

Dumfries and Galloway Licensing Boards:

- ❖ ***Annandale & Eskdale Divisional Licensing Board***
 - ❖ ***Nithsdale Divisional Licensing Board***
 - ❖ ***Stewartry Divisional Licensing Board***
 - ❖ ***Wigtown Divisional Licensing Board***

Statement of Principles under the Gambling Act 2005, Section 349 2016-2019

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1. STATEMENT OF PRINCIPLES

1.1 Preamble

This document is a Statement of Principles that the Dumfries and Galloway Licensing Boards propose to apply in exercising their functions as respective licensing authorities under the Gambling Act 2005.

The Dumfries and Galloway Local Authority Area is divided into 4 Divisions each with its own Board – Annandale & Eskdale Divisional Board, Nithsdale Divisional Board, Stewartry Divisional Board and Wigtown Divisional Board.

With a view to enhancing consistency of approach, each Divisional Board has agreed that an identical Statement of Principles will be produced for all four Divisions.

In this document where the word “authority” or “Board” is used, it refers to each of the 4 Divisional Boards within Dumfries and Galloway unless otherwise specified.

1.2 Licensing Objectives

The Gambling Act 2005 created the following three licensing objectives:

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

1.3 Introduction

Dumfries and Galloway is a mainly rural area in south west Scotland. It covers around 6475 square kilometres (2500 square miles), with a population of around 147,000. The main settlements are Dumfries (around 31,100 residents), Stranraer (10,900), and Annan (8,400). All other settlements have populations of under 6,000. The region is divided into four traditional areas: Annandale & Eskdale, Nithsdale, the Stewartry and Wigtownshire.

- Annandale & Eskdale Division – is essentially a rural area without any city or large town to provide a central or focus point. The population is around 37,000. Among its settlements, Annan has the highest population. The other main settlements are Lockerbie, Gretna, Eastriggs, Moffat, Lochmaben and Langholm.
- Nithsdale Division – is Dumfries and Galloway’s most populated area with a total population of some 57,000 with Dumfries as the largest town in Dumfries and Galloway. The other main settlements include Sanquhar, Kirkconnel and Thornhill.
- Stewartry Division – covers an area of 1,760 square kilometres (680 square miles) and has a high quality natural environment that includes 2 National Scenic Areas, with the coastal waters providing an important recreational resource. The Stewartry is purported to be the most heavily forested part of Britain with one third forested.

The Stewartry is the least densely populated area within Dumfries and Galloway with a population of some 24,000. More than half the population live in the countryside or in settlements of fewer than 1,000 people. The remainder are concentrated in the towns of Dalbeattie, Castle Douglas and Kirkcudbright.

- Wigtown Division – with a population of under 29,000, Wigtown accounts for nearly 20% of the total population of Dumfries and Galloway. The 2 main towns, Stranraer and Newton

Stewart, account for around 50% of the population. All other settlements in the area have populations of under 1,000.

Wigtown enjoys a vast length of varied coastline, boasts a main ferry route and indeed the “gateway” to Ireland.

1.4 Preparation of Statement

The final “Statement of Principles” has been:-

- Prepared having regard to the Licensing Objectives, the Guidance prepared by the Gambling Commission (“Guidance to Licensing Authorities September 2012”) and the provisions of the Gambling Act and Regulations made under that Act.
- Adopted by the Board following a full consultation taking into account all relevant responses from consultees on the draft document.

The Statement will come into effect on 31 January 2016 following adoption by the Board, advertisement and publication and will be reviewed as necessary and at least every three years.

1.5 Glossary of Terms

Within this Statement of Principles, the following words and terms are defined as stated:-

Licensing Objectives:	As defined in section 1.2 above.
Board:	Means Annandale & Eskdale Divisional Board, Nithsdale Divisional Board, Stewartry Divisional Board and Wigtown Divisional Board.
Division:	Means the respective Divisions within the area of Dumfries and Galloway administered by each Licensing Board – see map in Appendix A.
Licences:	As defined in section 1.6 below.
Applications:	Means applications for Licences or Permits defined in section 1.7 below.
Notifications:	Means notifications of Temporary Use Notices and Occasional Use Notices.
Act:	Means the Gambling Act 2005.
Regulations:	Means Regulations made under the Gambling Act 2005.
Premises:	Means any place and includes a vehicle, vessel or moveable structure.
Code of Practice:	Means any relevant code of practice under section 24 of the Gambling Act 2005.
Mandatory Condition:	Means any specified condition provided by regulations to be attached to a licence.
Guidance	Gambling Commission’s : “Guidance to Licensing Authorities September 2012”.
Responsible Authority:	For the purposes of the Act, the following are responsible authorities in relation to premises: <ul style="list-style-type: none">• Dumfries and Galloway Council• The Gambling Commission• Police Scotland• Scottish Fire & Rescue Service

- Service Manager, Development Management, Dumfries and Galloway Council
- Head of Strategic Housing Commissioning and Environmental Standards, Dumfries and Galloway Council
- Scottish Environmental Protection Agency (SEPA)
- Child Protection Committee, Education Services, Dumfries and Galloway Council
- HM Revenues and Customs.

Interested Party:

For the purposes of the Act, a person is an interested party in relation to a premises licence if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, the person:

- Lives sufficiently close to the premises to be likely to be affected by the authorised activities;
- Has business interests that might be affected by the authorised activities; this could also include, for example, partnerships, trade associations, charities, faith groups and medical practices;
- Represents persons who satisfy either of the above; for example Residents' and Tenants' Associations and Trade Unions.

When considering whether a person is an interested party, each case will be judged on its merits taking into consideration the relevant circumstances, including those contained in the Guidance.

1.6 Types of Licence

This document sets out the principles that the Board will apply when making decisions upon applications or notifications made for:

- 1) Premises Licences;
- 2) Temporary Use Notices;
- 3) Occasional Use Notices;
- 4) Permits as required under the Act; and
- 5) Registrations as required under the Act

1.7 Licensable Premises and Permits

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

- 1) Casinos;
- 2) Bingo Premises;
- 3) Betting Premises;
- 4) Tracks;
- 5) Adult Gaming Centres;
- 6) Licensed Family Entertainment Centres;
- 7) Unlicensed Family Entertainment Centres;
- 8) Club Gaming Permits;
- 9) Prize Gaming and Prize Gaming Permits;
- 10) Occasional Use Notices;
- 11) Temporary Use Notices; and
- 12) Registrations of small society lotteries.

1.8 General Principles

Nothing in this Statement of Principles will:

- 1) Undermine the rights of any person to apply under the Act for a variety of permissions and have the application considered on its individual merits; OR
- 2) 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.

It must also be underlined that the authority will aim to permit the use of premises for gambling in so far as it thinks that the use of the premises is: -

- In accordance with a code of practice issued by the Gambling Commission (Section 24);
- In accordance with guidance issued by the Gambling Commission to local authorities (Section 25);
- Subject to any code of practice and Gambling Commission Guidance, reasonably consistent with the licensing objectives; and
- Subject to any code of practice and the licensing objectives, in accordance with this Statement of Principles.

The starting point in determining applications will be to grant the application, without conditions. Conditions will only be considered where they are needed to meet the requirements of the licensing objectives and any conditions applied will not be overly onerous and will be proportionate to the scale of the application, the 'risks' involved and the business, organisation or individual concerned. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation. The Board will draw principally upon the advice issued by the Gambling Commission and attach conditions relative to the given circumstances of each individual case. Conditions attached to premises licences will, so far as possible, reflect local crime prevention strategies. For example, the provision of closed circuit TV cameras may be appropriate for some premises.

All applicants for premises licences will be requested to set out how they will promote the Licensing Objectives, as specified in section 1.2 above, and what measures they intend to employ to ensure compliance with them. This will include how they will display and make available information and materials relating to support groups such as "Gamble Aware."

When determining an application to grant a premises licence or whether to review a premises licence, regard will be taken regarding the proximity of the premises to schools, vulnerable adult centres, or to residential areas with a high concentration of families with children. The proximity of premises etc. 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.

Licensing is about the control of licensed premises, Temporary Use Notices or Occasional Use Notices within the terms of the Act and in the public interest. Conditions may be attached to licences that will cover matters that are within the control of individual licensees.

When considering any conditions to be attached to licences, the authority will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned. Scottish Ministers may, by regulation, provide for specific conditions to be attached to a Premises Licence as either "mandatory" or "default" conditions.

In determining an application, the Licensing Authority may not have regard to the expected demand for the facilities which it is proposed to provide.

In this respect, the Board recognises that, apart from the licensing function, there are a number of other mechanisms available for addressing issues of unruly behaviour that can occur within or around licensed premises, including:

- 1) Planning controls;
- 2) Ongoing measures to create a safe and clean environment in these areas in partnership with local businesses, transport operators and Council Departments;
- 3) Regular liaison with the Police on law enforcement issues regarding disorder and anti-social behaviour;
- 4) The power of the police, other responsible authorities or a local resident or business to seek a review of the licence.

Objectors will be required to relate their objection to one or more of the Licensing Objectives, as specified in section 1.2 above, before the Board will be able to consider it.

Where a person, whether or not directly affected by an application or living in the vicinity of a licenseable 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.

The Board, in undertaking its licensing function, will have due regard to the need to eliminate unlawful discrimination and to promote equality and good relations between persons of different racial groups. It will also ensure that the licensing function will be carried out in the public interest.

Human Rights Act 1998

1.9 The Board recognises that as a public authority in terms of Section 6 of the Human Rights Act 1998 it would be unlawful to act in a way which is incompatible with a right under the European Convention on Human Rights and Fundamental Freedoms. In considering applications and taking enforcement action the authority will bear in mind the terms of the Act and Convention and in particular:-

- Article 1 of Protocol 1 – peaceful enjoyment of possessions. A licence is considered a possession in law and people should not be deprived of their possessions except in the public interest;
- Article 6 – right to a fair hearing;
- Article 8 – respect for private and family life: in particular removal or restriction of a licence may affect a person's private life;
- Article 10 – right to freedom of expression.

1.9A The Board is fully aware that moral objections to gambling are not a valid reason to refuse applications for premises licences.

1.10 Advisory body for the Protection of Children from Harm

The Board, as the licensing authority, designates the local Child Protection Committee as the competent authority to provide advice on the protection of children from harm.

The Child Protection Committee operates throughout each Division and has the specialist knowledge and expertise to fulfil this role.

1.11 Consultees

This Statement of Principles has been subject to formal consultation with:

- 1) Police Scotland;
- 2) Scottish Fire & Rescue Service;

- 3) The Child Protection Committee;
- 4) Representatives of and the holders of the various licences for premises in the Division who will be affected by this Statement;
- 5) Community Councils
- 6) Persons and businesses likely to be affected by authorised gambling within the Divisions, and organisations who represent such business and persons including trade unions, churches, voluntary organisations working with children and young persons, or working with problem gamblers, medical practices and advocacy organisations, residents' associations and trade organisations.

For further information, see Appendix B

1.12 Information Exchange

In fulfilling its functions and obligations under the Act the Board will exchange relevant information with other regulatory bodies and will work towards establishing protocols in this respect. In exchanging such information the Board will conform to the requirements of the Act, data protection and freedom of information legislation, the Gambling Commission's Guidance to Licensing Authorities and the Gambling Commission's "Advice to licensing authorities on information exchange with the Gambling Commission" and will adopt the principles of good regulation.

Contact details of those persons making representations and details of the representations will be made available to applicants to allow for negotiation and, in the event of a hearing being held, will form part of a public document. Anyone making representation or applying for a review of a premises licence will be informed that these details will be disclosed.

2. LEGISLATION, POLICIES AND STRATEGIES

2.1 Legislation

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

- 1) Health and Safety at Work etc. Act 1974;
- 2) Environmental Protection Act 1990;
- 3) The Equality Act 2010

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 slow to act under the Act when an issue is better dealt with under, for example, health and safety at work or fire safety.

Data Protection and Freedom of Information

2.2 As the Board is a public body appointed by the Dumfries and Galloway Council the Board has signed up to the Council's Data Protection Policy Scheme which can be accessed on the Council's website. The Board is a separate public body for the purpose of the Freedom of Information (Scotland) Act 2002 and has produced a Publication Scheme which has been approved by the Scottish Information Commission responsible for enforcing the 2002 Act. The Publication Scheme may be accessed on the Council's website.

2.3 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.

The issue of a Provisional Statement 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.

2.4 National Strategies

The Board will also seek to discharge its responsibilities identified by other Government Strategies, so far as they impact on the objectives of the licensing function.

2.5 Integrating Strategies

By consulting widely prior to this Statement of Principles being published the Board will endeavour to secure proper integration with local crime prevention, planning, transport, tourism, cultural and health and wellbeing strategies.

There are a number of wider issues which may need to be given due consideration when dealing with applications. The Board will therefore receive reports, when appropriate, on the -

- 1) Needs of the local tourist economy;
- 2) Cultural strategy for the area;
- 3) Employment situation in the area and the need for new investment and employment where appropriate;
- 4) Local Crime Prevention Strategies
- 5) Equality Strategies and Outcomes
- 6) Health and Wellbeing priorities.

3. DECISION MAKING

3.1 Scheme of Delegation

A Scheme of Delegation has been prepared in accordance with the Act and Guidance to ensure that uncontroversial applications will, where competent, be dealt with by officers and applications will only be submitted to the Board where decision making is called upon. This Scheme of Delegation forms Appendix D to this Statement.

3.2 Licensing Reviews

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. Representations may be that activities, including the following, are taking place:

- 1) Use of licensed premises for the sale and distribution of drugs in contravention of the Misuse of Drugs legislation and the laundering of the proceeds of drugs crimes;
- 2) Use of licensed premises for the sale and distribution of illegal firearms;
- 3) Use of licensed premises for prostitution or the sale of unlawful pornography;
- 4) Use of licensed premises as a base for organised criminal activity;
- 5) Use of licensed premises for the organisation of racist, homophobic or sexual abuse or attacks;
- 6) Use of licensed premises for the sale of smuggled tobacco or goods;
- 7) The use of licensed premises for the sale of stolen goods.
- 8) Children and/or vulnerable persons are put at risk.

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

- a) they do not raise an issue relevant to the principles to be applied in accordance with Section 153;
- b) the grounds are frivolous;
- c) the grounds are vexatious;
- d) the grounds are irrelevant;
- e) the grounds will not cause the Board to revoke or suspend a licence or to remove, amend or attach conditions on the Premises Licence;
- f) the grounds are substantially the same as the grounds cited in a previous application relating to the same premises; or
- g) the grounds are substantially the same as representations made at the time the application for a Premises Licence was considered.

A Premises Licence may also be reviewed by the Board on its own volition.

4. LOCAL STANDARDS

4.1 Assessment of Need

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

4.2 Compliance and Enforcement

The Board appreciates the direction of travel of national developments relating to enforcement and compliance : the effectiveness of the regulatory regime depends on the establishment and maintenance of an open, co-operative and effective relationship between operators, individuals, licensing authorities and the Commission; regulators may indeed help businesses to comply and should freely offer information and guidance : more use should be made of “ earned recognition” – approaches can be developed that incentivise and reflect businesses’ own efforts to comply with the law.

As recommended by the Commission the Board will follow good practice in enforcement including the principles of good regulation (Proportionate; Accountable; Consistent; Transparent; and Targeted) and the Regulators’ Compliance Code:-

1. Regulators should carry out their activities in a way that supports those they regulate to comply and grow;
2. Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views;
3. Regulators should base their regulatory activities on risk;
4. Regulators should share information about compliance and risk;
5. Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply;
6. Regulators should ensure their approach to their regulatory activities is transparent.

The Board will always act in a proportionate manner reflecting the impact of any breach and the consequences of the breach.

The Board will therefore pursue a risk based approach to compliance the basis of which will be to assess when and where to take action depending on the assessment of how likely it is that the licence conditions or Code of Practice may be breached and with what impact. In so doing account will always be taken of:-

- The licensing objectives
- Relevant Codes of Practice
- Commission Guidance and
- The principles contained in this Statement.

Recognition must be given to the fact that the Board is involved with other forms of regulation including alcohol licensing. Furthermore the Council is the licensing authority for a full raft of licensed activities especially those licensed under the Civic Government (Scotland) Act 1982. Close working relations with other regulators within the Council and the decision to have the Licensing Standards Officers (in terms of the Licensing (Scotland) Act 2005 liquor licensing) as authorised officers under the Act and under the 1982 Act will allow for an overview of the regulatory sector and give an overall realism to the respective risk assessments undertaken for regulated premises.

Premises will be subject to a scheme of inspection, the frequency of which will be determined by the risks imposed by the premises: those premises considered to pose a greater risk will be subject to more frequent inspections to those posing a lower risk. When determining risk, consideration will be given to:-

- The nature of the gambling activities carried out on the premises;
- The location of the premises in relation to schools etc
- The procedures put in place by management to ensure compliance and to meet and promote the licensing objectives.

It is principally for gambling operators to ensure compliance with the terms of their licences and they should be able to demonstrate to regulators that their business is compliant.

However, the Act gives licensing authorities, the Commission and the police parallel powers in respect to premises: close liaison will take place with colleagues within the Commission and the police and other agencies, to ensure that each is aware of the other's activities and to avoid duplication of effort. This is in no way to imply that joint visits will not on occasion be essential and fruitful.

Protocols are necessary to ensure that any appropriate action is undertaken by the agency best suited to deal with the breach. For example:-

- Where the breach relates to both the premises licence (issued by the Board) and the operating licence (issued by the Commission) it may be more appropriate for the Commission to take action. If a particular breach is committed by a large national or regional operator, which may have wider implications for the gambling industry as a whole, or if the breach is deemed to be "high impact" then it would be anticipated that the Commission would wish to take primacy. A response from the Commission that they would not wish to take primacy would be necessary before the Board would consider taking enforcement action in these circumstances;
- However where the breach of the premises licence is confined to the Board's area and is a particular priority for the authority it may be that the Board should initiate action;
- For breaches of permits the Board may only be called upon to lead as the Commission has no remit relating to permits other than the general power to prosecute illegal gambling;
- A one off breach will normally be best dealt with by the Board whereas repeat offences suggesting systemic breaches of licence conditions will fall within the Commission's remit;
- Assessment of the suitable enforcement outcome may suggest the most appropriate agency to initiate proceedings;
- Even where the Board has decided that it is the most appropriate agency to address a breach, contact must be made with the Commission. This requirement will, for example, avoid impeding Commission investigation;
- Where the Board considers that enforcement is justified but due to the scale of activities or other reason does not have sufficient investigative powers or resources contact will be made with the Commission;
- In line with Commission Guidance the type of case when the police will be contacted to initiate action include:-
 - when non gambling offences are discovered for example large scale thefts or other serious crime which extends beyond the reach of licence conditions;
 - assistance with Commission investigations for example enquiries into other criminal activities.

The Board appreciates the distinction between:-

- Those who conduct gambling operations under a licence or permit but breach the terms of the licence or permit and
- Those who seek to profit from providing facilities without a licence or permit.

Although both situations result in illegal gambling the latter situation is generally considered by the Board to be more serious.

The Board recognises that combating illegal gambling is of significant benefit to the licensed gambling community as the provision of illegal, unregulated gambling impacts on the reputation of the industry as a whole. On the other hand the Board also recognises that persistent and widespread existence of illegal gambling might reduce the incentive of operators who are correctly licensed and consider compliance as a core part of their business operation.

4.3 Casinos

There is no resolution to prohibit casinos in the Divisions at present. However, the Board reserves its right to review this situation and may, at some time in the future, resolve not to permit casinos or, if licensed casinos are already operating, resolve not to permit any additional casinos.

Should the Board choose to make such a resolution, this will be a resolution of the Board following considered debate and the reasons for making the resolution will be given.

Wigtown Divisional Licensing Board in the area of Dumfries and Galloway Council is specified in the Gambling (Geographical Distribution of Large and Small Casino Premises Licences) Order 2008 (Statutory Instrument 2008 No 1327) as a licensing authority who may issue a small casino premises licence (Article 3(1) (g)).

That Board recognises that they must ensure that their Statement of Principles must include the principles that the Wigtown Divisional Licensing Board propose to apply in making determinations under paragraph 5 of Schedule to the Act (Stage 2 of the competition process).

It is planned to have a revision of the final Statement of Principles as and when appropriate

4.4 Unlicensed Family Entertainment Centre gaming machine permits

Where a set of premises does not hold a Premises Licence but wishes to provide gaming machines, it may apply to the Board for this permit.

An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed Family Entertainment Centre (wholly or mainly used for making the allowed Categories of gaming machines available for use), and if the Chief Constable has been consulted on the application.

The Board's Statement of Principles relating to their functions under schedule 10 to the Gambling Act 2005 concerning Family Entertainment Centre Gaming Machine Permits forms Appendix E to this Statement.

5. LICENSING OBJECTIVE: 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 was 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.

Applicants are encouraged to discuss the crime prevention procedures in their premises with the Board, the Council and the local Police before making a formal application.

In considering licence applications, the Board will particularly take into account:-

- 1) The design and layout of the premises;
- 2) The training given to staff in crime prevention measures appropriate to those premises;
- 3) 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;
- 4) Where premises are subject to age-restrictions, the procedures in place to conduct age verification checks;
- 5) The likelihood of any violence, public order or policing problem if the licence is granted.

6. LICENSING OBJECTIVE: ENSURING THAT GAMBLING IS CONDUCTED IN A FAIR AND OPEN WAY

Generally, the Gambling Commission 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.

7. LICENSING OBJECTIVE: THE PROTECTION OF CHILDREN AND OTHER VULNERABLE PERSONS FROM BEING HARMED OR EXPLOITED BY GAMBLING

7.1 Access to licensed premises

With limited exceptions, the access of children and young persons to those gambling premises, which are adult only environments, will not be permitted.

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.

The Board will consult with the local Child Protection Committee on any application that indicates there may be concerns over access for children or vulnerable persons.

The Board will judge the merits of each separate application before deciding whether to impose conditions to protect children on particular categories of premises. This may include such requirements as:

- 1) Supervision of entrances;
- 2) Segregation of gambling areas from areas frequented by children;
- 3) Supervision of gaming machines in non-adult gambling specific premises.

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.

7.1.1 Specific reference is made to the Board's Statement of Principles relating to their functions under schedule 10 to the Gambling Act 2005 concerning Family Entertainment Centre Gaming Machine Permits forming Appendix E to this Statement.

7.1.2 The Board is also mindful of exempted gaming in which children and young persons are free to participate but are also mindful of the potential of this leading to a gambling mind-set and the onset of problem gambling later in life. The Board will produce information material for parents, schools and event organisers to raise awareness of this potential.

7.2 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 :

- 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, alcohol or drugs.

The Board is aware that problem gambling impacts not only on the vulnerable people themselves but also their families and other dependents.

8. 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 local 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.

9. EQUALITY OUTCOMES

The Board has agreed Equality Outcomes: Equality Outcome is:-

Equality Outcome Number 1: Protected Characteristic: Age (children and young persons)

Children and young persons are protected from the potential harm of becoming involved in gambling behaviours by increasing awareness of that harm, how the risk may be recognised and the reduction of that harm.

This outcome has at its core elimination of discrimination of children and young persons recognising their vulnerability to acquiring harmful gambling behaviours without having developed the necessary judgment to choose.

It also advances the fostering of good relations by emphasising to adults, especially event organisers, the risk involved notwithstanding that the opportunity for participation by children and young people is a tradition of longstanding.

10. 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:

The Clerk
Dumfries and Galloway Licensing Boards
Municipal Chambers
Buccleuch Street
Dumfries
DG1 2AD

Tel: 01387 245903

E-mail: licensing@dumgal.gov.uk

Information is also available from the

Gambling Commission

Victoria Square House

Victoria Square

Birmingham B2 4BP

Tel: 0121 230 6666 Fax: 0121 230 6720

Website: www.gamblingcommission.gov.uk

11. COMMENCEMENT AND DURATION

This Statement will come into effect on 31 January 2016 and will subsist for a period of 3 years. The authority may undertake a review of the Statement during that time including the Wigtown Divisional Licensing Board separately on the issue of principles to be applied to any small casino licence competition process.



Consultees

Elected Members, Dumfries & Galloway Licensing Boards
Community Councils in Dumfries and Galloway
The Gambling Commission
Police Scotland
Scottish Fire & Rescue Service
Head of Planning and Building Standards, Dumfries & Galloway Council
Child Protection Committee, Dumfries & Galloway Council
HM Revenues and Customs
William Hill
Ladbrokes
Coral Racing Ltd.
Gala Leisure Ltd.
Corsat Ltd.
Cashino Gaming Ltd.
Religious Organisation
NHS Dumfries and Galloway
GPs
ADP
Youth Groups
Minority Groups

Representatives of the holders of the various licences for premises in the Division who will be affected by this policy

Members of the public who will be affected by this policy

Note: This list is not intended to be conclusive. Comments and observations will be welcome from anyone who will be affected by this policy.

Contact Details for Responsible Authorities

Dumfries & Galloway Council

Council Offices
English Street
Dumfries
DG1 2DD

The Gambling Commission

Victoria Square House
Victoria Square
Birmingham
B2 4BP

Police Scotland

Headquarters
Cornwall Mount
Dumfries
DG1 1HP

Scottish Fire & Rescue Service

Headquarters
Brooms Road
Dumfries
DG1 2DZ

Child Protection Committee

Woodbank
30 Edinburgh Road
Dumfries
DG1 1NW

Service Manager, Development Management

Kirkbank House
Council Offices
English Street
Dumfries
DG1 2HS

HM Customs & Excise

HM Revenue & Customs
National Registration Unit
Portcullis House
21 India Street
Glasgow
G2 4PZ

APPENDIX D

DUMFRIES AND GALLOWAY LICENSING BOARD SCHEME OF DELEGATION UNDER THE GAMBLING ACT 2005

Matter to be dealt with	Board	Clerk
Final approval of three year licensing policy	✓	
Policy not to permit casinos	✓	
Fee setting (when appropriate)		✓
Application for premises licences	Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence	Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence	Where representations have been received from the Commission	Where no representations have been received from the Commission
Application for a provisional statement	Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence	✓	
Application for club gaming/club machine permits	Where objections have been made (and not withdrawn)	Where no objections made/ objections have been withdrawn
Cancellation of club gaming/club machines permits	✓	
Applications for other permits		✓
Cancellation of licensed premises gaming machine permits		✓
Consideration of temporary use notice		✓
Decision to give a counter notice to a temporary use notice	✓	
Applications for and Registration of Small Society Lotteries	Where objections/complaints have been made (and not withdrawn) and where application must or may be refused or may be revoked	All administrative tasks and other actions and activities including cancellation of registration on non-payment of Annual Fee

DUMFRIES AND GALLOWAY LICENSING BOARDS STATEMENT OF PRINCIPLES RELATING TO THE BOARDS' FUNCTIONS UNDER SCHEDULE 10 TO THE GAMBLING ACT 2005 CONCERNING FAMILY ENTERTAINMENT CENTRE GAMING MACHINE PERMITS

1. Introduction

In Scotland the Licensing Board is the licensing authority under the Gambling Act 2005. In Dumfries and Galloway our Council has agreed to divide up its area into 4 Licensing Divisions each with its own Divisional Licensing Board:-

- Annandale & Eskdale Division – is essentially a rural area without any city or large town to provide a central or focus point. The population is around 37,000. Among its settlements, Annan has the highest population. The other main settlements are Lockerbie, Gretna, Eastriggs, Moffat, Lochmaben and Langholm.
- Nithsdale Division – is Dumfries and Galloway's most populated area with a total population of some 57,000 with Dumfries as the largest town in Dumfries and Galloway. The other main settlements include Sanquhar, Kirkconnel and Thornhill.
- Stewartry Division – covers an area of 1,760 square kilometres (680 square miles) and has a high quality natural environment that includes 2 National Scenic Areas, with the coastal waters providing an important recreational resource. The Stewartry is purported to be the most heavily forested part of Britain with one third forested.
The Stewartry is the least densely populated area within Dumfries and Galloway with a population of some 24,000. More than half the population live in the countryside or in settlements of fewer than 1,000 people. The remainder are concentrated in the towns of Dalbeattie, Castle Douglas and Kirkcudbright.
- Wigtown Division – with a population of under 29,000, Wigtown accounts for nearly 20% of the total population of Dumfries and Galloway. The 2 main towns, Stranraer and Newton Stewart, account for around 50% of the population. All other settlements in the area have populations of under 1,000.
Wigtown enjoys a vast length of varied coastline, boasts a main ferry route and indeed the "gateway" to Ireland.

2. Preparation of this Statement

2.1 The Boards have valued the efforts towards developing this Statement of Principles. It has provided Members the opportunity to become more aware of a growing social and health issue among young people which is little recognised: children and young persons need to be protected from the potential harm of becoming involved in gambling behaviours.

2.2 It is hoped that the development and introduction of this Statement will assist in raising awareness of this issue not only within the trade but also to the wider community, parents and guardians of children and young persons.

2.2.1 A literature review of research into this issue has given focus and perspective for the preparation of this statement:-

- a correlation between permissive laws and problem gambling
- links between fruit/gaming machine playing to early onset of gambling and gambling problems (welte et al (2009))
- operant conditioning arising from the attraction of fruit/gaming machines, where players feel compelled to continue beyond what they can afford or control, temporarily removes feelings of stress, anxiety or depression through the excitement of the activity (Willans, 1996)

- this negative reinforcement generates habitual gambling behaviours that become enduring and lead to other forms of participation. (Nower & Blaszczunski, 2004).
- the majority of adolescents, and those responsible for their care, are unaware of warning signs and the risks surrounding frequent gambling or the potential harm it causes (Essau, 2008)
- the majority of adults who attend gamblers anonymous have problems with fruit machine addiction that began in their youth (Reith, 2006)
- retrospective studies among adults show that problem gamblers commonly started participating before the age of ten (Nower & Blaszczunski, 2004) and
- early age of onset is one of the highest risk factors for adolescent problem gambling (Johansson et al, 2009).

2.3 In preparing this Statement due regard has been given to:-

- The provisions of the Gambling Act 2005 in particular Sections 247 and Schedule 10 to the Act
- The Gambling Commission Guidance to Licensing Authorities (4th Edition-September 2012).
- The Licensing Objectives:
 - Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime
 - Ensuring that gambling is conducted in a fair and open way; and
 - Protecting children and other vulnerable persons from being harmed or exploited by gambling.

2.4 The Commission's Guidance to Licensing Authorities on preparing this Statement of Principles is:-

"A licensing authority may want to set out the matters that it will take into account in determining the suitability of the applicant. Given that the premises will particularly appeal to children and young persons, licensing authorities may want to give weight to matters relating to child protection issues."

2.4.1 However, the Boards recognise that the suitability of an applicant for a permit is only one aspect of the Boards functions in respect of Family Entertainment Centre Gaming Machine Permits. The Boards' views on criteria which they will consider are set out in **other Sections of this Statement including Paragraphs 5.3, 6.2 and 6.3 of the Statement.**

2.5 The Boards appreciate the time taken by respondents who participated in the consultation process. Due consideration and weight have been given to each response in finalising this Statement of Principles.

2.6 The consultation period was from 2 August to 25 October 2013. In addition to an online consultation which was open to anyone having an interest, responses were specifically invited from:-

- Holders of current Family Entertainment Centre Gaming Machine Permits
- Local Multi-Agency Group set up to promote Public Health and Wellbeing, such as the Risky Behaviour Sub-Groups
- The Gambling Related Harm Among Young People Working Group
- The Chief Constable as the statutory consultee on all applications for permits
- The Trade Organisation BACTA
- The Gambling Commission.

3. Licensing Objectives

3.1 The Boards see the Licensing Objectives as the cornerstone of any regulation of activities under the Gambling Act 2005.

3.2 The Boards will therefore have the Licensing Objectives at the forefront of their decision making in respect of Family Entertainment Centre Gaming Machine Permits.

3.3 The Licensing Objectives are:-

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

4. Unlicensed Family Entertainment Centres

4.1 Premises which are the subject of a Family Entertainment Centre Gaming Machine Permit are often called “Unlicensed Family Entertainment Centres”.

4.2 Presumably this is because:-

- An Operating Licence granted by the Gambling Commission
- Personal Licences granted by the Gambling Commission
- A Premises Licence granted by the Licensing Authority (in Scotland a Licensing Board) are not required. Instead the sole requirement is the grant of a Family Entertainment Centre Gaming Machine Permit by the local Licensing Board.

4.3 This Permit entitles the operator to make available for use Category D Gaming Machines which have the lowest stake and payout levels.

Children and young persons are allowed access to Unlicensed Family Entertainment Centres; they need not be accompanied by an adult.

4.4 “Child” and “young person” are defined for the purposes of the Gambling Act as:-

“Child” means an individual who is less than 16 years old.

“Young person” means an individual who is not a child but who is less than 18 years old.

4.5 Although the Permit only relates to Gaming Machines, the Permit Holder is also entitled to have available for use other machines which as they are not considered to involve games of chance are commonly known as “Skill With Prizes” (SWP) Machines. Although prizes are won by skills such as :-

- Knowledge
- Dexterity
- Logic
- Memory
- Hand-to-eye co-ordination
- Reaction
- numerical and lexical ability,

there is still the potential for a customer to lose money especially for a child or young person to lose more than they can reasonably afford. The Boards therefore recommend that the principles set out within this Statement should be applied in relation to the use of SWP Machines equally as they apply to the use of the Gaming Machines allowed by the Permit.

5. Applying for a Family Entertainment Centre Gaming Machine Permit

5.1 When determining an application for a permit the Board will wish to be sure that granting the permit will be consistent with the Licensing Objectives. The Board must therefore have before it the fullest information reasonably available.

- 5.2 The legislation provides that an application for a permit must:-
- Be made in the form and manner as the licensing authority may direct
 - Specify the premises in respect of which the permit is sought
 - Be accompanied by the fee
 - Contain or be accompanied by such other information as the licensing authority may direct.

5.3 In respect of this last point, the Board will require the following information to accompany the application:-

- Evidence that the applicant has a full understanding of the maximum stakes and prizes of the gambling that is permissible in an unlicensed Family Entertainment Centre
- Written details of the training of staff. The matters to be covered comprise Appendix 1 to this Statement and include a requirement to ensure all staff will have a full understanding of the maximum stakes and prizes that are permissible.
- A written statement on the measures to be put in place to safeguard the Licensing Objectives
- Details of advertising and marketing strategy and written confirmation that any advertising will be in line with the Gambling Commission's Code of Practice which applies to the form and media in which they advertise their gambling facilities and services.
- Evidence that machines to be provided are supplied by a legitimate gambling machine supplier or manufacturer who holds a valid gaming machine technical operating licence issued by the Gambling Commission and that all acquisitions, repairs and maintenance will only be undertaken by a contractor holding the necessary authorisation from the Gambling Commission
- A plan of the premises for which the permit is sought showing the layout or proposed layout of the UFEC including the positioning of the gaming machines, change machines, other facilities available to patrons and staff counters/supervisory points
- Proof that the applicant has a legal right to occupy the proposed premises, for example, a copy of the lease or other title deed.

5.4 The only statutory consultee on an application for a permit is the Chief Constable. The Board will, in addition to the Chief Constable, consult on an application with:-

- The Board will also seek a report from a Licensing Standards Officer/Authorised Officer, which report will be expected to include an assessment on the impact on the Licensing Objectives if the application were to be granted.
- Local Multi-Agency Group set up to promote Public Health and Wellbeing, such as the Risky Behaviour Sub-Groups

6. Boards' Powers

6.1 Study of Schedule 10 quickly establishes that Parliament has not been generous to the Board. The Board has limited powers:-

- The Board has no power to attach conditions to a permit
- There is no general power to consider revoking or suspending a permit or varying its terms during the currency of the permit, for example due to conduct on the part of the permit holder or staff which is inconsistent with one or more of the Licensing Objectives.
- However, the Board does have power to notify a permit holder that the premises are not being used as a Family Entertainment Centre. On notifying the permit holder of this, the permit would cease to have effect. This power is discussed further at Section 6.3.

6.2 However, the Board appears to have wide power to refuse an application. The Board must refuse an application for an unlicensed Family Entertainment Centre permit if they are not satisfied that the premises are going to be used as an unlicensed Family Entertainment Centre. Any other ground for refusal will most likely be linked to the Licensing Objectives.

- 6.2.1 A Board may not refuse an application unless they have
- (a) notified the applicant of their intention to refuse the application and their reasons and
 - (b) given the applicant an opportunity to make representations.

6.2.1.1 The wording “intention to refuse the application” is taken directly from the legislation. It may at first sight appear to mean that the Board intend refusing the application whatever information or argument is submitted to the hearing. This is a reflection of the strict wording of the Act but will never be the aim of the Board.

6.2.1.2 The Board will not prejudge the full merits of an application. The Board will satisfy (b) by arranging a hearing at which the Board will allow oral representations, written representations or both.

6.2.1.3 It will be the function of the hearing to allow all relevant information and arguments to be provided to the Board to take into account before final determination of the application on its merits.

6.2.1.4 Further, the Board eagerly recognises its responsibilities as a Public Authority under the Human Rights Act 1998 to act in a way which is compatible with the European Convention on Human Rights and Fundamental Freedoms. This includes an applicant’s right to have a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law as provided by Article 6.

6.2.1.5 When the Board has received an application for a permit and they are “intending to refuse” that application the Board will arrange a hearing giving the applicant reasonable notice of the hearing, reasons why there is an intention to refuse and details of the material upon which this initial view has been taken. Notice of the hearing will also be given to anyone, including any Statutory Agency, who has submitted material recommending refusal of the application

6.2.1.6 The applicant will be given the opportunity to make written submissions to the Board in support of the application and in rebuttal of any material received by the Board recommending refusal of the application.

6.2.1.7 The applicant and anyone, including any Statutory Agency, who has submitted material recommending refusal of the application will be entitled to make oral representations at the hearing. The applicant will be the last to be heard before the Board make a final determination of the application.

6.3 Board’s Power during the currency of a Permit

6.3.1 The Board may notify a permit holder that the premises are not being used as a Family Entertainment Centre (Paragraph 14 of Schedule 10 to the Act). On notifying the permit holder of this, the permit would cease to have effect.

6.3.2 Although it is ultimately for the courts to interpret legislation the Board sees this provision as covering a wide range of situations and giving the Board power effectively to terminate or revoke a current permit in certain circumstances.

6.3.3 The Gambling Commission foresees the possibility of notification being necessary when the main use is not as a Family Entertainment Centre. The Board sees this as only one example.

6.3.4 A more obvious example would be that the premises are closed.

6.3.5 However, the question of whether premises are being used as a Family Entertainment Centre is a wider one:-

- Only Category D Gaming Machines may be available for use. If other Category Gaming Machines were available for use this fact could be a reason for notification.
- Also if the Gaming Machines are not specifically Categorised, the Board must be satisfied by the necessary documentation produced by the permit holder that all Gaming Machines comply with Category D and Category D alone.
- Unless this documentation is made available to the Board when requested, the Board may decide that the premises are no longer being operated as a UFEC and move to give notice to this effect to the permit holder when the permit will cease to have effect
- Unlicensed Family Entertainment Centres must be operated in a way which promotes and safeguards the Licensing Objectives. If circumstances are brought to the Board's attention that indicate that this is not the position with any particular premises the Board will investigate.
- Where they consider that such circumstances means that the premises are no longer being operated as a Family Entertainment Centre they may, following a hearing, decide to notify the permit holder that the premises are not being used as a Family Entertainment Centre that the permit ceases to have effect. Examples of relevant circumstances may be:-
 - Inadequate, ineffective and inconsistently applied staff training
 - Children and Young Persons being allowed access to the premises during school term hours
 - Substantiated reports of children, young persons and other vulnerable individuals being allowed to spend disproportionate amounts in stake money
 - Substantiated reports that the premises are being frequented and/or staffed by individuals involved in criminal or antisocial activities
 - Substantiated reports of gaming not being fair such as prizes legitimately won not being honoured
 - Substantiated reports of customers being allowed credit facilities
 - Targeting children and young people through advertising/marketing.

6.3.6 These circumstances are given as examples and should not be considered as conclusive or comprehensive. Each set of circumstances will be considered on its merits at a hearing before the Board. At the hearing the permit holder and anyone who has submitted to the Board that the premises are not being used as a Family Entertainment Centre will be entitled to submit written representations and to address Members

7. Finalisation, Introduction and Duration of the Statement of Principles

7.1 This statement of principles was prepared by the Boards in terms of Paragraph 7 of Schedule 10 to the Gambling Act 2005.

7.2 At a conjoined meeting of the Boards held on 21 November 2013, the boards taking into account all responses received during the consultation process, agreed this Statement of Principles.

7.3 Following publication on the Dumfries and Galloway Council's web-site the Statement of Principles came into effect on 21 November 2013

7.4 This Statement of Principles will continue in effect until withdrawn or reviewed.

7.5 The Boards will consider at any time whether the terms of the Statement require to be reconsidered, reviewed, revisited or renewed and at that time will consult, as the Boards consider appropriate, prior to amending the Statement of Principles.

TRAINING – MATTERS TO BE COVERED

1. The basis of the requirement for training as outlined in Dumfries & Galloway Council's Statement of Principles in relating to Family Entertainment Centre Gaming Machine Permits.
2. The licensing objectives should be known to all staff -
 - Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime
 - Ensuring that gambling is conducted in a fair and open way; and
 - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
3. Social responsibility in protecting children and young persons from harm

This Licensing Authority will expect the applicant to show that there are policies and procedures in place to protect children and young persons from harm and be able to evidence this. 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, they should include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised young children being on the premises, measures / training covering preventing the same children and young persons from regularly using machines, measures / training covering dealing with children or young persons who are frequently attending the premises or children and young persons causing perceived problems on / around the premises.

4. Current maximum stakes and prizes for Category D gaming machines should be known to all staff.
5. Required signage -

The permit holder must make sure all machines on the premises clearly display the category of machine and the percentage pay out of the machine. In addition social responsibility stickers should be displayed throughout the premises. All staff must be aware of the signage requirements.

6. Difference between a Skill With Prize machine and a Gaming machine

A skill with prizes machine (SWP) is one on which the winning of a prize is determined only by the player's skill – any element of chance imparted by the action of the machine would cause it to be a gaming machine.

7. Problem gambling and sources of support

Staff should be familiar with Gambling Helplines that offer support to individuals with Gambling Related Problems, including
GamCare Telephone 0808 8020 133
Gambling Anonymous Scotland Telephone 0370 050 8881

8. Self exclusion

Self-exclusion means a customer asking a gambling provider to exclude the customer from gambling with them for a length of time, usually between six months and five years. All gambling providers must provide customers with this option, allowing any customer who has requested self-exclusion to be refused service and prevented from gambling during the requested time period. All staff should be made aware of the possibility of this request from customers or their parents or guardians.