

Statement of Licensing Principles

Gambling Act 2005

April 2017

(2nd revision)

Index Section

1	Introduction
2	Gambling Act 2005
3	Decision Making
4	General Principles
5	Responsible Authorities
6	Interested Parties
7	Exchange of information
8	Enforcement
9	Premises Licences
9A	Risk Assessment/Area Profiles
10	Licence Conditions
11	Provisional Statements
12	Reviews
13	Permits
14	Temporary Use Notices
15	Occasional Use Notices
16	Small Society Lotteries
17	Human Rights
18	Promotion of Equality
19	Advice and Contract Points

Appendices

- 1 Map of Cheshire West and Chester
- 2 List of Consultees
- 3 Gaming Machine Categories
- 4 Summary of Machine Provisions by Premises
- 5 Scheme of Delegation

The information provided within appendix 3 and 4 is subject to change by Central Government/Gambling Commission and therefore is not considered part of this Statement of Principles. Notwithstanding, the information within Appendix 3 and 4 will be updated as and when required. Such consequential amendments will not be considered as a review of the Statement of Principles and therefore will not be consulted upon.

1. Introduction

- 1.1 Cheshire West and Chester Council (**the Council**) is the licensing authority for the Cheshire West and Chester District, under the provisions of the Gambling Act 2005 (**the Act**). The District as a whole covers an area of **350** square miles with a total population of **333,900** (expected to increase by 5% in the next ten years) and is located in the County of Cheshire, between the Welsh hills and rural Cheshire. Our population has an ageing profile, by 2023, almost a quarter of our residents will be 65 or over.
- 1.2 Cheshire West and Chester Council is the fourth largest unitary authority in the North West. The major towns and cities include: Chester, Ellesmere Port, Frodsham, Neston, Northwich and Winsford. The area is an interesting mixture of both rural and urban communities and combines an exciting range of attractions, festivals, events and shopping experiences for both local residents and tourists alike.
- 1.3 The new Cheshire West and Chester Council Plan 2016 – 2020 “Helping the Borough Thrive” sets out the Council’s priorities and key initiatives based around the themes of:
- Thriving residents
 - Thriving economy
 - Thriving communities

Effective licensing secures the safety and amenity of individual residents and communities whilst facilitating a vibrant and sustainable entertainment industry within a diverse local economy.

- 1.4 A map of the Cheshire West and Chester District is set out in **Appendix 1**.
- 1.5 In exercising most of its functions under the Gambling Act 2005, the Licensing Authority 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
- 1.6 The Gambling Act 2005 requires the Licensing Authority to prepare and publish a Statement of Principles which sets out the policies that the Council will generally apply to promote the Licensing Objectives when making decisions on applications made under the Act.

- 1.7 The Statement of Principles must be published at least every three years 28 days before coming in force. **The next date for publication under statute is 3 March 2020.**
- 1.8 This Statement of Principles has been prepared having regard to the licensing objectives of the Gambling Act 2005 and the Guidance issued by the Gambling Commission. It was adopted by Cheshire West and Chester Council on 2 March 2017 having considered any comments received from those consulted on the draft Statement of Principles.
- 1.9 As required by the Gambling Act 2005, the draft Statement of Principles was subject to formal consultation with:-
- Cheshire County Constabulary
 - Representatives of those carrying on gambling businesses within the Cheshire West and Chester district.
 - Representatives of those persons likely to be affected by the exercise of the licensing authority's functions under the Act

A full list of consultees is set out in **Appendix 2.**

- 1.10 The Cheshire West and Chester Statement of Principles will come into effect on 1 April 2017 and will be available on the Licensing Authorities website.
- 1.11 As indicated at 1.7 above, a further statement of principles must be published by 3 March 2020.

2. **Gambling Act 2005**

- 2.1 'Gambling' is defined in the Act as either gaming, betting, or taking part in a lottery.
- gaming means playing a game of chance for a prize
 - betting means making or accepting a bet on the outcome of a race, competition, or any other event ; the likelihood of anything occurring or not occurring; or whether anything is true or not
 - A lottery is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance
- 2.2 The Act provides for three categories of licence:
- operating licences
 - personal licences
 - premises licences

- 2.3 The Licensing Authority will be responsible for issuing premises licences. The Gambling Commission will be responsible for issuing operating and personal licences.
- 2.4 The main functions of the Licensing Authority are to:
- licence premises for gambling activities
 - grant permits for gambling and gaming machines in clubs
 - regulate gaming and gaming machines in alcohol licensed premises
 - grant permits to family entertainment centres for the use of certain lower stake gaming machines
 - grant permits for prize gaming
 - consider notices given for the temporary use of premises for gaming
 - consider occasional use notices for betting at tracks
 - register small societies lotteries
- 2.5 It should be noted that:
- Spread betting is regulated by The Financial Services Authority;
 - Remote (on-line) Gambling is dealt with by the Gambling Commission;
 - The National Lottery is regulated by The National Lottery Commission
- 2.6 This document sets out the policies that the Licensing Authority will apply when making decisions upon applications or notifications made for:-
- Premises Licences;
 - Temporary and Occasional Use Notices;
 - Permits as required under the Act;
 - Registrations as required under the Act.
- 2.7 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;
 - Family Entertainment Centres;
 - Club Gaming and Club Machine Permits;
 - Prize Gaming and Prize Gaming Permits;
 - Temporary and Occasional Use Notices;
 - Registration of small society lotteries.
- 2.8 The Categories of Gaming Machine Regulations 2007 define four classes of gaming machine, categories A, B, C and D, with category B divided into a further 5 sub-categories. A full list of the categories of Gaming Machine, together with the current maximum stakes and prizes, is set out in **Appendix 3**.

2.9 The Act includes the definition of a child at S.45 as:

Meaning of “child” and “young person”

(1) In this Act “child” means an individual who is less than 16 years old

(2) In the Act “young person” means an individual who is not a child but who is less than 18 years old.

3 Decision Making

3.1 The approval of the Statement of Principles and the passing of a resolution not to issue casino licences must be taken by the full Council.

3.2 All other licensing functions under the Act will be carried out by the Licensing Committee. In the interests of efficiency and effectiveness the Committee will delegate certain decisions and functions to officers or to the Licensing Act Sub-Committee.

3.3 The table shown at **Appendix 5** sets out the proposed delegation of decisions and functions to the Licensing Committee, Licensing Act Sub-Committee and Officers.

3.4 This scheme of delegation is without prejudice to Officers referring an application to the Licensing Committee or Licensing Act Sub-Committee if considered appropriate in the circumstances of any particular case.

4 General Principles

4.1 In exercising most of its functions under the Gambling Act 2005, the Licensing Authority 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

4.2 In carrying out its licensing functions under the Act the Licensing Authority will aim to permit the use of premises for gambling as long as it is considered to be :-

- in accordance with any relevant Codes of Practice issued by the Gambling Commission
- in accordance with any relevant Guidance issued by the Gambling Commission

- in accordance with this Statement of Principles, and
- reasonably consistent with the licensing objectives.

4.3 Where appropriate, applicants will be expected to demonstrate that they comply with all relevant codes of practice issued by the Gambling Commission, BACTA (British Amusement Catering Trade Association), Gamcare or similar organisations.

4.4 The Licensing Authority will endeavour to avoid duplication with other regulatory regimes.

4.5 While this Statement of Principles sets out the Licensing Authorities general approach to making licensing decisions, each application will be considered on its individual merits.

4.6 This Statement of Principles is not intended to override the right of any person to make an application under the Act, and to have that application considered on its merits.

4.7 Equally, this Statement of Principles is not intended to undermine the right of any person to make representations about an application or to seek a review of a licence.

5 Responsible Authorities

5.1 Responsible authorities are generally public bodies that must be notified of all applications and are entitled to make representations to the Licensing Authority if they are relevant to the licensing objectives.

5.2 Section 157 of the Act defines those authorities as:-

- A licensing authority in whose area the premises is wholly or partly situated
- The Gambling Commission
- The Chief Officer of Police in whose area the premises is wholly or partly situated
- The Fire & Rescue Service in whose area the premises is wholly or partly situated
- The local planning authority in whose area the premises is wholly or partly situated
- The Environmental Protection Team
- A body designated in writing by the licensing authority to advise about the protection of children from harm
- HM Revenue and Customs
- Any other Person

5.3 The Licensing Authority will apply the following principles when designating, in writing, a body which is competent to advise the authority about the protection of children from harm:

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

5.4 This authority proposes to designate Cheshire Constabulary for this purpose.

5.5 Section 211(4) of the Act provides that in relation to a vessel, but to no other premises, responsible authorities should also include navigation authorities within the meaning of section 221(1) of the Water Resources Act 1991 that have statutory functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is proposed to be navigated at a time when it is used for licensable activities. These would include:

- the Environment Agency
- the British Waterways Board
- the Secretary of State acting through the Maritime and Coastguard Agency

5.6 The contact details of all the Responsible Bodies under the Gambling Act 2005 will be available on the Licensing Authorities website.

6 Interested Parties

6.1 An interested party is someone who:

- lives sufficiently close to the premises to be likely to be affected by the authorised activities, or
- has business interests that might be affected by the authorised activities, or
- represents persons in either of the two groups above

6.2 In determining whether someone lives sufficiently close to a particular premises so as to be affected the Licensing Authority will take into account, among other things:

- the size of the premises
- the nature of the premises
- the distance of the premises from the person making the representation
- the nature of the complainant
- the potential impact of the premises

6.3 In determining whether a person has a business interest which could be affected the Licensing Authority will consider, among other things:

- the size of the premises
- the catchment area of the premises, and
- whether the person making the representation has business interests in the catchment area that might be affected

- 6.4 Business interests will be given a wide interpretation and could include for example partnerships, faith groups and medical practices.
- 6.5 In considering these factors, each case will be decided upon its own merits.
- 6.6 Representatives of interested parties may include M.P.s, Ward Councillors and Parish Councillors. Residents' and tenants' associations, trade unions and trade associations may also represent interested parties if they have members living sufficiently close to the premises. Except in the case of councillors or MPs representing the ward or wards likely to be affected, when written evidence will be required that a person or body represents an interested party.
- 6.7 If individuals approach Ward Councillors or Parish Councillors, care should be taken that the Councillor is not on the Licensing Committee or Licensing Act Sub-Committee which will deal with the application nor has a prejudicial interest which would prevent them from addressing the Committee or Sub-Committee. If there are any doubts, advice should be sought from the Licensing Team.
- 6.8 Interested parties can make representations about licence applications or apply for a review of an existing licence.
- 6.9 Details of those persons making representations will be made available to applicants and, in the event of a hearing being held, will form part of a public document.

7 Exchange of Information

- 7.1 Subject to the provisions of the Data Protection Act 1998, the Licensing Authority will share any information it receives through the application process with the Gambling Commission and with other persons listed in Schedule 6 of the Act. In doing so, the Licensing Authority will have regard to the Act, any Guidance issued by the Gambling Commission to Local Authorities on this matter and any relevant regulations issued by the Secretary of State.
- 7.2 Should any protocols be established as regards information exchange with other bodies then they will be made available on the Licensing Authority website.

8 Enforcement

- 8.1 In general, the Gambling Commission will take the lead role on the investigation and, where appropriate, the prosecution of illegal gambling.
- 8.2 The main enforcement and compliance role for the Licensing Authority will be to ensure compliance with the premises licences and other permissions which it authorises.
- 8.3 The Licensing Authority will adopt a risk-based inspection programme and will work with the Commission, the police and other enforcing authorities to provide for the targeting of agreed problem or high-risk premises.

8.4 The Licensing Authority will be guided by the Gambling Commission's Guidance for local authorities and will endeavour to be:

- **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;
- **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

8.5 The Licensing Authority will comply with its own enforcement policies and protocols which will be available on the website.

8.6 In carrying out its enforcement and compliance role, the licensing authority will comply with the Regulators' Compliance Code and will take account of any guidance issued by the Local Better Regulation Office (LBRO).

9 Premises Licences

9.1 Premises can be 'any place' but the Act prevents more than one premises licence applying to any one place. A single building could be subject to more than one premises licence provided they are for different parts of the building and those parts can be genuinely regarded as being different 'premises'.

9.2 There are particular requirements for entrances and exits from parts of a building covered by one or more licences to be separate and identifiable so that the separation of the premises is not compromised and that people are not allowed to 'drift' accidentally into a gambling area. The Gambling Act 2005 (Mandatory and Default Conditions) Regulations 2007 set out the access provisions for each type of premises.

9.3 A licence to use premises for gambling will normally be issued only in relation to premises that are ready to be used for gambling. Where premises have not yet been constructed, an applicant may apply for a provisional statement – See Section 11.

9.4 An application for a premises licence may only be made by persons who have a right to occupy the premises.

9.5 Except in the case of a track premises licence, an application for a premises licence can only be made by a person who either holds an operating licence authorising him to carry on the activity in respect of which a premises licence is sought, OR has made an application for an operating licence which has not yet been determined.

- 9.6 When considering applications for premises licences the licensing authority cannot take into consideration the expected 'demand' for facilities. It should also be noted that moral objections to gambling are not a valid reason to reject applications.
- 9.7 Applications for the grant, transfer or variation of a Premises Licence should be accompanied by an assessment that demonstrates how the applicant will promote all the Licensing Objectives.
- 9.8 Premises licences granted must be reasonably consistent with the licensing objectives as follows:-
- **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.**
- 9.9 The Gambling Commission will be taking a leading role in preventing gambling from being a source of crime.
- 9.10 The Gambling Commission will deal with Operating Licences and Personal Licences so the licensing authority will not be concerned about the suitability of an applicant. If concerns arise about a person's suitability, the licensing authority will bring those concerns to the attention of the Commission.
- 9.11 The licensing authority will take into consideration the proposed location of gambling premises in terms of this licensing objective. Where an area has known high levels of organised crime, the licensing authority will consider carefully whether gambling premises are suitable to be located there.
- 9.12 Where appropriate, conditions may be attached to a premises licence requiring the provision of door supervisors. For example, if the premises cannot be adequately supervised from the counter, door supervision may be necessary.
- 9.13 There is a distinction between disorder and nuisance. The licensing authority will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see or hear it in determining that distinction. It should be noted that issues of nuisance cannot be addressed under the Act.
- **Ensuring that gambling is conducted in a fair and open way.**
- 9.14 The Gambling Commission does not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will either be a matter for the management of the gambling business or will relate to the suitability and actions of an individual. Both issues will be addressed by the Commission through the operating and personal licensing regime.
- 9.15 Because betting track operators do not need an operating licence from the Commission the licensing authority may, in certain circumstances, require

conditions to ensure that the environment in which betting takes place is suitable.

- **Protecting children and other vulnerable persons from being harmed or exploited by gambling.**

- 9.16 Apart from one or two limited exceptions, the intention of the Act is that children and young persons should not be allowed to gamble and should therefore be prevented from entering gambling premises which are 'adult-only' environments.
- 9.17 In practice, steps will generally be taken to prevent children from taking part in, or being in close proximity to gambling. There may also be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children.
- 9.18 The licensing authority will not normally grant a premises licence for premises which are located close to schools.
- 9.19 When considering whether to grant a premises licence or permit, the licensing authority will consider whether any measures are necessary to protect children, such as the supervision of entrances, the segregation of gambling from areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises, such as pubs, clubs, betting tracks etc.
- 9.20 The Act does not define the term "vulnerable persons" but the licensing authority considers that this will include people who gamble more than they want to, people who gamble beyond their means, and people who may not be able to make informed or balanced decisions about gambling, perhaps due to a learning disability, mental health problem or the effects of alcohol or drugs.
- 9.21 Licence Holders will be expected to make information publicly available about organisations that can provide advice and support, both in relation to gambling itself and to debt e.g. GamCare, Gamblers Anonymous, Gordon House Association, National Debt line, local Citizens Advice Bureaux and independent advice agencies.
- 9.22 The Council is aware of the general concern surrounding betting machines that permit high volumes of betting activity by individuals, for example Fixed Odds Betting Terminals (FOBTs). Applicants should consider where such betting machines are located and monitor use to ensure excessive gambling does not take place.

9.A Risk Assessments/Area Profiles

- 9A.1 The Licensing Authority expects applicants for new licences or variations to prepare a risk assessment for their business which takes into account the nature and characteristics of the locality in which they are situated. To assist applicants, the Council is preparing local area profiles and these will be included following the next review of this Statement of Licensing Principles. The Council will request sight of the risk assessment as part of the application process, and will consider both the adequacy of the risk assessment and the

control measures identified and determine whether or not it is proportionate to incorporate the control measures as conditions on the licence.

- 9A.2 Licensees must review (and update as necessary) their local risk assessments to take account of significant changes in local circumstances, including those identified in this Statement of Licensing Principles and when there are significant changes at a licensee's premises that may affect their mitigation of local risks.
- 9A.3 The Licensing Authority expects all licences to have policies, procedures and adequate control measures in place to mitigate all risks identified during the risk assessment/review process.

10 Licence Conditions

- 10.1 There are three types of conditions which may be attached to premises licences:-
- Mandatory – Conditions prescribed in regulations made by the Secretary of State which must be attached
 - Default Conditions – Conditions prescribed in regulations made by the Secretary of State which will be attached unless specifically excluded by the Licensing Authority
 - Conditions imposed by the Licensing Authority
- 10.2 Any conditions imposed by the Licensing Authority 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.
- 10.3 Applicants are encouraged to offer their own suggested conditions to demonstrate how the licensing objectives can be met.
- 10.4 There are conditions which the Licensing Authority cannot attach to premises licences which are:
- any condition 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 casino and bingo clubs); and
 - conditions in relation to stakes, fees, winnings or prizes.
- 10.5 Where a condition is attached to a premises licence requiring door supervisors, the Licensing Authority will normally require those door supervisors to be Security Industry Authority (SIA) registered.

- 10.6 Door supervisors employed in house at casinos or bingo premises are exempt from being registered by the SIA but the licensing authority considers that it is best practice for door supervisors working at casinos or bingo premises to have SIA training or similar.

Adult Gaming Centres

- 10.7 The Licensing Authority will expect applicants to demonstrate that there will be sufficient measures in place to meet the licensing objectives, for example, to ensure that under 18 year olds do not have access to the premises.
- 10.8. Appropriate 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
- Provision of posters and/or information leaflets and helpline numbers/website addresses for organisations such as GamCare, Gamblers Anonymous, Gordon House Association, National Debtline and local Citizens Advice Bureaux and independent advice agencies.

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

(Licensed) Family Entertainment Centres

- 10.9 The Licensing Authority will expect applicants to demonstrate that there will be sufficient measures in place to meet the licensing objectives, for example, to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

- 10.10 Appropriate licence conditions may cover issues such as:

- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-barring schemes
- Provision of posters and/or information leaflets and helpline numbers/website addresses for organisations such as GamCare, Gamblers Anonymous, Gordon House Association, National Debtline and local Citizens Advice Bureaux and independent advice agencies.

- 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.

Casinos

- 10.11 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. Should the authority decide in the future to pass such a resolution, this Statement of Principles will be updated. Any such decision must be made by the full Council.
- 10.12 This licensing authority is not currently able to issue premises licences for casinos. Should the Government propose that more casinos maybe licensed in the future, the authority will review its position and this Statement of Principles will be updated.

Bingo Premises

- 10.13 It is important that, if children are allowed to enter premises licensed for bingo, they do not participate in gambling, other than on category D machines.
- 10.14 Where category C or above machines are available in premises to which children are admitted the licensing authority will expect applicants to demonstrate that there will be sufficient measures in place to ensure that:
- all such machines are located in an area of the premises separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
 - only adults are admitted to the area where the machines are located;
 - access to the area where the machines are located is supervised;
 - the area where the machines are located is arranged so that it can be observed by the staff of the operator or the licence holder; and
 - at the entrance to, and inside any such area, there are prominently displayed notices indicating that access to the area is prohibited to persons under 18;

and where appropriate conditions will be attached to the premises licence.

- 10.15 The licensing authority will take account of any guidance issued by the Gambling Commission about the particular issues which should be taken into account in relation to the suitability and layout of bingo premises.

Betting Premises

- 10.16 The licensing authority will take into account

- the size of the premises;
- the number of counter positions available for person-to-person transactions; and
- the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people

when considering the number, nature and circumstances of betting machines an operator wants to offer.

Tracks

- 10.17 Tracks may be subject to one or more premises licence, provided that each licence relates to a specified area of the track.
- 10.18 The licensing authority will expect applicants to demonstrate that there will be sufficient measures in place to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas and do not have access to adult only gaming facilities.
- 10.19 It should be 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.
- 10.20 Appropriate 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-exclusion schemes
 - Provision of posters and/or information leaflets and helpline numbers/website addresses for organisations such as GamCare, Gamblers Anonymous, Gordon House Association, National Debt line, local Citizens Advice Bureau and Independent advice agencies

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

- 10.21 The licensing authority will take account of any guidance issued by the Gambling Commission regarding where gaming machines may be located on tracks and any special considerations that should apply in relation, for example, to supervision of the machines and preventing children from playing them.
- 10.22 Where the applicant holds a pool betting operating licence and is going to use his entitlement to four gaming machines, if these machines are above category D,

the applicant must demonstrate that they will be located in areas from which children are excluded. Children and young persons are not prohibited from playing category D gaming machines on a track.

- 10.23 The licensing authority will consider restricting the number and location of betting machines in respect of applications for track premises licences.
- 10.24 When considering the number, nature and circumstances of betting machines an operator wants to offer, the licensing authority will take into account:
- the size of the premises;
 - 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
- 10.25 It is a mandatory condition of premises licences that clear and accessible information about the terms on which a bet may be placed must be displayed at betting premises, including tracks. This requirement could be met by printing the rules in the race-card or making them available in leaflet form from the main track office.
- 10.26 Applications must be made in accordance with the Gambling Act 2005 (Premises Licences and Provisional Statements) Regulations 2007.
- 10.27 The licensing authority will require detailed plans for the racetrack itself and the area that will be used for temporary “on-course” betting facilities (often known as the “betting ring”). In the case of dog tracks and horse racecourses, the plans should also show fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities. Plans should make clear what is being sought for authorisation under the track betting premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence.
- 10.28 The licensing authority will normally require all self-contained premises operated by off-course betting operators to be the subject of separate premises licences to ensure that there is clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

11 Provisional Statements

- 11.1 An applicant may apply for a provisional statement in respect of premises expected to be constructed, altered or acquired.
- 11.2 Applications for provisional statements will be dealt with in a similar manner to applications for a premises licence.
- 11.3 Where a provisional statement is granted and an application subsequently made for a premises licence, the licensing authority will disregard any representations made which address matters that could have been addressed when the provisional statement was considered unless there has been a change of circumstances.

- 11.4 A premises licence will be granted in the same terms as the provisional statement unless:
- representations are received which address matters that could not have been addressed when the provisional statement was considered;
 - there has been a change of circumstances; or
 - the premises have been constructed or altered otherwise than in accordance with the plans and information included with the application for the provisional statement.

12 Reviews

12.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities.

12.2 A review will be carried out provided 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 principles.

12.3 A review will not be carried out if the Licensing Authority considers that the request is frivolous, vexatious, will certainly not cause this authority to alter, revoke or suspend the licence, or it is substantially the same as previous representations or requests for review.

12.4 The Licensing Authority can also initiate a review of a licence or of a particular type of licence on the basis of any reason which it thinks is appropriate.

13 Permits

Unlicensed Family Entertainment Centre (FEC) Gaming Machine Permits

13.1 Where Category D gaming machines are to be provided at premises which do not have a premises licence but will be wholly or mainly used for making Category D gaming machines available for use, an application may be made for a permit.

13.2 A FEC can form part of a larger premises provided it is separate and identifiable.

13.3 In exercising its functions in respect of FEC permits, the Licensing Authority need not, but may have regard to the licensing objectives and must have regard to any guidance issued by the Gambling Commission.

13.4 The Licensing Authority cannot attach conditions to this type of permit but will consider the matters set out below in paragraphs 13.5 to 13.8 when determining the suitability of an applicant for a permit.

- 13.5 Applicants will be expected to show that there are policies and procedures in place to protect children from harm. These may include appropriate measures and training for staff in dealing with:
- suspected truant school children on the premises;
 - unsupervised young children on the premises;
 - children causing problems on or around the premises.
- 13.6 Applicants will be expected to demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs and that staff are trained to have a full understanding of the maximum stakes and prizes.
- 13.7 Applicants will be required to demonstrate that they have no relevant convictions as set out in Schedule 7 of the Act.
- 13.8 The Council will not normally grant a FEC permit for premises which are located close to schools.

(Alcohol) Licensed Premises Gaming Machine Permits

- 13.10 The Licensing Authority can remove the automatic authorisation 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.
- 13.11 If a licensed premises wishes to have more than 2 machines, then a permit is required.
- 13.12 The Licensing Authority must take account of the licensing objectives and any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005 when considering an application for a permit.
- 13.13 The Licensing Authority may also consider such matters as it thinks are relevant. 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 being harmed or exploited by gambling.
- 13.14 The Licensing Authority will expect the applicant to demonstrate that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Such measures may include notices and signage, adult machines being in sight of the bar or in sight of staff who will monitor that the machines are not being used by those under 18.

- 13.15 As regards the protection of vulnerable persons, applicants may wish to consider the provision of posters and/or information leaflets and helpline numbers/website addresses for organisations such as GamCare Gamblers Anonymous, Gordon House Association, National Debtline and local Citizens Advice Bureaux and independent advice agencies,.
- 13.16 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.
- 13.17 The Licensing Authority may decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. No other conditions can be attached to the permit.
- 13.18 The holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machines.

Travelling Fairs

- 13.19 A travelling fair is defined as a fair consisting wholly or principally for the provision of amusements and is provided by persons who travel from place to place and is held at a place which has been used for the provision of fairs on no more than 27 days per calendar year.
- 13.20 Category D gaming machines or equal chance gaming may be provided without a permit provided that facilities for gambling amount to no more than ancillary amusement at the fair.

Prize Gaming Permits

- 13.21 Gaming is prize gaming if the prize is not affected by the number of people playing or the amount paid for or raised by the gaming.
- 13.22 In exercising its functions in respect of prize gaming permits, the Licensing Authority need not, but may, have regard to the licensing objectives and must have regard to any guidance issued by the Gambling Commission.
- 13.22 There are conditions in the Act which a permit holder must comply with which are:
- the limits on participation fees, as set out in regulations, must be complied with;
 - all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day;
 - the game must be played and completed on the day the chances are allocated and the result of the game must be made public in the premises on the day that it is played;
 - the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and

- participation in the gaming must not entitle the player to take part in any other gambling.

13.24 The Licensing Authority cannot attach any other conditions to this type of permit.

13.25 Applicants should set out the types of gaming intended to be offered and should 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.

13.26 The Licensing Authority will consider the above matters when determining the suitability of an applicant for a permit.

Club Gaming and Club Machine Permits

13.27 If a Members Club or a Miners Welfare Institute does not wish to have the full range of facilities permitted by a club gaming permit, they may apply to the licensing authority for a club machine permit authorising the holder to have up to three gaming machines of categories B3A, B4, C and D. Commercial Clubs are not permitted to provide non-machine gaming (other than exempt gaming under section 269 of the Gambling Act 2005) and should apply for a club machine permit, however, this permit will not allow the Commercial Club to site category B3A gaming machines offering lottery games in the club.

13.28 The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance in accordance with regulations made under the Act.

13.29 A Club Gaming Machine Permit will enable Members Clubs and Miners' Welfare Institutes to provide three machines of categories B3A, B4, C or D. Commercial Clubs may apply for a Club Gaming Machine Permit which will enable the premises to provide three machines of categories B4, C or D.

13.30 Members Clubs must:

- have at least 25 members;
- be established and conducted wholly or mainly for purposes other than gaming, unless the gaming is permitted by separate regulations. (It is anticipated that this will include bridge and whist clubs.);
- be permanent in nature;
- not be established to make commercial profit;
- controlled by its members equally.

13.31 Examples include working men's clubs, branches of the Royal British Legion and clubs with political affiliations and Commercial Clubs.

13.32 The licensing authority may only refuse an application on the grounds that:

- the applicant does not fulfil the requirements for a members' or Commercial Club or Miners' Welfare Institute and therefore is not entitled to receive the type of permit for which it has applied;
- the applicant's premises are used wholly or mainly by children and/or young persons;
- an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- a permit held by the applicant has been cancelled in the previous ten years; or
- an objection has been lodged by the Commission or the police.

13.33 There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10).

13.34 Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which an authority can refuse a permit are reduced.

13.35 The only grounds upon which an application under the fast-track process may be refused are:

- that the club is established primarily for gaming, other than gaming of a prescribed kind (currently bridge and whist);
- that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

13.36 There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

14 Temporary Use Notices

14.1 A temporary use notice may only be given by the holder of an operator's licence.

14.2 A set of premises may not be the subject of temporary use notices for more than 21 days within a 12 month period.

14.3 A set of premises will be considered to be the subject of a temporary use notice if any part of the premises is the subject of a notice. Consequently, operators cannot extend the limits on temporary use notices in respect of large premises by giving separate notices for different parts of the premises.

14.4 The Licensing Authority will object to temporary use notices where it appears that they are being used to permit regular gambling in a set of premises.

14.5 In determining whether a place falls within the definition of "a set of premises" the Licensing Authority will take into consideration ownership/occupation and

control of the premises. For example, a large exhibition centre will normally be regarded as one set of premises and will not be allowed separate temporary use notices for each of its exhibition halls. Individual units in a shopping centre may be regarded as different sets of premises if they are occupied and controlled by different people.

15 Occasional Use Notices

- 15.1 Where betting takes place on a track on eight days or less in a calendar year, betting may be permitted by an occasional use notice without the need for a full premises licence.
- 15.2 A track includes a horse racing course, a dog track or any other premises on any part of which a race or other sporting event takes place or is intended to take place. This could include, for example, agricultural land upon which a point-to-point meeting takes place. The track need not be a permanent fixture.
- 15.3 Those giving occasional use notices will be expected to demonstrate that the premises fall within the definition of a track.
- 15.4 The Licensing Authority has very little discretion regarding these notices other than to ensure that the statutory limit of 8 days in a calendar year is not exceeded.

16 Small Society Lotteries

- 16.1 The licensing authority is responsible for the registration of small society lotteries.
- 16.2 A society is a non-commercial organisation established and conducted:
 - for charitable purposes;
 - for the purpose of enabling participation in, or of supporting
 - sport, athletics or a cultural activity; or
 - for any other non-commercial purpose other than that of private gain and the proceeds of any lottery must be devoted to those purposes.
- 16.3 The total value of tickets to be put on sale per single lottery must be £20,000 or less or the aggregate value of tickets to be put on sale for all lotteries in a calendar year must not exceed £250,000. If either of these values is exceeded, the society will need to be licensed by the Gambling Commission to operate large lotteries.
- 16.4 Applications for registration must be made in accordance with the Small Society Lotteries (Registration of Non-Commercial Societies) Regulations 2007.
- 16.5 An application may be refused on the following grounds:

- An operating licence held by the applicant for registration has been revoked or an application for an operating licence by the applicant for registration has been refused within the past 5 years;
 - The applicant is not a non-commercial society;
 - A person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence;
 - Information provided in or with the application for registration is found to be false or misleading.
- 16.6 Registrations run for an unlimited period, unless the registration is cancelled or revoked.
- 16.7 The limits placed on small society lotteries are as follows:
- At least 20% of the lottery proceeds must be applied to the purposes of the society;
 - No single prize may be worth more than £25,000;
 - Rollovers between lotteries are only permitted where every lottery affected is also a small society lottery promoted by the same society and the maximum single prize is £25,000;
 - Every ticket in the lottery must cost the same and the society must take payment for the ticket before entry into the draw is allowed.
- 16.8 No later than three months after each lottery draw, returns must be sent to the licensing authority containing the following information:
- The arrangements for the lottery
 - The total proceeds of the lottery
 - The amounts deducted for prizes
 - The amounts deducted for expenses
 - The amount applied to the purposes of the society
 - Whether any expenses incurred in connection with the lottery were not paid for by deduction from the proceeds and, if so, the amount of such expenses and the sources from which they were paid.

17 Human rights

- 17.1 The **Human Rights Act 1998** incorporated the European Convention on Human rights into English law. It makes it unlawful for a local authority to act in a way which is incompatible with a Convention right.
- 17.2 The licensing authority will have particular regard to the following rights in determining licence applications;

Article 6 – in determination of civil rights and obligations everyone is entitled to a fair public hearing within a reasonable time by an independent and impartial tribunal established by law

Article 8 – everyone has the right to respect for his home and family life

Article 1 of the First Protocol – every person is entitled to peaceful enjoyment of his or her possessions

18 Promotion of Equality

18.1 Cheshire West & Chester Council recognises that:

- there is a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination; and to promote equality of opportunity and good relations between members of different groups;
- local authorities are also required, to produce equality schemes, assess and consult on the likely impact of proposed policies on equality, monitor policies for any adverse impact on the promotion of equality, and publish the results of such consultations, assessments and monitoring.

18.2 An assessment will be undertaken with the Council's Equality and Diversity Officer to confirm that the policy meets the Council's Equality and Diversity Objectives. The assessment will be made available as a public document on the Council's website.

19 Advice and contact points

19.1 Advice for applicants and members of the public can be obtained during office hours from the following Cheshire West and Chester Council offices:

4 Civic Way, Ellesmere Port CH65 0BE
Tel 03001237737

The Drummer, Winsford CW7 1AH
Tel 03001237737

Email; Licensing@cheshirewestandchester.gov.uk
Website; www.cheshirewestandchester.gov.uk

A copy of the guidance issued by the Gambling Commission can be viewed at [**www.gamblingcommission.gov.uk**](http://www.gamblingcommission.gov.uk)

Gaming Machine Categories

Category of machine	Maximum stake (from Jan 2014)	Maximum prize (from Jan 2014)
A	Unlimited – No category A gaming machines are currently permitted	
B1	£5	£10,000*
B2	£100	£500
B3A	£2	£500
B3	£2	£500
B4	£2	£400
C	£1	£100
D – non-money prize	30p	£8
D – non-money prize (crane grab machines only)	£1	£50
D – money prize	10p	£5
D – combined money and non-money prize	10p	£8 (of which no more than £5 may be a money prize)
D – combined money and non-money prize (coin pusher or penny falls machines only)	20p	£20 (of which no more than £10 may be a money prize)

* With option of max £20,000 linked progressive jackpot on premises basis only

Source: Gambling Commission (Guidance to licensing authorities 5th edition September 2015)

Summary of Machine Provisions by Premises

Premises Type	Machine Category				
	B2	B3	B4	C	D
Betting premises and tracks occupied by pool betting	Maximum of 4 machines categories B2 to D (except B3A machines)				
Bingo premises¹		Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 to B4		No limit on category C or D machines	
Adult gaming centre²		Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 to B4		No limit on category C or D machines	
Licensed Family entertainment centre³				No limit on category C or D machines	
Family entertainment centre (with permit)³					No limit on category D machines
Clubs or miners' welfare institute (with permits)⁴			Maximum of 3 machines in categories B3A or B4 to D		
Qualifying alcohol-licensed premises				1 or 2 machines of category C or D automatic upon notification	
Qualifying alcohol-licensed premises (with licensed premises gaming machine permit)				Number of category C-D machines as specified on permit	
Travelling fair					No limit on category D machines

¹Bingo premises licence are entitled to make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines on the premises. Where a premises licence was granted before 13 July 2011, they are entitled to make available eight¹⁰⁷ category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. Category B machines at bingo premises are restricted to sub-category B3 and B4 machines, but not B3A machines.

²Adult gaming centres are entitled to make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises and any number of category C or D machines. Where a premises licence was granted before 13 July 2011, they are entitled to make available four category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. Category B machines at adult gaming centres are restricted to sub-category B3 and B4 machines, but not B3A machines.

Source: Gambling Commission (Guidance to licensing authorities 5th edition September 2015)