all licensing matters. Where an applicant wishes to see an officer for any reason, they must make an appointment as they will otherwise not be seen.

### **31.0 General principles relevant to all licence types**

- The appropriate application form must be fully completed and accurate, contain or be accompanied by all the relevant information and documents and be accompanied by the appropriate fee. If any part of the application form is incomplete or the relevant information or documents are not provided, the applicant will be requested to provide the missing information/documentation and informed that the application has not been correctly made and will not be processed until such time as all the information/documentation is provided. The full fee for the licence is payable at the time the application is submitted.
- The Council will aim to visit all premises before granting any new licence.
- Where the law is not specific a consultation period, the Council will allow 28 days for responsible authorities/interested parties to make representations.
- Applicants will be permitted to make minor changes to their proposals, but the Council will not permit applicants to make material changes to their application during the process. Material changes to an application are likely to result in an applicant being invited to withdraw their application and submit a new application, accompanied by the appropriate fee, or it may result in an application being refused.
- The Council will provide assistance to applicants to help them through the application process; however, the responsibility for providing information rests with applicants. The Council will treat repeated delays in providing



information as a strong indicator that it ought to consider refusing the application.

- The Council expects applicants to work with it in an open and cooperative way and to disclose anything which the Council would reasonably expect to know. The Council will attach significant weight to an applicant's failure to work in an open and cooperative way.
- Where an applicant has failed to declare relevant information or provided false information, the application is likely to be refused; where this relates to an existing licence, the licence is likely to be revoked. Applicants are reminded that it is an offence without reasonable excuse to provide false or misleading information;
- All licence fees are payable at the time of application. Where a licence is not granted, i.e. the applicant withdraws their application; a proportion of the licence fee will be refunded. The actual amount of the refund will depend upon the progress of the application at the time the applicant withdraws;
- In the event that an application for a licence is paid by cheque, the application will not be valid until such time as the cheque has cleared. In the event that the cheque does not clear and the licence has been issued, the Council will cancel the licence on the basis of non-payment of the application fee;
- Where a licence has lapsed, been surrendered or revoked a new application must be submitted in accordance with the relevant new licence procedures before the Council will consider the application;
- Where renewals and annual fees apply, the Council will notify licence holders that their licence is due to expire at least four weeks before the actual expiry date. Where the licence holder fails to pay the fee, the licence will cease to exist.
- When a licence expires and is subject to renewal provisions, the Council will not permit any 'periods of grace', beyond those set down in the relevant legislation, for the submission of a renewal application unless there is satisfactory evidence of exceptional circumstances that are accepted by the Council.
- Where changes are made to a premises layout, an application for a variation to the premises licence will only be required where there are material changes to the layout of the premises. What constitutes a material change will be a matter for the Council to determine but the Council will adopt a common sense approach in this regard.
- All applicants must be aged 18 or over.

- All applicants must provide evidence of Public Liability Insurance with a minimum cover of £5,000,000.00, except for the purposes of Small Society Lotteries.
- The relevant application forms and manner in which applications must be made, together with the forms to notify relevant responsible authorities, can be found on the Council's licensing web pages.
- The Council will accept applications electronically (fax or email) and by post.

### **32.0 Meaning of 'premises'**

- 32.1 'Premises' is defined as including 'any place' and no more than one premises licence can apply to any place. However, a single building can be subject to more than one premises licence, providing each licence is for different parts of the building, and the different parts of the building can reasonably be regarded as being different premises.
- 32.2 Premises licences can be granted for passenger vessels. A vessel is defined as:
- anything (other than a seaplane or amphibious vehicle) designed or adapted for use on water;
  - a hovercraft; or
  - anything, or part of any place, situated on or in water (structures that are an extension of the land are not vessels, even if they arch over water, e.g. piers, bridges are not vessels and they remain caught by the definition of 'premises').
- 32.3 Vehicles (trains, road vehicles, aircraft, sea planes and amphibious vehicles, other than a hovercraft) may not be the subject of a premises licence and therefore all forms of commercial betting and gaming is unlawful in a vehicle in Great Britain. Certain allowances are made for private and non-commercial gaming or betting to take place in a vehicle, but these are subject to a number of stringent requirements to ensure that, at no point, can the gambling become a commercial activity.
- 32.4 Specifically with respect to temporary use notices, the Act refers to a 'set of premises' and provides that a set of premises is the subject of a TUN where 'any part' of the premises is the subject of a notice. The reference to 'a set of premises' prevents one large premises from having a TUN in effect for more than 21 days in a year by giving notification in relation to different parts of the premises and re-setting the clock. Note that this definition of a 'set of premises' differs to the definition of 'premises'.
- 32.5 A licensed family entertainment centre (FEC) is classified as 'premises' and only premises that are wholly or mainly used for making gaming machines available may hold an FEC premises licence. As a result, it is generally not permissible for such premises to correspond to an entire shopping centre,

airport, motorway service station or similar. Typically, the machines would be in a designated and enclosed area.

### **33.0 Principles to be applied in relation to the meaning of premises**

- 33.1 Where large, multiple unit premises such as pleasure parks, tracks, or shopping malls apply for a number of discrete premises licences, the Council will pay particular regard to ensuring that appropriate safeguards are in place. Any issues concerning the sub-division of a single building or plot will be closely examined and significant emphasis will be given to compliance with the mandatory conditions relating to access between premises.
- 33.2 In most cases the Council will expect that a single building will be the subject of an application for a premises licence. However, the Council accepts that this does not mean that a single building cannot be the subject of separate premises licences for separate parts of the building, e.g. the basement and ground floor, providing they are configured in an acceptable manner; the location and the suitability of any division will be matters that the Council will wish to discuss with the operator. Nevertheless, the Council is likely to consider those applications where a single building is the subject of a single premises licence application more favourably.
- 33.3 The Council does not consider that areas of a building that are artificially or temporarily separated, e.g. by ropes or moveable partitions, can properly be regarded as different premises.
- 33.4 Where a premises to which a premises application relates is located within a wider venue, the Council will request a plan of the whole venue on which the premises must be identified as a separate unit.
- 33.5 The Council is unlikely to issue a premises licence unless the proposed premises are genuinely separate premises that merit their own licence. Where there is any indication that the premises is an artificially created part, of what is readily identifiable as a single premises, the Council is likely to refuse such an application.
- 33.6 An application must be made to the Council where the premises is wholly or partly situated within Shropshire. In circumstances where the premises lie within Shropshire but also in another licensing authority's area, the Council would expect the operator to discuss the matter with both (or all, if more than two) authorities and reach agreement about which authority they will submit their application to. The operator will then have to notify the 'other' authority of the application and that 'other' authority will be entitled to make representations as a responsible authority.
- 33.7 Premises licences for vessels will be accepted by the Council only in relation to vessels that are usually moored or berthed within the Shropshire area.
- 33.8 The Council accepts premises licence applications for pleasure boats providing they are usually moored or berthed within the Shropshire area. As

with multi-purpose buildings, the Council will licence the part(s) of the vessel where gambling takes place and will expect the usual restrictions on access for children to be robustly applied.

- 33.9 Where a premises licence is sought in connection with a vessel that will be navigated while licensable activities take place, the Council will be concerned with the promotion of the licensing objectives on board the vessel. It will not focus on matters relating to safe navigation or operation of the vessel, the general safety of passengers or emergency provision. (All such matters are subject to regulations which must be met before the vessel is issued with its Passenger Certificate and Safety Management Certificate.)
- 33.10 With respect to multiply activity premises, i.e. different licensed activities taking place within an area, such as at a track or holiday park, e.g. an area could include family entertainment centres (FECs), adult gaming centres (AGCs) and bingo, whilst also having an alcohol licence. In such circumstances, the Council will pay particular attention, through checks on plans and site visits, to ensure that the relevant gaming machine entitlements (machines available for use) are not exceeded and, where applicable, that appropriate signage to prevent unlawful entry is in place. The Commission has published an advice note entitled 'Advice regarding when a gaming machine is 'available for use'', which the Council will have due regard to when determining whether a licence/permit holder is complying with the relevant gaming machine entitlements.
- 33.11 The Council considers that it is not permissible for gaming machines, which should be contained within a FEC premises, to be located in corridors and walkways which form part of the larger building. This is because the machines are not subject to the controls necessary to minimise gambling-related harm and to protect children and vulnerable people. Locating machines in corridors and walkways exposes young people to ambient gambling that the Act was designed to prevent through the removal of machines from takeaways, taxi offices, etc.

#### **34.0 Criminal record disclosure**

- 34.1 Criminal record disclosure is relevant to those persons who wish to apply for Unlicensed Family Entertainment Centre Gaming Machine Permits and Prize Gaming Permits because the Council has a responsibility to ensure the suitability of the applicant for these particular permits. In addition, this is also applicable to persons submitting Small Society Lottery applications. Refer to **Appendix E** for further details in this respect.
- 34.2 For all other permits and premises licence applications, the Council will not consider the suitability of the applicant, including in relation to any crime; this will already have been considered by the Commission under the procedures for granting operator and personal licences.

## Part 3A - Premises Licences

- 35.0** Where an individual or company uses premises, or causes or permits premises to be used, to offer gambling, they must apply for a premises licence. Premises licences, and the regulatory tools associated with them, are a key means by which the Council ensures that risks to the licensing objectives are mitigated effectively.
- 35.1 The Council can grant premises licences without conditions or subject to conditions and it can also review or revoke such licences. Premises licences are issued by the Council and authorise the provision of gambling facilities on:
- casino premises
  - bingo premises<sup>8</sup>
  - betting premises, including tracks
  - adult gaming centres
  - family entertainment centres
- 35.2 Except in the case of tracks (where the occupier of the track who holds the premises licence may not be the person who actually offers the gambling), premises licences may only be issued to those who hold a relevant operating licence, or who have applied for one. Premises licences may be transferred to someone else holding a valid operating licence.
- 35.3 In addition to licences, there are other forms of authorisation that the Council may grant, including authorisations for the temporary use of premises, occasional use notices and different permits for unlicensed family entertainment centres, prize gaming, gaming machines on alcohol-licensed premises and club gaming and club machine permits. The Council also registers persons who wish to provide small society lotteries.
- 35.4 The following sections of the Policy set out the Council's specific principles on which it proposes to determine applications for the different licence types (these are in addition to the general principles set out in Section 2 of the Policy), together with the practical steps that applicants are required to take in order to submit valid applications.

### **36.0 Casinos**

- 36.1 The Council has not passed a resolution not to issue casino premises licences under Section 166 (1) of the Act. Should the Council decide to do so in the future details of the resolution will be included in this Policy, including the date on which such a resolution will take effect.
- 36.2 Despite the fact that the Council has not passed such a resolution, the Council is currently not enabled by the Secretary of State (in accordance with

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<sup>8</sup> Bingo is equal chance gaming and is commonly either cash bingo or prize bingo. The Commission has published its view of what bingo is and how it differs from other forms of gambling. This can be found in the Commission's advice note 'What Constitutes Bingo'.

regulations made under Section 175 of the Act) to grant a premises licence for a small or large casino. In practice, this means that the Council cannot grant such a licence.

### **37.0 Other premises licences (not provisional statements)**

#### Description

- 37.1 A premises licence is issued in accordance with Part 8 of the Gambling Act 2005.
- 37.2 Any person who operates premises for the purposes of the following activities, must hold the appropriate premises licence:
- playing bingo
  - using Category B gaming machines (adult gaming centre)
  - using Category C gaming machines (family entertainment centre); or
  - betting

#### Principles

- 37.3 The Council will check with the Gambling Commission to ensure the applicant has a valid operator's licence issued by the Gambling Commission.
- 37.4 Whilst operators can apply for a premises licence in respect of premises which have still to be constructed or altered, the Council expects operators, wherever practicable, to ensure that premises are completely constructed or fully altered, in accordance with scaled plans, before submitting a premises licence application. This is to assist the Council in its approach to be satisfied that the premises are going to be ready for use in the near future and to enable Council officers, and any other body with inspection powers, to fully inspect the premises for compliance with all necessary legal requirements.
- 37.5 Where buildings are not completely constructed or fully altered, the Council expects operators to avail themselves of the provisional statement application process in relation to the licensing of premises. Operators need to refer to the principles set out in relation to provisional statements.
- 37.6 Where an operator prefers to submit a full premises licence application in relation to buildings that are not completely constructed or fully altered, the Council would prefer to discuss with the individual operator which route, i.e. full premises licence or provisional statement, is most appropriate in order to avoid the operator having to pay a fee for an application that the Council does not think it would be in a position to grant. Nevertheless, where an operator chooses to submit a full premises licence application, the Council will determine any such application on its merits. The Council will, however, consider such applications in a two stage process:

- first, the Council will decide whether, as a matter of substance after applying the principles in Section 153 of the Act, the premises ought to be permitted to be used for gambling; and
  - second, in deciding whether or not to grant the application the Council will consider if appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.
- 37.7 Where conditions are put in place in respect of buildings are not completely constructed or fully altered, the Council will require evidence that the completed works comply with the original (or changed) plan attached to the premises licence. Depending upon the individual circumstances, the Council is likely to achieve this either through physical inspection of the premises by a Council officer, written confirmation from the applicant or a report from an independent surveyor that relevant conditions have been satisfied.
- 37.8 Where plans, submitted at the time of an original premises licence application, are changed in any *material respect* during the fitting of the premises after the grant of the licence, the Council expects operators to make a fresh premises licence application in order to preserve the rights of interested parties and responsible authorities to make representations in respect of the application.
- 37.9 Where an application to vary a premises licence for betting is received in order to extend the opening hours, the Council will pay particular regard to ensuring that the reason for the application is in line with the requirements of the operating licence conditions.
- 37.10 With respect to adult gaming centres (AGC), the Council will have particular regard to the location of and entry to AGC to minimise the opportunities for under-18s to gain access. This will be of particular importance in areas where young people may be unsupervised, e.g. where an AGC is in a complex, such as a shopping centre.

#### Period of licence

- 37.11 A premises licence does not have a defined period of validity; it does not have an 'expiry date'. Once granted, a premises licence continues to have effect unless and until it ceases to have effect in accordance with other relevant provisions of the Act.
- 37.12 A licence ceases to have effect when:
- it is surrendered
  - the holder of the licence fails to pay the annual fee
  - it lapses
    - the company ceases to exist or goes into liquidation
    - the licence holders dies
    - the licence holder becomes bankrupt

- the licence holder becomes incapable by reason of mental or physical incapacity

### Application process

37.13 The following sets out a summary of the main application process requirements as it relates to:

- new applications;
- applications to vary or transfer a licence;
- applications for the reinstatement of a lapsed licence.

37.14 However, it is essential that applicants consider the requirements of the Gambling Act 2005 (Premises Licences and Provisional Statements) Regulations 2007 (SI 2007/459), as amended, to ensure they fully satisfy the application requirements.

37.15 All applicants must hold an operating licence issued by the Commission (or have made an application for such a licence) authorising them to carry on the specific gambling activity for which their premises licence application relates prior to applying for a premises licence from the Council.

37.16 In addition, applicants must:

- Submit a completed application form
- Pay the appropriate fee
- Where applicable, provide evidence if the premises has previously been granted a provisional statement
- Provide evidence that they hold an operating licence
- Provide evidence that they have the right to occupy the premises to which their application relates
- Provide a scale plan of the premises; specific elements must be shown on the plan and these are dependent on the actual gambling activity for which the licence is being sought
- Provide evidence that the building is completely constructed so that it can be fully inspected
- Set out how they intend to satisfy the relevant mandatory and default conditions applicable to the type of gambling activity that will be undertaken at the premises
- Submit their local risk assessment (refer to Social Responsibility Code provision 10.1.1) in accordance with Ordinary Code provision 10.1.2
- Set out the specific steps that will be taken to promote the licensing objectives
- Provide notice of their application to the relevant responsible authorities
- Publish notice of their application in a local newspaper and on the premises to which the application relates (not applicable to the transfer or reinstatement of a licence)



## 38.0 Provisional Statement

### Description

38.1 Provisional statements are issued in accordance with Part 8 of the Gambling Act 2005.

38.2 For any premises that are yet to be constructed or altered or where the person has not yet acquired a right to occupy the premises, an application may be submitted to the Council for a provisional statement where premises will be operated for the purposes of the following activities:

- playing bingo
- using Category B gaming machines (adult gaming centre)
- using Category C gaming machines (family entertainment centre); or
- betting

### Principles

38.3 Where the Council is considering an application for a provisional statement and the applicant has also applied to the Commission for an operating licence, the Council will not speculate on or otherwise take into account the likelihood of an operating licence being granted.

38.4 Once the Council has granted a provisional statement, it is constrained in the matters it can consider when an application for a premises licence is made subsequently in relation to the same premises. The Council will not take into account any further representations from responsible authorities or interested parties unless they concern matters that could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances. Consequently, the Council will only refuse the premises licence, or grant it on terms different to those attached to the provisional statement, by reference to matters:

- that could not have been raised by way of representations at the provisional licence stage
- that, in the Council's opinion, reflect a change in the applicant's circumstances
- where the premises has not been constructed in accordance with the plan and information submitted with the provisional statement application; this must be a substantial change to the plan.

38.5 With respect to where the premises has not been constructed in accordance with the plan and information submitted with the provisional statement application, the Council will discuss any concerns they have with the applicant before making a decision.

### Period of licence

38.6 A provisional statement does not have a defined period of validity; it does not have an 'expiry date'. Once granted, a provisional statement continues to have effect until it is replaced by a full premises licence or is surrendered or lapses. A provisional statement lapses if:

- the company ceases to exist or goes into liquidation
- the provisional statement holder dies
- the provisional statement holder becomes bankrupt
- the provisional statement holder becomes incapable by reason of mental or physical incapacity

### Application process

38.7 The following sets out a summary of the main application process requirements as it relates to a provisional statement.

38.8 However, it is essential that applicants consider the requirements of the Gambling Act 2005 (Premises Licences and Provisional Statements) Regulations 2007 (SI 2007/459), as amended, to ensure they fully satisfy the application requirements.

38.9 The application form must be fully completed, contain or be accompanied by all the relevant information and documents and be accompanied by the appropriate fee. If any part of the application form is incomplete or the relevant information or documents are not provided, the applicant will be requested to provide the missing information/documentation and informed that the application has not been correctly made and will not be processed until such time as all the information/documentation is provided. The full fee for the licence is payable at the time the application is submitted.

38.10 Applicants must:

- Submit a completed application form
- Pay the appropriate fee
- Provide a scale plan of the premises; specific elements must be shown on the plan and these are dependent on the actual gambling activity for which the licence is being sought
- Set out how they intend to satisfy the relevant mandatory and default conditions applicable to the type of gambling activity that will be undertaken at the premises
- Submit their local risk assessment (refer to Social Responsibility Code provision 10.1.1) in accordance with Ordinary Code provision 10.1.2
- Set out the specific steps that will be taken to promote the licensing objectives
- Provide notice of their application to the relevant responsible authorities
- Publish notice of their application in a local newspaper and on the premises to which the application relates

## Part 3B - Permits

### 39.0 Unlicensed Family Entertainment Centre (UFEC)

39.1 A UFEC permit is issued in accordance with Schedule 10 of the Gambling Act 2005.<sup>9</sup>

#### Description

39.2 UFEC are premises (not vessels or vehicles) which are 'wholly or mainly' used for making category D gaming machines available. The permit cannot, for example, be granted for an entire shopping centre, airport or bowling alley.

#### Principles

39.3 The Council will:

- have regard to the licensing objectives and the Guidance to licensing authorities 5<sup>th</sup> Edition (March 2015) issued by the Gambling Commission
- give weight to protecting children and other vulnerable persons from being harmed or exploited by gambling
- expect applicants to demonstrate how they intend to protect children and other vulnerable persons from being harmed or exploited
- where other activities have been introduced into an UFEC premises resulting in gaming machines being ancillary to the business, the Council will notify the permit holder that the premises are no longer being used as a UFEC and the permit will lapse

39.4 The Council cannot attach conditions to a UFEC permit however, it can refuse to grant the permit by notifying the applicant of the intention to refuse and the reasons for it and then giving the applicant an opportunity to make representations.

#### Period of licence

39.5 A permit ceases to exist after a period of 10 years unless it is renewed, lapses, is surrendered or forfeited by the Court. A permit lapses if:

- the company ceases to exist or goes into liquidation
- the permit holder ceases to occupy the premises
- the permit holders dies
- the permit holder becomes bankrupt
- the permit holder becomes incapable by reason of mental or physical incapacity

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<sup>9</sup> Travelling fairs may provide an unlimited number of Category D gaming machines provided that facilities for gambling amount to no more than an ancillary amusement at the fair. They do not require a permit to provide these gaming machines but must comply with legal requirements about how the machine operates.

- the Council informs the permit holder that the premises are not being used as an UFEC

#### Application Process – new and renewal applications

39.6 For new applications, applicants must:

- Submit a completed application form
- Pay the appropriate fee
- Provide a satisfactory basic criminal record disclosure from Disclosure Scotland (see **Appendix E**)
- Provide evidence that they have the right to occupy the premises to which their application relates
- Provide a scale plan of the internal layout of the premises including the position of the machines, staff/supervisor locations and any restricted access provision
- Provide evidence that the premises will be used as a UFEC
- Provide a business plan
- Provide evidence that they fully understand the maximum stakes and prizes of the gambling permissible in UFEC
- Submit a local risk assessment (refer to Social Responsibility Code provision 10.1.1) in accordance with Ordinary Code provision 10.1.2
- Provide a staff training programme particularly to ensure staff have a full understanding of:
  - the harm and exploitation that is caused by problem gambling
  - their responsibilities to safeguard children, young persons and vulnerable adults
  - measures to reduce crime and disorder associated with gambling
  - the relevant legal provisions that restrict the use of gaming machines and other gambling activities
  - the maximum stakes and prizes of the gambling permissible in UFEC
- Provide information of category D machine suppliers that the applicant intends to use; they must be Commission-licensed suppliers
- Provide evidence as to how they intend to protect children and other vulnerable persons from being harmed or exploited
- Set out how they intend to satisfy the relevant mandatory and default conditions applicable to an UFEC

#### Renewal applications

39.7 The renewal application process is the same as the process set out above for new applications.

39.8 The renewal application must be submitted no more than 6 months before but no less than 2 months before the expiry date of the permit. Failure to apply within the prescribed time period will result in the renewal application being refused. Where the applicant wishes to continue to apply for a permit, they

will then be required to submit a new application in accordance with the procedures above.

#### Right of Appeal

- 39.9 The applicant or the holder of a permit may appeal if the Council has
- rejected an application for a UFEC permit or renewal of a UFEC permit
  - given notice that the premises are not being used as an UFEC
  - given notice that the holder is incapable of carrying out an UFEC business by reason of mental or physical incapacity

#### Change of permit holder's name and lost, stolen or damaged permit

- 39.10 There are specific provisions that allow a permit holder to make changes to their name and to obtain a copy of a lost, stolen or damaged permit. Providing the correct application is submitted and the required fee paid and for the purposes of a lost or stolen permit evidence that the loss or theft has been reported to the Police e.g. crime reference number.

#### **40.0 Club Gaming Permit and Club Machine Permit**

- 40.0 These permits are issued in accordance with Schedule 12 of the Gambling Act 2005 applicant's attention is also drawn to the Gambling Act 2005 (Club Gaming and Club Machine Permits) Regulations 2007, as amended (SI2007/1834 & SI2007/2689), and Gambling Act 2005 (Gaming in Clubs) Regulations 2007 (SI2007/1942).
- 40.2 A 'fast track' procedure exists for members' clubs and miners' welfare institutes that hold a club premises certificate under Section 72 Licensing Act 2003. Further details are available from the licensing team.

#### Description

- 40.3 A club gaming permit is a permit authorising gaming in members' clubs and miners' welfare institutes; specific detailed provisions apply. A club machine permit is a permit authorising up to three gaming machines (categories B, C or D) in members' clubs, miners' welfare institutes and commercial clubs. There are a number of legal requirements that must be satisfied before an application can be submitted.
- 40.4 Where applicants are considering making an application for these permits, the Council recommends they contact the licensing service prior to making the application to ensure the correct permit is applied for.

#### Principles

- 40.5 The Council will accept permit applications for clubs that do not have permanent premises or hold alcohol premises licences.

- 40.6 The Council cannot attach conditions to a club gaming and club machine permit; however, it can refuse to grant the permit by notifying the applicant of the intention to refuse and the reasons for it.
- 40.7 Where the Council is satisfied that the club is not a 'true' members' club, miners' welfare institute or commercial club or the premises are used wholly or mainly by children and/or young persons the Council will refuse the application.
- 40.8 Where an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities, a permit held by the applicant has been cancelled in the previous ten years or an objection has been lodged by the Commission or the police, the Council may refuse the application.

#### Period of licence

- 40.9 A permit ceases to exist after a period of 10 years unless it is renewed, lapses, is surrendered or forfeited by the Court. A permit lapses if:
- the club ceases to be a members' club, miners' welfare institute or commercial club

#### Application process – new and renewal applications

40.10 Applicants must:

- Submit a completed application form
- Pay the appropriate fee
- Provide a staff training programme particularly to ensure staff have a full understanding of:
  - the harm and exploitation that is caused by problem gambling
  - their responsibilities to safeguard children, young persons and vulnerable adults
  - measures to reduce crime and disorder associated with gambling
  - the relevant legal provisions that restrict the use of gaming machines and other gambling activities
  - the maximum stakes and prizes of the gambling permissible in the club
- Provide details of the categories of machine to be used
- Provide information of the machine suppliers that the club intends to use; they must be Commission-licensed suppliers
- Provide a scale plan of the internal layout of the premises including the position of the machines, staff/supervisor locations and any restricted access provision
- Submit a copy of the clubs constitution (see further requirements below)
- Submit substantial evidence of club activities, including bridge and whist activities
- Submit register of members to include full names and addresses

- Annual accounts for the previous three years unless the application relates to a new constituted club
- Set out how they intend to satisfy the relevant mandatory and default conditions applicable to the permit

40.11 As a minimum the club constitution must make the following clear:

- What is the primary purpose and aims of the clubs activities?
- Who makes commercial decisions on behalf of the club?
- What are the governance arrangements?
- What is the position in respect of permitting access to children into the club premises?
- Whether there are any shareholders?
- Is the members' club permanently established?
- What periods of membership are available?
- Any age restrictions applicable to membership of the club
- How long between applying for membership and participating in any gaming activity is required?
- What if any long term membership benefits exists?
- What are the profits used for?
- What is the process for members to permit guests into the club premises?

40.12 The club must also provide the following information:

- That the constitution has been approved by members of the club
- List of committee members and evidence of their election by members of the club
- Copies of club meeting minutes for the previous 12 months
- The number of nights per week that gaming is made available?
- How does the club advertise gaming?
- What are the stakes and prizes offered?
- Do you have weekly/monthly/annual league winners?
- Is the club tied in with other clubs through tournaments or leagues? If yes, provide details.
- What percentage of members do not participate in gaming activity?
- What activities are provided for club members via the internet?
- Do you teach members to promote gaming?
- Does your club receive any sponsorship? If yes, who by?
- What if any gaming participation fees are charged?
- Is the club advertised and listed in directories including on the internet? If yes, provide details.

#### Renewal

40.13 The renewal application process is the same as the process set out above for new applications.

40.14 The renewal application must be submitted no more than 3 months before but no less than 6 weeks before the expiry date of the permit. Failure to apply

within the prescribed time period will result in the renewal application being refused. Where the applicant wishes to continue to apply for a permit, they will then be required to submit a new application in accordance with the procedures above.

#### Variation and lost stolen or damaged

- 40.15 There are specific provisions that allow a club to vary their permit and to obtain a copy of a lost, stolen or damaged permit. Providing the correct application is submitted and the required fee paid and for the purposes of a lost or stolen permit evidence that the loss or theft has been reported to the Police e.g. crime reference number.

#### Right of Appeal

- 40.16 The applicant or holder of a permit may appeal if the Council has:
- rejected an application for a Club Gaming Permit/Club Machine Permit or renewal of a Club Gaming Permit/Club Machine Permit
  - cancelled a permit

#### Annual Fee

- 40.17 Permit holders must pay to the Council the first annual fee within 30 days of the issue of the permit and an annual fee before each anniversary of the issue of the permit thereafter. Failure to do so will result in the permit being cancelled.

### **41.0 Licensed Premises Gaming Machine Permit**

- 41.1 Licensed premises gaming machine permits are issued in accordance with Schedule 13 of the Gambling Act 2005.

#### Description

- 41.2 A licensed premises gaming machine permit authorises a premises, holding an alcohol premises licence in accordance with the Licensing Act 2003 (providing the premises have a bar at which alcohol is served), to make available category C and D machines. This replaces and is not in addition to the automatic entitlement to two machines.

#### Principles

- 41.3 The Council will expect that gambling will remain ancillary to the main purpose of the premises. Should it become aware that this is not the case and the holder of the permit has not complied with reasonable requests by authorised officers to reduce the level of gambling or applied for the appropriate gambling premises licence, the Council will take appropriate enforcement action including utilising licence review provisions under either the Gambling Act 2005 or the Licensing Act 2003.



- 41.4 The Council cannot attach conditions to a Licenced Premises Gaming Machine Permit; however, it can refuse to grant the permit by notifying the applicant of the intention to refuse and the reasons for it. In addition where the Council intends to grant a permit, it can do so for a smaller number of machines and/or a different category.
- 41.5 Where an operator of an alcohol licensed premises wishes to make gaming machines available in any areas of their premises that are not licensed for the purposes of selling/supplying alcohol, the operator will be required to apply for an adult gaming centre premises licence.

#### Period of licence

- 41.6 A permit does not have a defined period of validity; it does not have an 'expiry date'. Once granted, a permit continues to have effect unless and until it ceases. A permit ceases if:
- the alcohol premises licence ceases to have effect
  - the permit holder ceases to be the holder of the alcohol premises licence
  - the permit is surrendered
  - the permit is cancelled, including where the permit holder fails to pay the annual fee
  - the permit is forfeited by the court

#### Application Process – new applications

- 41.7 Applicants must:
- Submit a completed application form
  - Pay the appropriate fee
  - Provide a copy of the valid alcohol premises licence or evidence that an alcohol premises licence is being or has been applied for
  - Specify the number and category of gaming machines
  - Provide information of the machine suppliers that the club intends to use; they must be Commission-licensed suppliers
  - Submit a business plan setting out the main purpose of the business together with details indicating the contribution that the gaming machines provide to the overall business
  - Provide a staff training programme particularly to ensure staff have a full understanding of:
    - the harm and exploitation that is caused by problem gambling
    - their responsibilities to safeguard children, young persons and vulnerable adults
    - measures to reduce crime and disorder associated with gambling
    - the relevant legal provisions that restrict the use of gaming machines and other gambling activities
    - the maximum stakes and prizes of the gambling permissible in the club

- Provide a scale plan of the internal layout of the premises including the position of the machines, staff/supervisor locations and any restricted access provision
- Set out how they intend to satisfy the relevant mandatory and default conditions applicable to the permit

#### Right of Appeal

41.8 The applicant or holder of a permit may appeal if the Council has:

- rejected an application for a permit
- granted an application for a permit for a smaller number of machines and/or different category
- gives a notice that cancels or varies the entitlements of the permit

#### Variation, transfer, change of name and lost stolen or damaged

41.9 There are specific provisions that allow a permit holder to vary, transfer or change the name on their permit and to obtain a copy of a lost, stolen or damaged permit. Providing the correct application is submitted and the required fee paid and for the purposes of a lost or stolen permit evidence that the loss or theft has been reported to the Police e.g. crime reference number.

#### Annual Fee

41.10 Permit holders must pay to the Council the first annual fee within 30 days of the permit being issued and an annual fee before each anniversary of the issue of the permit thereafter. Failure to do so will result in the permit being cancelled.

#### **42.0 Automatic entitlement to two gaming machines**

42.1 This notification is issued in accordance with Section 282 of the Gambling Act 2005.

#### Description

42.2 There are specific notification procedures available to alcohol premises licence holders to make available two gaming machines of category C or D for use in alcohol licenced premises.

#### Principles

42.3 The Council recognises that it has no discretion to consider the notification or to turn it down other than in respect of whether the applicant holds an alcohol premises licence and the fee has been paid. However, in order to enable the Council to ensure the applicant is fully aware of their responsibilities the specific information, as set out in the notification process below, is requested.

- 42.4 The Council will provide written confirmation that notification has been received and alcohol premises licence holders are expected to display this confirmation in a prominent place within the premises.
- 42.5 The Council will give serious consideration to removing, subject to it following the correct procedures, the 'automatic authorisation' where there is evidence that:
- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
  - gaming has taken place on the premises that breaches a condition relating to the location and operation of gaming machines;
  - the premises are mainly used for gaming; or
  - an offence under the Act has been committed on the premises.

#### Notification Process

42.6 Applicants must:

- Submit a completed notification form
- Pay the appropriate fee
- Provide a copy of the valid alcohol premises licence or evidence that an alcohol premises licence is being or has been applied for
- Specify the number and category of gaming machines
- Provide information of the machine suppliers that the club intends to use; they must be Commission-licensed suppliers
- Provide a staff training programme particularly to ensure staff have a full understanding of:
  - the harm and exploitation that is caused by problem gambling
  - their responsibilities to safeguard children, young persons and vulnerable adults
  - measures to reduce crime and disorder associated with gambling
  - the relevant legal provisions that restrict the use of gaming machines and other gambling activities
  - the maximum stakes and prizes of the gambling permissible in the club
- Provide a scale plan of the internal layout of the premises including the position of the machines, staff/supervisor locations and any restricted access provision

#### Annual Fee

42.7 Permit holders must pay to the Council the first annual fee within 30 days of the permit being issued and an annual fee before each anniversary of the issue of the permit thereafter. Failure to do so will result in the permit being cancelled.

## 43.0 Prize Gaming Permit

43.1 A Prize Gaming permit is issued in accordance with Schedule 14 of the Gambling Act 2005.<sup>10</sup>

### Description

43.2 Gaming is classed as prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid or raised by the gaming. Normally the prizes are determined by the operator before play commences. A Prize Gaming Permit is a permit issued by the Council to authorise Prize Gaming on specified premises. Vessels and vehicles are not premises.

### Principles

43.3 The principles that the Council proposes to apply when considering applications for a Prize Gaming Permit are set out below. The Council will:

- have regard to the licensing objectives and the Guidance to licensing authorities 5<sup>th</sup> Edition (March 2015) issued by the Gambling Commission
- give weight to protecting children and other vulnerable persons from being harmed or exploited by gambling
- expect applicants to demonstrate how they intend to protect children and other vulnerable persons from being harmed or exploited

43.4 The Council cannot attach conditions<sup>11</sup> to a Prize Gaming permit; however, it can refuse to grant the permit by notifying the applicant of the intention to refuse and the reasons for it and then giving the applicant an opportunity to make representations.

### Period of licence

43.5 A permit ceases to exist after a period of 10 years unless it is renewed, lapses, is surrendered or forfeited by the Court. A permit lapses if:

- the company ceases to exist or goes into liquidation
- the permit holder ceases to occupy the premises
- the permit holder e.g. a partnership otherwise ceases to exist
- the permit holders dies
- the permit holder becomes bankrupt
- the permit holder becomes incapable by reason of mental or physical incapacity

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<sup>10</sup> Section 292 of the Gambling Act 2005 provides that travelling fairs are also able to offer equal chance prize gaming without a permit, provided that, taken together, the facilities for gambling are an ancillary amusement at the fair.

<sup>11</sup> Specific requirements are set out in the Gambling Act 2005 that amount to 'conditions'.

## Application Process – new applications

### 43.6 Applicants must:

- Submit a completed application form
- Pay the appropriate fee
- Provide a satisfactory basic criminal record disclosure from Disclosure Scotland (see **Appendix E**)
- Provide evidence that they have the right to occupy the premises to which their application relates
- Provide a scale plan of the internal layout of the premises
- Set out the types of gaming that will be offered
- Provide a business plan
- Provide evidence that they fully understand the maximum stakes and prizes of the gambling permissible for a Prize Gaming Permit and that the gaming offered is within the law
- Provide a staff training programme particularly to ensure staff have a full understanding of:
  - the harm and exploitation that is caused by problem gambling
  - their responsibilities to safeguard children, young persons and vulnerable adults
  - measures to reduce crime and disorder associated with gambling
  - the relevant legal provisions that restrict the use of gaming machines and other gambling activities
  - the maximum stakes and prizes of the gambling permissible for a Prize Gaming Permit and that the gaming offered is within the law
- Provide evidence as to how they intend to protect children and other vulnerable persons from being harmed or exploited
- Set out how they intend to satisfy the relevant mandatory and default conditions applicable to a Prize Gaming Permit

## Renewal applications

43.7 The renewal application process is the same as the process set out above for new applications.

43.8 The renewal application must be submitted no more than 6 months before but no less than 2 months before the expiry date of the permit. Failure to apply within the prescribed time period will result in the renewal application being refused. Where the applicant wishes to continue to apply for a permit, they will then be required to submit a new application in accordance with the procedures above.

## Right of Appeal

43.9 The applicant or the holder of a permit may appeal if the Council has

- rejected an application for a Prize Gaming permit or renewal of a Prize Gaming permit

### Change of permit holder's name and lost, stolen or damaged permit

- 43.10 There are specific provisions that allow a permit holder to make changes to their name and to obtain a copy of a lost, stolen or damaged permit. Providing the correct application is submitted and the required fee paid and for the purposes of a lost or stolen permit evidence that the loss or theft has been reported to the Police e.g. crime reference number.

## **44.0 Part 3C - Temporary and Occasional Use**

### **Temporary Use Notice (TUN)**

- 44.1 A TUN is issued in accordance with Part 9 of the Gambling Act 2005 and Gambling Act 2005 (Temporary Use Notices) Regulations 2007 (SI2007/3157).

#### Description

- 44.2 A TUN allows the use of premises (not vehicles, but does include vessels whether moored or moving) for gambling where there is no premises licence but where an operator wishes to use the premises temporarily for providing gambling facilities.

- 44.3 Certain restrictions exist in relation to a TUN. These restrictions are:

- it can only be used to offer gambling of a form authorised by the operator's operating licence
- gambling under a TUN may only be made available on a maximum of 21 days in any 12 month period for any or all of a named set of premises
- it can only be used to permit the provision of facilities for equal chance gaming, and where the gaming in each tournament is intended to produce a single overall winner
- gaming machines may not be made available under a TUN
- cash games are not permitted under a TUN; cash games are where each hand provides a winner

#### Principles

- 44.4 As a result of the six week timescale specified in the Act for the purposes of fully completing the TUN process, the Council strongly encourages operators to make contact with the licensing service to discuss their plans and requirements as soon as possible (ideally at least six months) prior to the anticipated date of the gambling event.
- 44.5 Where applicants chose to submit a TUN by post, the Council expects the applicant to take steps to ensure the notice has been received by the Council within three days of the date of posting to assist the Council to process the notice within the tight timescales laid down in the Act.

- 44.6 The Council will send a written acknowledgement confirming receipt of the TUN as soon as reasonably practical.
- 44.7 Where the Council considers it necessary to object to a TUN it will give a notice of objection within fourteen days beginning with the date when which the TUN was received by the Council.
- 44.8 When making objections to a TUN the Council, and other relevant bodies, will have regard to the same principles that the Council considers when determining premises licence applications, in particular, the aims of the licensing objectives.
- 44.9 Where the Council issues a counter-notice, the principles that will be applied are the same as those in determining premises licence applications; in particular, the Council will aim to permit the provision of facilities for gambling under a TUN providing to do so accords with the Commission's relevant code and guidance and the Council's Policy, and is reasonably consistent with the licensing objectives.
- 44.10 The Council will give serious consideration to objecting to a TUN where it appears that the effect would be to permit regular gambling in a place that could be described as one 'set of premises' (refer to section above setting out the meaning of 'premises').
- 44.11 Where the Council is made aware or establishes that the premises to which a TUN relates has been the subject of one or more TUN for more than a total of 21 days in the past 12 months, the Council will issue a counter-notice that has the effect of stopping the TUN coming into effect.
- 44.12 Where the Council receives a TUN from a high profile operator (e.g. a casino) to hold an event in a larger venue (e.g. a stadium or an arena) and this TUN includes the need to hold a remote operating licence, the Council will contact the Commission for further advice and guidance before processing the TUN.

#### Notification process

- 44.13 Applicants must:
- Submit a completed notification form (must be received by the Council at least three months and one day before the day on which the gambling event will begin and must be received within seven days of the date the notice has been signed)
  - Pay the appropriate fee
  - Provide evidence that they hold an operating licence
  - Set out how they intend to satisfy the relevant mandatory and default conditions applicable to the type of gambling activity that will be undertaken at the premises
  - Submit their local risk assessment (refer to Social Responsibility Code provision 10.1.1) in accordance with Ordinary Code provision 10.1.2

- Provide a copy of the notice to the Gambling Commission, West Mercia Police and the HMRC (the notice must be received within seven days of the date the notice has been signed) (where the TUN relates to a vessel please refer to **paragraph xxx** re responsible authorities)
- Where applicable, provide a copy of the notice to any other Licensing Authority in whose area the premises is also situated (the notice must be received within seven days of the date the notice has been signed)

44.14 Where no objections are made within 14 days of the date of the TUN, the Council will endorse the TUN as valid and return it to the person who gave the TUN.

#### Objection process

44.15 Where written objections are received, the Council will enter into constructive discussions with the applicant and objectors with the aim of resolving the objections. Where resolution cannot be achieved, the Council will hold a hearing to listen to representations from:

- the person who gave the TUN;
- all objectors; and
- any person who was entitled to receive a copy of the notice.

44.16 Where modifications are accepted by the applicant, the applicant must submit a new TUN, incorporating the modifications, and the Council will treat the original notice as withdrawn. The person who made the original objection and proposed the modification may not object to the new TUN, but others to whom it is copied may object. Where no new objections are made, there will be no need for a hearing.

44.17 After a hearing has taken place or has been dispensed with and the Council considers that the TUN should not have effect, the Council will issue a counter-notice (copying it to all those who received copies of the TUN) setting out the reasons for its issue and providing for the TUN:

- not to have effect;
- to have effect only in respect of a specified activity;
- to have effect only in respect of activity carried on during a specified period of time or at specified times of day; or
- to have effect subject to compliance with a specified condition.

44.18 Where the Council decides not to issue a counter-notice, the TUN will take effect. The Council will give notice of its decision to the person who gave the TUN and to others to whom the TUN was copied.

#### Conditions

44.19 While the gambling is taking place, the operator must ensure a copy of the TUN must be displayed prominently on the premises.



### Right of appeal

- 44.20 An appeal against the Council's decision may be made by the applicant, or any person entitled to receive a copy of the TUN, to the Magistrates' court within 14 days of receiving notice of the Council's decision. There is a further right of appeal to the High Court on a point of law.

### Lost, stolen or damaged endorsed notice

- 44.21 There are specific provisions that allow a notice holder to obtain a copy of a lost, stolen or damaged endorsed notice, providing the correct application is submitted and the required fee paid.

## **45.0 Occasional Use Notice (OUN)**

- 45.1 An OUN is issued in accordance with Section 39 of the Gambling Act 2005.

### Description

- 45.2 A OUNs is a permit that allows licensed betting operators to use tracks for short periods for conducting betting, where the event upon which the betting is to take place is of a temporary, infrequent nature. A betting premises licence for the track is not required in these circumstances.

### Principles

- 45.3 An OUN must be submitted for each day that betting activity will be conducted on the premises.
- 45.4 Betting activity is only allowed for a maximum of 8 days in a calendar year, if betting activity is to be held over a period of 8 consecutive days, the operator will be required to submit 8 separate notices.
- 45.5 The period of 8 days applies to the venue and not the individual who has submitted the OUN.
- 45.6 An event running past midnight and ending on the following day accounts for two occasional use days, even though in practice it is one event.
- 45.7 If the maximum number of days is reached in a calendar year the OUN will not be accepted by the Council.
- 45.8 There is no need for a track to be permanently established for an OUN to be given.
- 45.9 The Council expects the betting to be limited to betting on the outcomes of a race, competition or other sporting event taking place at the track.
- 45.10 Betting operators cannot provide gaming machines at a track by virtue of an OUN.

### Application process

45.11 All applicants must be a person who is either responsible for the administration of events on the track or the occupier of the track.

45.12 Applicants must:

- Submit a completed notification form
- Provide evidence that the applicant is either responsible for the administration of events on the track or the occupier of the track
- Specify the day(s) the notice is to have effect
- Provide a copy of the notice to West Mercia Police

### **46.0 Lotteries**

46.1 Large Society Lotteries are regulated by the Gambling Commission through operating licenses and are not the concern of the Council.

46.2 There are several other types of lottery which do not require registration with the Council:

- Incidental Non Commercial Lotteries are lotteries that are incidental to a non-commercial event (such as a school fete).
- Customer Lotteries, which are lotteries promoted by the occupiers of business premises, who sell tickets only to customers present on their premises.

46.3 There are also three types of private lotteries as defined in the Gambling Act 2005 which do not require registration with the Council, referred to as:

- Private Society Lotteries (such as might be organised internally by a private members club),
- Work Lotteries (such as when employees at a workplace organise a sweepstake on the Grand National), and
- Resident's Lotteries (such as when persons all residing in a single premises organise a lottery amongst themselves).

46.4 Further details on these types of lotteries can be found in the Gambling Commission advice note "Organising Small Lotteries", which can be found at:

<http://www.gamblingcommission.gov.uk/pdf/organising%20small%20lotteries%20-%20november%202009.pdf>

### 47.1 Small Society Lotteries

A small society lottery registration is issued in accordance with Schedule 11 of the Gambling Act 2005.

#### Description

- 47.2 Society lotteries are lotteries promoted for the benefit of a non-commercial society. A society is non-commercial if it is established and conducted:
- for charitable purposes (as defined in Section 2 of the Charities Act 2006)
  - for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity
  - for any other non-commercial purpose other than that of private gain.
- 47.3 A small society lottery:
- does not have proceeds (the total value of tickets sold) that exceed £20,000 for a single draw
  - does not have aggregated proceeds from lotteries in excess of £250,000 in any one year.
  - Has a maximum prize for any draw not exceeding £25,000.
- 47.4 Small society lotteries do not require a licence but must be registered with the local authority in the area where the principal office of the society is located.

#### Principles

- 47.5 The Council expects operators of SSL to ensure that:
- the total value of prizes combined with the expenses of running the lottery do not exceed 80% of the total proceeds of that lottery.
  - rollovers between lotteries are only permitted where every lottery affected is also a SSL promoted by the same society, and the maximum single prize is £25,000
  - every ticket in the lottery must cost the same and the society must take payment for the ticket fee before entry into the draw is allowed
  - SSL are conducted in a socially responsible manner
  - effective measures are in place to minimise the risk of lottery tickets being sold to children
  - tickets (physical or virtual e.g. email or text message) issued must include<sup>12</sup>:
    - the name of the promoting society;
    - the price of the ticket, which must be the same for all tickets;

<sup>12</sup> The requirement to provide this information can be satisfied by providing an opportunity for the participant to retain the message electronically or print it.

- the name and address of the member of the society who is designated as having responsibility at the society for promoting small lotteries or, if there is one, the External Lottery Manager (ELM); and
  - the date of the draw, or information which enables the date to be determined.
- written records are maintained of any unsold and returned tickets for a period of one year from the date of the lottery draw
  - tickets are not be sold by persons under the age of 16
  - tickets are not offered for sale in a street except from a kiosk or similar static structure (Note: the Council is minded to prohibit the sale of tickets in the street by applying such a condition to the registration.<sup>13</sup>)
  - tickets are not sold door to door
  - any other necessary permissions, e.g. street trading consents, are in place
- 47.6 SSL operators will need to be careful when employing external help that such an individual or firm is correctly licensed by the Commission as an ELM, if required to be so. That requirement depends on the extent to which they, or the SSL itself, will be in control of:
- how the scheme operates
  - banking arrangements for handling the proceeds
  - who is selling the tickets, and who is paying the prizes
  - who is promoting the lottery
- 47.7 During the currency of a registration the applicant and any appointed persons must notify the council in writing within 7 days of any cautions or convictions relating to the offences listed in Schedule 7 of the Act.
- 47.8 Where the Council has refused or revoked a registration and the applicant has submitted representations, the Council will reconsider the decision and notify the applicant of the outcome including the reasons for the decision.

#### **48.0 Application process – new**

48.1 Applications for new SSL registrations must:

- Submit a completed application form
- Pay the appropriate fee
- Provide a satisfactory basic criminal record disclosure from Disclosure Scotland (see note below and **Appendix E**)
- Confirm that it does not also hold a duplicate registration with another Council where the aims and objectives of the societies are the same.
- Provide copies of both the societies terms and conditions and constitution

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<sup>13</sup> This is to bring the sale of small society lottery tickets in line with the way in which the Commission requires societies running large lotteries to operate.

- Submit a declaration, stating that the person making the application on behalf of the society represents a bona fide non-commercial society.
- Provide evidence that they have procedures in place for:
  - checking the age of apparently underage purchasers of lottery tickets; and
  - taking action where there are unlawful attempts to purchase tickets.

Note:

- 48.2 The requirement to provide a satisfactory basic criminal record disclosure from Disclosure Scotland applies to the applicant and both appointed persons. The Council recognises that an applicant may also be an appointed person.
- 48.3 The basic criminal record disclosure from Disclosure Scotland must be no more than three years old at the time the application is submitted.
- 48.4 A satisfactory enhanced DBS report will be accepted as an alternative to the basic criminal record disclosure from Disclosure Scotland.

**49.0 Returns to the Council<sup>14</sup>**

49.1 The following information must be submitted as a return to the Council:

- the arrangements for the lottery – specifically the date on which tickets were available for sale or supply
- the dates of any draw
- the value of prizes, including any donated prizes and any rollover
- the total proceeds of the lottery
- the amounts deducted by the promoters of the lottery in providing prizes, including prizes in accordance with any rollovers
- the amounts deducted by the promoters of the lottery in respect of costs incurred in organising the lottery
- the amount applied to the purpose for which the promoting society is conducted (this must be at least 20% of the proceeds)
- whether any expenses incurred in connection with the lottery were not paid for by deduction from the proceeds, and, if so, the amount of expenses and the sources from which they were paid.

49.2 Returns must:

- be sent to the Council no later than three months after the date of the lottery draw, or in the case of ‘instant lotteries’ (scratch cards) within three months of the last date on which tickets were on sale
- be signed (electronic signatures are acceptable if the return is sent electronically) by two members of the society, who must be aged eighteen or

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<sup>14</sup> Paragraph 39, Schedule 11

older, they must be appointed for the purpose in writing by the society or, if it has one, its governing body, and be accompanied by a copy of their letter or letters of appointment

## **50.0 Annual Fee (Renewal)**

50.1 The renewal registration process is the same as the process set out above for new registrations, with the exception that:

- a satisfactory basic criminal record disclosure from Disclosure Scotland is only required where the previously submitted disclosure is more than three years old on the date the application is submitted
- copies of the societies terms and conditions and constitution are only required where there have been changes
- evidence of procedures for checking the age of apparently underage purchasers of lottery tickets and taking action where there are unlawful attempts to purchase tickets are only required where there have been changes

## **51.0 Decisions of the Council**

51.1 The Council shall refuse a registration if within the previous five years:

- an operating licence held by the applicant has been revoked
- an application for an operating licence made by the applicant has been refused

51.2 The Council may refuse a registration if it thinks that:

- the applicant is not a non-commercial society
- a person who will or maybe connected with the promotion of the SSL has been convicted of a relevant offence
- information provided is false or misleading

51.3 The Council may revoke a registration:

- if it is considers that it would be obliged or permitted to refuse an application for the registration were it being made anew.
- where the society fails to submit the required returns within three months of a lottery
- where the society fails to comply with the requirements on operators as listed in the statement of principles above

51.4 Where the Council intends to refuse or revoke a registration it will notify the applicant of the intention to refuse or revoke and the reasons for it and giving the applicant an opportunity to make representations.

## **52.0 Right of Appeal**

52.1 Where the Council takes a final decision to refuse to grant the registration or revokes it the society may appeal.

## **53.0 Part 3E - Activities Not Requiring Permissions**

53.1 There are a number of gambling activities, under limited circumstances, that are permitted without any specific permissions. These are:

- non-commercial gaming
- non-commercial prize gaming
- non-commercial equal chance gaming
- incidental non-commercial lotteries
- private gaming, including poker as private gaming
- non-commercial betting
- non-commercial 'casino night' or 'poker night'
- casino night or poker night as non-commercial prize gaming
- casino night or poker night as non-commercial equal chance gaming
- casino night as private gaming
- non-commercial 'race night'
- race night as non-commercial gaming
- incidental non-commercial lottery
- race night as non-commercial prize gaming
- non-commercial equal chance gaming
- race night as private gaming
- race nights as betting events

53.2 Children and young persons are permitted to participate in non-commercial and private gaming and betting.

CONSULTATION VERSION

# **PART 4**

# **INSPECTION, COMPLIANCE, ENFORCEMENT AND COMPLAINTS**



## **PART 4 – INSPECTION, COMPLIANCE, ENFORCEMENT AND COMPLAINTS**

### **54.0 Summary**

- 54.1 This part of the Policy sets out the principles that will be applied when the Council carries out the inspection of premises and when it institutes criminal proceedings in respect of specified offences under the Act.
- 54.2 This includes the principles that will be applied in respect of general compliance, enforcement and the manner in which complaints will be dealt with.
- 54.3 The focus of the Council's inspection, compliance and enforcement role is on premises licences/permits/registrations for which it has responsibility to authorise.
- 54.4 The Gambling Commission will undertake compliance, regulation and enforcement as it applies to operator and personal licences. In addition, any concerns about the manufacture, supply or repair of gaming machines will be notified to the Gambling Commission and not dealt with by the Council.

### **55.0 Inspection, compliance and enforcement**

- 55.1 The Council will generally use the least intrusive regulatory tool to achieve compliance and will ensure that any regulatory action is proportionate to the importance of the matters to which it relates, having regard to relevant risk assessments.
- 55.2 Council officers may undertake inspection, compliance and enforcement activities for the purpose of assessing compliance under the Act and to determine whether an offence is being committed. In doing so, the Council's officers will work closely with the gambling trade representatives and other enforcement authorities to achieve compliance with the relevant legislation, licence/permit/registration requirements and specific conditions of each licence/permit/registration.
- 55.3 The Council will undertake all inspection, compliance and enforcement work in accordance with the Council's Better Regulation and Enforcement Policy (or such similar policy that may from time to time be adopted) which is available on the Council's website at <http://shropshire.gov.uk/shropshire-council/policies/>. The Better Regulation and Enforcement Policy sets out clearly the overall approach adopted by the Council towards inspection, compliance and enforcement. It also specifically sets out the principles by which the Council intends to manage all criminal investigations; these principles also apply to the way in which criminal proceedings will be

managed in relation to gambling related criminal offences specified under Section 346 of the Act.

- 55.4 The Council recognises that combating illegal gambling is of significant benefit to the licensed community as the provision of illegal unregulated gambling impacts upon the reputation of the industry as a whole. The persistent and widespread existence of illegal gambling also reduces the incentive on operators to be correctly licensed.
- 55.5 Accordingly, where the Council uncovers evidence of illegal gambling it will work in partnership with the Commission to undertake criminal investigations into such activity with a view to prosecuting the individuals and companies responsible.
- 55.6 The Council will generally take prosecutions against those providing or facilitating illegal gambling, in effect gambling without a licence or permit, where the criminality is contained in one premises. The Commission will generally take the lead in prosecuting the offence for providing facilities for gambling where it is committed in the context of illegal gambling that appears organised and has a potentially national or regional impact, or where there are deliberate, reckless or significant breaches by a licensed operator.
- 55.7 The Council will generally agree to lead a multi-agency coordinated approach into investigations relating to illegal poker or illegal/illegally sited gaming machines in a specific premises, with the Commission, the police and, where appropriate, HMRC providing support, advice and expertise.
- 55.8 In relation to the prevention, investigation and prosecution of offences under the Act, and other offences related to gambling, the Council will give priority, based on the level of risk posed to the licensing objectives, to crimes in which there is a greater risk of harm or exploitation to children and vulnerable persons.
- 55.9 Whilst breaching a licence condition is a criminal offence, the Council will default, in the first instance, to its regulatory rather than criminal powers when considering such a breach. These regulatory powers include revocation, suspension and adding/removing/amending conditions. However, where there are significant breaches of licensing conditions that satisfy the criteria for invoking criminal powers in accordance with the Council's Better Regulation and Enforcement Policy this will mean that the Council will investigate matters with a view to instituting criminal proceedings irrespective of whether it has used its regulatory powers or not.
- 55.10 The Council will abide by the statutory principles of good regulation and the Regulators' Code. Inspection and enforcement activities will be carried out in a way that is transparent, accountable, proportionate, consistent and targeted, and promotes efficient and effective regulatory approaches that improve outcomes without imposing unnecessary burdens on business.

55.11 The Council will apply a risk-based approach to inspection and where relevant this will be informed by the Council's local area profile. Overall, it is the Council's intention to resource inspections of high-risk premises to a greater level than those deemed to be of a lower-risk. This will ensure that resources are more effectively concentrated on potential problem premises. However, inspections of lower-risk premises will be undertaken at an appropriate level in order to allow the Council to maintain a presence at such premises and to target controls on emerging risks.

55.12 Whilst the Council recognises that industry codes, developed through trade associations and similar organisations, do not have the force of a licence condition or code, the Council will use such codes to assist officers to conduct premises inspections.

## **56.0 Test purchasing and age verification**

56.1 The Council will, where appropriate, utilise test purchasing operations to measure the compliance of licence/permit holders. The Council will follow current guidance (Age Restricted Products and Services: A Code of Practice for Regulatory Delivery published by the Better Regulation Delivery Office, April 2014), in order to ensure that tests are carried out in a manner that is risk-based and fair, with due regard to the welfare of young people involved in the test purchasing.

56.2 The Council will focus its regulatory test-purchasing on evaluating underage controls in place in licensed premises. The Council, where it is practical to do so, may consider test-purchasing in connection with evaluating the effectiveness of measures concerning self-exclusion and anti-money laundering policies and procedures (e.g. to regulate FOBT), but will only do so where it receives guidance and support from the Commission to undertake such operations.

56.3 The Council strongly encourages licence/permit holders to manage the business risk associated with preventing underage access to premises and permitting a young person to gamble, including the underage use of gaming machines. Where a licence/permit holder commissions a third party to test the effectiveness of their policies and procedures or put its own testing in place and where the results of the tests are shared with the Council and/or the Commission, the Council will be less inclined to conduct test purchasing.

56.4 Where the Council has concerns about underage access and age verification policies or where there are particular premises it plans to test purchase, the Council will, in the first instance, consult with the Commission and then also with relevant licence/permit holders and operators. This will enable the Council to avoid creating conflict between any ongoing investigation/enforcement activities being undertaken by the Commission, to identify what programmes are in place to manage the business risk and to take these into account when planning a test purchasing operation.

56.5 The Council will share its test purchasing results with the Commission.

56.6 The Council will follow any age restricted sales of gambling national inspection plans and strategies that are published on the Primary Authority register when considering proactive age restricted gambling sales activity including testing. However, where it is necessary, the Council will undertake reactive test purchasing (Primary Authority plans do not prohibit this approach); the Council will still undertake relevant consultation, with appropriate parties, before doing so.

## **57.0 Complaints**

57.1 Where appropriate, complainants will be encouraged to raise complaints with the relevant licence holder or business concerned. However, the Council will also respond to complaints in line with its Better Regulation and Enforcement Policy and will use complaint information to assist in the determination of licensing decisions and enforcement action.

## **58.0 Publication of information relating to the Council's regulatory functions**

58.1 The Council will not normally publish details of the information found or the conclusions reached during its inspections and investigations. An exception may be made where there is speculation in the public domain and/or where those involved have made public statements which need to be responded to in order to avoid misconceptions arising.

58.2 The Council will normally publish details of all formal regulatory action taken under the Act. Such information will be published as soon as practicable after a decision has been taken, whether or not the decision is the subject of an appeal.

58.3 When investigating criminal matters, the Council will generally consider making a public announcement when suspects are arrested, when search warrants are executed, when charges are laid and at the conclusion of any trial. A public announcement may also be made at other stages of an investigation when this is considered appropriate.

58.4 The Council will, upon request, review any compliance or enforcement-related notices that are published on the Council's website in order to determine whether continued publication is appropriate, or whether publicity should be removed or amended.

**PART 5**

**CONSULTATION**

CONSULTATION VERSION

## 59.0

### PART 5 – CONSULTATION

59.1 Consultation was undertaken for a period of eight weeks between xxx and yyyy. The Council has consulted as widely as it could. Details of the consultees are set out below and the full list of representations received during the consultation process is available on the Council's website as part of the report that was presented to the Strategic Licensing Committee on the 6 January 2016.

59.2 During the process of assessing the representations of those who were consulted, the Council had regard to guidance issued under the Act and gave appropriate weight to the views of those it consulted. In determining the weight to give particular representations, the following factors were taken into account:

- who made the representation (their expertise or interest);
- relevance of the factors to the licensing objectives;
- how many people expressed the same or similar views; and
- how far the representations related to matters that the Council should be including in its Policy.

## 60.0 Consultees

[Will be populated at the conclusion of the consultation process.]

CONSULTATION VERSION

# **PART 6**

## **LICENSING CONTACT DETAILS**

CONSULTATION VERSION

**61.0**

**PART 6 – LICENSING CONTACT DETAILS**

**61.1 Contact details**

61.2 For information, advice and guidance relating to this Policy and the licensing and permitting of gambling establishments and activities, please contact:

Licensing  
Business Support and Regulatory Services  
Shropshire Council  
Abbey Foregate  
Shrewsbury  
Shropshire  
Tel: 0345 678 9026  
Email: [licensing@shropshire.gov.uk](mailto:licensing@shropshire.gov.uk)

61.3 Website: [web page link to be included following conclusion of the consultation process]

**62.0 Licence Fee Payments** Telephone: 0345 678 9026

Online: [web page link to be included following conclusion of the consultation process]

CONSULTATION VERSION



# APPENDICES

CONSULTATION VERSION

# APPENDIX A

## MAP OF GEOGRAPHICAL AREA OF THE ADMINISTRATIVE AREA OF SHROPSHIRE COUNCIL

[Map to be inserted following the consultation period]

CONSULTATION VERSION

# **APPENDIX B**

## **LOCAL AREA PROFILE**

CONSULTATION VERSION

[Insert local area profile]

# **APPENDIX C**

## **CHILD EXPLOITATION AND TRAFFICKING OF CHILDREN AND YOUNG PEOPLE**

CONSULTATION VERSION

## APPENDIX C

### 1.0 CHILD EXPLOITATION AND TRAFFICKING OF CHILDREN AND YOUNG PEOPLE

#### 1.1 Introduction

1.2 Set out below is information for gambling premises licence and permit holders and their employees to help them report, to the relevant authorities, matters of concern that could relate to the safety of children and vulnerable persons, particularly as it relates to child sexual exploitation and trafficking.

#### 2.0 General information

- 2.1 Shropshire Council's Licensing Service is helping to tackle child sexual exploitation and trafficking by working together with key partners particularly West Mercia Police, Children and Adult Services within the Council and the Safeguarding Children Board. The Board also works with the police, children's social care, schools, health services and the youth offending team, as well as specialist child sexual exploitation organisations such as the child sexual exploitation National Working Group (NWG) Network.
- 2.2 Through agencies working together and sharing information, we aim to identify and prevent sexual exploitation, disrupt the activities of perpetrators, protect children and young people and prosecute perpetrators of sexual exploitation. Sharing information with West Mercia Police and Children's Social Care helps to protect young people from harm. Safeguarding children and young people is everyone's business and everyone's responsibility.
- 2.3 Child sexual exploitation is a crime that can affect any child, anytime, anywhere – regardless of their social or ethnic background.
- 2.4 Sexual exploitation of children and young people involves exploitative situations, contexts and relationships where young people (or a third person or persons) receive something, e.g. food, accommodation, drugs, alcohol, cigarettes, affection, gifts, money, etc. as a result of them performing, and/or another or others performing on them, sexual activities. Violence, coercion and intimidation are commonly involved in such exploitative relationships.
- 2.5 Child sexual exploitation involves perpetrators grooming youngsters and using their powers to sexually abuse them. Sexual exploitation of children and young people can take many forms, whether it occurs through a seemingly 'consensual' relationship with an older boyfriend, or a young person having sex in return for attention, gifts, alcohol or cigarettes.

### **3.0 How gambling premises licence and permit holders and their employees can help tackle child sexual exploitation**

3.1 Gambling establishment licence and permit holders and their employees are in a good position to help identify victims of sexual exploitation because, through the operation of certain gambling activities, licence and permit holders and their employees regularly come into contact with children, young and vulnerable people. This means that licence and permit holders and their employees are in an ideal position to help protect young and vulnerable people.

3.2 In particular, licence and permit holders and their employees should ask themselves the following questions when they see young and vulnerable people in their gambling premises:

- Do any of your customers appear to be under 18 years old?
- Are they with a much older person and appear to be in a relationship?
- Do you think that they are under the influence of alcohol or drugs?
- Are children/young people being brought regularly to your premises by older people? If so, ask yourself why?

**3.3 If the answers to any of the questions above gives you even the slightest cause for concern, these concerns should be reported in accordance with the relevant provisions relating to the ‘Safety of children and vulnerable persons’ detailed in the Council’s Gambling Policy Statement.**

**3.4 If you have reason to suspect that a child is being abused or at risk of abuse it is your responsibility to report your concerns to and share information with West Mercia Police (Tel: 101) and Children’s Social Care (Tel: 0345 678 9021).**

3.5 Further information about Shropshire’s Safeguarding Children Board can be found at:

<http://www.safeguardingshropshireschildren.org.uk/scb/index.html>

# **APPENDIX D**

## **EXTRACT FROM THE SHROPSHIRE COUNCIL CONSTITUTION SETTING OUT DELEGATIONS**

CONSULTATION VERSION



CONSULTATION VERSION

## Council Delegations

Matter to be determined	Full Council	Strategic Licensing Committee	Licensing Act Sub-Committee	Public Protection Officer (Specialist)* (unless otherwise specified)
Final approval of the Licensing Authority Policy Statement	X			
Policy not to permit casinos	X			
Fee setting		X		
Application for premises licences			X where representations received and not withdrawn	X where no representations received or representations have been withdrawn
Application for a variation to a licence			X where representations received and not withdrawn	X where no representations received or representations withdrawn
Application for a transfer of a licence			X where representations received from Commission or responsible authority	X where no representations received from Commission or responsible authority
Application for a provisional statement			X where representations received and not withdrawn	X where no representations received or representations withdrawn
Initiating a review of a premises licence				X (Operations Manager)

<b>Review of a premises licence</b>			X	
<b>Whether representations are irrelevant, frivolous, vexatious or 'certain not to influence the determination'</b>				X
<b>Application for club gaming/club machine permits</b>			X where objections made and not withdrawn	X where no objections made or objections withdrawn
<b>Cancellation of club gaming/club machine permits</b>			X	
<b>Applications for other permits</b>				X
<b>Cancellation of licensed premises gaming machine permits</b>				X
<b>Consideration of temporary use notice</b>				X
<b>Decision to give a counter notice to a temporary use notice</b>			X	

X indicates the lowest level to which decisions can be delegated

\*Or equivalent if post designations are amended

CONSULTATION VERSION

# **APPENDIX E**

## **CRIMINAL RECORD DISCLOSURE**

CONSULTATION VERSION

### 1.0 Suitability of an applicant to hold a UFEC Permit, Prize Permit and Small Society Lottery Registration

- 1.1 The Council has a responsibility for determining the suitability of applicants to hold an UFEC or a Prize Permit and to ensure that persons submitting Small Society Lottery applications have no relevant convictions. The principles set out below will be taken into account.
- 1.2 The Council will not grant a permit to anyone unless it is satisfied that they are a suitable applicant. The Council will consider the following criteria when assessing the suitability of an applicant:
- the integrity of the applicant;
  - the competence of the applicant to carry on the permitted activities in a manner consistent with the licensing objectives; and
  - the financial and other circumstances of the applicant and in particular the resources likely to be available for the purpose of carrying on the permitted activities.
- 1.3. In order to ensure the Council is in a position to make as accurate an assessment of the applicant's suitability to hold a permit as is reasonably practicable, all applicants (including sole traders, partnerships and companies) on initial application and renewal must:
- provide a satisfactory basic criminal record disclosure from Disclosure Scotland (applicants can apply to Disclosure Scotland by telephone on 0870 609 6006, online at [www.disclosurescotland.co.uk](http://www.disclosurescotland.co.uk), by email at [info@disclosurescotland.co.uk](mailto:info@disclosurescotland.co.uk), by fax 0870 609 6996 or in writing to Disclosure Scotland at PO Box 250, Glasgow, G51 1YU)<sup>15</sup>;
  - have a satisfactory check in respect of enquiries made through the Council's Care First system (or equivalent if this is replaced or if it necessary to seek details from other local authorities), directly with West Mercia Police (or other relevant force), other local authorities and any other organisation, agency or person that the Council has deemed appropriate to seek information from;
  - provide evidence of relevant qualifications, training and/or experience to demonstrate their competence to carry on the permitted activities
  - provide evidence of their general level of solvency, in particular in terms of the financial resources they intend to use for the purposes of carrying on the permitted activities; and
  - have two satisfactory references from either professional or business sources who have known the applicant for at least two years and are in a position to comment on the applicant's general character, standing in the community,

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<sup>15</sup> The Council follows the Disclosure and Barring Service (DBS) Code of Practice for Registered Persons and Other Recipients of Disclosure Information (April 2009) and abides by the handling of DBS certificate information requirements on the secure storage, handling, use, retention and disposal of disclosure certificates and certificate information. Further information about the DBS can be found on the GOV.UK website at: <https://www.gov.uk/government/organisations/disclosure-and-barring-service/about>. Where practical, the Council encourages the use of the DBS Update Service for all applicants.

experience of working in the gambling industry and financial position. (NB the Council will not accept references from family members.)

**NB** For partnerships or companies, the above requirements apply to all partners and directors/company secretaries.

- 1.4 Persons who have not been resident within the United Kingdom for the five years prior to submitting an application, will be required to produce a certificate of good conduct or equivalent document (at their own cost) issued by the relevant Embassy or High Commission. The certificate must be authenticated, translated and sealed by the Embassy or High Commission. In the event that an applicant is not able to obtain a certificate of good conduct, they may submit a statutory declaration with regard to their conduct, which must be completed in the presence of a practising solicitor. The Council may contact the relevant Embassy, High Commission, solicitor or other appropriate body to verify any documents provided. Proof of a right to work in the United Kingdom will also be required. Contact details for Embassies and High Commissions can be found from the Foreign & Commonwealth Office (FCO) on the GOV.UK website at <https://www.gov.uk/government/world>. The FCO may be contacted for further assistance by telephone on 020 7008 1500, by email at [fcocorrespondence@fco.gov.uk](mailto:fcocorrespondence@fco.gov.uk) or by post at the FCO, King Charles Street, London, SW1A 2AH.
- 1.5 With specific reference to existing permit holders, where there is any cause for a permit to be reviewed, the Council will request the permit holder obtain a further basic criminal record disclosure, the cost of which lies with the permit holder. Where a permit holder refuses to obtain a further disclosure report, the Council will take this into consideration in determining their continuing suitability to hold a permit.
- 1.6 When assessing the suitability of an applicant to hold a permit, the Council will consider the applicant's criminal history as a whole, together with all other relevant evidence, information and intelligence including their history (e.g. complaints and positive comments from the public, level of previous compliance, and willingness to co-operate with Council officers) whilst holding a permit from the Council or any other authority. Particular attention will be given to patterns of behaviour, irrespective of the time-scale over which they have occurred, both in terms of proven criminal offences and other behaviour/conduct that may call into question the integrity, competence and/or financial standing of the applicant that may, in turn, indicate the safety and welfare of existing and potential customers may be at risk from the applicant.
- 1.7 In addition, the Council considers that an important element associated with the suitability to continue to hold a permit is the appearance and behaviour of the applicant. Consequently, the Council requires all permit holders to maintain a reasonable standard of appearance and behaviour when in contact and dealing with customers, the general public, other licensed/permitted operators, Council officers and elected members at all times.

- 1.8 Applicants and permit holders must also co-operate with any reasonable request made by an authorised officer of the Council, any police officer or other person with relevant enforcement powers under the Act.
- 1.9 The Council will also consider all criminal history, behaviour and conduct irrespective of whether the specific history, behaviour or conduct occurred whilst permit holders were directly engaged in permitted work at the time or whether they occurred during the permit holder's own personal time.

## **2.0 Criminal record disclosure**

- 2.1 The Rehabilitation of Offenders Act 1974 applies to persons who wish to apply for a permit. This means that convictions (not all) and cautions become spent in accordance with the provisions of the 1974 Act.
- 2.2 Although cautions are generally not as serious as convictions, they do require an admission of guilt before they can be issued and are therefore a valuable indication as to an applicant's character and whether they are a suitable person to be granted or hold a permit.
- 2.3 The Council does not deem that a criminal record automatically bars an applicant from holding a permit; however, it will be a significant factor when determining whether a permit ought to be granted or not. Where an applicant has previous criminal convictions, these will be considered in line with the guidance set out under 'Relevance of Criminal Convictions and Cautions' below, taking into account the 'relevant offences' listed in Schedule 7 of the Gambling Act. However, the over-riding consideration will always be to ensure the safety and welfare of the permit holder's existing and potential customers.
- 2.4 Where an applicant is the subject of an outstanding charge or summons, their application may continue to be processed; however, depending on the circumstances, it is unlikely that a decision on the application will be made until the conclusion of the criminal proceedings.
- 2.5 Where the outstanding charge or summons involves a serious offence and/or the individual's offending history and behaviour/conduct indicates a pattern of unlawful or unacceptable behaviour/character traits, then the application is likely to be refused.
- 2.6 Where there is evidence/information that an applicant has been arrested or charged but not convicted of offences but the nature of this evidence/information suggests the applicant may not be a suitable person, the Council will give serious consideration to refusing an application or revoking an existing permit.

### **3.0 RELEVANCE OF CRIMINAL CONVICTIONS AND CAUTIONS**

#### **3.1 Introduction**

3.2 The purpose of this section is to provide additional guidance to determine whether or not an applicant or an existing permit holder is a suitable person to hold a UFEC or Prize Gaming Permit as it relates specifically to convictions and cautions.

3.3 The guidance has been produced to assist the Council in its decision-making and to maintain the consistency of the decisions made. It has also been formulated to provide clearer information to current and potential applicants, with a view to minimising the cost and time spent on the licensing process by both the Council and the applicant.

3.4 The aim of the guidance is not to punish the applicant twice for a conviction or caution but to ensure that public safety is not compromised. The Council cannot review the merits of any conviction.

3.5 Each case is to be decided on its own individual merits and, where the circumstances demand, the decision making body may depart from the guidance in which case the reasons for this will be made clear.

#### **4.0 Legislation**

4.1 Schedule 10 (Paragraph 7) and Schedule 14 (Paragraph 8) of the Gambling Act 2005 sets out that the Council may prepare a statement of principles that it proposes to apply in exercising its functions in relation to UFEC and prize gaming permits and in doing so may, in particular, specify matters that the Council proposes to consider in determining the suitability of an applicant for a permit.

4.2 The Council has prepared a statement of principles in respect of UFEC and prize gaming permits and has agreed that unless it is satisfied that the person is a suitable applicant in terms of integrity, competence and financial solvency, it will not issue an UFEC Permit or a Prize Permit.

4.3 The wording of the statement of principles makes it clear that the Council will only grant a permit if it is satisfied that the person is suitable.

#### **5.0 Defining 'suitability of an applicant'**

5.1 There is no legal definition as to what definitively constitutes a 'suitable applicant'. However, because of the potential vulnerability of the customers that permit holders may come into contact with, it is incumbent on the Council to take a very robust stance when deciding whether or not a person is suitable to hold a permit granted by the Council.

5.2 In essence, a suitable applicant will be:



- Honest and trustworthy
- Not abusive, violent or threatening
- Knowledgeable and competent in the area of gambling law and practice
- Able to communicate effectively with customers

## **6.0 The Council's approach when considering convictions**

6.1 The disclosure of any convictions or cautions will not necessarily mean an applicant is an unsuitable applicant and, therefore, automatically prevented from being issued a permit. However, the Council will have regard to all live convictions and cautions and they will be assessed accordingly. Consideration will be given, but not restricted to, the following:

- How relevant the offence(s) are to the permit being applied for.
- How serious the offence (s) were.
- When the offence(s) were committed.
- The date of conviction.
- Circumstances of the individual concerned.
- The extent of any mitigating factors.
- Sentence imposed by the court.
- Whether the offence(s) form part of a pattern of offending or indicate a pattern of unacceptable behaviour.
- Any other character check considered reasonable, e.g. personal references.
- Any other factor that may be relevant.

6.2 If the Council has any doubts as to the suitability of an applicant/existing permit holder, then an application must be refused or permit revoked until those doubts can be effectively allayed through the provision of further adequate evidence.

6.3 If the applicant or holder of a permit has notified the Council of a conviction but is appealing against it to a higher court the matter will be referred to the Licensing Act Sub-committee for a decision as to whether the permit ought to be revoked.

## **7.0 Patterns of behaviour**

7.1 A series of offences or a pattern of behaviour/conduct over a period of time is more likely to give cause for concern than an isolated conviction/incident. However, that is not to say that an isolated conviction/incident cannot give cause for concern in its own right, particularly where it relates to a serious matter. In such circumstances, the Council will give significant consideration to refusing to grant a permit or to revoking an existing permit.

7.2 A serious view will always be taken where an applicant shows any tendency towards criminal and/or unacceptable/inappropriate behaviour patterns. In such instances, the Council is unlikely to consider such an applicant/existing permit holder is a suitable proper person to hold a permit and will give

significant consideration to refusing to grant a permit or to revoking an existing permit.

## 8.0 Rehabilitation periods

- 8.1 Detailed guidance (effective March 2014) on the Rehabilitation of Offenders Act 1974 is available on the GOV.UK website at <https://www.gov.uk/government/publications/new-guidance-on-the-rehabilitation-of-offenders-act-1974>
- 8.2 A person with a conviction for an offence need not be automatically barred from obtaining a permit. However, they would be expected to remain free of conviction for an appropriate period of time (as set out in Tables A and B below) and demonstrate adequate evidence that they are a suitable person to hold a permit. The onus is on the person to produce such evidence.

**NB** Simply remaining free of conviction will not generally be regarded as adequate evidence that a person is a fit and proper person.

**Table A**

<b>Sentence</b>	<b>Rehabilitation period</b> (applies from the end date of the sentence, including any licence period)
Custodial sentence* of over 48 months, or a public protection sentence**	Never spent
Custodial sentence* of over 30 months and up to and including 48 months	7 years
Custodial sentence* of over 6 months and up to and including 30 months	4 years
Custodial sentence of 6 months or less	2 years
Community order	1 year

\*Custodial sentence includes both an immediate custodial sentence and a suspended sentence.

\*\*Public protection sentence means a sentence of imprisonment imposed for specified sexual and violent offences as set out in Schedule 15 of the Criminal Justice Act 2003. (Equivalent provisions of the Armed Forces Act 2006 are also applicable.)

**Table B**

<b>Sentence</b>	<b>Rehabilitation period</b> (applies from the date of conviction)
Endorsement for a road traffic offence imposed by the court or a FPN; or if a driving licence is revoked or refused on medical grounds by the DVLA (or other body responsible for issuing the driving licence)	5 years
Penalty points for a road traffic offence	3 years
Driving disqualification*	when the disqualification ceases to have effect
Community order with no specified end date	2 years
Fine	1 year
Conditional discharge	Period of the order
Absolute discharge	None
Conditional caution	3 months or when the caution ceases to have effect if earlier
Simple caution	Spent immediately
Compensation order	On the discharge of the order (i.e. when it is paid in full); individuals must obtain and retain proof of payment from the court
Binding over order; Attendance centre order; Hospital order (with or without a restriction order)	Period of the order

\* Disqualified' – refers to the period of disqualification actually served in order to take account of the fact that a court may reduce the period of disqualification; an applicant must provide evidence to prove that the court agreed a reduction in the period of disqualification.

- 8.3 Where a person does not satisfy the rehabilitation periods referred to in the tables above, then the Council will refuse to grant a new permit or revoke an existing permit until the applicant is in a position to satisfy them.
- 8.4 The specific periods of rehabilitation are not intended to be taken as definitive time periods by which an applicant/permit holder is automatically granted a licence simply on the basis that the rehabilitation period has elapsed. Rather they are intended to give parameters for consideration when taken with the overall history of an applicant/permit holder in order to assist the Council to determine whether an applicant/existing permit holder is a suitable person or not. The rehabilitation periods will not be considered in isolation.

8.5 The Council will not grant a permit to an applicant who has been convicted of a specified sexual or violent offence unless significant and exceptional circumstances apply.

## **9.0 Gambling offences**

9.1 In addition to the consideration of rehabilitation periods, where an existing permit holder is found guilty of gambling related offences or multiple breaches of permit requirements, permit holders will be referred to the Licensing Act Sub-Committee with a view to determining whether the permit should be revoked.

## **10.0 Right of appeal**

10.1 Any applicant refused a permit on the grounds that they are not a suitable person, or who has had their permit revoked has a right of appeal by way of written complaint, to the Magistrates' Court within 21 days of the notice of decision.

## **11.0 Conclusion**

11.1 Any applicant having a previous or current conviction should not, in principle, debar them from obtaining a permit. However, previous convictions are a significant factor in the decision making process and it will inevitably be more difficult for such applicants to obtain a permit. It is this Council's policy to consider the protection of the public above all else by ensuring all holders of permits are honest and trustworthy, will not be a threat to the public, are competent in their role and able to communicate effectively. In doing so, the Council will focus on the background of an applicant as a whole and will not consider individual offences and their rehabilitation periods identified above in isolation from other factors, in particular patterns of unacceptable or inappropriate behaviour and conduct that may not necessarily be linked to proven convictions.