

# **WEST DUNBARTONSHIRE LICENSING BOARD**

## **STATEMENT OF PRINCIPLES - GAMBLING ACT 2005**

**SECTION 349**

**DATE EFFECTIVE FROM: [TO BE UPDATED]**

## FOREWORD

[TO BE UPDATED]

*\*All references to “date to be confirmed” within this document refers to items that for practical reasons can only be inserted to the final Licensing Board approved version.*

**Index - [TO BE UPDATED]**

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## **PART A**

### **INTRODUCTION**

#### **1. Legal Background**

- 1.1** The Gambling Act 2005 (“the Act”), which came into full force and effect on 1 September, 2007, created a new system of licensing and regulation for all gambling in Great Britain, other than the National Lottery. Section 349 of the Act required all licensing authorities to publish a Statement of Principles to be applied in exercising their functions under the Act.

The Act provided that a Statement of Principles shall apply for a period of three years and may be reviewed and revised during that period if appropriate.

As required in terms of Section 349 of the Act, the Board have reviewed and revised its fourth Statement of Principles. The following is the Board’s seventh Statement of Principles which, it proposes to apply in exercising its functions under the Act during the three year period beginning on **[TO BE UPDATED]**. This Statement of Principles will be kept under review and revised, if appropriate, during the three year period.

#### **2. The Licensing Objectives**

- 2.1** In exercising most of their functions under the Act, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. 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.
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

- 2.2** It should be noted that the Gambling Commission has stated “*The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling*”.

**2.3** This licensing authority is aware that, in terms of Section 153, in making decisions about premises licence's and temporary use notices (TENs) it should aim to permit the use of premises for gambling in so far as it thinks it is:-

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with this Statement of Principles.

### **3. West Dunbartonshire Licensing Board**

**3.1** The Licensing Board is the licensing authority for the West Dunbartonshire Council area for the purposes of the Gambling Act 2005 and any subsequent regulations and guidance. Located in the west of Scotland and stretching from the outskirts of Glasgow to the banks of Loch Lomond, West Dunbartonshire is the fourth smallest Scottish local authority in terms of land coverage (159 square kilometres). It has a population of just over **[TO BE UPDATED]** concentrated in the three main settlements of Clydebank, Dumbarton and Alexandria. A map of the Council area is provided in Appendix 1 to this Statement of Principles.

**3.2** Information related to the location of schools in West Dunbartonshire is provided at Appendix 2. This link details the number and location of educational establishments in West Dunbartonshire. Also in Appendix 2 is a link that details the location of addiction services within West Dunbartonshire and regulated premises where children and young persons may frequent. There are also details of the locations of Doctor Surgeries, Community Centres and Colleges. This information is provided to give further information as to the local area profile of West Dunbartonshire in terms of addiction services, places where vulnerable persons may frequent, educational establishments and regulated premises that children and young persons frequent.

### **4. Requirement to Publish Statement of Principles**

**4.1** Licensing authorities are required by the Act to publish a statement of the principles which they propose to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from "time to time" with further consultation taking place on proposed amendments. The statement must be then re-published.

**4.2** Nothing in the Statement will override the right of any person to make an application

under the Act, or to have the application considered on its individual merits, or undermine the right of any person to make representations on an application, or to seek a review of a license where there is a legal power to do so.

- 4.3** In making decisions under the Act, the Board will have regard to this Statement of Principles but every application will be considered on its own merits. This statement is intended to be a general Statement of Principles and is not to be regarded as a comprehensive guide to the application of the Act by the Board. Applicants and others should always have regard not only to this Statement of Principles but also to the Act, any regulations made under the Act and any Guidance or Codes of Practice issued by the Gambling Commission. Guidance and Codes of Practice issued by the Gambling Commission may be accessed on the Commission's web site ([www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)).

## **5. Consultation on the Statement of Principles**

**[TO BE UPDATED POST CONSULTATION]**

## **6. Declaration**

- 6.1** In producing the final statement, this licensing authority declares that it has had regard to the licensing objectives of the Act as set out at 3.1 above, the guidance issued by the Gambling Commission, and any responses from those consulted on the statement.

## **7. Responsible Authorities**

- 7.1** The licensing authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:
- the need for the body to be responsible for an area covering the whole of the licensing authority's area; and
  - the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.
- 7.2** In accordance with the suggestion in the Gambling Commission's Guidance for local authorities, this Licensing Board designates the West Dunbartonshire Child Protection Committee for this purpose.
- 7.3** The responsible authorities under the Gambling Act 2005 are:-
- The Council;

- The Gambling Commission;
- The Chief Constable, Police Scotland;
- The Chief Fire Officer, Scottish Fire and Rescue Service;
- West Dunbartonshire Council, Regulatory Services: Environmental Health Service;
- West Dunbartonshire Council, Regulatory Services: Planning & Building Services Section;
- West Dunbartonshire Community Planning Partnership;
- HM Revenues and Customs; and
- Any other person prescribed in regulations by the Secretary of State or Scottish Ministers.

The contact addresses for these authorities are provided in Appendix 5.

## **8. Interested Parties**

- 8.1** Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in Section 158 of the Act as follows:

*“For the purposes of this Part a person is an interested party in relation to an application for, or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence, or to which the application is made, the person:-*

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

- 8.2** The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. The principles are set out at paragraphs 8.3 to 8.7. The Licensing Board will decide each case on its merits and will not apply a rigid rule to its decision making. Further, it will consider the examples of considerations provided in the Gambling Commission’s Guidance for Licensing Authorities.”



- 8.3** In determining whether a person is a “*person living close to the premises*”, the Board may take into account the following factors; size of the applicant premises, the nature of the premises, the distance of the premises from the location of the party making the representation, the topography and routes likely to be taken; the potential impact of the premises; and the circumstances of the person.
- 8.4** The Board will also consider the Gambling Commission's Guidance (at point 8.14 and 8.15) that in respect of whether the person “*has business interests*” should be satisfied that the relevant business is likely to be affected. In determining whether, a party is a person with business interests that could be affected, factors that may be taken into account include:
- the size of the premises;
  - the catchment area of the premises, that is, how far people travel to visit the premises; and
  - whether the person making the representations has business interests in that catchment area that might be affected.
- 8.5** The Gambling Commission has recommended that the Licensing Board states that interested parties include people representing those interested parties including trade associations and trade unions, and residents’ and tenants’ associations (Gambling Commission Guidance for licensing authorities paragraph 8.16 and 8.17). This Licensing Board will not however generally view these bodies as interested parties unless they have a member who can be classed as an interested person under the terms of the Gambling Act 2005, i.e. lives sufficiently close to the premises to be likely to be affected by the activities being applied for.
- 8.6** Interested parties can be persons who are democratically elected such as Councilors, MPs and MSPs. No specific evidence of being asked to represent an interested person will be required as long as the Councillor/MP/MSP represents the ward/constituency likely to be affected. Likewise, Community Councils likely to be affected will be considered to be interested parties. In addition a community group might represent vulnerable people living near to the proposed premises.
- 8.7** Other than these however, this Board will generally require written evidence that a person/body (e.g. an advocate/relative) ‘represents’ someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

If individuals wish to approach Councilors to ask them to represent their views then care should be taken that the Councilors are not part of the Licensing Board dealing with the licence application. If there are any doubts then please contact the Licensing Section by telephone: 01389 738741 or e-mail: [licensing@west-dunbarton.gov.uk](mailto:licensing@west-dunbarton.gov.uk).

## **9. Exchange of Information**

- 9.1** Licensing authorities are required to include in their statements the principles to be applied by the authority in exercising the functions under Sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under Section 350 of the Act with respect to the exchange of information between it and the other persons listed in the in Schedule 6 to the Act. The terms of Part 13 of the Guidance to Local Authorities outline the underlying principles and information exchange between the Commission and licensing authorities.
- 9.2** The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information, which includes the provision that the Data Protection Act 2018 and the data protection legislation referred to therein will not be contravened. The Licensing Board will also act in accordance with the terms of the Freedom of Information (Scotland) Act 2002. The licensing authority will also have regard to any Guidance issued by the Gambling Commission to licensing authorities on this matter when it is published, as well as any relevant regulations issued by the Secretary of State or Scottish Ministers under the powers provided in the Gambling Act 2005.
- 9.3** Should any protocols be established as regards information exchange with other bodies then they will be made available.

## **10. Compliance and Enforcement**

- 10.1** In exercising its functions under Part 15 of the Act with respect to the inspection of premises this authority will be guided by the Gambling Commission's Guidance and will endeavor to be in terms of the Principles of good regulation in the Legislative and Regulatory Reform Act 2006:
- proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
  - accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
  - consistent: rules and standards must be joined up and implemented fairly and equally to all parties;
  - transparent: regulators should be open, and keep regulations simple and user friendly; and
  - targeted: regulation should be focused on the problem, and minimise side effects.
- 10.2** In terms of the Gambling Commission's Guidance for local authorities, this licensing authority will seek to avoid duplication with other regulatory regimes so

far as possible.

**10.3** This licensing authority will also, as recommended by the Gambling Commission's Guidance for licensing authorities, adopt a risk-based inspection programme when assessing 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; and
- the procedures put in place by the management of individual premises to meet the licensing objectives.

**10.4** The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 will be to ensure compliance with the premises licences and other permissions which it has authorised. The Gambling Commission will be the enforcement body for the operating and personal licences. The Board, to monitor compliance with its functions under the Act, will work actively with the Gambling Commission's Compliance Officer and other partner agencies to enforce the licensing legislation. It is also worth noting that concerns about manufacture, supply or repair of gaming machines will not be dealt with by the licensing authority but will be notified to the Gambling Commission.

**10.5** While the Licensing Board has set out its approach to enforcement and compliance, it should be noted that statutory clarification is required in relation to the enforcement and compliance functions in terms of Section 304 of the Act. This clarification is required so that Council Officers can be authorised to carry out enforcement and compliance activities in terms of the Act.

~~**10.6** Bearing in mind the principle of transparency, this licensing authority's enforcement/compliance protocols/written agreements will be available upon request to the Licensing Section, West Dunbartonshire Council Offices, Council Offices, Municipal Buildings, Dumbarton G82 1NR: e-mail [licensing@west-dunbarton.gov.uk](mailto:licensing@west-dunbarton.gov.uk). Our risk methodology will also be available upon request.~~

~~**10.7** The authority recognises that certain bookmakers have a number of premises within its area. In order to ensure that any compliance issues are recognised and resolved at the earliest stage, operators are requested to provide the authority with the contact details for a senior individual within the organisation, whom the authority will contact first should any compliance queries or issues arise.~~

## **11. Local Risk Assessments**

**11.1** The Gambling Commission Licence Conditions and Codes of Practice formalise the need for operators to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and to have policies,

procedures and control measures in place to mitigate those risks. Local risk assessments apply to all non-remote casinos, adult gaming centres, bingo, family entertainment centre, betting intermediary (trading room only) licences, except non-remote general betting (limited) and betting intermediary licences. The Gambling Commission Guidance to Licensing Authorities at part 6, Local area profile further details the requirements.

- 11.2** .When licence holders are undertaking their risk assessments, they must take into account relevant matters identified in this Statement of Principles. It is expected that Premises Managers will be conversant in their individual risk assessment. The effectiveness of the policy should also be reviewed and monitored.
- 11.3** Licensees are required to undertake a local risk assessment when applying for a new premises licence. Their local risk assessment must also be updated and reviewed:
- when applying for a variation of a premises licence;
  - to take account of significant changes in local circumstances, including those identified in a licensing authority's statement of licensing policy;
- when there are significant changes at a licensee's premises that may affect their mitigation of local risks.
- 11.4** The Social Responsibility Provision is supplemented by an Ordinary Code provision that requires licensees to share their risk assessment with licensing authorities when applying for a new licence or to vary a licence, or on request. Ordinary Codes are not a mandatory requirement but are expected to be followed unless alternative arrangements that can be put in place that are equally effective.
- 11.5** West Dunbartonshire Licensing authority expect that all local risk assessments will take into account the licensing objective of protecting children and other vulnerable persons from being harmed or exploited by gambling. Where appropriate the Board would expect that local risk assessments take into account the vicinity of licensed premises where children or vulnerable groups may be present such as schools, colleges, gambling or addiction support, treatment centres, Doctor surgeries or community centres. Links listed at appendix 2 are provided to assist licence holders and applicants and those seeking to make representations to the Licensing Board. These assist in giving the location of such places. It is expected that operators take close cognisance of where prospective premises may be situated in the vicinity and at times where such persons may be there and take appropriate steps to mitigate risks in such areas in terms of the licensing objectives. This would in particular but not exhaustively, include steps such as ensuring that advertising is appropriately monitored. It is expected that local risk assessments should show information held by the licensee regarding self-exclusions from premises, and how persons with gambling dependencies are protected within premises.

It is the case however, that the Board will consider all representations to it in terms of the Gambling Commission Guidance to Licensing Authorities and whether the locations of such premises are higher risk and whether additional controls are required.

Applicants should be prepared to demonstrate to the Board how they will address any properly identified concerns or mitigate the risks.

**11.6** Self-Exclusion Schemes – The Licensing Board welcomes the new requirement for all non-remote casino, bingo and betting licences (except in respect of the provision of facilities for betting in reliance on a track premises licence) and holders of gaming machine general operating licences for adult gaming centres.

**11.7** At Appendix 3 there is a map of Scottish Index of Multiple Deprivation for West Dunbartonshire. These may be factors that operators consider with regard to the Licensing Objectives, problem gamblers, vulnerable adults and the links in studies identified. In addition, there is a link can found on the Licensing Board's webpage to the full list of current Gambling Premises so, that operators can assess the range of gambling facilities in proximity to the Licensed Premises in terms of any risk assessment:

## **12. Licensing Authority Functions**

**12.1** Licensing Authorities are required under the Act to:

- be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences;
- issue Provisional Statements;
- receive occasional use notices;
- issue permits as required by the Act;
- registrations as required by the Act;
- provide information to the Gambling Commission regarding details of licences issued (see section above on 'Exchange of Information'); and
- maintain registers of the permits and licences that are issued under these functions.

**12.2** This Statement of Principles relates to all those licensable 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; and

- registration of small society lotteries (below prescribed thresholds).

**12.3** It should be noted that licensing authorities are not be involved in licensing remote gambling. This will be regulated by the Gambling Commission via operating licences.

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## **PART B**

### **PREMISES LICENCES**

#### **1. General Principles**

- 1.1** Premises licences will be subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which will be detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate. Additional conditions will only be imposed where there is evidence of a risk to the Licensing Objectives that requires that the mandatory and default conditions be supplemented.
- 1.2** This licensing authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it is:-
- in accordance with any relevant code of practice issued by the Gambling Commission;
  - in accordance with any relevant guidance issued by the Gambling Commission;
  - reasonably consistent with the licensing objectives; and
  - in accordance with the authority's statement of licensing principles.
- 1.3** It is appreciated that in terms of the Gambling Commission's Guidance for local authorities *"moral objections to gambling are not a valid reason to reject applications for premises licences"* (except as regards any 'no casino resolution' - see section on Casinos below at 4.1).

In considering an application for a premises licence no regard will be given to the expected demand for the facilities proposed to be provided in the premises for which a premises licence is sought.

- 1.4 Definition of "premises"** - Premises is defined in the Act as including *"any place"*. Section 152 of the Act prevents more than one premises licence applying to any place. Different premises licences cannot apply in respect of a single premise at different times. However, it is possible for a single building to be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be genuinely regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, tracking or shopping mall to obtain discrete premises licences, where

appropriate safe guards are in place. Whether different parts of a building can properly be regarded as being separate premises will always be a question of fact in the circumstances.

It is highlighted to Board's that they should pay particular attention if there are any issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between the premises are observed. Factors which will assist the licensing authority in making their decision may include:-

- a) is a separate registration for business rates in place for the premises?
- b) is the premises' neighbouring premises owned by the same person or someone else?
- c) can each of the premises be accessed from the street or a public passageway?
- d) can the premises only be accessed from another gambling premise?

**1.5** The Gambling Commission states in its Guidance to Licensing Authorities that: *"In most cases the expectation is that a single building/plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises."*

**1.6** This licensing authority takes particular note of the Gambling Commission's Guidance for licensing authorities which states that:-

*"Licensing authorities should take particular care in considering applications for multiple premises licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular, they should be aware of the following:-*

- *The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to, or closely observe gambling where they are prohibited from participating.*



- *Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not 'drift' into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.*
- *Customers should be able to participate in the activity named on the premises licence."*

**1.7** In respect of whether Premises are “*ready for gambling*” - The Guidance states (in particular at parts 7.58 to 7.65) that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alteration required before the premises are brought into use. If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead. In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process:-

- first, whether the premises ought to be permitted to be used for gambling.
- second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place. Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

Further detail can be found in Chapter 7 of the Gambling Commission's Guidance.

**1.8 Location** - This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. In accordance with the Gambling Commission's Guidance for licensing authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. In this regard, it may well be the case that the Licensing Board would take the view that it would be undesirable to allow Adult Gaming Centres or Family Entertainment Centres to be located in close proximity to schools. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

**1.9 Duplication with other regulatory regimes** - This licensing authority will seek to

avoid any duplication with other statutory/regulatory systems where possible, including planning. When considering a licence application, this authority will not consider whether the premises are likely to be awarded planning permission or building regulations approval. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

**1.10** When dealing with a Premises Licence application for finished buildings, this Licensing Authority cannot take into account whether those buildings have to comply with the necessary planning or building consents. Fire or health and safety risks cannot be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the Premises Licence.

**1.11 Licensing objectives** - Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission's Guidance to Licensing Authorities and notes as follows:

**Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** - This licensing authority is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. The Licensing Board will, in relation to this licensing objective give due weight and consideration to any representation from Police Scotland (or any other relevant authorities) when making a decision in this regard.

This licensing authority is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behavior was to those who could see it, so as to make that distinction.

The Board will consider measures in place by the operator such as CCTV, age verification checks and standard of staff training, Issues of nuisance generally cannot be addressed via the Gambling Act provision. ~~and it is noted that to date there are very few reported matters from Police Scotland of crime, nuisance and disorder within West Dunbartonshire's Licensed premises (TBC).~~

~~In accordance with the Gambling Act 2005, In making decisions about premises licences, the Board will aim to permit the use of premises for gambling insofar as it is:-~~

- ~~• in accordance with any relevant code of practice issued by the Gambling~~

### Commission

- ~~in accordance with any relevant guidance issued by the Gambling Commission;~~
- ~~reasonably consistent with the licensing objectives; and~~
- ~~in accordance with this Statement of Licensing Principles.~~

**Ensuring that gambling is conducted in a fair and open way** - This licensing authority has noted that the Gambling Commission has stated that it would generally not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is, however, more of a role with regard to tracks which is explained in more detail in the 'Tracks' section (below - part 7).

**Protecting children and other vulnerable persons from being harmed or exploited by gambling** - This licensing authority has noted the Gambling Commission's Guidance for local authorities states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances/machines, segregation of areas, etc.

This licensing authority will also make itself aware of the Codes of Practice which the Gambling Commission issues as regards this licensing objective, in relation to specific premises such as casinos.

As regards the term vulnerable persons it is noted that the Gambling Commission is not seeking to offer a definition but states that *"it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who are gambling beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs."*

This licensing authority will consider this licensing objective on a case by case basis.

**1.12 Conditions** - Any conditions attached to licences will be proportionate and will be:

- relevant to the need to make the proposed building suitable as a gambling facility;
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects.

Decisions upon individual conditions will be made on a case by case basis, although

there will be a number of measures this licensing authority will consider utilising should there be a perceived need, such as the use of door supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This licensing authority will also expect the licence applicant to offer his/her own suggestions as to ways in which the licensing objectives can be met effectively.

This licensing authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters will be in accordance with the Gambling Commission's Guidance to Licensing Authorities.

This authority will also ensure that where category C or above machines (which may only be used by persons over the age of 18) are on offer in premises to which children are admitted:

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

These considerations will apply to premises including buildings where multiple premises licences are applicable.

This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

It is noted that there are conditions which the licensing authority cannot attach to premises licences which are:

- any condition on the premises licence which makes it impossible to comply with

- an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casinos and bingo clubs and this provision prevents it being re- instated); and
- conditions in relation to stakes, fees, winning or prizes.

**1.13 Door Supervisors** - The Board whilst not specifying the need for door supervisors would encourage operators to risk assess whether or not they may require this to uphold the licensing objectives.

## **2. Adult Gaming Centres**

**2.1** This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.

**2.2** This licensing authority will expect applicants to offer their own measures to meet the licensing objectives, however, appropriate measures/licence conditions may cover issues such as:

- Proof of age schemes.
- CCTV.
- Supervision of entrances/machine areas.
- Physical separation of areas.
- Location of entry.
- Notices/signage.
- Specific opening hours.
- Provision of information leaflets/helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures. Operators are encouraged to fully consider this licensing objective closely.

## **3. (Licensed) Family Entertainment Centres:**

**3.1** This licensing authority will specifically have regard to the need to protect children and

vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

**3.2** This licensing authority will expect applicants to offer their own measures to meet the licensing objectives, however, appropriate measures/licence conditions may cover issues such as:

- Proof of age schemes
- CCTV
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- Provision of information leaflets/helpline numbers for organisations such as GamCare; and
- Measures/training for staff on how to deal with suspected truant school children on the premises.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

**3.3** This licensing authority will, in terms of the Gambling Commission's guidance, refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

#### **4. Casinos**

**4.1 No Casinos resolution** - This licensing authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so.

#### **5. Bingo premises**

- 5.1** This licensing authority notes that the Gambling Commission's Guidance at Part 18 with regard to "Bingo" in particular states:-

*"Under the Act, children and young persons (anyone up to the age of 18) cannot be employed in providing any facilities for gambling on bingo premises, and children (under 16) cannot be employed, in any capacity, at a time when facilities for playing bingo are being offered. However, young persons, aged 16 and 17, may be employed in bingo premises (while bingo is being played), provided the activities on which they are employed are not connected with the gaming or gaming machines."*

*Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed. Social Responsibility (SR) code 3.2.5(3) states that 'licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises' in order to prevent underage gambling."*

- 5.2** Part 18 of the Gambling Commission's Guidance to Licensing Authorities sets out the mandatory conditions attached to different types of bingo premises, and regard will be given any further guidance from the Gambling Commission and the LCCP sets out in full the requirements on operators.

## **6. Betting premises**

- 6.1 Betting machines** - This licensing authority will, in terms of the Gambling Commission's Guidance at Part 19, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting (see 7.4 below for gaming machines) machines an operator wants to offer.
- 6.2** Section 181 of the Act contains an express power for licensing authorities to restrict the number of self-serving betting machines (SSBT's), their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence (or to a casino betting licence where betting is permitted in the casino).
- 6.3** Section 235(2) (c) provides that a machine is not a gaming machine if it is designed or adapted for use to bet on future real events. Some betting premises may make available machines that accept bets on live events, such as horse racing, as a substitute for placing a bet over the counter. These SSBTs are not gaming machines and therefore neither count towards the maximum permitted number of gaming machines, nor have to comply with any stake or prize limits. SSBTs merely automate the process that can be conducted in person and the Act exempts them from regulation as a gaming machine.

- 6.4** However, where a machine is made available to take bets on virtual races (that is, results and/or images generated by computer to resemble races or other events) that machine is a gaming machine and counts towards the maximum permitted number of gaming machines, and must meet the relevant category limitations for the premises.
- 6.5** Guidance for licence holders on this matter can be found here [Gambling Commission Guidance on Section 235](#).

## **7. Tracks**

- 7.1** This licensing authority is aware that tracks (Part 20 of the Guidance) may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. In terms of the Gambling Commission's Guidance, this licensing authority will give special consideration to the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 7.2** This authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.
- 7.3** This licensing authority will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures/licence conditions may cover issues such as:-
- proof of age schemes;
  - CCTV;
  - supervision of entrances/machine areas;
  - physical separation of areas;
  - location of entry;
  - notices/signage;
  - specific opening hours;
  - self-barring schemes; and



- provision of information leaflets/helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

**7.4 Gaming machines** - The Gambling Commission guidance with regard to Gaming Machine Permits is to be found at 20.33 to 20.38. There is distinction between betting (as above at 6.1 and 6.2) and gaming machines. The holder of a betting premises licence may make up to 4 gaming machines of categories B, C or D available for use.

**7.5 Self Service Betting machines** - This licensing authority will, consider the terms of Gambling Commission's Guidance at 20.39 to 20.42. In particular at point 20.40 the supervision of such terminals to prevent them being used by those under 18 years of age.

**7.6 Condition on rules being displayed** - The Gambling Commission has advised in its Guidance for licensing authorities that "...licensing authorities should attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office."

## **8. Travelling Fairs**

**8.1** Where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, it will be a matter for this licensing authority to decide whether the statutory requirement, that the facilities for gambling amount to no more than an ancillary amusement at the fair, is met. Category D machines stake values are as per Appendix 3.

**8.2** The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

**8.3** It has been noted that the 27-day statutory maximum for the land being used as a fair, is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

## **9. Provisional Statements**

**9.1** Section 204 of the Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:-

- expects to be constructed

- expects to be altered
- expects to acquire a right to occupy

**9.2** In terms of representations about premises licence applications, following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account 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.

**9.3** The Board 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 by objectors at the provisional licence stage; or
- (b) which in the authority's opinion reflect a change in the operator's circumstances.

**9.4** This authority has noted the Gambling Commission's Guidance that licensing authorities should not take into account irrelevant matters such as the likelihood of the applicant obtaining planning permission or building standards approval for the proposal.

## **10. Reviews**

**10.1** Requests for a review of a premises licence can be made by interested parties or responsible authorities. It is for the Board to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below, as well as consideration as to whether the request is frivolous, vexatious, will certainly not cause the authority to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations relating to the same premises or requests for review.

Requests for reviews should be:-

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the authority's statement of principles.

**10.2** The Board can also initiate a review of a licence on the basis of any reason which it thinks is appropriate.

## **PART C**

### **PERMITS/TEMPORARY & OCCASIONAL USE NOTICE**

#### **1. Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits - Schedule 10 paragraph 7)**

- 1.1 Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).
- 1.2 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.
- 1.3 The Gambling Act 2005 states that a licensing authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under Section 24. The Gambling Commission's Guidance for local authorities also states: "In their licensing policy statement, a licensing authority may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits.... Given that the premises will particularly appeal to children and young persons, licensing authorities may want to give weight to matters relating to the protection of children from being harmed or exploited by gambling." (Paragraph 24.8)
- 1.4 Guidance also states: *"...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], and if the chief officer of police has been consulted on the application....Licensing authorities might wish to consider asking applicants to demonstrate:-*
  - *a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed [Family Entertainment Centres];*
  - *that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act; and*
  - *that staff are trained to have a full understanding of the maximum stakes and prizes (Paragraph 24.9)."*
- 1.5 It should be noted that a licensing authority cannot attach conditions to this type of permit.

- 1.6 Statement of Principles** - This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures/training for staff as regards suspected truant school children on the premises, measures/training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on/around the premises. This licensing authority will also expect, in terms of the Gambling Commission Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

## **2. Alcohol Licensed Premises Gaming Machine Permits**

- 2.1** There is provision in the Act (Part 26 of the Guidance) for premises licensed to sell alcohol for consumption on the premises, automatically to have two gaming machines, of categories C and/or D. To take advantage of this entitlement, the licence holder must give notice to the licensing authority of their intention to make gaming machines available for use, and must pay the prescribed fee. The automatic entitlements to have 2 gaming machines relate to premises as a whole and not to each individual bar or lounge area within premises. The licensing authority can remove the automatic authorisation in respect of any particular premises if:-

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises.

- 2.2** If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*” This licensing authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children

and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines (category C machines). Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be helpful. The licensing authority will impose the conditions and support best practice as per the Gambling Commission Guidance. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare. Under 18 year olds may play category D machines.

- 2.3 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.
- 2.4 It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

### 3. **Prize Gaming Permits - (Statement of Principles on Permits - Schedule 14 paragraph 8 (3))**

- 3.1 A prize gaming permit is a permit issued by a licensing authority to authorise the provision of facilities for gaming with prizes on specified premises.
- 3.2 The Gambling Act 2005 states at part 27.12 that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority propose to consider in determining the suitability of the applicant for a permit”.
- 3.3 This licensing authority has prepared a Statement of Principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:
  - that they understand the limits to stakes and prizes that are set out in Regulations; and
  - that the gaming offered is within the law.
- 3.4 In making its decision on an application for this type of permit the licensing authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

- 3.5 It should be noted that there are conditions in the Gambling Act 2005 with which the permit holder must comply, but that the licensing authority cannot attach conditions.

#### **4. Temporary Use Notices**

- 4.1 Temporary use notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. They may only be granted where a relevant operating licence has been granted.
- 4.2 There are a number of statutory limits as regards temporary use notices. Gambling Commission Guidance is noted that the meaning of premises in Part 8 of the Act is discussed in Part 7 of this guidance. As with premises, the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act premises is defined as including "*any place*". In considering whether a place falls within the definition of "*a set of premises*", licensing authorities will need to look at, amongst other things, the ownership/occupation and control of the premises.

#### **5. Occasional Use Notices**

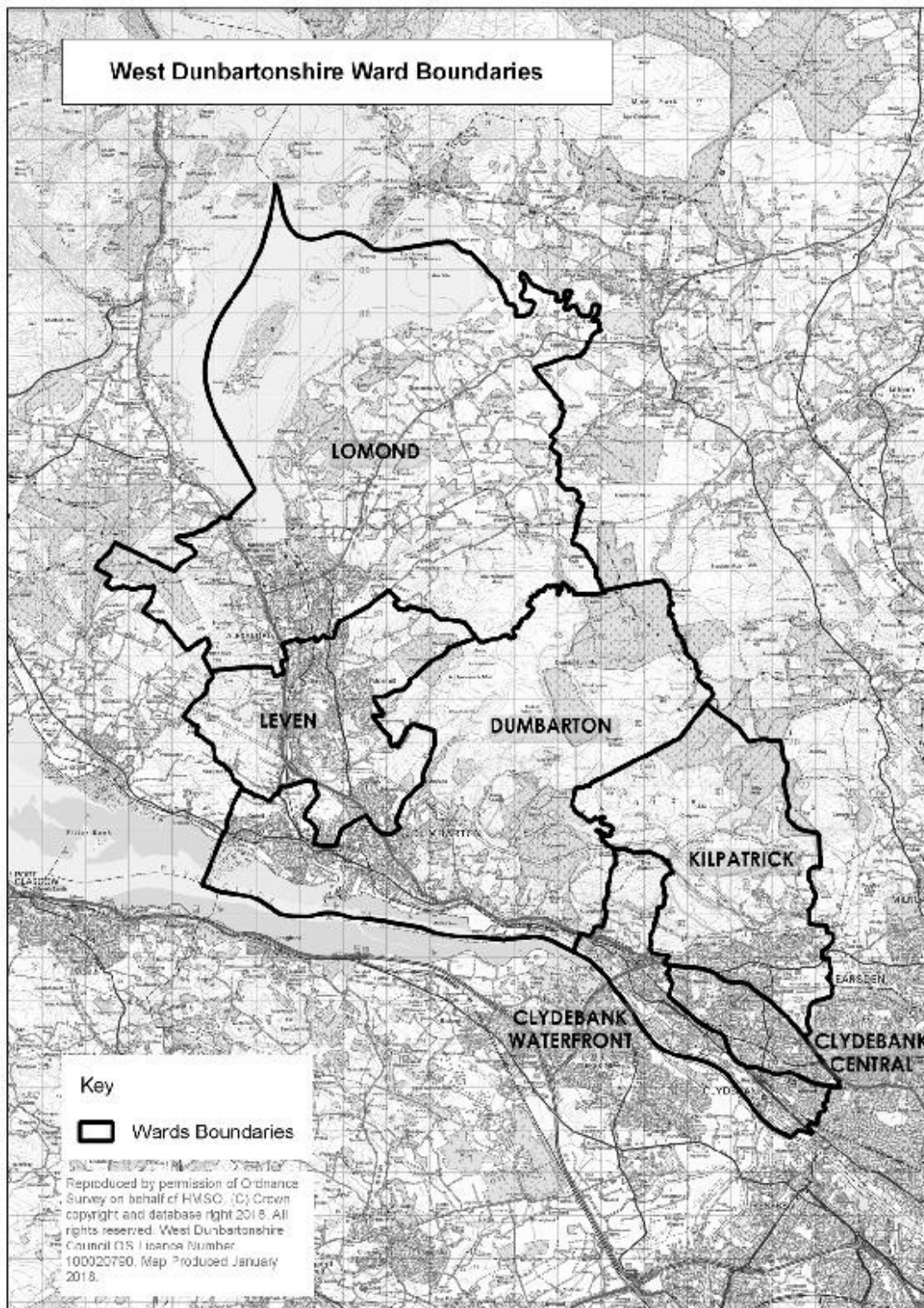
- 5.1 Where there is betting on a track on 8 days or less in a calendar year, betting may be permitted by an occasional use notice, without the need for a full premises licence.
- 5.2 The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

#### **6. Small Society Lotteries**

A non-commercial society that runs a lottery where the income is below a certain specified thresholds can register with the Board. The Board may issue guidance in terms of the Commission Guidance. In the first instance parties seeking information on the registration procedure should contact a West Dunbartonshire Council Licensing Standard Officer.

## Map of West Dunbartonshire Council Area

## Appendix 1



**Appendix 2****Information relevant to local area profile**

[\[TO BE UPDATED\]](#)

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**Appendix 3****Demographic Profile of West Dunbartonshire - Scottish Index of Multiple Deprivation****[TO BE UPDATED]**

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**Appendix 4****Gaming Machine Categories and Entitlements**

Please refer to the Gambling Commission's website at  
[www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

**Appendix 5****Schedule of Responsible Authorities****[TO BE REVIEWED AND UPDATE]**

West Dunbartonshire Licensing Board, Council Offices, Municipal Buildings, Station Road, Dumbarton G82 1NR

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

The Chief Constable, Police Scotland

The Chief Fire Officer, Strathclyde Fire & Rescue, Headquarters, Bothwell Road, Hamilton ML3 0EA

West Dunbartonshire Council, Regulatory: Environmental Health Service, Council Offices, Church Street, Dumbarton, G82 1QL

West Dunbartonshire Council, Regulatory: Planning and Building Standards Service, Council Offices, Church Street, Dumbarton, G82 1QL

Loch Lomond & the Trossachs National Park Authority: Director of Planning, National Park Headquarters, The Old Station, Balloch Road, Balloch, G83 8BF

West Dunbartonshire Community Planning Partnership (West Dunbartonshire Child Protection Committee), Council Offices, Church Street, Dumbarton, G82 1QL

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

Any other person prescribed in regulations by the Secretary of State or Scottish Ministers.

**Appendix 6**

**Schedule of Consultees**

**[TO BE UPDATED]**

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