
Report to Clackmannanshire Licensing Board

Date of Meeting: 15 August 2017

Subject: Statement of Policy – Gambling Act 2005

Report by: Depute Clerk to the Licensing Board

1.0 Purpose

- 1.1. In December 2012, the Board adopted a Statement of Policy in respect of the Board's functions under the Gambling Act 2005.
- 1.2. The Statement of Policy lasted for a three year period, that period expired on 31 January 2017. It is therefore necessary for the Statement of Policy to be reviewed.
- 1.3. A revised Statement of Policy was put out for consultation on 31 March 2017 to those bodies detailed in Appendix 1. The consultation period ended on 28 April 2017.

2.0 Recommendations

- 2.1. It is recommended that Clackmannanshire Licensing Board approve the annexed Gambling Act 2005 Statement of Policy in respect of the period 2016 to 2019; and
- 2.2. Approve the delegation of all functions of the Board under the Gambling Act 2005 to the Clerk, except where decision making is expressly reserved to the Board or delegation is prohibited by the Gambling Act 2005.

3.0 Considerations

- 3.1. The Gambling Act 2005 requires that the Licensing Board reviews their Statement of Policy compiled under the legislation every three years. This is the third review.
- 3.2. As there has only been a small number of applications in respect of licensed premises under the Gambling Act 2005, the Clerk of the Board had taken the view that subject to legislative changes and any comments from consultees, that the Statement of Policy originally adopted by the Board was sufficient to ensure that the Board had complied with its statutory obligations.
- 3.3. No substantive representations in respect of the proposed Statement of Principles were made in response to the consultation.
- 3.4. Regulations made under the Gambling Act 2005 require that the Board advertise a notice of intention to publish a proposed Statement of Policy prior to that Statement being formally adopted by the Board. Regulations require that there is a period of four weeks between the notice of intention to publish the statement and formal adoption of the Statement.

3.5. The Board therefore required to approve the Statement of Policy prior to the issue of the notice of intention to publish the Statement. By approving the content of the Statement of Policy, the board will comply with its statutory obligations under the Gambling Act 2005 and will allow for the current statement of policy to be replaced with the Statement of Policy annexed to the report. The Annexed Statement will therefore be formally adopted by the Board on 20 September 2017 after the expiry of the 4 week period.

4.0 Sustainability Implications

4.1. None.

5.0 Resource Implications

5.1. None

6.0 Exempt Reports

6.1. Is this report exempt? Yes (please detail the reasons for exemption below) No

7.0 Equalities Impact

7.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?

Yes No

8.0 Legality

8.1 It has been confirmed that in adopting the recommendations contained in this report, the Board is acting within its legal powers. Yes

9.0 Appendices

9.1 Please list any appendices attached to this report. If there are no appendices, please state "none".

Gambling Act 2005 – Statement of Policy 2016 - 2019

10.0 Background Papers

10.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered)

Yes (please list the documents below) No

Author(s)

NAME	DESIGNATION	TEL NO / EXTENSION
Stuart McQueen	Depute Clerk to the Licensing Board	X 2085

Approved by

NAME	DESIGNATION	SIGNATURE
Andrew Wyse	Clerk to the Licensing Board	Signed: A Wyse

Clackmannanshire Licensing Board

**Statement of
Licensing Policy
2016 - 2019**

Section 349 of the Gambling Act 2005



**Clackmannanshire
Council**

www.clacksweb.org.uk

Consultation Detail

Our consultation took place between 31 March 2017 and 28 April 2017.

A list of comments made was available on the Clackmannanshire Council website at www.clacksweb.org.uk or by request to the Clerk of the Board, Legal Services, Resources and Governance, Clackmannanshire Council, Kilncraigs, Greenside Street, Alloa FK10 1EB.

Following consultation on this draft version, the revised version was approved by the Licensing Board on 15 August 2017.

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

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PART A

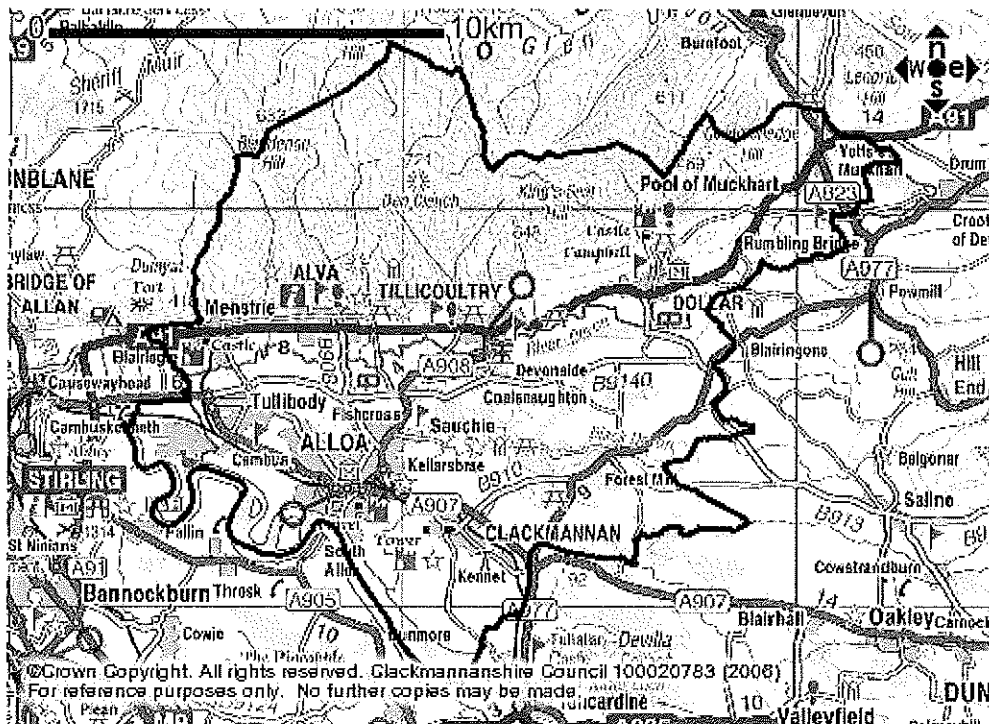
1. Introduction

- 1.1 This statement of licensing policy was approved by Clackmannanshire Licensing Board (hereinafter referred to as "the Board") on 18 August 2017 and will be published via our website on 20 September 2017.
- 1.2 All references to the Gambling Commission's Guidance for Local Authorities refer to the Guidance available on www.gamblingcommission.gov.uk
- 1.3 The Board will carry out its role under the Gambling Act 2005 (hereinafter referred to as "the Act") in a transparent manner and in the public interest.
- 1.4 The Board is committed to avoid duplication with other legislation and regulatory regimes as far as possible. Legal requirements under other legislation such as health and safety and fire precautions are not replicated in this statement.
- 1.5 This statement has been developed taking into account the statutory guidance from the Gambling Commission and we will give appropriate weight to the views of persons and organisations consulted.
- 1.6 Section 349 of the Act requires licensing authorities to publish a statement of policy that will be applied in exercising their functions under the Act. This statement fulfils that statutory requirement for the Board.
- 1.7 This statement of policy will be applied during the three-year period from December 2016; it will be kept under review during that three-year period.
- 1.8 This document should be read in conjunction with the Act, regulations made under the Act and guidance issued by the Gambling Commission. This is not an operational guide.
- 1.9 In exercising its functions under the Act, the Board, as licensing authority, will have regard to the following statutory licensing objectives:
- to prevent gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
 - to ensure that gambling is conducted in a fair and open way;
 - to protect children and other vulnerable persons from being harmed or exploited by gambling.
- 1.10 Section 153 of the Act requires us, in making decisions concerning premises licences and temporary use notices, to aim to permit the use of premises for gambling in so far as we think it is:
- in accordance with any relevant code of practice issued by the Gambling Commission;
 - in accordance with any relevant guidance issued by the Gambling Commission;
 - reasonably consistent with the licensing objectives; and
 - in accordance with this Statement of Licensing Policy.

- 1.11 Nothing in this statement will override the right of any person to make an application under the Act or to have that application considered on its individual merits, undermine the right of any person to make representations on an application or to seek a review of a licence where there is a legal power to do so.
- 1.12 Under this legislation unmet demand is not a criterion for a licensing authority in considering an application and in accordance with Gambling Commission Guidance for Licensing Authorities. Moral objections to gambling are not a valid reason to reject applications for premises licences. Therefore we will consider any application in accordance with the Act, on its own merits, without regard to demand or moral objection to gambling in general.
- 1.13 A scheme of delegation has been prepared in accordance with the Act and Gambling Commission Guidance to ensure effective management of this authority's functions under the Act. This scheme delegates all functions under the Act to the Clerk of the Board, save where the decision must be taken by the Board.

2. A Profile of Clackmannanshire

The Board is the licensing authority for the local government area of Clackmannanshire. Clackmannanshire is the smallest mainland authority in Scotland with a population of 51,360 as at 30 June 2015¹. The main settlements are Alloa and Sauchie, Clackmannan, Tillicoultry, Devonside and Coalsnaughton, and Tullibody and Cambus. Alloa is the commercial and administrative centre for the area. The area of Clackmannanshire is shown below.



¹ As published by the National Records of Scotland

3. Consultation on the Statement of Licensing Policy

- 3.1 The Board is required by the Act to publish a statement of the policy that it proposes to apply when exercising its functions. This statement must be published at least every three years. The statement must also be reviewed from time to time and any amended parts re-consulted upon. The statement must be then re-published.
- 3.2 We will consult widely on this draft statement of policy before finalizing and publishing it. A list of the persons we have sent this document to is attached at **Appendix I**. The document is available on the Clackmannanshire Council licensing website at: <http://www.clacksweb.org.uk/site/documents/licensingboard/clackmannanshirelicensingboardstatementofpolicygamblingact2005/>
- 3.3 The Act requires that the following parties are consulted by each licensing authority:
- the Chief Constable, Police Scotland;
 - one or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area;
 - one or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act.

4. Declaration

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

5. Responsible Authorities

- 5.1 We are required under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm.
- 5.2 We designate that the most appropriate body to advise the authority about the protection of children from harm is the Clackmannanshire and Stirling Child Protection Committee.
- 5.3 We do so because it operates throughout the whole of the Clackmannanshire area, being the area covered by this licensing authority and because it has the specialist knowledge and expertise to fulfil this role.
- 5.4 The Responsible Authorities under the Act are :
- the Gambling Commission;
 - the Chief Constable, Police Scotland;
 - the Chief Fire Officer, Scottish Fire and Rescue Service;
 - Clackmannanshire Council, Development Services, Planning;
 - Clackmannanshire Council, Development Services, Environmental Health;
 - Chief Social Work Officer, Clackmannanshire Council;
 - H.M. Revenue and Customs
 - The Scottish Government

subject to any other party being prescribed by Regulation by the Secretary of State or any alteration to the parties as a result of legislative reform of any of the services by the Scottish or UK Government. The contact addresses for these authorities are shown at **Appendix 2**.

6. Interested Parties

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

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

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

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

6.3 We will decide each case on its merits. We will not apply a rigid rule to our decision making but will apply local knowledge and integrity to each decision. We will consider the examples provided in the Gambling Commission’s Guidance to Licensing Authorities, being the size of the premises and the nature of the activities taking place in the premises.

7. Exchange of Information

7.1 Information, including personal data, supplied by an applicant for a licence or permission will be held and processed by the Board for its purposes as a Licensing Authority. The Board will maintain a register of all licence applications received and this will be open to public inspection. Certified copies of entries on this register may be issued to members of the public on request.

7.2 The Board acknowledges its obligation to disclose information held to:

1. the Gambling Commission;
2. the Police;
3. Enforcement Officers;
4. Licensing Authorities;
5. the Gambling Appeal Tribunal;
6. the Scottish Government; and
7. H. M . Revenue and Customs

It will also obtain information from these bodies. The Board will seek to establish agreed protocols for the disclosure or exchange of information where ever possible and will aim to adhere to any national standards or guidance published.

- 7.3 The Board will hold and process personal data in accordance under its obligations under the Data Protection Act, 1998. Data access control, general security and backup arrangements will be managed on behalf of the Board by Clackmannanshire Council in accordance with the Council's agreed policies and procedures.
- 7.4 The Board has adopted a publication scheme under Section 23 of the Freedom of Information (Scotland) Act, 2002. A copy of this scheme can be accessed on Clackmannanshire Council's website: <http://www.clacksweb.org.uk/site/documents/freedomofinformation/clackmannanshirelicensingboardpublicationscheme/> , at the Council's offices, Community Access Points and local libraries. Requests under this Act, or the Data Protection Act 1998 for access to information held, can be made to:

The Clerk to the Licensing Board, Legal Services, Resources and Governance, Clackmannanshire Council, Kilncraigs, Alloa, FK10 1EB.

8.0 Enforcement

- 8.1 In exercising our functions under the Act with regard to the inspection of premises we will be guided by the Gambling Commission's Guidance and our approach will be:
- proportionate
 - accountable
 - consistent
 - transparent
 - targeted
- 8.2 We will adopt a risk-based inspection programme. Premises will be subject to a scheme of routine inspection, the frequency of which will be determined by the risks posed; those premises considered to pose the greatest risk will be subject to more frequent inspections than those presenting a lower risk.
- 8.3 This authority will reserve stating the criteria we will use for risk-based inspections until such time as the Gambling Commission has published its own risk criteria and a risk model for premises licences has been devised.
- 8.4 The main enforcement and compliance role for this licensing authority in terms of the Act will be to ensure compliance with premises licences and other permissions which it authorises.
- 8.5 According to the principle of transparency, if this licensing authority adopts any enforcement and compliance protocols, copies will be available upon request.

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

8.7 The 2005 Act empowers licensing authority officers to carry out enforcement and inspections under the Act. The licensing authority has appointed officers to carry out its functions and will carry out inspections and enforcement in line with this statement of policy.

9. Licensing Authority Functions

9.1 This licensing authority will make decisions upon applications or notifications made for:

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

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

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

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

10. Consideration of Applications

When considering applications for premises licences permits and other permissions the Board will take certain factors into account and will consider relevant certain matters when determining whether to review a licence. These factors/matters will include:

- proximity of gambling premises to schools and vulnerable adult centres;
- proximity of gambling premises to residential areas where there is a high concentration of families with children.

It should be noted that each case will be decided on its own merits, so if an applicant can show how they might overcome licensing objective concerns that will be taken into account.

The following applications have been delegated by the Board under section 233 of the Act:

- (a) grant of fast track conversion premises licences;
- (b) grant of non-material variations administrative or minor in nature where no representations have been made or have been withdrawn;
- (c) grant of transfers where no representations have been made or have been withdrawn;
- (d) temporary use notices where the Board does not intend to give a counter notice; and
- (e) registration of societies for the holding of exempt small lotteries.

PART B

11 Premises Licences

General Policy

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

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

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

- 11.14 The Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. Its guidance envisages that attention is paid to the proposed location of gambling premises in terms of this licensing objective.
- 11.15 Where an area has known high levels of organized crime, we will consider carefully whether it is suitable to locate there and whether conditions should be imposed such as the provision of door supervisors.
- 11.16 We recognize the Gambling Commission's distinction between disorder and nuisance, disorder meaning activity which is more serious and disruptive than mere nuisance, which is not a Gambling Act licensing objective. We will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, to assess a disturbance.
- 11.17 In considering licence applications, this licensing authority will particularly take into account the following:
- the design and layout of the premises;
 - the training given to staff in crime prevention measures appropriate to those premises;
 - physical security features installed in the premises, which may include matters such as the position of cash registers or the standard of CCTV that is installed;
 - where premises are subject to age-restrictions, the procedures in place to conduct age verification checks; and
 - the likelihood of any violence, public order or policing problem if the licence is granted.

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

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

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

- 11.19 The Gambling Commission Guidance for Local Authorities states that this objective relates to preventing children from taking part in gambling as well as restriction of advertising, so that gambling products are not aimed at children or are particularly attractive to them.
- 11.20 We will consider whether specific measures are required at individual premises to promote this licensing objective. Appropriate measures may include supervision of access points or machines, or segregation of areas. We will consult with the Clackmannanshire Council Child Protection Committee on any application that indicates there may be concerns over access for children, and the appropriate Council support services where there are concerns over vulnerable persons.
- 11.21 The term "vulnerable persons" is not defined but the Gambling Commission states that "It will, for regulatory purposes, assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs."
- 11.22 This licensing authority will consider promotion of this licensing objective on a common sense, case-by-case basis.

Conditions on Premises Licences

- 11.23 Any conditions we attach to licences will be proportionate and will be:
- relevant to the need to make the premises building suitable as a gambling facility;
 - directly related to the premises and the type of licence applied for;
 - fairly and reasonably related to the scale and type of premises; and
 - reasonable in all other respects.

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

11.24 We may consider specific measures for buildings which are subject to multiple premises licences. Such measures may include:

- the supervision of entrances;
- segregation of gambling and non-gambling areas frequented by children;
- the supervision of gaming machines in non-adult gambling specific premises; and
- the display of notices regarding age restrictions.

Door Supervisors

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

11.26 The Act has amended the Security Industry Act 2001, so that door supervisors at casinos or bingo premises do not require to be licensed by the Security Industry Authority.

11.27 This Board may formulate a policy relating to registration with the licensing authority of all door supervisors working at casinos or bingo premises. This would be in recognition of the nature of the work, which might include:

- searching individuals;
- dealing with potentially aggressive and young and vulnerable persons.

If so, the policy will be made available publicly.

11.28 This is in recognition of the nature of the work in terms of searching individuals, dealing with potentially aggressive, young and vulnerable persons, etc.

12 Adult Gaming Centres

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

12.2 Appropriate licence conditions may cover issues such as:

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

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

13 Family Entertainment Centres

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

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

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

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

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

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

14 Casinos

14.1 To be completed once the Board determines in terms of section 166(5) of the Act whether or not to make a resolution that it will not issue casino licences.

15 Bingo Premises

15.1 This licensing authority notes that the Gambling Commission Guidance states:

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

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

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

16 Betting Premises

16.1 The Act contains a single class of licence for betting premises. There will be different types of premises which require licensing including betting offices on tracks, that have a separate premises licence from the track licence.

16.2 It is noted that the Gambling Commission's Guidance for Local Authorities states "Section 181 contains an express power for licensing authorities to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence or to a casino premises licence (where betting is permitted in the casino)".

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

17 Tracks

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

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

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

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

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

17.6 Appropriate licence conditions may be:

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

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

17.7 The Gambling Commission will issue Guidance addressing where such machines may be located on tracks and any special considerations that should apply to promote the licensing objectives and in particular the third one.

17.8 We note the Commission's Guidance that licensing authorities need to consider the location of gaming machines at tracks, and applicants for licences at tracks will need to demonstrate that, where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, these machines will be located in areas from which children are excluded.

17.9 We have a power under the Act to restrict the number of betting machines, their nature and the circumstances in which they are made available, by attaching a licence condition to a betting premises licence.

17.10 In accordance with the Gambling Commission's Guidance in relation to betting premises away from tracks, we will take into account the size of the premises and the ability of staff to monitor the use of the machines by vulnerable people when determining the number and nature of machines permitted.

17.11 This licensing authority also notes that the Commission Guidance is that it would be preferable for all self-contained premises operated by off-course betting operators on track to be the subject of separate premises licences. This would ensure a clear division of responsibilities.

Condition on Rules Being Displayed

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

Applications and Plans

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

"To ensure that licensing authorities gain a proper understanding of what they are being asked to licence they should, in their licensing policies, set out the information that they will require, which should include detailed plans for the racetrack itself and the area that will be used for temporary "on-course" betting facilities (often known as the "betting ring") and in the case of dog tracks and horse racecourses fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities".

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

18. Travelling Fairs

- 18.1 The licensing authority will consider whether the applicant falls within the statutory definition of a travelling fair. The Act defines a traveling fair as "wholly or principally" providing amusements and they must be on a site that has been used for fairs for no more than 27 days per calendar year.
- 18.2 Where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, it will fall to this licensing authority to decide whether the statutory requirement, that the facilities for gambling amount to no more than an ancillary amusement at the fair, is met.
- 18.3 The 27-day statutory maximum for the land being used for a fair is per calendar year and applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. The Board will work with appropriate departments of Clackmannanshire Council and neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

19. Provisional Statements

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

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

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

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

20. Reviews

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

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

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

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

PART C

21. Unlicensed Family Entertainment Centre Gaming Machine Permits

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

22. Prize Gaming Permits

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

23. Temporary Use Notices

- 23.1 Temporary use notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. They may only be granted where a relevant operating licence has been granted.
- 23.2 We note the statutory guidance where "premises" is defined as including "any place" and we will look at, amongst other things, the ownership/occupation and the control of the premises when considering any particular case.
- 23.3 A set of premises may not be the subject of a temporary use notification for more than 21 days in a period of 12 months.
- 23.4 In our consideration of temporary use notice applications we will apply any regulations made under the provisions of the Act.

24. Occasional Use Notices

- 24.1 Where there is betting on a track on 8 days or less in a calendar year betting may be permitted by an occasional use notice, without the need for a full premises licence.
- 24.2 We will ensure that the statutory limit of 8 days in a calendar year is not exceeded. We will consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of this notice.
- 24.3 We will maintain a register of all applications.

APPENDIX I

SCHEDULE OF CONSULTEES TO THIS DRAFT STATEMENT OF POLICY

This document was made available on the websites of Clackmannanshire Council:
<http://www.clacksweb.org.uk> and of Clackmannanshire Licensing Board:
<http://www.clacksweb.org.uk/regulation/licensing/>

The consultation period was from 31 March 2017 until 28 April 2017. Thereafter all responses were considered and any appropriate adjustments were made to the text.

If anyone has any queries please contact the Licensing Service, Clackmannanshire Council, Kilncraigs, Alloa FK10 1EB.

It was sent to all the consultees listed below and will be sent to any other interested party on request:-

- 1 All elected members of Clackmannanshire Council
- 2 The Gambling Commission, Victoria Square House, Victoria Square, Birmingham, B2 4BP
- 3 The Chief Constable, Police Scotland, Forth Valley Division Headquarters, West Bridge Street, FALKIRK, FK1 5AP
- 4 The Chief Fire Officer, Scottish Fire and Rescue Services, East Headquarters, 21 Claylands Road, Newbridge, EH28 8LF.
- 5 Clackmannanshire Council, Development and Environment, Planning Service, Kilncraigs, Greenside Street, Alloa, FK10 1EB
- 6 Clackmannanshire Council, Development and Environment, Environmental Health Service, Kilncraigs, Greenside Street, Alloa, FK10 1EB
- 7 Chief Social Work Officer, Kilncraigs, Greenside Street, Alloa, FK10 1EB
- 8 H.M. Revenue & Customs, National Registration Unit, Portcullis House, 21 India Street, Glasgow, G2 4PZ
- 9 RAL Limited, 368 Silbury Boulevard, Milton Keynes, MK9 2AF
- 10 The Chairman, British Casino Association, 38 Grosvenor Gardens, London, SW1W 0EB
- 11 Association of British Bookmakers Limited, Ground Floor, Warwick House, 25 Buckingham Palace Road, London, SW1W 0PP
- 12 All Community Councils within the Clackmannanshire Council area
- 13 Citizens Advice Bureau, 47 Drysdale Street, Alloa, FK10 1JA
- 14 NHS Forth Valley, Carseview House, Castle Business Park, Stirling, FK9 4SW

- 15 All Residents' Associations within the area of Clackmannanshire
- 16 The Bingo Association, Lexham House, 75 High Street, North Dunstable, Beds. LU6 1JF
- 17 Organisations carrying out gambling businesses in Clackmannanshire:-
 Betfred, 28 Ochil Street, Tullibody, FK10 2PT
 Ladbrokes Ltd., 18 Ochil Street, Tullibody FK10 2PT
 Ladbrokes, Units 6, 7 & 8 Maple Court, Shillinghill, Alloa, FK10 1JX
 Betfred, 109 Main Street, Sauchie, FK10 3JR
 Coral (Scotland) Ltd., 74-78 Mill Street, Alloa, FK10 1DY
 Betfred, 1 High Street, Alloa, FK10 1JF
 Morrisons Bookmakers, 75 Stirling Street, Alva FK12 5ED
 William Hill, Unit 2, Drysdale Street, Alloa, FK10 1JL
 Morrisons Bookmakers, 124 High Street, Tillicoultry FK13 6DX
- 18 GamCare, 2nd Floor, 7-11 St Johns Hill, London, SW11 1TR
- 19 Scottish Licensed Trade Association, Suite 19, CBC House, 24 Canning Street, Edinburgh, EH3 8EG
- 20 Clackmannanshire Business, c/o Clackmannanshire Council, Kilncraigs, Greenside Streets, Alloa, FK10 1EB.

APPENDIX 2

SCHEDULE OF RESPONSIBLE AUTHORITIES

- 1 Clackmannanshire Licensing Board, Clackmannanshire Council, Kilncraigs, Greenside Street, Alloa, FK10 1EB
- 2 The Gambling Commission, Victoria Square House, Victoria Square, Birmingham, B2 4BP
- 3 The Chief Constable, Police Scotland, Forth Valley Division Headquarters, West Bridge Street, FALKIRK, FK1 5AP
- 4 The Chief Fire Officer, Scottish Fire and Rescue Services, East Headquarters, 21 Claylands Road, Newbridge, EH28 8LF.
- 5 Clackmannanshire Council, Development and Environment, Planning Service, Kilncraigs, Greenside Street, Alloa, FK10 1EB
- 6 Clackmannanshire Council, Development and Environment, Environmental Health Service, Kilncraigs, Greenside Street, Alloa, FK10 1EB
- 7 Chief Social Work Officer, Clackmannanshire Council, Kilncraigs, Greenside Street, Alloa, FK10 1EB
- 8 H.M. Revenue & Customs, National Registration Unit, Portcullis House, 21 India Street, Glasgow, G2 4PZ

