



Licensing Board

Wednesday, 08 December 2021

NOTICE IS HEREBY GIVEN that a Meeting of the **Licensing Board** is to be held at **Remote Locations via Video Conference**, on **Wednesday, 08 December 2021** at **14:00**.

BUSINESS

1. **Sederunt**
2. **Minute of the Meeting of the Board 20 October 2021** 5 - 8
3. **Review of Statement of Policy** 9 - 36
Report by Clerk to the Board.
4. **Application List 8 December 2021**
5. **21-01452-PRELIC Highland Whisky Auctions - Application Form**
6. **21-01620-PRELIC Speyside Whisky Auctions - Application Form**
7. **21-01634-PROLIC Premier - Application Form**
8. **21-01518-PREVMA Silver Sands - Application Form**
9. **21-01586-PREVMA Badenoch's - Application Form**
10. **21-01636-PRETOA Foggies Bar - Application Form**

GUIDANCE NOTES

* **Declaration of Group Decisions and Members Interests** - The Chair of the meeting shall seek declarations from any individual or political group at the beginning of a meeting whether any prior decision has been reached on how the individual or members of the group will vote on any item(s) of business on the Agenda, and if so on which item(s). A prior decision shall be one that the individual or the group deems to be mandatory on the individual or the group members such that the individual or the group members will be subject to sanctions should they not vote in accordance with the prior decision. Any such prior decisions will be recorded in the Minute of the meeting.

** **Written Questions** - Any Member can put one written question about any relevant and competent business within the specified remits not already on the agenda, to the Chair provided it is received by the Proper Officer or Committee Services by 12 noon two working days prior to the day of the meeting. A copy of any written answer provided by the Chair will be tabled at the start of the relevant section of the meeting. The Member who has put the question may, after the answer has been given, ask one supplementary question directly related to the subject matter, but no discussion will be allowed.

No supplementary question can be put or answered more than 10 minutes after the Council has started on the relevant item of business, except with the consent of the Chair. If a Member does not have the opportunity to put a supplementary question because no time remains, then he or she can submit it in writing to the Proper Officer who will arrange for a written answer to be provided within 7 working days.

*** **Question Time** - At each ordinary meeting of the Committee ten minutes will be allowed for Members questions when any Member of the Committee can put a question to the Chair on any business within the remit of that Section of the Committee. The Member who has put the question may, after the answer has been given, ask one supplementary question directly related to the subject matter, but no discussion will be allowed.

No supplementary question can be put or answered more than ten minutes after the Committee has started on the relevant item of business, except with the consent of the Chair. If a Member does not have the opportunity to put a supplementary question because no time remains, then he/she can submit it in writing to the proper officer who will arrange for a written answer to be provided within seven working days.

THE MORAY COUNCIL

Licensing Board

SEDERUNT

Councillor Gordon Cowie (Chair)
Councillor James Allan (Depute Chair)

Councillor David Bremner (Member)
Councillor Frank Brown (Member)
Councillor Ryan Edwards (Member)
Councillor Maria McLean (Member)
Councillor Louise Nicol (Member)
Councillor Amy Taylor (Member)

Clerk Name:	Lindsey Robinson
Clerk Telephone:	07966 120593
Clerk Email:	committee.services@moray.gov.uk

Minute of Meeting of the Licensing Board

Wednesday, 20 October 2021

Remote Locations via Video Conference,

PRESENT

Councillor James Allan, Councillor Gordon Cowie, Councillor Paula Coy, Councillor Ryan Edwards, Councillor Maria McLean, Councillor Louise Nicol, Councillor Amy Taylor

APOLOGIES

Councillor David Bremner, Councillor Frank Brown

IN ATTENDANCE

Also in attendance at the above meeting were Sergeant Gill Flett, Police Scotland, Sean Hoath, Depute Clerk to the Board, Sana Sarwar, Legal Advisor, and Lindsey Robinson, Committee Services Officer as Clerk to the meeting.

1. Chair

Councillor Cowie, as Chair of the Licensing Board, chaired the meeting.

2. Declarations of Group Decisions and Members Interests

In terms of Standing Order 20 and the Councillors' Code of Conduct, the meeting noted the following declaration:

Councillor Nicol declared an interest in item 7 as she had attended the open evening of the Rothies Glen and would leave the meeting during the discussion of the item.

There were no further declarations from Group Leaders or Spokespersons in regards to any prior decisions taken on how Members will vote on any item on the agenda or declarations of member's interests in respect of any item on the agenda.

3. Minute of Meeting of 25 August 2021

The minute of the Meeting of the Board on 25 August 2021 was submitted and approved.

4. Order of Business

In terms of Standing Order 28 the meeting agreed to vary the order of business set down on the agenda and take item 4 as the last item on the agenda.

5. Chief Constable's Report Under Section 12A

A report by the Clerk to the Board placed before the Board a report from the Chief Constable, who has a responsibility to report certain matters to the Board on an annual basis.

Following consideration, and there being no one otherwise minded the Board agreed to note the contents of the report attached at Appendix 1.

6. Review of Premises Licences

A report by the Clerk to the Board asked the Board to conduct a hearing to further consider and determine the premises licence review proposal in respect of the remaining premises listed on a schedule circulated to members separately at the February meeting.

Councillor Coy was of the opinion that 6 months had lapsed and nothing had changed so was unsure about what else could be done.

In response the Depute Clerk advised that there had been numerous attempts to contact the licence holder and in terms of actions available to the Board, they could agree to continue to suspend the licence or it could be revoked.

Councillor Allan moved that the licence be revoked as the business has now closed. This was seconded by Councillor Cowie.

The Depute Clerk sought clarification that the decision was made on the same basis as the review. This was confirmed by Councillor Allan.

There being no one otherwise minded the Board agreed to revoke the licence.

Councillor Nicol left the meeting following the conclusion of this item.

7. 21-01091-PRELIC Rothes Glen House - Application Form

The Legal Advisor introduced the application and advised the Board that there were no objections, all paperwork was in order, all section 50 reports had now been received and the applicant had accepted all of the Police conditions.

The applicant gave an overview of the proposed plans for the business and answered questions from the Board.

Following consideration Councillor Allan moved granting the licence and this was seconded by Councillor Edwards.

There being no one otherwise minded the Board agreed to grant the licence.

Councillor Nicol rejoined the meeting following the conclusion of this item.

8. 21-01321-PREVMA Glen Moray Distillery - Application Form

The Legal Advisor introduced the application and advised that all paperwork was in order, there were no objections and that the applicant had agreed to all police conditions.

The applicants representative gave an overview of the application and answered questions from the Board. She also wanted to give a mention of thanks to the

Emma Rapley, Licensing Standards Officer, and the licensing team for the excellent work they do.

Following consideration Councillor Allan moved that the licence be granted. This was seconded by Councillor Edwards.

There being no one otherwise minded the Board agreed to grant the licence.

9. Personal Licence Hearing Following Disclosure of Relevant Conviction case 1 of 2021

The Depute Clerk advised the Board that as this case was still under consideration by the court it was normal practice in such cases for the hearing to be held in a closed session. This was agreed by the Licence Holder, Sergeant Flett and the Board. At that point all participants not involved with the case duly left the meeting.

A report by the Clerk to the Board notified the Board that notice of relevant convictions has been received from a personal licence holder.

The Board noted that the Licence Holder was in attendance. The Chief Superintendent was represented by Sergeant Gill Flett, Police Scotland. The Board heard from the Sergeant Flett and the Licence Holder.

Following consideration Councillor Coy moved that the licence be revoked as she did not consider the licence holder to be a fit and proper person to hold a licence. This was seconded by Councillor Edwards.

The Depute Clerk advised that the Licensing Objectives needed to be applied to any decision.

Councillor Coy further stated that it was her opinion that the licence holder had no regard and failed to promote any of the licensing objectives, further supporting her motion that having regard to all of the licensing objectives, the licence holder was not a fit and proper person to hold a licence and that the licence should be revoked.

There being no one otherwise minded the Board agreed to revoke the licence.



REPORT TO: MORAY LICENSING BOARD 8 DECEMBER 2021

SUBJECT: REVIEW OF STATEMENT OF POLICY - LICENSING (SCOTLAND) ACT 2005

BY: CLERK TO THE BOARD

1. Reason for Report

- 1.1 The reason for this report is to advise the Board with regard to the statutory obligation to develop, consult and publish a policy statement setting out the principles they propose to apply to the exercise of their functions under the Gambling Act 2005.
- 1.2 Every Licensing Board must, before the beginning of each relevant period of three years, publish a statement of their policy.
- 1.3 The current period started on the January 2018 and is due to expire at the end of December 2021. A revised policy statement must be in place and publicised by then.

2. Recommendations

2.1 It is recommended that the Board:-

- i. Note the statutory obligation to develop, consult upon and publish a statement of licensing policy and note that a revised policy must be in place for January 2022;**
- ii. Note the terms of the final policy as reviewed and developed by the Board following research produced at Appendix 1.**
- iii. Note the policy has been the subject of formal consultation for the period of 11 October 2021 to 30 November 2021.**
- iv. Approve a final policy statement for publication.**

3. Background

- 3.1 The Gambling Act 2005 requires the Board to publish a Statement of Policy as to how it proposes to exercise its powers under the Act.
- 3.2 The Statement of Policy must be revised in line with the 3 year cycle set by the Act. The last revised statement was published in 2019 and a new revised

statement is due to be published before the the end of 2021. The Board may also review the policy at any time within the 3 year period.

- 3.3 The Board consulted certain persons/bodies as part of the process of preparing or revising the policy statement. Those are:
- The Chief Constable
 - One or more persons representing the interests of persons carrying on gambling business in the area
 - One or more persons representing the interests of persons likely to be affected by gambling in the area

Further Consultation

- 3.4 The draft revised policy statement was then subjected to a further formal and extensive consultation period of approximately 7 weeks from the 11 October 2021 up to 30 November 2021.
- 3.5 The formal consultation produced no responses.
- 3.6 The Board is requested to consider and make any final adjustments to the revised policy as the Board considers necessary or appropriate before final approval.
- 3.7 Once approved, the final policy statement will ultimately be published on both the Council's web site and at certain premises like Access points and main libraries where the document may be inspected. The publication must be available for inspection by the public free of charge.

4. SUMMARY OF IMPLICATIONS

The provisions of licensing directly relate to the priorities within the 10 Year Plan in relation to healthier citizens, a growing and diverse economy and safer communities. Licensing exists to promote public safety, in this context for both staff and customers. Industries that undertake licensable activities can have positive effects on tourism and aid a growing economy.

(a) Policy and Legal

Policy and Legal implications have been explained above.

(b) Financial implications

The costs associated with implementing the policy is being met from existing budgets. This is a statutory requirement.

(c) Risk Implications

None identified. It is a legal requirement to implement these licence types and amend the current licence types.

(d) Staffing Implications

Staff time is being met from existing resources.

(e) Property

There are no property implications arising from this report.

(f) Equalities/Socio Economic Impact

None required

(g) Consultations

Full consultation has been carried out as previously described

5. Conclusion

- 5.1 It is proposed that the Board note the requirement to develop, consult upon and publish a Statement of Policy as to how it will exercise its functions under the Gambling Act 2005, note the results of the formal consultation, amend the policy as the Board deems necessary or appropriate and instruct the Clerk to proceed to publish the final approved policy.**

Author of Report: Sean Hoath, Senior Solicitor, Depute Clerk to the Licensing Board
Background Papers:
Ref: SAH

THE MORAY COUNCIL

STATEMENT OF LICENSING POLICY

This is the Statement of Principles (“licensing policy”) the Moray Licensing Board (“the Board”) propose to apply in the exercise of their functions under the Gambling Act 2005 (“the Act”) during the three year period from 2019 to 2022. This Statement has been prepared in terms of section 349(2) of the Act.

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Part I

Background Scope and General Functions

1. Objectives

The Board intends its licensing policy to promote three broad objectives set out in the Gambling Act 2005. These are:

- To prevent gambling 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 prevent children and other vulnerable people from being harmed or exploited by gambling.

2. Functions & Scope

In short, the matters dealt with in this policy are: How we will approach the functions we are obliged to discharge under the Act; what we will do when faced with certain applications or situations over which we have jurisdiction; how we will operate so as to achieve the objectives of the Act.

The Board will also follow any regulations and statutory guidance issued in accordance with the Act and have regard to any codes of practice issued by the national gambling regulator, the Gambling Commission.

The Board is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks 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 document.

In particular this policy says what we will do in relation to our functions toward

- Casino premises;
- Bingo premises;
- Betting premises, including tracks;
- Adult gaming centres;
- Family entertainment centres – Licensed and Unlicensed;
- Club Gaming Permit;
- Club Machine Permit;
- Prize Gaming Permit;
- Alcohol Licensed Premises – Gaming Machine Permit;
- Occasional Use Notices;
- Temporary Use Notices;
- Provisional Statements;
- Registration of Small Society Lotteries;
- Travelling Fairs;

The geographical area covered by this licensing policy is the Moray Council local government area.

3. Introduction to Moray

Moray has a population of approx. 90,000 with three quarters of those living in or around the five main centres of Elgin, Forres, Keith, Buckie and Lossiemouth.

Traditionally there has been a reliance on fishing, farming, food, forestry, textiles and whisky. Service industries, including information services, continue to grow. The two RAF bases at Kinloss and Lossiemouth contribute greatly to local earnings and bring skilled and qualified staff in the area. Unemployment rates continue to be well below the Scottish average. Main transport links are via Inverness to the west and Aberdeen to the east, both of which have their own air connections.

4. Declaration

In adopting this Statement the Board has had regard to the licensing objectives of the Act, the guidance issued by the Gambling Commission and responses from persons consulted in terms of paragraph 5.

5. Policy Consultation

In terms of Section 349(3) of the Act the Board has undertaken a comprehensive consultation exercise with the following parties in the preparation of its licensing policy:

- Police Scotland;
- Scottish Fire & Rescue Service;
- The Moray Local Licensing Forum;
- NHS Grampian;
- The Moray Alcohol and Drug Partnership;
- Moray Faculty of Solicitors;
- British Casino Association;
- Association of British Bookmakers Limited;
- Religious sector – Church of Scotland, Catholic Church and Non Denominational;
- The Gambling Commission;
- Bingo Association Great Britain;
- Moray Licensed Trade Association;
- Existing holders of Betting Office and Bingo Licences;
- Holders of Gaming Machine Permits (via newsletter);
- Community Councils;
- Representatives of Moray Council's Environmental Services Department.
- Community Associations
- Community Planning Partnership
- Social Services
- Moray Women's Aid

6. Responsible Authorities

Certain agencies act as responsible authorities so that they can employ their particular area of expertise to help promote the licensing objectives. Applicants and/or the Moray Licensing Board will give notice of certain applications to responsible authorities and those authorities are able to make representations about licence applications.

In addition a responsible authority can apply for a review of an existing licence and offer advice and guidance to applicants.

The Board is required to designate a body which is competent to advise the authority about the protection of children from harm having regard to:

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

The Board has designated the Children and Families Service of the Moray Council as the body competent to advise the Board about the protection of children from harm.

The contact details of all the responsible authorities under the Gambling Act 2005 are:

The Gambling Commission
Victoria Square House, Victoria Square
Birmingham
B2 4BP

Tel: 0121 230 6666
Fax: 0121 233 1096
info@gamblingcommission.gov.
uk

Moray Licensing Unit
Police Scotland
Divisional Headquarters
Moray Street
Elgin
IV30 1JL

Legislative Fire Safety Officer
Grampian Fire & Rescue Service
Elgin City Fire Station
Wards Road
Elgin
IV30 1NL
The Moray Council
Chief Executive's Department
Council Offices, High Street
Elgin, IV30 1BX

7. Interested Parties

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

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

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

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

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.

Persons desirous of making representations should note that the Gambling Act 2005 does not include as a specific licensing objective the prevention of public nuisance. Objections to new premises or requests for reviews should be based on the licensing objectives of the Gambling Act 2005.

It is intended that further more detailed guidance on making representations will be provided separately.

8. Data Protection and Exchange of Information

Information supplied by an applicant for licence or permission to the Board will be held and processed by the Board for its purposes as a licensing authority. That data will be disclosed to the Gambling Commission, Police and other public bodies involved with licensing, processing and enforcement. The Board will enter data on its register of applications which may be inspected by members of the public on request and certified copies of entries on this register may be issued to members of the public on request and on payment of the appropriate fee. Applicants may check or amend data held or request deletion of data by contacting the Clerk of the Licensing Board, Council Offices, High Street, Elgin, IV30 1BX.

The Board has adopted a freedom of information scheme under section 23 of the Freedom of Information (Scotland) Act 2002. A copy of this scheme can be accessed on the Moray Council website - www.moray.gov.uk.

The Board is committed to tackling fraud to ensure that services and funds are provided to those who most need them. One way we may do this is to provide information about our licence holders to Audit Scotland for use in a National Fraud Initiative (NFI) data matching exercise. This exercise is completed every two years. The information we may supply would be compared with data held by various departments of the council and with information provided by other public bodies.

Part II

Promotion of the Licensing Objectives

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

The Gambling Commission will take a lead role in keeping gambling crime free by vetting all applicants for personal and operators licences. The Board's main role is to try and promote this area with regard to actual premises. Thus, if an area is perceived to have high levels of organised crime the Board will consider carefully whether gambling premises are suitable to be located there and whether conditions may be required such as the provision of door supervision.

There is a distinction between disorder and nuisance. In order to make the distinction, when incidents of this nature occur, the Board will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it.

Issues of nuisance cannot be addressed by the Gambling Act provisions however problems of this nature can be addressed through other legislation as appropriate.

10. Ensuring that gambling is conducted in a fair and open way

The Board is aware that except in the case of tracks generally the Gambling Commission does not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences.

However the Board will familiarise itself with operator licence conditions and will communicate any concerns to the Gambling Commission about misleading advertising or any absence of required game rules or other matters as set out in the Gambling Commission's Code of Practice.

11. Protecting Children & Young Persons

The Act itself provides definitions of "children" and "young persons" as follows:

A "child" means an individual who is less than 16 years old.

A "young person" means an individual who is not a child but who is less than 18 years old.

The licensing objective is to protect children from being harmed or exploited by gambling however for the purpose of this section protection will be taken to include the protection of young persons.

The objective encompasses children/young persons accessing gambling in any capacity including taking part in gambling as well as advertising of gambling products and undertaking work associated with providing gambling facilities.

The Board will pay particular attention to any codes of practice which the Gambling Commission issues as regards this licensing objective in relation to specific premises.

The Board will consult with the Children and Families Service on any application that indicates there may be concerns over access for children or young persons.

Significant weight will be given to all matters relating to the protection of children and young persons. An applicant for a premises licence must comply explicitly with the Act and any recognised codes of practice (including those in respect of advertising) regarding the permitted access or exclusion and participation of children and young persons. Subject to the exemptions within the Act applicants for a premises licence may also be required to provide evidence that employee age checks are carried out to ensure no child or young person is being employed when facilities for gambling are being provided. Where the Board determines that there may be a risk of harm to children in relation to particular premises, it may (where permitted) exclude or limit the access of children to the premises at specific times or when certain activities are taking place. Where the Act permits access to children and young persons the Board will, in appropriate circumstances, attach conditions to the premises licence specifically to ensure the protection of children and young persons. Issues of concern may be:

- The location and/or configuration of the premises;
- Supervision of entrances;
- Clear signage externally regarding age restricted premises (over 18 years of age);
- Age verification checks;
- Clear segregation of gambling and non gambling areas;
- Clear signage regarding age restricted areas;
- Supervision of access to gambling areas;
- Supervision of gambling machines;
- Age verification checks of employees, and persons employed through an employment agency.

The Board may, in appropriate circumstances, attach conditions to a premises licence in order to ensure adequate supervision by adult staff. It may also set requirements regarding the appropriate number of adult staff to be present at the premises based on the numbers of children present.

12. Protecting Other Vulnerable Persons

With regard to other vulnerable people the Board does not seek to prohibit particular groups of adults from gambling in the same way that it seeks to prohibit children and young persons but it will assume, for regulatory purposes, that 'vulnerable people' includes:

- People who gamble more than they want to;
- People who gamble beyond their means; and

- People who may not be able to make an informed or balanced decision about gambling due to a mental impairment, excessive alcohol consumption or drug taking.

Applicants for premises licences, permits and authorisations will be expected to have awareness that for some people gambling activities can present a potential harm. An applicant will be required to ensure that all members of their staff receive adequate training and clear instruction regarding this issue, and will also be required to comply with any code of practice and guidance issued by the Gambling Commission. The Board may also consider it appropriate to attach a condition to all premises licences requiring the holder to display in a prominent position, posters/leaflets providing the contact details for various Support Groups and Organisations specifically set up to assist people who may wish to seek help or advice regarding gambling related issues.

Applicants may consider the following example measures for protecting and supporting vulnerable persons:

- Leaflets offering assistance to problem gamblers being made available on gambling premises in locations that are both prominent and discreet. A discreet location might be, for example, toilets;
- Training for staff members which focuses on building an employee's ability to maintain a sense of awareness of how much (e.g. how long) customers are gambling, as part of measures to detect persons who may be vulnerable;
- Trained personnel for the purpose of identifying and providing support to vulnerable persons;
- Self-exclusion schemes which may extend to co-operation amongst operators on self-exclusion schemes;
- Stickers or notices on gaming machines to identify the stakes/prizes;
- Operators should demonstrate their understanding of best practice issued by organisations that represent the interests of vulnerable people;
- Fixed Odds Betting Terminals should clearly display the odds;
- Positioning of ATM machines;
- Stickers / posters with GamCare Helpline and website in prominent locations, i.e. on ATM machines;
- Careful selection and review of the placing and content of advertisements and other promotional material.

It should be noted that some of these measures form part of the mandatory conditions placed on premises licences but the Board may consider any of the above or similar measures as licence conditions should these not be adequately addressed by any mandatory conditions, default conditions or proposals from the applicant.

Part III

General Consideration and Determination of Applications

The Board may issue premises licences to allow those premises to be used for certain types of gambling e.g. amusement arcades, bingo halls, bookmakers and casinos.

Applicants should also be aware that the Gambling Commission has issued Codes of Practice for each interest area for which they must have regard. The Board will also have regard to these Codes of Practice.

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

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

In the event that the Gambling Commission issues further guidance on any issues that should be taken into account in relation to the suitability and layout of premises and/or in relation to other permits/permissions the Board will consider such guidance.

Nothing in this statement will:

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

The Board will consider any application in accordance with the Act, on its own merits, without regard to demand or moral objection to gambling in general.

By section 155 of the Act, the Board may arrange for the delegation of certain of its functions to a Committee of the Board, the Clerk of the Board or any person appointed to assist the Clerk. We may delegate certain powers where we consider it appropriate. A copy of the Board's scheme of delegation can be accessed separately on the website at www.moray.gov.uk/licensing or is available upon request to the Clerk to the Board at the Council Offices.

Gaming Machines

The Board notes Gambling Commission Guidance and the Gambling Commission published information related to gaming machine categories here <http://www.gamblingcommission.gov.uk/for-gambling-businesses/Compliance/Sector-specific-compliance/Arcades-and-machines/Gaming-machine-categories/Gaming-machine-categories.aspx>.

In relation to gaming machines, the Board will normally expect the applicant to:

- identify the types of gaming machine which will be placed on the premises; and
- particularly have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling; and
- satisfy the authority that there will be sufficient measures to ensure that persons under 18 years of age do not have access to adult only gaming machines. Appropriate licence conditions may cover issues such as: proof of age schemes, CCTV, door supervisors, supervision of entrances / gaming machine areas, physical separation of areas, location of entry, location of adult gaming machines, notices / signage, specific opening hours, self barring schemes, provision of information leaflets / help line numbers for organisations such as GamCare or GamblingAware.

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

13. Premises Licences

Premises licences are subject to the permissions/restrictions. Licensing authorities are able to exclude default conditions and also attach other conditions, where it is believed to be necessary and proportionate.

It is possible for a single building to be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This will always be a question of fact and degree in all the circumstances and the Board will take particular care in considering applications for multiple licences.

The Board has not adopted any specific policy in relation to areas where gambling premises should not be located. This will be kept under review, especially in the event of further information on specific areas being brought to the Board's attention.

The Board will also pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). Issues to consider before granting such applications include whether children can gain access, compatibility of the two establishments; and the ability to comply with the requirements of the Act.

The Board is aware that demand issues (e.g. the likely demand or need for gambling facilities in an area) and moral objections to gambling cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. With regards to these objectives, particularly upon receipt of any relevant representations, it may be appropriate to look at specific location issues including:

- The possible impact a gambling premises may have on any premises that provide services to children or young people, i.e. a school, or vulnerable adult centres in the area;

- The possible impact a gambling premises may have on residential areas where there may be a high concentration of families with children;
- The size of the premises and the nature of the activities taking place;
- Any levels of organised crime in the area.

The Board will need to be satisfied that there is sufficient evidence that the particular location of the premises would be harmful to the licensing objectives. Such evidence may be used to inform the decision the Board makes about whether to grant the licence, to grant the licence with special conditions or to refuse the application. The absence of evidence to directly link granting a premises licence with harm to one or more licensing objectives will mean that the Board may be required to grant the licence.

In the absence of a policy in relation to areas, the principle is that this policy does not preclude any application being made and each application will be decided on its merits.

The Gambling Commission's [Licence conditions and codes of practice](#) (LCCP) formalise the need for operators to consider local risks. In addition the Social responsibility (SR) code requires licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In undertaking their risk assessments, they must take into account relevant matters identified in the licensing authority's policy statement.

14. Duplication with other Regulatory Regimes

The Board will seek to avoid any duplication with other statutory/regulatory systems where possible, including planning. The Board will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though, listen to, and consider carefully, any concerns about proposed conditions which are not able to be met by the applicant due to planning restrictions, should such a situation arise.

15. Conditions

The Board is aware that mandatory and default conditions have been set which are necessary for the general good conduct of gambling premises. These make it less likely that the Board will need to impose individual conditions. If the Board is minded to do so because there is regulatory concerns of an exceptional nature, then any additional licence conditions must relate to the licensing objectives.

Where there are specific risks or problems associated with a particular locality, or specific premises, or class of premises, the Board may attach individual conditions to address this. Any conditions attached will be:

- Proportionate;
- Relevant to the need to make the proposed building suitable as a gambling facility;

- Directly related to the premises and the type of licence applied for, and/or related to the area where the premises is based;
- Fairly and reasonably related to the scale, type and location of premises;
- Consistent with the licensing objectives; and
- Reasonable in all other respects including being within the power of the licence holder.

The Board 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.

The Board will also expect the applicant to offer his/her own suggestions as to the way in which the licensing objectives can be met effectively.

Where certain measures are not already addressed by the mandatory/default conditions or by the applicant, the Board may consider licence conditions to cover issues such as:

- Proof of age schemes;
- CCTV;
- Supervision of entrances;
- Supervision of machine areas;
- Physical separation of areas;
- Location of entrance points;
- Notices / signage;
- Specific opening hours;
- A requirement that children must be accompanied by an adult;
- Enhanced CRB checks of the applicant and/or staff;
- Support to persons with gambling addiction;
- Policies to address seasonal periods where children may more frequently attempt to gain access to premises and gamble such as half terms and summer holidays;
- Policies to address the problems associated with truant children who may attempt to gain access to premises and gamble;
- Any one or a combination of the measures.

This list is not mandatory or exhaustive and is merely indicative of examples.

There are conditions which cannot be attached to premises licences and those are:

- Any condition on the premises licence which makes it impossible for the applicant to comply with an operating licence condition;
- Conditions relating to gaming machine categories, numbers, or method of operation;
- Conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated); and

- Conditions in relation to stakes, fees, winnings or prizes.

16. Door Supervision

The Board consider whether there is a need for door supervision in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime. It is noted though that the Gambling Act 2005 has amended the Private Security Industry Act 2001 and that door supervisors at casinos or bingo premises are not required to be licensed by the Security Industry Authority. Where door supervisors are provided at these premises the operator should ensure that any persons employed in this capacity are fit and proper to carry out such duties.

Part IV Matters Specific to Particular Types of Application

17. Casinos

There is no resolution to prohibit casinos in the Board's area at present. However, the Board reserves its right to review this situation and may, at some time in the future, make such a resolution.

18. Bingo

An applicant for a premises licence must comply explicitly with the Act regarding the exclusion of children and young persons from any area where category C (see separately published schedule for machine categories) or above machines are made available for use. The Board will firstly expect applicants to offer their own measures to promote the licensing objectives. However the Board may attach conditions to the licence.

19. Betting

Other than in the case of tracks, for which special rules apply, children and young persons will not be able to enter licensed betting premises.

It is noted that the Gambling Commission's Guidance for Local Authorities states that 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. The Commission states this in connection with a restriction on the use of what are termed Self-Service Betting Terminals (SSBTs) although the power is more general in nature. When considering whether to impose a condition to restrict the number of betting machines in particular premises, the Board 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 such machines by children and young people or by vulnerable persons.

The Board will expect applicants to offer their own measures to promote the licensing objectives however the Board may attach conditions to the licence.

In accordance with the Gambling Commission's Guidance for Local Authorities – "Should a licensing authority receive an application to vary a premises licence for betting in order to extend the opening hours, the authority should satisfy itself that the reason for the application is in line with the requirements of the operating licence conditions."

20. Track Betting

Children and young persons are allowed to be present on the track while a sporting event is taking place on those licensed premises. This authority will particularly consider the impact of the third licensing objective in this area.

The Gambling Commission's Guidance that Tracks may be subject to more than one premises licence, provided each licence relates to a specified area of the track. This would ensure a clear division of responsibilities.

An application for a track premises licence will be required to submit detailed plans of the premises in order that the Board understands clearly what it is being asked to licence. This should include detailed plans for the racetrack itself and the area that will be used for temporary "on-course" betting facilities (also 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.

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. The Board will follow guidance to be issued by the Gambling Commission addressing where gaming machines may be located on tracks and any special considerations that should apply to promote the licensing objectives and in particular the third objective.

An applicant for a premises licence must comply explicitly with the Act regarding the permitted access or exclusion of children and young persons from gambling areas. The Board will expect applicants to offer their own measures to promote the licensing objectives however the Board may attach conditions to the licence.

21. Adult Gaming Centres

An applicant for a premises licence must comply explicitly with the Act regarding the exclusion of children and young persons. No children or young person (under 18 years old) must be permitted to have access to the premises.

The Board will expect applicants to offer their own measures to promote the licensing objectives however the Board may attach conditions to the licence.

22. Licensed Family Entertainment Centres

An applicant for a premises licence may comply explicitly with the Act regarding all category C gaming machines on the premises.

No children or young persons must be permitted access to restricted areas of the premises where category C gaming machine are sited. There will need to be segregation between the different gaming machine types.

The Board will expect applicants to offer their own measures to promote the licensing objectives however the Board may attach conditions to the licence. Particularly, applicants should have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling.

In accordance with the Gambling Commission's Guidance, the Board will ensure that it is sufficiently aware of any conditions that apply to operating licences, for instance those covering the way in which the area containing the category C or higher machines should be delineated. It will also be aware of any mandatory or default conditions on premises licences.

23. Unlicensed Family Entertainment Centres (uFECs)

We note that the Board can grant or refuse a licence but cannot attach conditions to this type of permit. However the Act imposes mandatory conditions on Unlicensed FEC gaming machine permits

The Gambling Act 2005 contains provision for local authorities to prepare a "Statement of Principles" that they propose to consider in determining the suitability of an applicant for a permit. Schedule 10, Para 7 of the Act states "In preparing this statement, and/or considering applications, it the licensing authority need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under Section 25.

In line with the above provision the Board has prepared a 'Statement of Principles' in relation to unlicensed family entertainment centre gaming machines as follows:

Statement of Principles for uFECs

Suitability of Applicant

The Board will expect, as per the Gambling Commission Guidance, applicants to demonstrate:

- A full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- That the applicant has no relevant conviction (those that are set out in Schedule 7 of the Act); and

- That staff are trained to have a full understanding of the maximum stakes and prizes.

Suitability of Premises

In relation to suitability of premises the Board will have particular regard, amongst all circumstances, to:

- The location of the premises;
- Evidence that a premises will only operate as an unlicensed family entertainment centre;
- Confirmation of intended opening hours;
- Display of posters and information leaflets for organisations set up to assist people wishing to seek help and advice regarding gambling related issues;
- Any other factors that are within the control of the permit holder or designated management.

Policies and Procedures

The Board will expect the applicant to show that there are policies and procedures in place to protect children from harm. Applicants should undertake a full risk assessment specific to the type of premises, location, clientele and possible harm. For the avoidance of doubt, in this context harm is not limited to harm from gambling but should include wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include:

- Appropriate measures and training for staff e.g. as regards suspected truant children on the premises;
- Measures and training covering how staff would deal with unsupervised very young children being on the premises;
- Measures and training covering how staff would deal with children causing perceived problems on or around the premises;
- Detailed arrangements for the supervision of premises whether by staff or the use of CCTV. Any CCTV system installed should be to the satisfaction of the Board and Grampian police and notice must be displayed at the entrances advising that CCTV is in operation;
- Due to the nature of these premises, which are attractive to children, applicants who employ staff to supervise the premises should determine if their staff need to be background checked.

The Board recognises that it cannot attach conditions to this type of permit but can refuse applications if they are not satisfied that the issues raised in the “Statement of Principles” have been addressed through the application. Applicants only need to address the “Statement of Principles” when making their initial applications and not at renewal time.

The Board will give significant weight to all issues relating to the protection of children and young persons.

The Board may not refuse an application unless it has notified the applicant of the intention to refuse and the reasons for it, and given them an opportunity to make representations orally or in writing or both.

24. Club Gaming Permit & Club Machine Permit

Clubs must have regard to the protection of children and vulnerable persons from harm or being exploited by gambling. They must provide sufficient measures to ensure that under 18 year olds do not use the adult only gaming machines. These measures may include:

- the machines being in close proximity to the bar, or in any other area where they are capable of being adequately supervised;
- notices and signage;
- the provision of information leaflets / helpline numbers for organisations such as GamCare.

Before granting any permit the Board will need to satisfy itself that the premises meets the requirements of a members' club and that the majority of members are over 18. The Board may request a copy of the constitution and/or other documents for this purpose.

25. Prize Gaming Permit

The Gambling Act 2005 contains provision for local authorities to prepare a "Statement of Principles" that they propose to consider in determining the suitability of an applicant for a permit, having regard to the licensing objectives and guidance issued by the Gambling Commission. The Board has prepared a Statement of Principles in relation to prize gaming permits as follows:

Statement of Principles

The Board will expect the applicant to show the applicant's suitability to hold a permit and that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, matters to address will include:

- The location of the premises;
- Confirmation of intended opening hours;
- Confirmation of the types of gaming to be offered;
- The applicant will be required to demonstrate they fully understand the limits to stakes and prizes that are set out in Regulations;
- The applicant will be required to demonstrate the gaming offered is within the law;
- Ensuring a premises maintains acceptable levels of management supervision at all times during opening hours;
- Ensuring a premises maintains acceptable levels of security at all times during opening hours;
- CCTV provisions at the premises;

- Surveillance of the premises;
- Evidence that members of staff are appropriately trained including training for staff as regards suspected truant children on the premises and how staff would deal with children causing perceived problems on or around the premises;
- Any other factors that are within the control of the permit holder or designated management.

In line with the Act, while the council cannot attach conditions to this type of permit, the council can refuse applications if they are not satisfied that the issues raised in the “Statement of Principles” have been addressed through the application. Applicants only need to address the “Statement of Principles” when making their initial applications and not at renewal time.

There are conditions in the Gambling Act 2005 by which the permit holder must comply. The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

The Board may grant a permit only if the appropriate Chief Constable has been consulted about the application.

The Board may not refuse an application unless they have notified the applicant of the intention to refuse and the reasons for it, and given them an opportunity to make representations orally or in writing or both.

26. Alcohol Licensed Premises – Gaming Machine Permit

The Board will comply with any guidance produced by the Gambling Commission, and when considering a permit application will take account of the licensing objectives and such other matters as are thought relevant. The Board may request further information from an applicant regarding any matters of concern, which may include:

- A plan showing the location and category of gaming machine being sought; and
- Full details as to how machines will be supervised including all proposed precautions for preventing persons under eighteen from using any category of gaming machine being sought and how it would be implemented. This is

especially true in alcohol licensed premises where it is stated that children and young persons may have access to all parts of the premise.

Each application will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling. The Board will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that children and young people under the age of 18 do not have access to the adult only gaming machines. Measures which may satisfy the Board that persons under 18 years will be prevented from using the machines may include the machines being in close proximity to the bar, or in any other area where they are capable of being adequately supervised.

It is recognised that some alcohol licensed premises may apply for a form of gambling premises licence for their non-alcohol licensed areas. Any such application would need to be dealt with under the relevant provisions of the Act.

The Board may decide to grant an application with a smaller number of machines and/or a different category of machine but cannot attach any other conditions.

27. Occasional Use Notices

In considering an application for an occasional use notice the Board will consider the definition of a “track” and whether the applicant is permitted to avail him/herself of the notice.

A notice must be served on the Board and copied to the Chief Constable. The notice must be served by a person who is responsible for the administration of events on the track, or by an occupier of the track.

The notice must specify the day on which it has effect, and may be given in relation to consecutive days providing the overall limit of 8 days is not exceeded in a calendar year.

The Board will maintain a record of the number of notices served in a calendar year to ensure the limit of 8 days is not exceeded.

28. Temporary Use Notices

Each application for the grant of a Temporary Use Notice will be considered and determined on its individual merits.

It is for the Board to determine in each case what constitutes premises having regard to, amongst other things, ownership, occupation and control of the premises.

Should the Board or the other bodies served with copies of the temporary use notice consider that the gambling should not take place, or take place with modifications, they will issue a notice of objection to the applicant within 14 days of the date of the temporary use notice.

Where relevant representations are made a hearing will be held before the Board or sub committee as appropriate and the application will be determined once the application and representations have been considered. If all participants agree that a hearing is unnecessary, it may be dispensed with.

29. Provisional Statements

The process for considering a provisional statement is the same as that for a premises licence.

The Gambling Commission's Guidance states 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.

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.

The Board 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.

30. Registration of Small Society Lotteries

The Board will comply with any guidance produced by the Gambling Commission, and when considering an application for registration and may request further information from an applicant regarding any matters of concern, which may include:

- The application is on behalf of a bona fide non-commercial society;
- That all persons to be connected with the promotion of the lottery have no relevant convictions or cautions recorded against them;
- The purpose of the Society and; the purpose of the fund raising;
- Confirmation of the appointment of two members of the society who have the authority to sign and complete the required financial returns;
- Evidence that an external lottery manager holds an operators licence issued by the Gambling Commission.

If the Board is intending to refuse an application to join the register the applicant will be notified in writing of the reasons why it is considering refusal, and the evidence on which it has based that preliminary conclusion. The applicant will then be given the opportunity to provide further evidence in support of the application or to make representations regarding these matters.

31. Travelling Fairs

Travelling Fairs wholly or principally provide amusements and they must be on a site that has been used for fairs for no more than 27 days per calendar year. Travelling fairs do not require a permit or licence to provide category D gaming machines or equal chance prize gaming.

The Board will also consider whether the applicant falls within the statutory definition of a travelling fair and that the facilities for gambling amount to no more than ancillary amusement. The Board will monitor the number of days a piece of land is used as a fair to ensure the maximum statutory 27 days is not exceeded in a calendar year.

Part V Compliance

32. Inspections of Premises

In exercising functions under the Act with regard to the inspection of premises the Board will be guided by the Gambling Commission's Guidance. Any approach will be:

- Proportionate
- Accountable
- Consistent
- Transparent
- Targeted

The Board will work with the Council to look at a risk based inspection programme. Premises may 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.

This authority will reserve stating the criteria we will use for risk base inspections. Consideration will be given to the Gambling Commission's own risk criteria and any risk model for premises licences.

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

33. Complaints Against Licensed Premises

The Board will investigate complaints against licensed premises in relation to matters relating to the licensing objectives for which it has responsibility. In the first instance, complainers are encouraged to raise the complaint directly with the licensee or business concerned to seek a resolution.

Where an interested party has made valid representations about licensed premises, or a valid application for a licence to be reviewed, the Board may initially recommend a conciliation meeting to address and clarify the issues of concern.

This process will not override the right of any interested party to ask that the Board consider their valid objections or for any licence holder to decline to participate in a conciliation meeting.

Due consideration will be given to all relevant representations unless they are considered to be frivolous, vexatious or repetitious.

Version Control Page

The list of sections amended in substance in January 2016 are as follows:

- 1 Update responsible authorities (page 5 section 6).
- 2 Update body responsible for advising on protection of children (page 8 section 11).
- 3 Update self-exclusion schemes (page 10 section 12).
- 4 Update policy on areas (page 12 section 13).
- 5 Update gaming machine information for section on Bingo premises (page 15 section 18).
- 6 Update information on Gambling Commission Guidance and betting (page 16 section 19).
- 7 Update information on Track betting premises (page 17 section 20) to account for updated Gambling Commission guidance.
- 8 Update gaming machine information for section on adult gaming centres (page 18 section 21).
- 9 Update gaming machine information for section on family entertainment centres (pages 18 and 19 sections 22 and 23).
- 10 Update gaming machine information for section on club gaming and machine permits (page 21 section 24).
- 11 Update section on provisional premises licences to account for updated guidance (page 27 section 29).
- 12 Update compliance to account for updated guidance (page 29 section 32).

