

FALKIRK COUNCIL LICENSING BOARD

Subject: STATEMENT OF PRINCIPLES – THE GAMBLING ACT 2005
Meeting: Licensing Board Special Meeting
Date: 20 March 2008
Author: Director of Development Services

1. INTRODUCTION

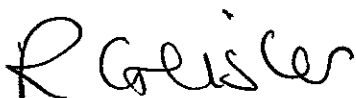
- 1.1 In terms of Section 349 of the Gambling Act 2005 every Licensing Board is required to prepare and approve "a statement of principles that they propose to apply in exercising their functions under this Act".
- 1.2 A draft Statement of Principles was considered by members at the Licensing Board Adjourned meeting on 21 November 2007 when it was agreed that the draft Statement of Principles be issued to appropriate consultees with comments to be submitted to the Licensing section by 21 February 2008; and that a revised Statement of Principles, taking cognisance of comments received where appropriate, be considered by the Licensing Board at its meeting in March 2008.
- 1.3 The proposed Statement of Principles is attached as Appendix 1 to this report

2. CONSULTATION

- 2.1 In preparing its statement, the Board is bound to consult with the police, those representing the interests of persons carrying on gambling businesses in the area and those representing the interests of persons who are likely to be affected by the Board's functions under the Act.
- 2.2 A consultation process was undertaken which concluded on 21 February 2008. One response was received from NHS Forth Valley's Public Health Directorate who advised that they had no comment to make.

3. RECOMMENDATIONS

Members consider the terms of this report and agree to formally adopt the Statement of Principles.



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Director of Development Services

Date: 17 March 2008

Contact Officer: Robert Watson, Licensing Co-ordinator

LIST OF BACKGROUND PAPERS

1. Nil



FALKIRK COUNCIL LICENSING BOARD

GAMBLING ACT 2005

STATEMENT OF PRINCIPLES

FOREWORD

This statement attempts to reflect the requirements of the Gambling Act 2005 but also to demonstrate that this licensing authority will carry out its role under that Act in a transparent manner and in the public interest.

This statement was agreed by Falkirk Licensing Board at its meeting on XX

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GAMBLING ACT 2005

STATEMENT OF PRINCIPLES

FALKIRK COUNCIL LICENSING BOARD

1. INTRODUCTION

This is the Statement of Principles (the Policy) that the Falkirk Council Licensing Board (the Board) is required to publish under the Gambling Act 2005 (the Act) in terms of Section 349(1).

The Policy has been prepared having regard to the Licensing Objectives, the Guidance prepared by the Gambling Commission ("Guidance to Licensing Authorities April 2006") and the provisions of the Gambling Act 2005 and Regulations made under that Act.

The final Statement of Principles will be adopted by the Board following full consultation.

The Policy will come into effect on _____ and will last for a maximum period of three years. The Policy will be reviewed, updated and modified as and when the Board considers it appropriate and at least every three years.

1.1 Declaration

In adopting the final Statement the Board has had regard to the licensing objectives set out in the Act, the guidance issued by the Gambling Commission and responses from persons consulted.

1.2 Geographical Area

The area covered by this Statement is the local government area served by Falkirk Council and includes the main settlements of Falkirk, Grangemouth, Denny, Larbert and Bo'ness.

1.3 Scope – Licensing Functions

This Board will make decisions upon applications or notifications made for:-

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

This statement of principles 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

The Board will not be involved in licensing remote gambling, regulation of which will fall to the Gambling Commission through operator licences.

1.4 The Licensing Objectives

In exercising its functions under the Act the Board will have regard to the licensing objectives set out in Section 1 of the Act. These are:

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

The Board will, when determining applications, consider whether the grant of a premises licence will result in an increase in crime and disorder.

The Gambling Commission, in its Guidance, has noted that "*disorder is intended to mean activity that is more serious and disruptive than mere nuisance. Factors to consider in determining whether a disturbance is serious enough to constitute disorder would include whether police assistance was required and how threatening the behaviour was to those who could see or hear it*".

The Board agrees with this statement.

The Board will, in considering licence applications, take into particular account the following:-

- (a) the design and layout of the premises;

- (b) the training given to staff in crime prevention measures appropriate to those premises;
- (c) physical security features installed in the premises. This may include matters such as the position of cash registers or the standard of CCTV that is installed;
- (d) where premises are subject to age-restrictions, the procedures in place to conduct age verification checks; and
- (e) the likelihood of any violence, public order or policing problem if the licence is granted.

1.4.2 Ensuring that gambling is conducted in a fair and open way

The Gambling Commission has stated that generally, it would not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be a matter for either the management of the gambling business, and therefore subject to the Operating Licence, or will be in relation to the suitability and actions of an individual and therefore subject to the Personal Licence, both of which are the responsibility of the Gambling Commission.

The Board agrees with the view of the Gambling Commission.

1.4.3 Protecting children and other vulnerable persons from being harmed or exploited by gambling

1.4.3.1 Protecting Children

The Board has designated the Scottish Children's Reporters' Administration as the body competent to advise the Board about the protection of children from harm.

The Board will consult with the Scottish Children's Reporters' Administration on any application that indicates there may be concerns over access for children or young persons.

The Board will seek to limit the advertising for premises so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children.

1.4.3.2 Access to Licensed Premises

With limited exceptions, the intention of the Gambling Act is that children and young persons should not be permitted to

gamble and should be prevented from entering those gambling premises which are adult only environments.

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 regarding the permitted access or exclusion of children and young persons. No children or young person must be permitted to have access to, close observation of, or be invited to participate in any gambling activities. 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.

The Board will not impose any condition that requires a licensed premises where this is simply permitted by the Act, to allow access to children, but 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 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 for 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.

The Act provides for a Code of Practice on access to casino premises by children and young persons and the Board will work closely with the police to ensure the appropriate enforcement of the law.

1.4.3.3 Vulnerable Persons

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

- persons who gamble more than they want to;
- persons who gamble beyond their means; and
- persons 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 an awareness that for some persons 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 persons who may wish to seek help or advice regarding gambling related issues.

1.5 Responsible Authorities

For the purposes of the Act, the following are responsible authorities in relation to premises:

- Falkirk Council Licensing Board
- The Gambling Commission
- Chief Constable of Central Scotland Police
- Chief Fire Officer, Central Scotland Fire and Rescue Service
- Falkirk Council

- H M Revenue and Customs

1.6 Interested Parties

A person is an interested party in relation to a premises licence or in relation to an application for or in respect of a premises licence if, in the opinion of the Board 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 a person who satisfies paragraph (a) or (b).

1.7 General Principles

- (i) Every application received will be treated fairly and will be considered on its own merits.
- (ii) Nothing in this Policy will override the right of any person to make representations on any application or seek a review of a licence or permit where they are permitted to do so under the Act.

The Board will aim to permit the use of premises for gambling as long as such use is considered to be:-

- in accordance with any relevant Codes of Practice issued by the Gambling Commission;
- in accordance with guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with this Policy.

Premises licences will be subject to the requirements set out within the Act and Regulations, as well as any specific mandatory and default conditions issued by the Scottish Ministers.

The Board may exclude default conditions and also attach other conditions where they are considered necessary to promote one or more of the licensing objectives.

The Board may consider it appropriate to attach specific conditions to a premises licence where existing legislation does not cover the unique circumstances that may arise in connection with a specific premises.

The Board will avoid, in so far as is possible, duplication with other regulatory regimes and legislation.

Any conditions imposed by the Board will be proportionate to the circumstances they are intended to address and the Board will not impose conditions which would make it impossible to comply with an operating licence condition imposed by the Gambling Commission.

All applicants for premises licences will be required to set out how they will promote the Licensing Objectives, as specified in Section 1.4 above, and what measures they intend to employ to ensure compliance with them. If no relevant representations are received then the licence will be issued with such conditions attached, as are mandatory under the Act, specified by Scottish Ministers or attached by the Board, in order to promote the licensing objectives. Where relevant representations are made (and not withdrawn) a hearing will be held before the Licensing Board or sub committee as appropriate and the application will be determined once the application and representations have been considered. However, where allowed, the Board may determine applications without a hearing with the consent of the applicant and any interested party or responsible authority who has made (and not withdrawn) representations. The Board will determine the application using and considering evidence from the applicant and any parties who have made representations.

Representations which are made outside the period prescribed by Scottish Ministers or which are, in the Board's opinion, frivolous or vexatious, will not be considered by the Board as relevant representations.

Any decisions of the Board will be relayed to the applicant as soon as is reasonably practicable and in writing.

1.8 Exchange of Information

Subject to the Data Protection Act 1998 the Board will share any information it receives through the application process with the Gambling Commission and other enforcement agencies. The Board will have regard to the Act itself and any guidance issued by the Gambling Commission and Regulations issued by the Scottish Ministers.

The Board will maintain a register of premises licences and permits issued where required and will ensure that the register is open for public inspection at all reasonable times. The information held will be in accordance with the Regulations set by the Scottish Ministers.

2. LEGISLATION, POLICIES AND STRATEGIES

2.1 Legislation

In undertaking its licensing function under the Gambling Act 2005, the Board is also bound by other legislation, including:-

1. Human Rights Act 1998;
2. Health and Safety at Work etc. Act 1974;
3. Environmental Protection Act 1990; and
4. Race Relations Act, 1976 (as amended)

However, the Board has a firm commitment to ensuring the avoidance of duplication with other regulatory regimes so far as possible. For example, it will be unwilling to use its powers under the Act when an issue is better dealt with under, for example, health and safety at work or fire safety legislation.

2.2 Relationship with Planning Policies

When determining an application, regard cannot, under the terms of the Act, be given to planning or building control permissions and/or any planning restrictions.

Unmet demand is not a criterion that can be taken into consideration when determining an application for a premises licence under the Gambling Act 2005.

The issue of a Provisional Grant of a premises licence is a separate and distinct process to the granting of Planning Permission. Planning and Building Control permissions will have to be sought and approved before any development takes place.

The Board recognises that licensing applications should not be seen as a re-run of the planning application process and there will be a clear separation of the planning and licensing regimes to avoid duplication and inefficiency.

2.3 Location – Special Policy Regarding Cumulative Impact

The Board may take into account the impact that the existence of premises may have on one area, and specifically matters relevant to the licensing objectives. The cumulative impact of new premises licences in a particular area may lead to the area becoming a focal point for certain groups of people, and thereby undermine the principles of the licensing objectives. Proper regard will be given to new premises licences and the differing impact they

will have on the local community. A new premises licence may undermine the principles of the licensing objectives due to its proximity for example to:-

- a school or other educational facility;
- a residential area with high concentration of families with children;
- a centre for children;
- a centre for vulnerable adults.

The Board will therefore consider representations from any responsible authority or interested party based on the impact on the licensing objectives if a particular application were to be granted. The onus will be on the person making the representation to provide evidence to support their assertions that the addition of the premises would have the suggested impact on the licensing objectives. Further, the Board may adopt a special policy regarding cumulative impact where it considers that a significant concentration of licensed premises will have, or is having an impact on the licensing objectives and the granting of further licences in that area would add to this impact. If it does adopt such a policy, this statement will be updated and published.

A special policy regarding cumulative impact will not be used to try and revoke an existing licence or authorisation. When representations are made about a premises licence, representations would be considered and determined in respect of the licensing objectives only. However the special policy may be a justification to refuse an application, or to vary a premises licence.

The Board recognises the difference between cumulative impact and the commercial need of premises in an area. Need is not a matter for the Board to consider as part of its licensing function.

The Board will not operate a quota of any description, including any special policy, that would prejudice an application. Each application will be considered on its individual merits.

The proximity of premises taken into consideration will vary depending upon the size and scope of the gambling premises concerned. Each case will, however, be determined on its merits. Therefore, if an applicant can effectively demonstrate how they might overcome licensing objective concerns, this will be taken into account.

Where a person, whether or not directly affected by an application or living in the vicinity of a licensable premises under consideration, puts themselves forward as representing the interests of residents in the vicinity, the Board will normally ask them to provide evidence that they are acting as representatives of others.

2.4 Door Supervisors

The Board may consider it appropriate to attach a condition to a premises licence requiring door supervisors to be present during opening hours or between specified opening hours. Where a condition is attached to a premises licence requiring door supervisors it will be a requirement that only persons licensed by the Security Industry Authority (SIA) are employed (bingo and casino premises are currently exempt from this requirement, but this may change).

The Board may also specify the number of door supervisors required and whether at least one female supervisor should be available (for example, if female customers are to be the subject of body searches).

In respect of bingo and casino premises the Board may consider it appropriate to attach a condition to a premises licence requiring the premises licence holder to maintain evidence (copies of certificates) that all door supervisors employed have undertaken accredited training.

3. DECISION MAKING

3.1 Scheme of Delegation

In terms of Section 155 of the Act, the Board may arrange for the discharge of any of its functions by a Committee of the Board, or member or members of the Board, the Clerk to the Board or any person appointed to assist the Clerk.

The Board cannot delegate certain of its functions.

It is the Board's intention to delegate its powers where it considers appropriate and as set out in Appendix 4 to this Policy.

The Board reserves the right, however, to consider and determine all applications and relevant matters under the Act.

3.2 Licensing Reviews

The Board may review any matter connected to the use made of premises if it has reason to suspect that licence conditions are not being observed, or for any other reason which gives it cause to believe that a review may be appropriate.

The Board will carry out a review of a premises licence where it has received a formal application for review in accordance with the Act that is relevant to one or more of the Licensing Objectives.

Due consideration will be given to all relevant representations unless they fit the following:-

- (a) the grounds are frivolous;
- (b) the grounds are vexatious;
- (c) the grounds are irrelevant;
- (d) the grounds will not cause the Board to revoke or suspend a licence or to remove, amend or attach conditions on the premises licence;
- (e) the grounds are substantially the same as the grounds cited in a previous application relating to the same premises; or
- (f) the grounds are substantially the same as representations made at the time the application for a premises licence was considered.

The purpose of the review will be to determine whether the Board should take any action in relation to the licence. If action is justified, the Board may:-

- (a) add, remove or amend a licence condition imposed by the Board
- (b) exclude a default condition imposed by Scottish Ministers (relating to, for example, opening hours) or remove or amend such an exclusion
- (c) suspend the premises licence for a period not exceeding three months; or

- (d) revoke the premises licence.

In particular, the Board may take action on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent applicants from applying for licences in a speculative manner without intending to use them.

3.3 Enforcement

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

- proportionate
- accountable
- consistent
- transparent
- targeted

The Board 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 by the premises i.e. those premises considered to pose a greater risk will be subject to more frequent inspections than those posing a lower risk.

When determining risk, consideration will be given to:-

- (i) the nature of the gambling activities carried out on the premises;
- (ii) the location of the premises in relation to schools, vulnerable adult centres or residential areas where there may be high concentrations of families with children;
- (iii) the procedures put in place by the management to meet the licensing objectives.

Additional random monitoring visits may be made, at the discretion of the authorised officers, where it is considered necessary to meet the needs of the licensing objectives or following receipt of complaints.

The Board's area will be monitored for unlicensed premises.

The Board agrees to work actively with the police and other partners in enforcing licensing legislation.

3.4 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 will be 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.

4. LICENSABLE PREMISES AND PERMITS

4.1 Casino Premises

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.

4.2 Bingo Premises

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 or above machines are made available for use.

The Board will expect applicants to offer their own measures to promote the licensing objectives, however, the Board may attach conditions to the licence regarding issues such as:

- proof of age scheme;
- CCTV;
- physical security measures on the premises;
- supervision of entrances;
- physical separation of gambling areas where category C or above gaming machines are made available for use;
- supervision of age restricted areas of the premises;
- self-exclusion schemes;
- clear notices and signage externally and internally regarding age restrictions and restricted areas;
- a notice specifying opening hours;
- policy and procedures regarding the employment of young persons (aged 16 and 17 where applicable);
- display of posters and information leaflets for organisations set up to assist people wishing to seek help and advice regarding gambling related issues.

This is not an exhaustive list and other conditions may be attached relevant to an individual application.

4.3 Betting Premises

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 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 regarding issues such as:-

- proof of age scheme;
- CCTV;
- physical security measures on the premises;
- supervision of entrances;
- physical separation of gambling areas;
- self-exclusion schemes;
- clear notices and signage externally regarding age restrictions;
- notice specifying opening hours;
- display of posters and information leaflets for organisations set up to assist persons wishing to seek help and advice regarding gambling related issues.

This is not an exhaustive list and other conditions may be attached relevant to an individual application.

4.4 Tracks

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 persons 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.

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, the Board will particularly consider the impact of the third licensing objective in this area.

An applicant 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.

The detailed plans must define the site, any area to be used for temporary "on-course" betting facilities, and in the case of dog tracks and horse racecourses any mobile pool betting facilities as well as any other proposed gambling facilities.

An applicant for a premises licence must comply explicitly with the Act regarding the permitted access to, 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 regarding issues such as:-

- proof of age scheme;
- CCTV;
- physical security measures on the premises;
- supervision of entrances;
- physical separation of gambling areas;
- supervision of gambling areas;
- appropriate siting of gaming machines;
- self-exclusion schemes;
- clear notices and signage regarding age restricted areas;
- notice specifying opening hours;
- display of gambling rules in prominent positions in or near betting areas;
- display of posters and information leaflets for organisations set up to assist persons wishing to seek help and advice regarding gambling related issues.

This is not an exhaustive list and other conditions may be attached relevant to an individual application.

4.5 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 regarding issues such as:-

- proof of age scheme;
- CCTV;
- supervision of entrances;
- physical security measures on the premises;
- physical separation of areas;
- self-exclusion schemes;
- notices and signage displayed externally stating access to the premises is restricted to persons 18 years of age and over;

- notices displayed internally stating use of gaming machines is restricted to persons 18 years of age and over.
- notice specifying opening hours;
- members of staff appropriately trained;
- display of posters and information leaflets for organisations set up to assist persons wishing to seek help and advice regarding gambling related issues.

This is not an exhaustive list and other conditions may be attached relevant to an individual application.

4.6 Licensed Family Entertainment Centres

An applicant for a premises licence must comply explicitly with the Act regarding all category C gaming machines on the premises (see Appendix 3 for machine categorisation). No children or young persons must be permitted access to restricted areas of the premises where category C gaming machines are sited.

The Board will expect applicants to offer their own measures to promote the licensing objectives, however, the Board may attach conditions to the licence regarding issues such as:-

- proof of age scheme;
- CCTV;
- supervision of entrances;
- physical security measures on the premises;
- physical separation of areas for category C gaming machines
- self-exclusion schemes;
- clear notices and signage around the premises regarding age restricted areas;
- notice specifying 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.

This is not an exhaustive list and other conditions may be attached relevant to an individual application.

4.7 Unlicensed Family Entertainment Centres

Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the Board for a Gaming Machine Permit. The applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.

Unlicensed Family Entertainment Centres 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.

The Board notes that it can grant or refuse a licence but cannot attach conditions to this type of permit.

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

- the suitability of the applicant;
- the location of the premises;
- evidence that a premises will only operate as an unlicensed family entertainment centre;
- the applicant being required to demonstrate that they fully understand the maximum stakes and prizes permissible in an unlicensed Family Entertainment Centre;
- confirmation of intended opening hours;
- ensuring premises maintains acceptable levels of management supervision at all times during opening hours
- ensuring premises maintain 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 and that they fully understand the maximum stakes and prizes permissible in an unlicensed Family Entertainment Centre;
- evidence of policy and procedures in respect of unsupervised very young children on the premises, or children causing perceived problems on/or around the premises;
- 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.

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.

4.8 Club Gaming Permit

A Club Gaming Permit authorises Members' Clubs to provide, subject to certain restrictions, no more than three gaming machines (categories B4, C or D) (see appendix 3 for machine categorisation), equal chance gaming and other games of chance as prescribed in regulations.

The Club Gaming Permit also allows the Club to provide facilities for Gambling provided the gambling meets a number of conditions.

The Board may grant or refuse a permit, but it may not attach any conditions. The Board may only refuse an application on the grounds that:

- the applicant does not fulfil the requirements of a members' or commercial club;
- the applicant's premises are used wholly or mainly by persons under the age of eighteen;
- an offence under the Act, or a breach of permit has been committed by the applicant in the course of gaming activities being carried on;
- a permit held by the applicant has been cancelled in the last ten years; or
- an objection to the application has been made by the Gambling Commission or the Police.

4.9 Club Machine Permit

If a Club does not wish to have the full range of facilities permitted by a Club Gaming Permit or, if they are a Commercial Club not permitted to provide non-machine gaming, they may apply to the Board for a Club Machine Permit. A Club Machine Permit allows the holder to have up to three gaming machines (Categories B4, C or D) (see appendix 3 for machine categorisation).

The Board may grant or refuse a permit, but it may not attach any conditions. The Board may only refuse an application on the grounds that:-

- the applicant does not fulfil the requirements of a members' or commercial club;
- the applicant's premises are used wholly or mainly by persons under the age of eighteen;
- an offence under the Act, or a breach of permit has been committed by the applicant in the course of gaming activities being carried on;
- a permit held by the applicant has been cancelled in the last ten years; or
- an objection to the application has been made by the Gambling Commission or the Police.

4.10 Prize Gaming Permit

Section 288 defines gaming as prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. A prize gaming permit is a permit issued by the Board to authorise the provision of facilities for gaming and prizes on specified premises.

The Board will specify the form and manner in which an application must be made, and will specify the information and supporting documents required, these may include:

- plans of the proposed building;
- Insurance certificates; and
- any other documents deemed necessary or appropriate.

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

- the suitability of the applicant;
- the location of the premises;
- confirmation of intended opening hours;
- confirmation of the types of gaming to be offered;
- the applicant being required to demonstrate that they fully understand the limits to stakes and prizes set out in the Regulations;
- the applicant being required to demonstrate that the gaming offered is within the law;
- ensuring premises maintain acceptable levels of management supervision at all times during opening hours;
- ensuring premises maintain 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;
- any other factors that are within the control of the permit holder or designated management.

The Board can grant or refuse an application for a permit, but not add conditions. The Board may grant a permit only if they have consulted the Chief Constable 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.

4.11 Alcohol Licensed Premises – Gaming Machine Permit

On notifying the Board, premises licensed to sell alcohol for consumption on the premises, subject to certain restrictions, have an automatic entitlement to two gaming machines (of category C or D) (see appendix 3 for machine categorisation).

In certain circumstances the Board has the power to remove this right.

An Alcohol Licensed Premises Gaming Machine Permit is required if more than two gaming machines are sought. The issue of such a permit will effectively replace, not be in addition to, any automatic entitlement to two gaming machines.

The Board will comply with any guidance produced by the Gambling Commission, and when considering a permit application 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
- details of any proposed precaution for preventing persons under eighteen from using any category of gaming machine being sought and how it would be implemented.

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.

4.12 Occasional Use Notices

Where there is betting on a track on eight days or less in a calendar year, betting may be permitted by an Occasional Use Notice without the need for a full premises licence. The calendar year will commence on 1 January.

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 eight 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.

4.13 Temporary Use Notices

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. Premises that might be suitable for a temporary use notice would include hotels, conference centres and sporting venues.

An application for a Temporary Use Notice must be submitted to the Board not less than three months and one day before the day on which the gambling event will begin.

In addition a copy of the notice must also be served on:-

- The Gambling Commission
- The Chief Constable of Central Scotland Police
- H M Revenue and Customs
- Any other licensing authority in whose area the premises are situated

(see appendix 2 for relevant addresses).

The person who is giving the temporary use notice must ensure that the notice and the copies are with the recipients within seven days of the date of the notice.

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

The same premises may not be the subject of a temporary use notice for more than 21 days in any 12-month period, but may be the subject of several notices provided that the total does not exceed 21 days.

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.

The Board will determine the application using and considering evidence from the applicant and any objectors who have made representations.

If the Board considers that a temporary use notice should not have effect, a counter-notice will be issued which may:-

- prevent the temporary use notice from taking effect;
- limit the activities that are permitted;
- limit the time period of the gambling; or
- allow the activity to take place subject to a specified condition

If the Board gives a counter notice, it must give reasons for doing so and must copy the counter notice to all those who received copies of the temporary use notice.

If the Board decides not to issue a counter notice, the temporary use notice will take effect. The Board will give notice of its decision to the person who gave the temporary use notice and others to whom it was copied.

4.14 Provisional Statements

This Board 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".

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, reflect a change in the operator'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.

4.15 Registration of Small Society Lotteries

Small society lotteries are non-commercial societies which are established and conducted:-

- for charitable purposes
- for the purpose of enabling or participation in, or supporting, sport, athletics or a cultural activity; or
- for any other non-commercial purpose, other than private gain.

All applications for registration must be made in the form specified by Scottish Ministers, and accompanied by any supporting documents specified by Scottish Ministers or required by the Board.

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

- 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 are appropriate;
- there has been appointment of two members of the society who have the authority to sign and complete the required financial returns.
- an external lottery manager holds an operator's 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.

4.16 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.

The Board will consider whether a fair falls within the statutory definition of a travelling fair and that the facilities for gambling amount to no more than an 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.

APPENDIX 1

FURTHER INFORMATION

Further information about the Gambling Act 2005, this Statement of Principles and about the application process, including application forms and guidance notes can be obtained from:-

Clerk to the Licensing Board
Abbotsford House
David's Loan
Falkirk
FK2 7YZ

Email licensing@falkirk.gov.uk
Direct Dial: 01324 504 795
Direct Fax: 01324 504 852
www.falkirkcouncil.gov.uk/licensing

Information is also available from the
Gambling Commission
Victoria Square House
Victoria Square
Birmingham
B2 4BP
Tel: 0121 230 6500
Fax: 0121 233 1096
info@gamblingcommission.gov.uk
www.gamblingcommission.gov.uk

Scottish Executive
Tel: 0131 556 8400
www.scottishexecutive.org.uk

APPENDIX 2

USEFUL ADDRESSES

Gambling Commission
Victoria Square House
Victoria Square
Birmingham
B2 4BP
Tel: 0121 230 6500 Fax: 0121 233 1096
info@gamblingcommission.gov.uk
www.gamblingcommission.gov.uk

Central Scotland Police
Divisional HQ
West Bridge Street
Falkirk
Tel: 01324 678 812

HM Revenue & Customs
National Registration Unit
Portcullis House
21 India Street
Glasgow
G2 4PZ
www.hmrc.gov.uk

APPENDIX 3

CATEGORISATION OF GAMING MACHINES

Category of Machine	Maximum Stake	Maximum Prize
A	Unlimited	Unlimited
B1	£2	£4,000
B2	£100	£500
B3	£1	£500
B4	£1	£250
C	50p	£25
D	10p 30p when non-monetary prize	£5 cash or £8 non-monetary prize

Premises Type		Machine Category					
		A	B1	B2	B3	B4	C
Regional Casino (machine/table ratio of 25-1 up to maximum)		Maximum of 1250 machines. Any combination of machines in categories A to D, within the total limit of 1250 (subject to table ratio)					
Large Casino (machine/table ratio of 5-1 up to maximum)		Maximum of 150 machines. Any combination of machines in categories B to D, within the total limit of 150 (subject to table ratio)					
Small Casino (machine/table ratio of 2-1 up to maximum)		Maximum of 80 machines. Any combination of machines in categories B to D, within the total limit of 80 (subject to table ratio)					
Pre-2005 Act Casino (no machine/table ratio)		Maximum of 20 machines. Categories B to D <u>or</u> C or D machines instead					
Betting Premises and Tracks occupied by Pool Betting		Maximum of 4 machines. Categories B2 to D					
Bingo Premises	Maximum of 4 machines in categories B3 or B4	No limit on machines in categories C or D					
Adult Gaming Centre	Maximum of 4 machines in categories B3 or B4	No limit on machines in categories C or D					
Family Entertainment Centre (with premises licence)		*in categories C or D					
Family Entertainment Centre (with permit)		No limit on category D machines					
Clubs or Miners' Welfare Institutes (with permit)		Maximum of 3 machines in categories B4 to D					
Qualifying Alcohol Licensed Premises		Automatic entitlement for 1 or 2 machines in C & D					
Qualifying Alcohol Licensed Premises (with gaming machine permit)		Number of machines as specified on the permit					
Travelling Fair		No limit on category D machines					

APPENDIX 4

Scheme of Delegation

Matter to be dealt with	Licensing Board	Sub Group of Licensing Board	Officers
Final approval of three year licensing policy	✓		
Fee setting (when appropriate)	✓		
Application for Premises Licence <ul style="list-style-type: none"> Where representations have been received and not withdrawn Where no representations have been received/representations have been withdrawn 	✓ ✓	✓	
Application for variation to a Licence <ul style="list-style-type: none"> Where representations have been received and not withdrawn Where no representations have been received/representations have been withdrawn 	✓ ✓	✓	
Application for transfer of a Licence <ul style="list-style-type: none"> Where representations have been received from the Commission Where no representations have been received from the Commission 	✓ ✓	✓	
Application for Provisional Statement <ul style="list-style-type: none"> Where representations have been received and not withdrawn Where no representations have been received/representations have been withdrawn 	✓ ✓	✓	
Review of a Premises Licence	✓		
Application for a Club Gaming/Club Machine Permit <ul style="list-style-type: none"> Where objections have been received and not withdrawn Where no objections have been received/objections have been withdrawn 	✓ ✓	✓	
Cancellation of Club Gaming/Club Machine Permit	✓		
Consideration for Temporary Use Notice	✓		
Decision to give a Counter Notice to a Temporary Use Notice	✓		
Application for Registration of Small Society Lotteries <ul style="list-style-type: none"> Where representations have been received and not withdrawn Where no representations have been received/representations have been withdrawn 	✓ ✓	✓	