
Statement of Gambling Principles

Licensing



Council of the
ISLES OF SCILLY

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COUNCIL OF THE ISLES OF SCILLY

Statement of Principles Gambling Act 2005

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*This Statement of Licensing Principles was approved by
The Council of the Isles of Scilly on December 2012.
All references to the Guidance refer to the Gambling Commission's Guidance to Licensing
Authorities (3rd Edition) published in May 2009.*

PART A: INTRODUCTION & PRINCIPLES

1 Introduction

- 1.1 Council of the Isles of Scilly as the local authority for the Isles of Scilly became a “Licensing Authority” under the Gambling Act 2005 (the Act), which came fully into force in 2007 and established a new regime for the regulation of commercial gambling whilst repealing a number of pieces of older law.
- 1.2 The Act requires the Council, along with all other licensing authorities, to publish a statement of principles that will be applied when carrying out its licensing functions. This statement of Licensing principles fulfils that statutory requirement and details the Council’s general approach to the making of decisions under the Act.
- 1.3 The main function of the Council as a Licensing Authority, through its licensing committee, will be to licence premises where gambling is to take place and issue a range of licences, permits and authorisations for gambling in its area. In addition the licensing authority will have power to impose conditions and review licences.
- 1.4 Additionally, the Council will be empowered by the Act to take enforcement action when an offence under the legislation has been committed or when premises or activities are unlicensed, or licence conditions are not complied with; this will be supported by powers of entry and inspection to ensure compliance.
- 1.5 This document does refer to the Gambling Commission, which has wider functions under the Act and with whom the Council will work alongside as a dual regulator. However, it does not discuss the role and responsibilities of the Commission and any references in this policy will only be insofar as it impacts on, or clarifies, this Authority’s functions. For example, the Commission is exclusively responsible for issuing operator and personal licences, the former of which is a necessity before the Council can consider an application for a premises licence (see page 38 for Gambling Commission details).
- 1.6 The Gambling Commission is also mentioned in this document as being responsible for issuing Codes of Practice and Guidance to licensing authorities regarding the manner in which they are to exercise their functions. This Statement endorses the principles set out in the Gambling Commission Guidance and key licensing objectives and confirms that the Council will take account of all such guidance.

2 Where we are

- 2.1 The Isles of Scilly are made up of over 200 low-lying granite islands and rocks, five of which are inhabited, located in the Atlantic, some 45 kms South West from Land’s End. The Islands are reached by ship from Penzance (2.5 hours), helicopter from Penzance (20 minutes) or plane from Lands End (15 minutes). The distance and cost of travel mean that the population needs to be self-sufficient in terms of all day-to-

day services. The role of the Council as a Unitary Authority and provider of Utilities is of central importance to the community.

- 2.2 The unique environment is also a constant factor in the work of the Council. There are 27 Sites of Specific Scientific Interest and 236 Scheduled Ancient Monuments (incorporating 909 separate items). As well as this there are 128 listed buildings (4 Grade 1 and 8 Grade 2*) a remarkable distribution within a 16 km squared area. The waters around the Islands, down to a 50m contour have been established as a non-statutory Marine Park. The Islands are designated as an Area of Outstanding Natural Beauty and a plan is currently being developed that sets out a vision for the management of this unique environment. The Islands are also designated as a Conservation Area and as Heritage Coast. The Islands contain a Special Area of Conservation (EU Habitats Directive) and Special Protection Area (EU Birds Directive) which means that the Islands are a EU Natura 2000 site.
- 2.3 These are very positive factors in terms of providing an outstanding natural environment for residents and visitors; however the environment does place many constraints on the work of the Council.
- 2.4 During the tourist season extending over 7 months the resident population of 2,100 is considerably increased. The Islands received over 100,000 visitors in 2008, this figure fluctuates up and down depending upon the economy and the weather year on year but imposes significant demands on the local services provided by the Council.
- 2.5 The Isles of Scilly are unique and require a strong management approach to licensing issues. Premises which will impact on the night-time economy will be expected to build into operation plans, sufficient measures to minimise the impact of the premises operation on the residential and other tourism based activities.

3 Licensing Objectives

- 3.1 In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act.
- 3.2 The licensing objectives are:
 - preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
 - ensuring that gambling is conducted in a fair and open way; and
 - protecting children and other vulnerable persons from being harmed or exploited by gambling;
- 3.3 It should be noted that the Gambling Commission has stated: “The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”.

- 3.4 This licensing authority is aware that, in accordance with Section 153 of the Act, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks these are:
- in accordance with any relevant code of practice issued by the Gambling Commission;
 - in accordance with any relevant guidance issued by the Gambling Commission;
 - reasonably consistent with the licensing objectives; and
 - in accordance with the authority's statement of licensing policy;

4 Consultation

- 4.1 Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles that they proposed to apply when exercising their functions - This statement must be published at least every three years. The statement must also be reviewed from "time to time" and any amended parts re-consulted upon and if any changes are agreed, the statement must be then re-published.
- 4.2 The Council of the Isles of Scilly is consulting widely upon this statement before finalising and publishing. A list of those persons consulted is provided below.
- 4.3 The Gambling Act requires that the following parties are consulted by Licensing Authorities:
- The Chief Officer of Police;
 - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area;
 - One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.
- 4.4 List of persons we consulted can be found at Appendix F.
- 4.5 Our consultation took place between 11 July and 12 September 2012,
- 4.6 The full list of comments made and the consideration by the Council of those comments is available by request to'
- The Licensing Department
Council of the Isles of Scilly
Town Hall
St Mary's
Isles of Scilly
TR21 0LW
- e-mail: Licensing@scilly.gov.uk

It should be noted that this policy statement will not override the right of any person to make an application, make representations about an application, or apply for a review of

a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

5 Licensing Authority Functions

- 5.1 The Council of the Isles of Scilly as a Licensing Authority is required under the Act to carry out various regulatory functions and will:
- Be responsible for the licensing of premises where gambling activities are to take place by issuing *Premises Licences*
 - Issue *Provisional Statements*
 - Regulate *members' clubs* and *miners' welfare institutes* who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
 - Issue *Club Machine Permits* to *Commercial Clubs*
 - Grant permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*
 - Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
 - Issue *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
 - Register *small society lotteries* below prescribed thresholds
 - Issue *Prize Gaming Permits*
 - Receive and Endorse *Temporary Use Notices*
 - Receive *Occasional Use Notices*
 - Provide information to the Gambling Commission regarding details of licences issued (see section above on information exchange)
 - Maintain registers of the permits and licences that are issued under these functions
- 5.2 It should be noted that local licensing authorities will not be involved in licensing remote gambling at all. This will fall to the Gambling Commission via operating licences.

6 Declaration:

- 6.1 In producing the final statement, the Council of the Isles of Scilly has had regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission, and any responses from those consulted on the statement.

7 Responsible Authorities

- 7.1 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:
- the need for the body to be responsible for an area covering the whole of the licensing authority's area; and
 - the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.
- 7.2 In accordance with the suggestion in the Gambling Commission's Guidance for local authorities, the Council of the Isles of Scilly designates the Children's Services Department of the Council of the Isles of Scilly for this purpose.
- 7.3 The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the Council's website and are published in Appendix G.

8 Interested parties

- 8.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:
- "For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the applications is made, the person
- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
 - b) has business interests that might be affected by the authorised activities, or
 - c) represents persons who satisfy paragraph (a) or (b)"
- 8.2 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. The principles are:
- That each case will be considered and decided on its merits.
- The Council of the Isles of Scilly will not be rigid in its decision making. It will take full account of the considerations provided in the Gambling Commission's Guidance for local authorities at 8.14 and 8.15. It will particularly consider the Gambling Commission's Guidance that "has business interests" should be given the widest interpretation and include partnerships, charities, faith groups and medical practices.
- 8.5 Interested parties can be persons who are democratically elected such as councillors and MP's. The Council of the Isles of Scilly will generally require written evidence that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised

activities. A letter from one of these persons, requesting the representation is sufficient.

- 8.6 If individuals approach Councillors requesting them to represent their views the Councillors concerned are advised to take care to explain and make it clear they cannot be not part of the Licensing Committee which will deal with the specific licence application if they represent views presented to them by applicants, and advise if there are any doubts or concerns the person making the approach should contact the Licensing Authority's licensing department for further advice.

The Licensing Department
Council of the Isles of Scilly
Town Hall, St Mary's
Isles of Scilly
TR21 0LW

Email licensing@scilly.gov.uk

9 Exchange of Information

- 9.1 Licensing authorities are required to include in their statements the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.
- 9.2 The principle that the Council of the Isles of Scilly applies is that it will act in accordance with the provisions of the Gambling, Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The Council of the Isles of Scilly will also have regard to any Guidance issued by the Gambling Commission to local authorities on this matter when it is published, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.
- 9.3 Should any protocols be established as regards information exchange with other bodies then they will be made available.
- 9.4 Representations by Interested Parties – such representations will be disclosed in full to the applicant and to Members determining the application of any hearing. Disclosure will include the identity of the person/body making the representation. Anonymous representations will not be accepted as the licensing authority must be satisfied that the representation is made by an 'interested party' as defined in the Act.

10 Enforcement

- 10.1 Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

10.2 The Council of the Isles of Scilly's principles are that:

It 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.

10.3 As per the Gambling Commission's Guidance for local authorities The Council of the Isles of Scilly will endeavour to avoid duplication with other regulatory regimes so far as possible.

10.4 The Council of the Isles of Scilly has adopted and implemented a risk-based inspection programme, based on;

- The licensing objectives
- Relevant codes of practice
- Guidance issued by the Gambling Commission, in particular at Part 36
- The principles set out in this statement of licensing policy

10.5 The main enforcement and compliance role for the Council of the Isles of Scilly in terms of the Gambling Act 2005 will be to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines will not be dealt with by the Council of the Isles of Scilly but will be notified to the Gambling Commission.

10.6 The Council of the Isles of Scilly will also keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

10.7 Bearing in mind the principle of transparency, enforcement/compliance protocols/written agreements will be available upon request from the licensing department.

PART B: PREMISES LICENCES

1 General Principles

- 1.1 Premises licences will be subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which will be detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.
- 1.2 The Council of the Isles of Scilly is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it: is
 - in accordance with any relevant code of practice issued by the Gambling Commission;
 - in accordance with any relevant guidance issued by the Gambling Commission;
 - reasonably consistent with the licensing objectives; and
 - in accordance with the authority's statement of licensing policy.
- 1.3 It is appreciated that as per the Gambling Commission's Guidance for local authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos - page 15) and also that unmet demand is not a criterion for a licensing authority.
- 1.4 **Definition of "premises"** – In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.
- 1.5 The Gambling Commission states in the third edition of its Guidance to Licensing Authorities that: "In most cases the expectation is that a single building / plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are so configured as to be clearly separate. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission and the Council of The Isles of Scilly does not consider that areas of a

building that are artificially or temporarily separated, for example by an obviously non permanent barrier or partition, can properly be regarded as different premises.

1.6 The Council of the Isles of Scilly in compliance with the Gambling Commission's Guidance for local authorities when considering applications for multiple licenses for a building or those relating to a discrete part of a premises used for other (non gambling) purposes will be particularly aware of the following:

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not "drift" into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers should be able to participate in the activity listed on the premises licence.

1.7 The Guidance also gives a list of factors which the licensing authority should be aware of, which may include:

- Do the premises have a separate registration for business rates
- Is the premises' 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?

This authority will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

The Gambling Commission's relevant access provisions for each premises type are reproduced below:

Casinos

- The principal access entrance to the premises must be from a street (as defined at 7.23 of the Guidance)
- Entrance to a casino must not be from premises that are used wholly or mainly by children and/or young persons
- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence

Adult Gaming Centre

- No customer must be able to access the premises directly from any other licensed gambling premises

Betting Shops

- Access must be from a street (as per para 7.23 Guidance to Licensing Authorities) or from another premises with a betting premises licence
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and there may not a betting shop at the back of a café – the whole area would have to be licensed.

Tracks

- No customer should be able to access the premises directly from:
 - a casino
 - an adult gaming centre

Bingo Premises

- No customer must be able to access the premises directly from:
 - a casino
 - an adult gaming centre
 - a betting premises, other than a track

Family Entertainment Centre

- No customer must be able to access the premises directly from:
 - a casino
 - an adult gaming centre
 - a betting premises, other than a track

Part 7 of the Gambling Commission's Guidance to Licensing Authorities contains further guidance on this issue, which this authority will also take into account in its decision-making.

1.8 Premises "ready for gambling"

The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.

In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process:-

- First, whether the premises ought to be permitted to be used for gambling
- Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

Applicants should note that this authority is entitled to decide that it may be appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.59-7.66 of the Guidance.

- 1.9 **Location** – The Council of the Isles of Scilly is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. As per the Gambling Commission's Guidance for local authorities the Council of the Isles of Scilly will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

- 1.10 **Planning:** The Gambling Commission Guidance to Licensing Authorities states: “7.59 – In determining applications the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.”

This authority will not take into account irrelevant matters as per the above guidance. In addition this authority notes the following excerpt from the Guidance:

“7.66 - When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have or comply with, the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence. Section 210 of the 2005 Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.”

- 1.11 **Duplication with other regulatory regimes** – The Council of the Isles of Scilly will seek to avoid any duplication with other statutory / regulatory systems where possible, including planning. The Council of the Isles of Scilly will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of the application. It will however, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.
- 1.12 **Licensing objectives** - Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, the Council of the Isles of Scilly has considered the Gambling Commission's Guidance to local authorities and some comments are made below.
- 1.13 **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** – The Council of the Isles of

Scilly is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime the Council of the Isles of Scilly will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. The Council of the Isles of Scilly is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction.

- 1.14 **Ensuring that gambling is conducted in a fair and open way** – The Council of the Isles of Scilly has noted that the Gambling Commission has stated that it would generally not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is however, more of a role with regard to tracks which is explained in more detail in the 'Tracks' section – page 17.
- 1.15 **Protecting children and other vulnerable persons from being harmed or exploited by gambling** – The Council of the Isles of Scilly has noted the Gambling Commission's Guidance for local authorities states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The Council of the Isles of Scilly will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.
- 1.16 The Council of the Isles of Scilly will also make itself aware of the Codes of Practice which the Gambling Commission issues as regards this licensing objective in respect of specific premises.
- 1.17 As regards the term “vulnerable persons” it is noted that the Gambling Commission does not seek to offer a definition but states that “it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.” This licensing authority will consider this licensing objective on a case by case basis.
- 1.18 **Conditions** - Any conditions attached to licences will be proportionate and will be:
 - relevant to the need to make the proposed building suitable as a gambling facility;
 - directly related to the premises and the type of licence applied for;
 - fairly and reasonably related to the scale and type of premises; and
 - reasonable in all other respects.
- 1.19 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures that the Council of the Isles of Scilly will consider

utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. The Council of the Isles of Scilly will also expect the licence applicant to offer his/her own suggestions as to way in which the licensing objectives can be, met effectively, which may be by way of the use of CCTV, the removal of cash overnight from gaming machines and an 'Under 21' policy.

- 1.20 The Council of the Isles of Scilly will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.
- 1.21 The Council of the Isles of Scilly will also ensure that where category C or above machines are on offer in premises to which children are admitted:
- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
 - only adults are admitted to the area where these machines are located;
 - access to the area where the machines are located is supervised;
 - the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
 - at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

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

- 1.22 The Council of the Isles of Scilly is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, the Council of the Isles of Scilly will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 1.23 It is noted that there are conditions which cannot be attached to premises licences which are:
- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
 - conditions relating to gaming machine categories, numbers, or method of operation (in relations to conditions limiting the number of machines, exceptions may apply in the case of tracks where a pool betting operators licence is also held – Sub Section 8 and 9 of Section 172 of the Act applies.
 - 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 this provision prevents it being reinstated; and

- conditions in. relation to stakes, fees, winning or prizes.

- 1.24 **Door Supervisors** The Gambling Commission advises in its Guidance to Licensing Authorities that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a condition on the premises licence to this effect.

Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether these need to be SIA licensed or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary (as per the Guidance, Part 33).

2 Adult Gaming Centres

- 2.1 The Council of the Isles of Scilly will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure, for example that under 18 year olds do not have access to the premises.
- 2.2 The Council of the Isles of Scilly may consider measures to meet the licensing objectives such as:
- Proof of age schemes
 - CCTV
 - Supervision of entrances I machine areas
 - Physical separation of areas
 - Location of entry
 - Notices / signage
 - Specific opening hours
 - Self-exclusion schemes
 - Provision of information leaflets / helpline numbers for organisations such as GamCare.

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

3 (Licensed) Family Entertainment Centres

- 3.1 The Council of the Isles of Scilly will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be

sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

3.2 The Council of the Isles of Scilly will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures / licence conditions may cover issues such as:

- CCTV
- Supervision of entrances/machine areas
- Physical separation of area
- Location of entry
- Notices/Signage
- Specific Opening Hours
- Self Exclusion Scheme
- Provision of information leaflets / helpline numbers for organisations such as GamCare
- Measures / training for staff on how to deal with suspected truant school children on the premises

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

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

4 Casinos

4.1 **No casinos resolution** – For the previous ‘Gambling Statement of Principles, the Council of the Isles of Scilly passed a ‘No Casino Resolution’ as stated below. – Council will be asked to consider this option again at the Council meeting in December. The previous policy stated the following:

4.2 The Council of the Isles of Scilly has passed a ‘no casino’ resolution under Section 166 of the gambling Act 2005 at a meeting of the Full Council held on 12 December 2005. This resolution was passed on the basis that a casino did not add to the ethos of the Islands as a family tourist destination. – Potential licence applicants should note that as a ‘no-casino’ resolution has been passed by this authority no applications for casino premises licences will be considered. Any applications received will be returned with a notification that a ‘no-casino’ resolution is in place.

This paragraph will be reviewed within the general review process of this policy.

4.3 **Casinos and competitive bidding** – The Council of the Isles of Scilly is aware that where a licensing authority area is enabled to grant a premises licence for a new

style casino (ie. the Secretary of State has made such regulations under Section 175 of the Gambling Act 2005) there are likely to be a number of operators which will want to run the casino. In such situations the local authority will run a 'competition' under Schedule 9 of the Gambling Act 2005. The Council of the Isles of Scilly will run such a competition in line with the Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008, as well as following the procedure set out in Part 17 of the Guidance.

- 4.4 **Licence considerations/conditions** The Council of the Isles of Scilly will attach conditions to casino premises licences according to the principles set out in the Gambling Commission's Guidance at paragraph 9, bearing in mind the mandatory conditions listed in paragraph 17 of the Guidance, and the Licence Conditions and Codes of Practice published by the Gambling Commission.
- 4.5 **Betting machine** - The Council of the Isles of Scilly will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available: for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

5 Bingo Premises

- 5.1 The Council of the Isles of Scilly notes that the Gambling Commission's Guidance states:
- "18.4 Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas."
- This authority also notes the Guidance at paragraph 18.8 regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.
- "18.7 Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed."

6 Betting Premises

- 6.1 **Betting machines** –The Isles of Scilly will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting

machines an operator wants to offer.

7 Tracks

- 7.1 The Council of the Isles of Scilly is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, the Council of the Isles of Scilly will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 7.2 The Council of the Isles of Scilly will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons' will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.
- 7.3 The Council of the Isles of Scilly will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures / licence conditions may cover issues such as
- Proof of age schemes
 - CCTV
 - Supervision of entrances / machine areas
 - Physical separation of areas
 - Location of entry
 - Notices / signage
 - Specific opening hours
 - Self-Exclusion schemes
 - Provision of information leaflets / helpline numbers for organisations such as GamCare
- This list is not mandatory, nor exhaustive, and is merely indicative of example measures.**
- 7.4 **Gaming machines** Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.
- 7.5 **Betting machines** – The Council of the Isles of Scilly will, as per Part 6 of the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering

the number/nature/circumstances of betting machines an operator proposes to offer.

- 7.6 **Condition on rules being displayed:** - The Gambling Commission has advised in its Guidance for local authorities that “...licensing authorities should attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office.”
- 7.7 **Applications and plans** – The Gambling Act (s51) requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity. (See Guidance to Licensing Authorities, para 20.28).
- 7.8 Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations. (See Guidance to Licensing Authorities, para 20.29).
- 7.9 Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises (See Guidance to Licensing Authorities, para 20.31).
- 7.10 In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined. (see Guidance to Licensing Authorities, para 20.32).
- 7.11 The Council of the Isles of Scilly appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the “five times rule” (commonly known as betting rings) must be indicated on the plan. (See Guidance to Licensing Authorities, para 20.33)

8 Travelling Fairs

- 8.1 It will fall to the Council of the Isles of Scilly to decide whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement is that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

- 8.2 The Council of the Isles of Scilly will also consider whether the applicant falls within the statutory definition of a travelling fair (refer to Appendix B for definitions)
- 8.3 It has been noted that the 27-day statutory maximum for the land being used as a fair, is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land.

9 Provisional Statements

- 9.1 Developers may wish to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.
- 9.2 S204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:
- expects to be constructed;
 - expects to be altered; or
 - expects to acquire a right to occupy.
- 9.3 The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.
- 9.4 In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.
- 9.5 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:
- they concern matters which could not have been addressed at the provisional statement stage, or
 - they reflect a change in the applicant's circumstances.
- 9.6 In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:
- which could not have been raised by objectors at the provisional statement stage;
 - which in the authority's opinion reflect a change in the operator's circumstances; or
 - where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

PART C: PERMITS, TEMPORARY AND OCCASIONAL USE

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

- 1.1 Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).
- 1.2 The Gambling Act 2005 states that a licensing authority may prepare **A Statement Of Principles** that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission. The Gambling Commission's Guidance for local authorities also states: "In its Licensing Authority Statement of Policy, a licensing authority may include a statement of principles that it proposes to apply when exercising its functions in considering applications for permits. In particular it may want to set out the matters that it will take into account in determining the suitability of the applicant. Given that the premises will particularly appeal to children and young persons, licensing authorities may want to give weight to matters relating to child protection issues.(24.6)"
- 1.3 The Guidance also states: "...An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application Licensing authorities might wish to consider asking applications to demonstrate
- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
 - that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act; and
 - that staff are: trained to have a full understanding of the maximum stakes and prizes. (24.7)
- 1.4 It should be noted that a licensing authority cannot attach conditions to this type of permit.
- 1.5 **Statement of Principles** The Council of the Isles of Scilly will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but included wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures/training for staff as regards suspected truant school children being on the premises, measures/training covering how staff would deal with unsupervised very young' children being on, the premises or children causing perceived problems on/around the premises
- 1.6 The Council of the Isles of Scilly would also expect as per the Gambling Commissions Guidance that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes. In addition , detailed plans of the premises should be submitted and the licensing authority will require evidence of public liability insurance.

2 (Alcohol) Licensed premises gaming machine permits - (Schedule 13 paragraph 4(1))

- 2.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority. The licensing authority can remove the automatic authorisation in respect of any particular premises if:
- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
 - gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
 - the premises are mainly used for gaming; or
 - an offence under the Gambling Act has been committed on the premises.
- 2.2 If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under the Gambling Act 2005, and *"such matters as they think relevant."* The Council of the Isles of Scilly considers that "such matters" will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from being harmed or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that those under the age of 18 years do not have access to the adult only gaming machines.
- 2.3 Measures which will satisfy the authority that there will be no access, which may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.
- 2.4 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.
- 2.5 It should be noted that the Licensing Authority can grant the licence with a smaller number of machines and/or a different category or machines that that applied for. Conditions, other than these, cannot be attached.

3 Prize Gaming Permits – (Statement of Principles on Permits – Schedule 14 paragraph 8 (3))

- 3.1 The Gambling Act 2005 states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority propose to consider in determining the suitability of the applicant for a permit”.
- 3.2 The Council of the Isles of Scilly has prepared a Statement of Principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:
- that they understand the limits to stakes and prizes that are set out in Regulations;
 - and that the gaming offered is within the law;
 - Clear policies that outline the steps to be taken to protect children from harm.
- 3.3 In making its decision on an application for this permit the Council of the Isles of Scilly may, but does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance.
- 3.4 It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but that the licensing authority cannot attach conditions. The conditions in the Act 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.

4 Club Gaming and Club Machines Permits

- 4.1 Members Clubs and Miners’ welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines permit. 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 as set-out in forthcoming regulations.
- 4.2 Gambling Commission Guidance states: “Members clubs must have at least 25

members and be established and conducted “wholly or mainly” for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulation and these cover bridge and whist clubs, which replicates the position under the Gambling Act 1968. A members’ club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men’s clubs, branches of Royal British Legion and clubs with political affiliations.”

- 4.3 The Commission Guidance also notes that "licensing authorities may only refuse an application on the grounds that:
- (a) 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;
 - (b) the applicant’s premises are used wholly or mainly by children and/or young persons;
 - (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
 - (d) a permit held by the applicant has been cancelled in the previous ten years; or
 - (e) an objection has been lodged by the Commission or the police.
- 4.4 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). As the Gambling Commission’s Guidance for local authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:
- (a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
 - (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
 - (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."
- 4.5 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.

5 Temporary Use Notices (TUN)

- 5.1 Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Use Notice, according the Gambling Commission, would include hotels, conference centres and sporting venues.

- 5.2 The licensing authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.
- 5.3 The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this Statement the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.
- 5.4 There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place".
- 5.5 In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.
- 5.6 This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

6 Occasional Use Notices: (OUN)

- 6.1 An occasional use notice permits licensed betting operators to use tracks for betting at on eight days or less in a calendar year , where the event concerned is of a temporary nature. Betting may therefore be permitted by an occasional use notice without the need for a full premises licence.
- 6.2 The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. The Council of the Isles of Scilly will though, consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.
- 6.3 Tracks are normally thought of as permanent race courses, but the meaning of track not only covers horse racecourses or dog tracks, but also any other premises on any part of which a race or other sporting event takes place. Although the track need not be a permanent fixture, land use temporarily as a track providing races or sporting events may qualify.

PART D DECISION MAKING

1 Administration, Exercise and Delegation of Function

- 1.1 The Council of the Isles of Scilly's Licensing Committee established to administer its Licensing functions under the Licensing Act 2003 is delegated with the powers under the Gambling Act 2005 to make all decisions relating to premises licences.
- 1.2 To provide a speedy, efficient and cost-effective service the committee has established a number of sub-committees and delegated certain functions and decisions to those sub-committees.
- 1.3 Many of the decision are largely administrative in nature such as, the grant of non-contentious applications, including for example, those licences, permits and notices where no representations have been made. These will be delegated to council officers by the licensing committee.
- 1.4 All decisions taken by the sub-committees and officers will be reported for information to the next full committee meeting.
- 1.5 Applications where there are relevant representations will be dealt with by the licensing committee/sub-committees unless such representations are considered irrelevant, frivolous or vexatious or unless the council, the applicant and all those persons who have made representations agree that a hearing is not necessary.
- 1.6 The table on Appendix C sets out the delegation of functions under the Gambling Act 2005 to the licensing committee, sub-committees and officers. Where appropriate, officers may refer any matter to a sub-committee or a sub-committee to Full Committee.

2 Reviews

- 2.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the licensing authority to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below:
 - in accordance with any relevant code of practice issued by the Gambling Commission
 - in accordance with any relevant guidance issued by the Gambling Commission;
 - reasonably consistent with the licensing objectives; and
 - in accordance with the authority's statement of licensing policy.
- 2.2 The request for the review will also be subject to the consideration by the authority as to whether the request is frivolous, vexatious, or whether it will certainly not cause this authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

- 2.3 The licensing authority can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.
- 2.4 Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.
- 2.5 The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.
- 2.6 The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:-
- (a) add, remove or amend a licence condition imposed by the licensing authority;
 - (b) exclude a default condition imposed by the Secretary of State or Scottish Ministers (e.g. opening hours) or remove or amend such an exclusion;
 - (c) suspend the premises licence for a period not exceeding three months; and
 - (d) revoke the premises licence.
- 2.7 In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.
- 2.8 In particular, the licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.
- 2.9 Once the review has been completed, the licensing authority must, as soon as possible, notify its decision to:
- the licence holder
 - the applicant for review (if any)
 - the Commission
 - any person who made representations
 - the chief officer of police or chief constable; and
 - Her Majesty's Commissioners for Revenue and Customs

3 Diversity and Equality

- 3.1 Subject to the general requirements of the Act, the Licensing Authority will promote equality of opportunity. In such respects, nothing within this statement of licensing principles shall undermine the right of any individual to apply for any of the licences and/or authorisations provided under the terms of the Act.

- 3.2 The Council is aware that some applications may have greater impact on groups, organisations or associations in respect of their race, gender, age, disability, sexuality or religious beliefs. With a view to eliminating unlawful discrimination, applicants will be expected (where appropriate) to address these concerns.
- 3.3 Where applications made by these groups or organisations representing them highlight special needs or customs that may affect their application, the Council, in recognising its duty to promote good relations between persons of different groups, will give consideration to supporting those needs or customs whilst seeking to promote the three licensing objectives.

4 Human Rights

- 4.1 The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way that is incompatible with a Convention Right. The Council will have particular regard to its rights and responsibilities under the Human Rights Act 1998 when determining applications, considering enforcement and reviewing this policy.
- 4.2 The Council will have particular regard to:
- Article 6 – that in determination of civil rights everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;
 - Article 8 – that everyone has the right to respect for his home and private life (removal or restriction of a licence may effect a persons private life); and
 - Article 1 of the First Protocol – that every person is entitled to peaceful enjoyment of his or her possessions (a licence is considered a possession in law);

PART E Further Information and Contact Details

1 Council Licensing Service

- 1.1 Further information about this statement, the Gambling Act 2005, or the various processes can be obtained from:

The Licensing Department
Council of the Isles of Scilly
Town Hall
St Mary's
Isles of Scilly
TR21 0LW

Tel:: 01720 424000
Fax : 01720 424017
Email : licensing@scilly.gov.uk
Website : www.scilly.gov.uk

2 The Gambling Commission

- 2.1 The Gambling Commission was set up as a Non-Departmental Public Body under the 2005 Act, to regulate gambling in the public interest and to advise local and central government on issues related to gambling. It operates at arms length from government ensuring its advice is fully independent.
- 2.2 For further information or to register your interest in the Commission you can visit their website at: www.gamblingcommission.gov.uk
- 2.3 Copies of the Commission's various publications, including the „Guidance to Local Authorities – May 2009 referred to in this statement of policy are available on request in various formats from:

Gambling Commission
Victoria Square House
Victoria Square
Birmingham B2 4BP
Tel: 0121 230 6500
Fax: 0121 237 2236
E-mail: info@gamblingcommission.gov.uk

Appendix A Maps

Maps showing the Isles of Scilly and their location within the UK

Uk Location Map



The Isles of Scilly



The Ward boundaries are the inhabited islands of St Mary's, St Agnes, Bryher, Tresco and St Martins.

Appendix B Glossary

| | |
|------------------------------------|--|
| Applications | Applications for licences and permits |
| Authorised local Authority Officer | A Licensing Authority Officer who is an authorised person for a purpose relating to premises in that authority's area. |
| Authorised Person | <p>A Licensing Officer an officer of an authority other than a Licensing Authority, both of who have been authorised for a purpose relating to premises in that authority area. The following are considered authorised person:</p> <p>Inspectors are appointed under the Fire Precautions Act 1971 Inspector appointed under the Health and Safety at Work, etc. Act 1974.</p> <p>Inspectors of Surveyors of ships appointed under the Merchant Shipping Act 1995; A person in a class prescribed in regulations by the secretary of state.</p> |
| Automated Roulette Equipment | <p>2 types:</p> <p>a) Linked to live game of chance, e.g. Roulette b) Plays live automated game, i.e. operates without human intervention</p> |
| Automatic condition | Condition attached automatically to premises licences or authorisations. The Licensing Authority has no desecration not to include or modify them |
| AWP machines | Amusement with Prizes Machines. |
| BACTA | British Amusement Catering Trade Association. |
| Betting Intermediary | Offers services via remote communication, such as the internet. |
| Betting Ring | An area that is used for temporary „on course“ betting facilities. |
| Bingo | A game of equal chance. |
| Casino | An arrangement whereby people are given an opportunity to participate in one or more casino games. |
| Casino Games | Games of chance that are not equal chance gaming. |

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| Casino Premises Licence Categories | <ul style="list-style-type: none"> a) Regional Casino Premises Licence b) Large Casino Premises Licence c) Small Casino Premises Licence d) Casino permitted under transitional arrangements. |
| Club Gaming Machine Permit | Permit to enable the preemies to provide gaming machines (3 machines of Categories B C or D). |
| Code of Practice | Means any relevant code of practice under section 34 of the Gambling Act 2005. |
| Complex Lottery | <p>An arrangement where:</p> <p>Persons are required to pay to participate in the arrangement;</p> <p>In the course of the arrangement, one or more prizes are allocated to one or more members of a class;</p> <p>The prizes are allocated by a series of processes; and</p> <p>The first of those processes relies wholly on chance.</p> |
| Council | Council of the Isles of Scilly |
| Customer Lotteries | Lotteries run by the occupiers of business premises who sell tickets only to customers present on their premises. These lotteries may not be conducted on vessels. |
| Default conditions | Conditions that will apply unless the Licensing Authority decides to exclude them. This may apply to all Premises Licences, to a class of Premises Licence or Licences for a specific purpose. |
| Delegated Powers | Decisions delegated either to a Licensing Committee, Sub Committee or Licensing Officer |
| Disorder | No set interpretation, however, likely to be connected to the way gambling is being conducted. In the case of gambling premises licences, disorder is intended to mean activity that is more serious and disruptive than mere nuisance. |
| Domestic Computer | Definition in forthcoming Regulations. Exempt from a Gaming Machine Permit. |
| Dual Use Computer | Definition in forthcoming Regulations. Exempt from a Gaming machine Permit. |
| Equal Chance Gaming | Games that do not involve playing or staking against a bank and where the chances are equally favourable to all participants |
| EBT | Electronic Bingo Ticket Minders. Electronic equipment operated by a Bingo Operators Licence for the purposes of playing bingo |

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| Exempt Lotteries | <p>Lotteries specified in the Gambling Act as permitted to be run without a licence from the Gambling Commission. There are 4 types;</p> <p>Small Society Lottery (required to register with Licensing Authorities)</p> <p>Incidental Non Commercial Lotteries e.g. Raffle at a dance/church fair</p> <p>Private Lotteries e.g. Raffle at a student hall of residence.</p> <p>Customer Lotteries e.g. Supermarket holding a hamper raffle</p> |
| External Lottery Manager | An individual, firm or company appointed by the small Lottery Society to manage a lottery on their behalf. They are consultants who generally take their fees from the expenses of the lottery |
| Fixed Odds Betting | General betting on tracks, |
| Gaming | Prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before the play commences |
| Gaming Machine | <p>Machine covering all types of gambling activity, including betting on virtual events.</p> <p>Categories – See Appendix E</p> |
| Guidance | Guidance issued by the Gambling Commission dated May 2009. |
| Human Rights Act 1998 Articles: 1, 6, 8 and 10 | <p>Article 1: Protocol 1 – the right to peaceful enjoyment of possessions.</p> <p>Article 6: - the right to a fair hearing</p> <p>Article 8: - the right of respect for private and family life</p> <p>Article 10: - the right to freedom of expression.</p> |
| Information Exchange | Exchanging Information with other regulatory bodies under the Gambling Act (Schedule 7) |
| Interested Party | <p>Interested parties can make representations about licence applications, or apply for a review of an existing licence.</p> <p>A person who:</p> <ul style="list-style-type: none"> • Lives sufficiently close to the premises to be likely affected by the authorised activities. • Has business interests that might be affected by the authorised activities. • Represents persons in either of the above groups. |
| Irrelevant Representations | <ul style="list-style-type: none"> • Where other legislation can cover the representation. • Demand in premises licensing |
| Large Lottery | Where the total value of tickets in any one lottery exceeds £20,000 OR tickets in separate lotteries on one calendar year exceed £250.00. This requires an Operating Licence. |

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| Licensed Lottery | Large society lotteries and lotteries run for the benefit of local authorities which will be regulated by the Gambling Commission. Operating Licences will be required. |
| Licensing Authority | The Council of the Isles of Scilly |
| Licensing Committee | A committee of 10 to 15 councillors appointed by the Council to represent the Licensing Authority. |
| Licensing Sub Committee | A sub committee of members appointed from the licensing committee to whom the functions of the licensing committee can be delegated under the Act to determine applications. |
| Live Gaming | Gambling on a live game as it happens. |
| Lottery | An arrangement which satisfies the statutory description of either a simple lottery or a complex lottery in Section 14 of the Act |
| Lottery Tickets | <p>Tickets that must:</p> <ul style="list-style-type: none"> • Identify the promoting society • State the name and address of the member of Society who is designated as having responsibility at the Society for the promotion of the lottery, or, if there is one, the external lottery manager; and • State the date of the draw, or enable the date of the draw to be determined. |
| Mandatory Condition | Conditions that must be attached to a licence. This may apply to all Premises Licences, to a class of Premises Licence or licences for specified circumstances. |
| Members Club | <p>A club that must</p> <ul style="list-style-type: none"> • have a least 24 members • be established and conducted „wholly or mainly“ for purposes other than gaming • be permanent in nature • Not established to make commercial profit • controlled by its members equally |
| Notifications | Notification of temporary and occasional use notices |
| Non commercial event | An event where all the money raised at the event, including entrance fees, goes entirely to purposes that are not private gain. |
| Non Commercial Society/small society lotteries | <p>A society established and conducted:</p> <p>for charitable purposes.</p> <p>for the purpose of enabling participation in, or of supporting, sport athletics or a cultural activity; of</p> <p>for any other non commercial purpose other than that of private gain</p> |

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| Occasional Use Notice | Betting may be permitted on a „track“ without the need for a full Premises Licence. |
| Off Course Betting | Betting that takes place other than at a track, i.e. at a licensed betting shop. |
| Off Course Betting – Tracks | Betting that takes place in self contained betting premises within the track premises providing facilities for off course betting, i.e. on other events, not just those taking place on the track. Normally operate only on race days. |
| On Course Betting – Tracks | Betting that takes place on a track while races are taking place. |
| Operating Licences | Licence to permit individual and companies to provide facilities for certain types of gambling. They may authorise remote or non remote gambling. |
| Permits | Authorisation to provide a gambling facility where the stakes and prizes are very low or gambling is not the main function of the premises. |
| Personal Licence | Formal authorisation to individuals who control facilities for gambling or are able to influence the outcome of gambling. These cannot be held by companies. |
| Pool Betting – Tracks | Betting offered at a horse racecourse by the Tote and at a dog track by the holder of the premises licence for the track. |
| Premises | Defined as „any place“. It is for the Licensing Authority to decide whether different parts of a building can be properly regarded as being separate premises. |
| Premises Licence | Licence to authorise the provision of gaming facilities on casino premises, bingo premises, betting premises, including tracks adult gaming centres and family entertainment centres. |
| Private Lotteries | 3 Types of private Lotteries: Private Society Lotteries – tickets may only be sold to members of the Society or persons who are on the premises of the Society. Work Lotteries – the promoters and purchasers of tickets must all work on a single set of work premises. Residents“ Lotteries – promoted by, and tickets may only be sold to, people who live at the same set of premises. |
| Prize Gaming | 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. The prizes will be determined by the operator before play commences. |
| Prize Gaming Permit | A permit to authorise the provision of facilities for gaming with prizes on specific premises. |

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| Provisional Statement | <p>Where an applicant can make an application to the Licensing Authority in respect of premises that he:</p> <ul style="list-style-type: none"> • Expects to be constructed • Expects to be altered • Expects a right to occupy |
| Racino | Casino located at a racecourse. |
| Regulations: | Regulations made under the Gambling Act 2005 |
| Relevant Representations | Representations that relate to the Licensing Objectives or that raise issues under the Licensing Policy Statement or the Gambling Commission's Guidance or Code of Practice. |
| Responsible Authorities | <p>Responsible authorities can make representations about licence applications, or apply for review of an existing licence. For the purposes of this Act, the following are responsible authorities in relation to premises:</p> <ol style="list-style-type: none"> 1. The Council Licensing Authority whose area the premises must wholly or mainly be situated; 2. The Gambling Commission; 3. Devon and Cornwall Police 4. Isles of Scilly Fire & Rescue Authority, 5. Planning Authority, Council of the Isles of Scilly; 6. Environmental Health and Health & Safety 7. Children's Services, 8. HM Customs and Excise. <p>The contact details for all responsible authorities under the Gambling Act 2005 will be available via the Council website at www.scilly.gov.uk</p> |
| SIA | Security Industry Authority |
| Simple Lottery | <p>An arrangement where:</p> <ul style="list-style-type: none"> • Persons are required to pay to participate in the arrangement • In the course of the arrangement, one or more prize are allocated to one or more members of a class; and • The prizes are allocated by a process which relies wholly chance. |
| Skills with Prize | A machine on which the winning of a prize is determined only by the player's skill and there is no element of chance, e.g. trivia game machine Formula 1 simulators, shooting game Skills Machine are unregulated. |
| Small Lottery | Where the total value of tickets in a single lottery is £20,000 or less and the aggregate value of the tickets in a calendar year is £250,000 or less. |
| Small Society Lottery | A lottery promoted on behalf of non-commercial society, i.e. lotteries intended to raise funds for good causes. |

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| Small Operations | Independent on course betting operators with only one or two employees or a bookmakers running just one shop. |
| Society | The society or any separate branch of such a society, on whose behalf a lottery is to be promoted. |
| Statement of Principles | Matters taken into account when considering an applicant's suitability for an application for FEC Permits etc. |
| Temporary Use Notice | To allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. |
| Totalisator or Tote | Pool betting on tracks. |
| Touch Bet Roulette | Where a player gambles on a live game of chance without actually being seated. |
| Track | Sites where races or other sporting events take place e.g. horse racing, dog racing or any other premises on any part of which a race or other sporting event takes place or is intended to take place. |
| Travelling Fair | A fair that „wholly or principally“ provides amusements and must be on a site used for fairs for no more than 27 days per calendar year. |
| Vehicles | Defined trains, aircraft, sea planes and amphibious vehicles other than hovercraft. No form of commercial betting and gaming is permitted. |
| Vessel | Anything (other than a seaplane or amphibious vehicle) designed or adapted for use on water; a hovercraft; or anything, or part of any place, situated on or in water. |
| Vessel; and Relevant Licensing Authority | The Licensing Authority for the area in which the vessel is usually moored or berthed. |
| Virtual Betting | Machine that takes bets on virtual races , i.e. images generated by computer to resemble races or other events. |
| Vulnerable | 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 due to mental impairment, alcohol or drugs. For example this may include those persons who are under the influence of alcohol and/or are drunk. |
| Young Person | An individual who is not a child but who is less than 18 year old. |

Appendix C Permitted Delegations

| Summary of licensing authority delegations permitted under the Gambling Act 2005 | | | |
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| Matter to be dealt with | Full Council | Sub-committee of licensing committee | Officers |
| Final approval of three year licensing policy | X | | |
| Policy not to permit casinos | X | | |
| Fee setting (when appropriate) | X | | |
| Application for premises licences | | Where representations have been received and not withdrawn | Where no representations received/ representations have been withdrawn |
| Application for a variation to a licence | | Where representations have been received and not withdrawn | Where no representations received/ representations have been withdrawn |
| Application for a transfer of a licence | | Where representations have been received from the Commission | Where no representations received from the Commission |
| Application for a provisional statement | | Where representations have been received and not withdrawn | Where no representations received/ representations have been withdrawn |
| Determination of review of a premises licence | | X | |
| Instigation of review of a premises licence | | | X |
| Application for club gaming/ club machine permits | | Where objections have been made (and not withdrawn) | Where no objections made/objections have been withdrawn |
| Cancellation of club gaming/ club machine permits | | X | |
| Applications for other permits | | | X |
| Cancellation of licensed premises gaming machine permits | | | X |
| Consideration of and objection to a temporary use notice | | | X |
| Decision to give a counter notice to a temporary use notice | | X | |

X Indicates at the lowest level to which decisions can be delegated

Appendix D Table of Exemptions

| Exemptions from | Types of gambling and permissions |
|---------------------------------------|---|
| Operating Licence | Small society lotteries Incidental non commercial lottery Private lottery Customer lottery |
| Premises | Occasional use notice Football pools Temporary use notice |
| Operating Licence and Premise Licence | Family entertainment centre gaming machine permit Club/miners welfare institute: equal chance gaming Club gaming permit Club machine permit Equal chance gaming, on – licensed premises Gaming machines: automatic entitlement, on – licensed premises Licensed premises gaming machine permit Travelling fair gaming machine Prize gaming permit Other prize gaming Ancillary equal chance gaming at travelling fairs Private gaming and betting Non commercial prize gaming Non commercial equal chance gaming |

Appendix E Categories of Gaming Machines

| Category of machine | Maximum Stake | Maximum prize |
|--|---------------|---|
| A | Unlimited | Unlimited |
| B1 | £2 | £4,000 |
| B2 | £100 | £500 |
| B3A | £1 | £500 |
| B3 | £1 | £500 |
| B4 | £1 | £250 |
| C | £1 | £70 |
| D – non-money prize (other than a crane grab machine) | 30p | £8 |
| D – non-money prize (crane grab machine) | £1 | £50 |
| D (money prize) | 10p | £5 |
| D – combined money and non-money prize (other than a coin pusher or penny falls machine) | 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 machine) | 10p | £15 (of which no more than £8 may be a money prize) |

Appendix F List of Consultees to the Statement of Licensing Principles

Persons or Bodies representing the interests of those who are likely to be affected by the exercise of the authority's functions:

- Responsible Authorities (see Appendix B)
 - o The Council's Licensing Authority
 - o The Gambling Commission
 - o Devon & Cornwall Police
 - o Isles of Scilly Fire and Rescue Authority
 - o Planning Authority, Council of the Isles of Scilly
 - o Environmental Health and Health & Safety
 - o Children's Services
 - o HM Customs and Excise
- All elected Councillors within the Council of the Isles of Scilly
- The MP
- Isles of Scilly Community Safety Partnership
- Gamblers Anonymous
- Alcoholics Anonymous
- National Probation Service
- National Association of Citizen Advice Bureaux
- Cornwall Samaritans
- Salvation Army
- Primary Care Trust
- Residents and Tenants Associations

Persons or Bodies representing the interests of those carrying on businesses:

- Current holders of licences, permits, registrations etc in the Islands
- Gaming Machine Suppliers
- Association of British Bookmakers
- BACTA (British Amusement Catering Trade Association)
- British Casino Association
- Casino Operators Association
- British Beer and Pub Association
- British Institute of Inn keeping
- GamCare
- Isles of Scilly Tourism Partnership
- Federation of Licensed Victuallers
- The Bingo Association
- Responsibility in Gambling Trust
- Remote Gambling Association

- The Lotteries Council
- General Public (via Libraries, One Stop Shop, Council Website, Press Release)
- Duchy of Cornwall

Please note that this is not an exhaustive list and where it comes to light that other consultees should be included in the consultation, this will be carried out.

Appendix G Responsible Authorities

| Responsible Authorities | |
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| The licensing authority | Council of the Isles of Scilly, Town Hall, St Mary's Isles of Scilly TR21 0LW Tel: 01720 422537 email: Licensing@scilly.gov.uk |
| The Gambling Commission | Victoria Square House, Victoria Square, Birmingham, B2 4BP |
| The Chief Officer of Police | C/o the Police Licensing Officer, Devon & Cornwall Constabulary, Hayle Police Station, Sea Lane, Hayle Cornwall TR27 4DU. OR by hand delivery to C/o the Police Licensing Officer, Devon & Cornwall Constabulary The Police Station, Garrison Lane, St Mary's, Isles of Scilly TR21 |
| Isles of Scilly Fire and Rescue Service | Chief Fire Officer, C/o The Airport, St Mary's Isles of Scilly TR21 |
| The Planning Authority | Council of the Isles of Scilly Planning and Development, Old Wesleyan Chapel, Garrison Lane, St Mary's, Isles of Scilly T21 Tel: 424311. |
| The Environmental Control Department | Environmental Control, Council of the Isles of Scilly, Town Hall, St Mary's, Isles of Scilly TR21 0LW |
| Safeguarding Children | Children Services Council of the Isles of Scilly, Town Hall St Mary's Isles of Scilly TR21 0LW |
| Customs & Excise | Machine & Licensing Department, Greenock Accounting Centre, Custom House, Custom House Quay, Greenock, PA15 1EQ |
| Any other person prescribed by regulations made by the Secretary of State | The Responsible Authorities listed above are correct at the time of printing, but the Act allows for additions to be made by way of regulations passed by the Secretary of State. Details of responsible authorities will be provided on request to the licensing section and will in any case accompany application forms issued by the licensing department, and an up to date list of contact details will also be available on the council's website at www.scilly.gov.uk |