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# **Isle of Wight Council**

## **GAMBLING ACT 2005 POLICY STATEMENT 2022 – 2025**

## Document Information

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# 1. Definitions

The following definitions will provide clarification for the purposes of this policy.

- 1.1 **The Act**  
This means the Gambling Act 2005.
- 1.2 **The Policy**  
This refers to the Isle of Wight Council’s Gambling Act 2005 Policy Statement.
- 1.3 **The Council or Licensing Authority**  
This means the Isle of Wight Council.
- 1.4 **The Guidance**  
Means the Guidance issued by the Gambling Commission under section 25 of the Gambling Act 2005.

# 2. Introduction

- 2.1 This policy will become effective on XXX.
- 2.2 Section 349 of the Gambling Act 2005 (“the Act”) requires licensing authorities to prepare and publish a statement setting out the principles it will apply in regulating gambling activities locally and, considering the local risks, clarify the authority’s expectations of gambling operators.
- 2.3 The Isle of Wight Council are the licensing authority that cover the whole of the Isle of Wight (as shown below). The island is 23 miles from east to west and 13 miles from north to south and is 147 square miles in area. The major towns are Newport, Cowes and East Cowes, Ryde, Sandown, Shanklin and Ventnor, with Newport being the capital and centrally situated. The remaining areas are rural comprising of a number of small villages. The ONS mid-2020 population estimates indicate that there are 142,296 people living on the Isle of Wight.



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- 2.4 This policy is relevant to the following authorisations and functions which the Isle of Wight Council are responsible for administering under the Act:
- a) Premises Licences and Provisional Statements (Betting Shops, Bingo, Adult Gaming Centres, Family Entertainment Centres, Casinos)
  - b) Unlicensed Family Entertainment Centre Permits
  - c) Licensed Premises Gaming Machine Permits to allow alcohol licensed premises to provide more than two machines
  - d) Notifications from alcohol licensed premises for the provision of two or less gaming machines
  - e) Club Gaming Permits and Club Machine Permits
  - f) Prize Gaming Permits
  - g) Small Society Lottery registrations
  - h) Occasional Use Notices for track betting
  - i) Temporary Use Notices
  - j) Maintaining registers of the licences and permits that are issued
  - k) Providing information to the Gambling Commission regarding details of licences, permits and other permissions issued (see the section on Exchange of Information)
  - l) Inspection of licensed premises and enforcement action
- 2.5 The licensing authority has delegated their powers and responsibilities under the Act as detailed at Appendix 1 – Schedule of Delegations.
- 2.6 The licensing of remote gambling and the issuing of other authorisations such as Operator Licences is the responsibility of the Gambling Commission and therefore will not be covered in this policy.
- 2.7 In producing this policy statement, the licensing authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission under the Act, any responses from those consulted on the policy statement as well as the Regulators' Code.
- 2.8 Any departure from this policy must be justified in writing and approved by a member of the Regulatory Services' Management Team.

#### Local Area Profile

- 2.9 The Guidance suggests that licensing authorities create a Local Area Profile to assess the risks in their region and use this to inform their policy and work with operators to reduce any potential negative impact from gambling activities in the area.
- 2.10 Gambling has not been highlighted as an area of particular concern by the Community Safety Partnership on the island at this time. There is little data available to indicate that gambling is contributing to problems on the island.
- 2.11 The licensing authority will endeavour to develop a local area profile which will also assist operators in carrying out their risk assessments as required by conditions of their licences (see section 6).
- 2.12 Various locality profiles which include data regarding demographics, health and deprivation are available via the Joint Strategic Needs Assessment webpages on the Council's website at [www.iwight.com](http://www.iwight.com).

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### **3. Consultation, Publication and Review of this Policy**

- 3.1 The Act requires that the policy be reviewed every three years and specifies who must be consulted as part of such review. Any legislative updates may be made automatically without consultation.
- 3.2 The licensing authority will consult the statutory consultees and any other persons as may be appropriate for any subsequent revision of the policy. A list of consultees is at Appendix 2.
- 3.3 Appropriate weight will be given to the views of all consultees. In determining how much weight to give a particular representation, the factors that may be taken into account by the licensing authority include:
  - a) Who is making the representation (including their expertise or interest)
  - b) The relevance to the Licensing Objectives
  - c) The number of people who have expressed the same or similar views, and
  - d) How far the representations relate to matters that the licensing authority should include in its statement of principles.
- 3.4 Further consultation may be required if changes are made to the policy; any further consultation will only relate to the amendments made.
- 3.5 The licensing authority will always give reasons for the decisions it has made following consultation and the current statement of policy will be published on the Isle of Wight Council website ([www.iwight.com](http://www.iwight.com)) and is available by contacting the Licensing Department.
- 3.6 The licensing authority recognises its responsibility under equality legislation and the impact of proposed changes are assessed upon review of this policy.

### **4. Integration of Strategies and other legislation**

- 4.1 The Licensing authority will seek to avoid duplication with other statutory or regulatory systems where possible.
- 4.2 Licensing applications will be viewed independently of planning applications; whilst the licensing authority may permit gambling activities, the responsibility lies with the applicant to ensure that any other necessary consents are obtained.
- 4.3 If other legislation does not cover unique situations that may arise, then additional controls such as conditions, may be imposed to secure the licensing objectives.
- 4.4 The licensing authority may have regard to other strategies and policies where relevant in exercising its functions under the Act.

### **5. General Principles and the Licensing Objectives**

- 5.1 Each application will be considered and determined on its individual merits.
- 5.2 Nothing in this policy prevents the right of any person making an application or making representations regarding an application or applying to review a licence as each is considered on its individual merits and against the requirements of the Act.

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- 5.3 Whilst the Guidance encourages licensing authorities to aim to permit gambling activities, the licensing authority will balance the legitimate business desires of applicants against what is ultimately in the public interest in the relevant area.
- 5.4 In some instances, the licensing authority does not have to have regard to the licensing objectives; however, this licensing authority will refer to the licensing objectives when making decisions as they underpin the intention of the overall legislation. When dealing with all gambling licensing matters the licensing authority will promote and have regard to the three licensing objectives set out in the Act.
- 5.5 The Gambling Commission take a lead role in achieving these objectives, primarily through the issuing of Operator and Personal Licences as well as the Licence Conditions and Codes of Practice (LCCP) which all businesses providing gambling activities must comply with. These requirements ensure that rules are transparent and players know what to expect in gambling activities.
- 5.6 The role of licensing authorities is to consider whether the objectives could be or are being compromised by the provision of gambling activities at specific premises in the area covered by the authority. The licensing authority will also assess whether operators are compliant with the Licence Conditions and Codes of Practice and notify the Gambling Commission of non-compliance.
- 5.7 The following will be areas of consideration when determining all applications under the Act.

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

- 5.8 The level of crime and disorder in a location along with any control measures in place may be taken into account when determining applications as well as whether reviews of premises licences should be instigated.
- 5.9 It should be noted that there are differences between disorder, antisocial behaviour and nuisance. To make the distinction, when incidents of this nature occur, the licensing authority will consider factors such as whether police assistance was required and/or how threatening behaviour was to those who could see or hear it. Separate legislation is in place to address issues of antisocial behaviour and nuisance.

Ensuring gambling is conducted in a fair and open way

- 5.10 The role of the licensing authority regarding this objective is to assess whether operators have suitable measures in place at the premises to conduct gambling activities in a fair and open way and are cooperative and transparent with authorities.
- 5.11 With regard to tracks, the role of the licensing authority may be more significant as Operator Licences from the Gambling Commission are not always necessary. In such instances, the licensing authority will need to be satisfied that the procedures implemented by the operator are adequate to uphold this objective.

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

- 5.12 The Gambling Commission does not seek to define “vulnerable persons”, but guidance does state:  
*“this group includes 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*



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*decisions about gambling due to, for example, mental health, a learning disability or substance misuse relating to alcohol or drugs”.*

- 5.13 Under the Act, children are prevented from having access to certain premises, or some gambling facilities within premises, as part of achieving this objective. Whilst the Guidance states that it is not intended to prohibit vulnerable groups in the same manner as children and young persons, with regard to vulnerable people, the licensing authority will consider whether or not any measures have been taken to protect such a group. Any such considerations will be balanced against the licensing authority’s aim to permit the use of premises for gambling and each application will be treated on its own merit.
- 5.14 This Licensing Objective intends to prevent children and young persons from taking part in, or being in close proximity to, gambling. Restrictions are therefore necessary when advertising gambling products that are aimed at children or are advertised in such a way that makes them attractive to children.

#### Expectations of Gambling Operators

- 5.15 Although a risk assessment is not always required, the licensing authority would expect all operators to consider the risks their gambling activities pose and the control measures that are proportionate and suitable to implement at their premises.
- 5.16 The licensing authority would urge all licence holders and new applicants to review and adopt all policies and protocols recommended by the Gambling Commission and/or any other professional trade association.
- 5.17 The following may also be areas of consideration along with the licensing objectives when determining any applications under the Act.

#### **Local Area**

- a) Local demographics as this may influence the levels interest in gambling and also increase the risk of children or vulnerable persons in the vicinity
- b) Crime rates for the area
- c) Unemployment rates for the area and/or is it an area of deprivation
- d) Antisocial behaviour in the area such as drug dealing, street drinking, graffiti or vandalism
- e) General footfall of the area
- f) Surrounding businesses such as post offices, banks and cashpoints as money is often obtained from these.
- g) The proximity of any alcohol licensed premises or other relevant night time economy contributing factors that need to be considered
- h) The proximity of other premises that may be relevant such as hostels, pawn brokers and job centres
- i) Whether the area is residential or a significant number of residents are nearby and how this may impact on the objectives
- j) Nearby premises or attractions that may appeal to children or they may regularly attend e.g., youth clubs, parks, beaches, playgrounds, cinemas, bowling alleys, schools, bus stations/stops, shopping centres
- k) Proximity of premises which may be frequented by vulnerable people such as hospitals, residential care homes, medical facilities, doctor’s surgeries, council housing offices, addiction clinics or help centres, places
- l) Areas nearby where alcohol or drug dependent people or children may congregate or where antisocial behaviour regularly occurs

#### **General**

- a) Gambling activities provided and who they may attract
- b) Policies and procedures in place in conducting gambling activities
- c) Information held and/or shared from other businesses regarding incidences of underage gambling and self-exclusions
- d) Arrangements in place for sharing information between businesses and the local authority or other relevant stakeholders

### **Security and Safety**

- a) Opening and operating hours
- b) Supervision of entrances/exits and gambling areas
- c) CCTV provision
- d) Appropriate levels of staffing
- e) Door supervisors (in some instances they may not be required to be licensed by the Security Industry Authority (SIA) but this would always be advisable) –
  - i number of supervisors
  - ii days/hours and location of deployment
- f) Display of relevant notices/signage
- g) Seasonal changes that could impact on the risks, e.g., during school holidays when children may be more likely to access the premises during the day when they would not usually
- h) Operator carries out regular DBS checks for staff and any door supervisors

### **Layout, lighting and fittings in the premises of the premises**

- a) Does the layout enable staff to monitor activities effectively?
- b) Does the positioning of fittings enhance the security at the premises, e.g., the position of CCTV, serving counters, location of gaming machines, cash machines etc.
- c) Physical separation of premises and/or specific areas to prevent unauthorised access or prevent children being harmed or exploited by gambling
- d) Does the lighting enable transparency in gambling activities and clear monitoring by staff?
- e) Is the number of Self-Service Betting Terminals appropriate for the size of the premises?

### **Staff training**

- a) Awareness of gambling law and the restrictions relevant to the activities at the premises
- b) Policies and procedures specific to the premises
- c) Identifying children and vulnerable people including proof of age schemes and age verification procedures
- d) Identifying when customers may be showing signs of excessive gambling
- e) Awareness of safeguarding against Child Sexual Exploitation (CSE)
- f) Equipping staff to deal with difficult situations and useful strategies to intervene when necessary

### **Social Responsibility**

- a) Local demographics and particularly how this may increase the risk of children or vulnerable persons being harmed
- b) Awareness of key seasons and times that may affect gambling trends – e.g., pay day
- c) Measures in place to prevent children having access to certain premises or areas or machines they are not permitted to use
- d) Promotional/advertising material is not attractive to children
- e) Notices and leaflets including regarding support available for problem gambling
- f) Self-exclusion scheme

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- g) Participation in 'Betwatch' or similar local scheme where relevant
- 5.18 The licensing authority recognises that the responsibility for an individual's gambling is their own. The responsibility to exercise a duty of care is that of the Site Operator.
- 5.19 The licensing authority recommends that gambling operators implement the following in respect of their premises and its management:
- Code of Social Responsibility
  - Self-Exclusion Policy
  - Policy relating to age and entry
- 5.20 Resources are available via the British Amusement Catering Trade Association (BACTA) as well as Safer Gambling Standard managed by GamCare.
- 5.21 Contacting the Licensing Department prior to submitting any application to the licensing authority is highly recommended.

## 6. Premises Licences

- 6.1 Gambling activities are authorised by several different kinds of Premises Licences which must be the primary gambling activity taking place at the relevant premises:
- a) Casino premises
  - b) Bingo premises
  - c) Betting premises, including tracks and premises used by betting intermediaries
  - d) Adult Gaming Centre (AGC) premises (for category B3, B4, C and D machines)
  - e) Family Entertainment Centre (FEC) premises (for category C and D machines) (note that, separate to this category, the licensing authority may issue family entertainment centre gaming machine permits, which authorise the use of category D machines only).
- 6.2 Information regarding the category and number of machines permitted and any limits on stakes and prizes can be obtained from the Licensing Department or the Gambling Commission.
- 6.3 In relation to Casinos, there is no resolution not to issue a Casino Licence under Section 166 of the Act even though the licensing authority has the power to do so. Any application received will therefore be considered on its individual merits.

### Applicants

- 6.4 Applicants must have the relevant Operator Licence from the Gambling Commission (except Tracks where the occupier is not the person offering gambling) and the right to occupy the relevant premises before they can submit an application for a Premises Licence. Applicants for Provisional Statements do not need to meet these requirements.
- 6.5 The regulations prescribe the application requirements and the process that must be followed once an application is submitted to the licensing authority.

### Premises

- 6.6 Premises are defined in the Act as "any place". Premises Licences cannot be issued to vehicles but may be issued to a vessel.
- 6.7 In considering applications for part of a building where it has been divided into different premises the licensing authority should be satisfied that proposals are compatible with the regulations regarding Mandatory and Default which set out restrictions on access between

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licensed premises. These provisions prevent customers from being able to enter the premises directly from other licensed premises (“direct access”) and are intended to ensure premises are clear, identifiable and people cannot simply ‘drift’ into gambling areas.

- 6.8 The Guidance gives a list of considerations which the licensing authority should be aware of regarding such scenarios:
- Do the premises have a separate registration for business rates?
  - Are the neighbouring premises owned by the same person or someone else?
  - Can each of the premises be accessed from the street or a public passageway?
  - Can the premises only be accessed from any other gambling premises?
- 6.9 Before granting such applications, the licensing authority will consider any current Guidance from the Gambling Commission, whether children can gain access to the premises, compatibility of the two establishments and the overall ability to comply with the requirements of the Act in such circumstances. The licensing authority will seek to avoid permitting an arrangement that otherwise would, or should, be prohibited under the Act.

#### Local Risk Assessments

- 6.10 In 2016, the social responsibility code within the Licence Conditions and Codes of Practice (LCCP), introduced a requirement for licence holders (except in some instances relating to Betting licences for Tracks) to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and to implement policies, procedures, and control measures to mitigate those risks. This requirement is intended to encourage local authorities, the Commission and the industry to work in partnership to address local issues and provide an evidence based and transparent approach to reducing the risks associated with gambling.
- 6.11 This risk assessment should therefore be documented and carried out:
- when applying for a new Premises Licence
  - when applying for a variation to a Premises Licence
  - when changes occur at the premises or locally that could impact on the existing risk assessment
  - and it should be regularly reviewed
- 6.12 Operators will therefore need to submit their risk assessment with applications and ensure it is available to licensing authorities at other times as it may be requested during inspection or when investigating complaints.
- 6.13 The licensing authority will expect the local risk assessment to take into account this policy including the factors listed in the General Principles section.
- 6.14 The licensing authority would advise the operator to identify the key points about the local area, premises and any current procedures in place and consider how these could impact the licensing objectives – they will then be able to formulate control measures that could reduce the likelihood of such issues occurring and create an action plan to implement these measures.

#### Representations from Responsible Authorities and Interested Parties

- 6.15 Only ‘Responsible Authorities’ and ‘Interested Parties’ as defined in the Act may make representations regarding Premises Licence applications and may apply to review existing licences.

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- 6.16 The licensing authority has designated the Isle of Wight Council's Children's Services Department as the appropriate body it considers competent to advise on the protection of children from harm.
- 6.17 A full list of Responsible Authorities and their respective contact details is available on request from the Licensing Department and on the Council's website.
- 6.18 An 'interested party' is defined under the Act as a person who –
- Lives sufficiently close to the premises to be likely to be affected by the authorised activities,
  - Has business interests that might be affected by the authorised activities, or
  - Represents persons who satisfy paragraph (a) or (b).
- 6.19 In relation to point c (whether 'a person is representing those' in category a or b), the following are capable of representing interested parties:
- Isle of Wight Council Elected Councillors
  - Town and Parish Councils
  - Member of Parliament (MP)
  - Residents' and tenants' associations
  - Trade Associations
  - Trade Unions
  - Charities
  - Faith groups
  - Medical practices
- 6.20 No specific evidence of being asked to represent an interested person will be required if the councillor/town or parish council represents the ward likely to be affected.
- 6.21 In determining if a person lives or has business interests sufficiently close to the premises that are likely to be affected by proposed or authorised activities, the licensing authority will consider each case on its merits and take the following factors into account:
- The size of the premises
  - The nature of the activities taking place/proposed to take place at the premises
  - The distance of the premises from the location of the business interest or the person making the representation
  - The potential impact of the premises (such as the number of customers and routes likely to be taken by those visiting the establishment)
  - The circumstances of the person and the nature of their interest, which may be relevant to the distance from the premises
- 6.22 Representations will not be considered or the application may be determined without a hearing if they:
- relate to demand or competition or planning/building law as these matters cannot be taken into account when determining an application,
  - are considered to be frivolous or vexatious, or
  - will certainly not influence the authority's determination of the application
- 6.23 Before a decision is made the licensing authority will consider the following:
- Who is making the representation, and whether there is a history of making representations that are not relevant.
  - Whether the representation raises a relevant issue, or
  - Whether the representation raises issues specifically to do with the premises that are subject of the application.

- 6.24 The licensing authority strongly recommends that representations are submitted at the earliest opportunity prior to the end of the prescribed consultation period to allow the maximum time to negotiate an appropriate solution.

#### Determination of Premises Licence Applications

- 6.25 The Act requires that a hearing be held to determine an application for a Premises Licence where representations must be considered and/or if the authority propose to attach a condition or exclude a condition that would otherwise be attached to the licence. Separate regulations prescribe how this process is to be carried out.

In determining Premises Licence applications, as well as those outlined in the General Principles section, the following will apply:

- 6.26 Gambling is a legitimate regulated activity that is enjoyed by many people. Section 153 of the Act directs that licensing authorities shall aim to permit the use of premises for gambling in so far as it thinks it:
- 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
  - In accordance with the Council's Statement of Licensing Policy (particularly referring to the General Principles section)
- 6.27 Under section 210 of the Act the licensing authority shall not have regard to whether a proposal by the applicant is likely to be permitted in accordance with planning or building law.
- 6.28 In determining whether to grant a Premises Licence a licensing authority may not have regard to the expected demand for the facilities which it is proposed to provide.
- 6.29 The Guidance states that licensing authorities should be aware that other considerations such as moral or ethical objections to gambling are not a valid reason to reject applications for premises licences and that decisions cannot be based on dislike of gambling, or a general notion that it is undesirable to allow gambling premises in an area. The licensing authority will therefore not have regard to such matters in determining applications.

#### Conditions

- 6.30 Premises Licences are subject to Mandatory and Default conditions set by regulations and Operators must comply with the Codes of Practice.
- 6.31 If any additional conditions are imposed by the licensing authority, they will be tailored to the individual characteristics of the premises and the activities concerned. Additional conditions will only be attached in cases where specific risks or problems are associated with a particular locality or premises and the matters outlined in the General Principles section of this policy will be taken into account.
- 6.32 The licensing authority will not refuse an application for a premises licence where relevant objections can be dealt with by use of appropriate conditions.
- 6.33 Any conditions attached to premises 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.

- 6.34 It is noted that the licensing authority cannot attach conditions to premises licences that:
- makes it impossible to comply with an Operating Licence condition
  - relate to gaming machine categories, numbers or method of operation
  - provide that membership of a club or body be required
  - relate to stakes, fees or winning of prizes

### Reviews

- 6.35 The Act provides the ability for a responsible authority or interested party to apply for a review of a Premises Licence whereby it is reassessed by the Licensing Committee with the possibility that the licence may be revoked, suspended or that the conditions may be modified.
- 6.36 Following receipt of an application, it is for the licensing authority to decide whether the review is to be carried out. In accordance with section 198 of the Act, applications for reviews will be rejected if they:
- a) do not raise an issue relevant to –
    - i the code of practice or guidance issued by the Gambling Commission
    - ii this policy or
    - iii the licensing objectives
  - b) are considered frivolous or vexatious
  - c) will certainly not cause the authority to wish to alter/revoke/suspend the licence
  - d) are substantially the same representations previously raised
- 6.37 The council can also initiate a review of a licence on the basis of any reason which it thinks is appropriate.
- 6.38 The areas of consideration set out in the General Principles section of this policy will be relevant to determining applications for Review of a Premises Licence.

## **7. Notices**

### Temporary Use Notices (TUNs)

- 7.1 Temporary Use Notices (TUNs) allow gambling operators to use premises without licences for gambling facilities on up to 21 days in any 12 month period (such as in hotels, conference centres and sporting venues). Under regulations, TUNs can currently only be used to permit equal chance gaming and where the tournament is intended to produce an overall winner (e.g., poker). TUNs must be submitted to the licensing authority copied to the Gambling Commission, Police, HM Commissioners for Revenue and Customs (HMRC) at least three months and one day before activities are proposed to commence.
- 7.2 The Act refers to “set of premises” in respect of TUNs to prevent one large premises having separate parts authorised for activities in excess of the 21 day limit. It falls to the licensing authority to decide what constitutes a “set of premises”. It is the licensing authority who decides what meets this definition who will assess the ownership/occupation and control of the premises as well as any other relevant factors in determining whether proposed buildings or sites would fall under this definition. The licensing authority will consider objecting to a notice where it appears that its effect would be to permit regular gambling in a place that could be described as one set of premises.
- 7.3 The licensing authority has the ability to object to TUNs and will take into account the following factors when assessing whether an objection notice is required:
- a) the suitability of the premises for the proposed activities

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- b) the location of the premises, paying particular attention to its proximity to any schools, hostels or other sensitive premises
  - c) the CCTV coverage within the premises
  - d) the ability of the premises to provide sufficient staff and/or licensed door supervisors for the notice period
  - e) whether the premises or the holder of the operating licence have given the licensing authority any cause for concern at previous events in relation to the licensing objectives, the guidance issued by the Commission, the relevant code of practice or this policy statement.
- 7.4 Where the statutory limit of 21 days is exceeded, the licensing authority is obliged to serve a counter notice preventing the activities from being authorised.
- 7.5 Where objections are received from the licensing authority or the agencies the TUN must be copied to, then a hearing will be held as outlined in regulations unless all parties agree this is not necessary.

#### Occasional Use Notices (OUNs) for Tracks

- 7.6 Betting can be permitted at tracks on up to 8 days in a calendar year using Occasional Use Notices (OUNs), rather than a full Premises Licence.
- 7.7 Due to the temporary and infrequent nature of activities, the licensing authority has little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. If notices are given for a single track proposing that betting will occur for more than 8 days in the year, the licensing authority has an obligation to issue a counter notice preventing activities being authorised to take place.
- 7.8 The licensing authority will need to consider the definition of a 'track'; It should be noted that the definition of track in the Act is wider than dog tracks or horse racecourses and includes places where races or other sporting events take place. They also must be satisfied that the applicant is entitled to benefit from this provision under the Act as only a person who is responsible for the administration of events on the track, or an occupier of the track may submit such notices.

## **8. Permits**

#### Alcohol Licensed Premises Gaming Machine Permit

- 8.1 Providing the licensing authority are notified, there is an automatic entitlement to make up to 2 Category C or D machines available at premises licensed to sell alcohol; if licence holders wish to provide more than 2 machines, they must obtain a permit.
- 8.2 Applications for a permit must be accompanied by:
  - a) A plan of the premises including indication of where machines will be located
  - b) Any other additional information as requested by the licensing authority
- 8.3 When determining an application, the licensing authority must have regard to the licensing objectives and the guidance issued by the Gambling Commission and may also take account of any other matters considered relevant to the application.
- 8.4 The licensing authority cannot attach additional conditions to the permit but may grant it for a different number or category of machines.



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- 8.5 The licensing authority may consult with Police when deemed appropriate and will take the following into account when determining the permit application:
- That the applicant understands the specific risks at the proposed premises and has proportionate measures in place to mitigate these and ensure crime and disorder is prevented and children and vulnerable persons are protected from harm
  - That the applicant understands the requirements of the Codes of Practice and other relevant regulations and guidance
  - Whether the number of machines proposed is proportionate to the size of the premises
- 8.6 If the licensing authority intend to refuse an application, we will notify the applicant and include the reasons for this, and they will have a period of up to 28 days to submit oral and/or written representations for consideration prior to a final decision and a hearing will be held to determine the application unless agreed by all parties this is not necessary.

#### Club Gaming Permits and Club Machine Permits

- 8.7 Club Gaming and Club Machine Permits authorise the provision of equal chance gaming (such as bingo or poker and permits allow higher stakes), and a maximum of three gaming machines as prescribed in regulations. Both permits have effect for 10 years with an annual fee.
- 8.8 The licensing authority must be satisfied that applicants meet the definition of a club under the Act and that the majority of members are over 18 years old. Members' Clubs and Miners' Welfare Institutes may apply for either permit but Commercial Clubs (those that operate for profit) may apply for a Club Machine Permit only. Those that have a Club Premises Certificate issued under the Licensing Act 2003 may apply for a permit using the 'fast track' procedure.
- 8.9 Applications for a permit must be accompanied by:
- A plan of the premises including indication of where machines will be located
  - Any other additional information as requested by the licensing authority
- 8.10 The licensing authority may only refuse an application on the one or more of the following grounds:
- 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 they have applied
  - the applicant's premises are used wholly or mainly by children and/or young people,
  - 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
  - an objection has been lodged by the Commission or the police
- 8.11 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 the licensing authority can refuse a permit is reduced. The grounds on which an application may be refused are:
- that the club is established primarily for gaming
  - that in addition to the prescribed gaming, the applicant provides facilities for other gaming
  - that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

#### UFEC and Prize Gaming Permit Applications

#### **Unlicensed Family Entertainment Centre (UFEC) Permit**

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- 8.12 Premises used wholly or mainly for making Category D gaming machines available may be authorised by a Permit rather than a Premises Licence (where Category C machines can also be provided).

### **Prize Gaming Permit**

- 8.13 Prize gaming is where the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming – usually prizes are determined by the operator before play commences (e.g., bingo that has a non-cash prize). Prize Gaming Permits are usually used to authorise these activities at premises that are not already licensed.

### **Applications**

- 8.14 Applicants must be at least 18 years old and occupying or planning to occupy the relevant premises and their application must be accompanied by:
- A Basic Criminal Record Disclosure Certificate from the Disclosure and Barring Service (DBS) that is not more than 1 calendar month old for the applicant and any person(s) that will be assisting on a regular basis.
  - A plan of the premises including indication of where machines will be located.
  - Any other additional information as requested by the licensing authority.
- 8.15 In determining applications for permits the licensing authority need not (but may) have regard to the licensing objectives but must have regard to guidance issued by the Gambling Commission.
- 8.16 As prize gaming and Category D machines will particularly appeal to children and young persons, the licensing authority will give particular weight to child protection issues.
- 8.17 The licensing authority will consult with Police and when deemed appropriate, the Isle of Wight Council's Children's Services Department, and will take the following into account when determining the suitability of the applicant to hold the permit:
- Whether the applicant has any convictions for relevant offences listed under Schedule 7 of the Act and/or other offences related to the harm of children
  - That they understand the specific risks at the proposed premises and have proportionate measures in place to mitigate these and ensure crime and disorder is prevented and children and vulnerable persons are protected from harm
  - That they understand the limits on stakes and prizes that are set out in regulations and staff are trained in these also
  - In respect of Prize Gaming: that the gaming offered is within the law
- 8.18 The licensing authority can only grant or refuse a permit application; conditions cannot be attached that are additional to those that would automatically be included on the permit (which include participation and prize value limits for Prize Gaming Permits).
- 8.19 If the licensing authority intend to refuse an application, we will notify the applicant and include the reasons for this, and they will have a period of up to 28 days to submit oral and/or written representations for consideration prior to a final decision and a hearing will be held to determine the application unless agreed by all parties this is not necessary.

### **Travelling Fairs**

- 8.20 Travelling fairs may provide an unlimited number of category D gaming machines and/or equal chance prize gaming without the need for a permit as long as the gambling amounts to no more than an ancillary amusement at the fair and machines are operated in compliance

with legal requirements. Land may only be used for such a fair on up to 27 days in a calendar year regardless of whether it is different travelling fairs occupying the land.

- 8.21 The licensing authority will determine whether Travelling Fairs meeting the definition under the Act and therefore benefit from this provision.

## 9. Lotteries

- 9.1 The Act provides several exemptions for lottery ('raffle') activities, such as 'incidental non-commercial lotteries', 'customer lotteries' and 'private lotteries' – these are not regulated providing they meet the requirements to qualify as exempt.
- 9.2 Lotteries conducted by a "non-commercial society" as defined by the Act where the total value of tickets put on sale in a single lottery is £20,000 or less and the aggregate value of the tickets put on sale in a calendar year is £250,000 or less must register as a Small Society Lottery. Lotteries that exceed these limits are regulated by the Gambling Commission.

### Small Society Lottery Registrations

- 9.3 Applicants for lottery registrations must apply to the licensing authority in the area where society's principal office is located. Where the licensing authority believes that the society's principal office is situated in another area it will inform the society as soon as possible and where possible, inform the other licensing authority.
- 9.4 Participation in a lottery is a form of gambling, and as such the licensing authority is aware that the societies it registers are required to conduct their lotteries in a socially responsible manner and in accordance with the Act.
- 9.5 The licensing authority will ensure that an applicant is a society as defined in Section 19 of the Act, and may refuse an application for registration if in their opinion:
- 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 or
  - Information provided in or with the application for registration is false or misleading.

## 10. Appeals

- 10.1 If an application is refused the applicant will be given written confirmation detailing the reasons for refusal, along with any right of appeal. Provisions to appeal against decisions made by the licensing authority are contained in the Act.

## 11. Enforcement

- 11.1 The licensing authority will seek to ensure compliance with the authorisations it has granted as well as the Act in general in accordance with the following principles.
- 11.2 The licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible and will have regard to the Human Rights Act 1998, guidance issued by the Gambling Commission along with any other relevant guidance.
- 11.3 All enforcement activities including inspection of premises and criminal proceedings instigated by the licensing authority under the powers contained in Section 346 of the Act will be carried out in accordance with the Neighbourhoods' Enforcement Policy.

- 11.4 The licensing authority may establish protocols with the local Police and liaise with the Gambling Commission on enforcement issues.
- 11.5 Inspections of licensed premises will be carried out as necessary based on the level of risk to the licensing objectives. In determining the level of risk, the licensing authority will take into account complaints regarding premises from the Gambling Commission, Responsible Authorities and Interested Parties.
- 11.6 Enforcement matters regarding gaming machines or Personal Licences and Operating Licences will be dealt with by the Gambling Commission.

## **12. Exchange of Information**

- 12.1 Regulations require that licensing authorities retain certain data and registers and provide information to the Gambling Commission as part of exercising their functions under the Act. Section 350 of the Act also enables the exchange of information between various parties in exercising their functions.
- 12.2 As well as fulfilling its duty to comply with a range of legislation which regulates the management of information (such as Data Protection, Freedom of Information), the licensing authority will have regard to guidance issued by the Gambling Commission to local authorities on this matter as well as any other relevant regulations issued by the Secretary of State under the powers provided in the Act.
- 12.3 The Isle of Wight Council is the data controller in relation to all personal information submitted to the licensing authority in exercising its functions under the Act. Information will be received and retained in accordance with Data Protection law and the Council's retention schedule and information can be accessed via contacting the Data Controller or submitting a request under the Freedom of Information Act (FOI). Further information is available on the Council's website at [www.iwight.com](http://www.iwight.com).
- 12.4 Information will be shared with other council departments and external bodies such as those listed in Schedule 6 of the Act for the purposes of processing applications or notifications as well as the prevention of crime and disorder when appropriate. Such exchanges of information may not be prescriptive as they will be on a case-by-case basis; they would generally be in writing to provide an accurate record of the information exchange including to whom data was provided and when. The licensing authority may create protocols regarding information sharing as and when deemed necessary.
- 12.5 Interested Parties who have made representations will not generally be permitted to be anonymous unless there are legitimate reasons for this. Their full addresses would not usually be made public although the street name/area will be disclosed as part of determining that the person is an interested party and considering the representations they have made. There may also be occasions where it would be impossible for an individual's address to remain confidential due to the nature of the area and layout of premises.

## **13. Fees**

- 13.1 Premises Licence fees are charged to facilitate cost recovery and are set in accordance with the maximum levels prescribed in the Gambling (Premises Licence) Fees (England and Wales) Regulations 2007. Fees for permits and other services are set by the Secretary of State.

- 13.2 The licensing authority will ensure that information regarding the fees to be charged in relation to the Act are made available to the public via the Council's website or directly from the Licensing Department.
- 13.3 In accordance with section 193 of the Gambling Act 2005, where a premises licence holder fails to pay an annual fee, the licence will automatically lapse. With regard to permits, the same principle applies; the licensing authority will exercise its powers under Schedule 13 paragraph 17 of the Gambling Act and cancel the permit. Each case will however be treated on its own merits and consideration may be given to mitigating circumstances.
- 13.4 Non-payment of annual licence and permit fees may be reported to the Gambling Commission who may wish to check their own records on the applicant accordingly.

## Appendix 1 – Schedule of Delegations

Matter to be dealt with	Full Council	Sub Committee of Licensing Committee	Officers
Three-year licensing policy	✓		
Policy not to permit casinos	✓		
Fee Setting (when appropriate)	✓		
Application for premises licence		Where representations have been received and not withdrawn	Where no representations have been received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations have been received/ representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations have been received/ representations have been withdrawn
Review of a premises licence		✓	

Application for club gaming / club machine permits			✓
Cancellation of club gaming / club machine permits			✓
Applications for other permits			✓
Cancellation of licensed premises gaming machine permits			✓

## Appendix 2 – List of Policy Consultees

### Local Government

Isle of Wight Member of Parliament  
 Isle of Wight Council Elected Councillors  
 Isle of Wight Parish and Town Councils

### Responsible Authorities

Hampshire Constabulary  
 Isle of Wight Council Childrens' Services  
 HM Revenue and Customs  
 Gambling Commission  
 Isle of Wight Fire and Rescue Service  
 Isle of Wight Council Environmental Health Department  
 Isle of Wight Council Planning Department

### Relevant Associations

Association of British Bookmakers  
 British Beer and Pub Association  
 British Casino Association  
 British Holiday and Home Parks Association  
 Casino Operators Association of UK  
 Gamblers Anonymous (UK)  
 GamCare  
 Responsibility in Gambling Trust  
 British Amusement & Catering Trade Association

All Gambling Act 2005 Licence and Permit holders on the Isle of Wight

### Miscellaneous

Isle of Wight Council Public Health  
 Isle of Wight Council Adult Social Care  
 Isle of Wight Council Housing Services  
 Isle of Wight Council Community Safety  
 Isle of Wight Council Trading Standards  
 Chamber of Commerce

Pubwatch  
Business Associations