

EAST RENFREWSHIRE LICENSING BOARD
GAMBLING ACT 2005
STATEMENT OF PRINCIPLES

1. Introduction

- 1.1 The Gambling Act 2005 ("the Act") creates a new system of licensing and regulation for all commercial gambling in Great Britain, other than the National Lottery and spread betting. The Act will come into full force and effect on 1 September 2007. Section 349 of the Act requires all licensing authorities to publish a Statement of Principles to be applied in exercising an authority's functions under the Act.

The Act provides that a Statement of Principles shall apply for a period of three years and may be reviewed and revised during that period if appropriate. Certain provisions of the Act will come into effect on 31 January 2007. A licensing authority's first Statement of Principles will therefore be applied for the three year period from 31 January 2007.

In terms of Section 349 of the Act, this is the first Statement of Principles the East Renfrewshire Licensing Board ("the Board") propose to apply in exercising its functions under the Act during the three year period beginning on 1 September 2007 and which was approved by the Board on 18 January 2008. The Statement of Principles will be kept under review and revised, if appropriate, during the three year period.

- 1.2 In preparing this Statement of Principles account has been taken of the statutory guidance issued by the Gambling Commission.
- 1.3 In exercising its functions under the Act, the Board will have regard to the statutory licensing objectives set out in Section 1 of the Act, namely:
- 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 being conducted in a fair and open way; and
 - protecting children and other vulnerable persons from being harmed or exploited by gambling.

- 1.4 In accordance with Section 153 of the Act, the Board, in making decisions concerning premises licences and temporary use notices, aims to permit the use of premises for gambling in so far as they think it is:
- in accordance with any relevant Code of Practice issued by the Gambling Commission;
 - in accordance with any relevant guidance issued by the Gambling Commission;
 - reasonably consistent with the licensing objectives; and
 - in accordance with this Statement of Principles.
- 1.5 Nothing in the Statement will override the right of any person to make an application under the Act or to have the application considered on its individual merits, undermine the right of any person to make representations on an application or to seek a review of a licence where there is a legal power to do so.
- 1.6 This Statement is intended to be a general Statement of Principles and is not to be regarded as a comprehensive guide to the application of the Act by the Board. Applicants and others should always have regard not only to this Statement of Principles but also to the Act, any regulations made under the Act and any Guidance or Codes of Practice issued by the Gambling Commission. Guidance and Codes of Practice issued by the Gambling Commission may be accessed on the Commission's web site. (www.gamblingcommission.gov.uk).
- 1.7 In producing this Statement of Principles, the Board has had regard to the licensing objectives of the Act, the Guidance issued by the Gambling Commission and any responses from those consulted on this Statement of Principles.
- 1.8 In making decisions under the Act, the Board will have regard to this Statement of Principles but every application will be considered on its own merits.
- 1.9 The Act provides that unmet demand is not a criterion of which the Board may take account when considering an application and the Guidance issued by the Gambling Commission states that "moral objections to gambling are not a valid reason to reject applications for premises licences". The Board will not have regard to demand or moral objections when exercising its functions under the Act.
- 1.10 The Board are committed to avoiding duplication with other legislation and regulatory regimes as far as possible and the legal requirements of such

other legislation (e.g. Health and Safety legislation) have not been repeated in this Statement of Principles.

2. East Renfrewshire Licensing Board

2.1 East Renfrewshire Licensing Board, which is referred to in this Statement of Principles as "the Board", is the licensing authority for the geographical area known as the East Renfrewshire Council Local Government area.

3. Consultation on the Statement of Principles.

3.1 The Act requires the following parties to be consulted prior to publication of this Statement of Principles:

- 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 Board's area; and
- 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 Act.

3.2 The parties consulted in relation to the Statement of Principles are listed in Appendix 1.

3.3 Prior to publishing this Statement of Principles the Board had regard to and gave appropriate weight to the views of those whom it had consulted. In determining what weight to give to particular representations, the following factors were taken into account:

- who is making the representations (what is their expertise or interest);
- what their motivation may be for their views;
- how many other people have expressed the same or similar views;
- how far the representations relate to matters which the Board should be including in its Statements of Principles; and the Act, any regulations made under the Act and any relevant Guidance or Codes of Practice.

3.4 In considering the views of consultees, the Board considered whether those views should be taken into account and the extent to which the

Board are able to deal with the issues raised. For example, the views may relate to a matter which is dealt with under other legislation such as planning.

4. Licensing Authority Functions

4.1 This Board will make decisions upon applications or notifications made for:

- premises licences;
- temporary use notices;
- occasional use notices;
- permits as required under the Act; and
- registrations as required under the Act.

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

- casinos;
- bingo premises;
- betting premises;
- tracks;
- adult gaming centres;
- licensed family entertainment centres;
- unlicensed family entertainment centres;
- club gaming permits;
- prize gaming and prize gaming permits;
- temporary use notices; and
- registration of small society lotteries.

4.3 The Board will not be involved in licensing remote gambling. Regulation will fall to the Gaming Commission through operator licences.

5. Child Protection

5.1 In terms of Section 157 of the Act the Board is required to designate in writing a body which is competent to advise the Board about the protection of children from harm.

- 5.2 The Board designates East Renfrewshire Child Protection Committee. This is an inter-agency body representing the statutory, private and voluntary sectors with a wide knowledge and experience of child protection matters: it has the specialist knowledge and expertise to advise the Board about the protection of children from harm.

6. Responsible Authorities

- 6.1 Responsible authorities are public bodies that must be notified of applications and which are entitled to make representations to the Board in relation to premises licences and applications for premises licences.

- 6.2 The responsible authorities in the Board's area are:

1. the Board.
2. the Gambling Commission.
3. the Chief Constable, Strathclyde Police.
4. the Chief Fire Officer, Strathclyde Fire and Rescue Service.
5. Director of Roads Planning and Transport, East Renfrewshire Council.
6. Director of Community Services, East Renfrewshire Council.
7. East Renfrewshire Child Protection Committee.
8. HM Revenue and Customs
9. any other person prescribed in regulations by the Secretary of State or Scottish Ministers.

7. Interested Parties

- 7.1 Interested parties can make representations about licence applications or apply for a review of an existing licence. A person is an interested party if that person, in the opinion of the Board:

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

7.2 In determining whether a person is an interested party, the Board will judge each case on its own merits.

7.3 In determining whether a person is a “person living close to the premises”, the Board may take account of the following factors:

- size of the premises;
- the nature of the premises;
- the distance of the premises from the location of the party making the representation;
- the potential impact of the premises; and
- the circumstances of the person.

7.4 In determining whether a party is a person with business interests that could be affected, factors that may be taken into account include:

- the size of the premises; and
- the proximity of the premises to any premises of the party making representations.

7.5 In deciding whether a person represents a party in either category 7.3 or 7.4 above, the Board will make decisions on a case by case basis; in appropriate cases, the Board may require written evidence such as a letter confirming that the person does indeed represent the party.

8. Compliance and Enforcement

8.1 The Board has powers in terms of Part 15 of the Act to inspect premises, to monitor compliance with the provisions of the Act and, in respect of licence conditions, to investigate suspected offences.

8.2 The Board will seek to ensure that its approach to compliance and enforcement is:

- proportionate;
- accountable;
- consistent;
- transparent; and
- targeted.

8.3 The Board will seek to ensure that any inspection programme is risk based.

9. Exchange of Information

9.1 In exercising its functions under the Act, the Board will exchange relevant information with other regulatory bodies. The Board will act in accordance with the provisions of the Act, the data protection and freedom of information legislation and any Guidance or Codes of Practice issued by the Gambling Commission.

10. Premises Licence

General Principles

10.1 Premises licences will be subject to the restrictions set out in the Act and regulations as well as to specific mandatory and default conditions which will be detailed in regulations issued under the Act.

10.2 The Board may exclude default conditions and also attach other conditions, where it believes it is appropriate.

10.3 In making decisions about premises licences, the Board will aim to permit the use of premises for gambling insofar as it is

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

- 10.4 Premises are defined in the Act as “any place”. Different premises licences cannot apply in respect of a single premises at different times. The Board will assess each case on its individual merits to decide as a matter of fact, whether different parts of a building can properly be regarded as being separate premises. The Board notes the Gambling Commission’s Guidance in this area.
- 10.5 An applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed. The Gambling Commission’s Guidance advises that reference to “the premises” is to the premises in which gambling may now take place, so the premises must be ready to be used for gambling. Each case will be a question of fact and degree.
- 10.6 In determining premises licences the Board may not have regard to the expected demand for the facilities which it is proposed to provide.
- 10.7 In accordance with the Gambling Commission’s Guidance the Board will pay particular attention to the protection of children and vulnerable persons from harm or exploitation by gambling, as well as to issues of crime and disorder.
- 10.8 The Board has not adopted any specific policy in relation to areas where gambling premises should not be located. Should any such policy be adopted, this Statement will be reviewed.
- 10.9 Any future policy would not preclude an application for a premises licence being made; the onus will be upon the applicant to show how any potential concerns could be overcome.
- 10.10 The licensing authority will seek to avoid any duplication with other statutory/regulatory regimes where possible, including the statutory planning regime.

Objective 1: Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime

- 10.11 The Gambling Commission will take a leading role in preventing gambling from being a source of crime. Its Guidance envisages that attention is paid to the proposed location of gambling premises in terms of this licensing objective.
- 10.12 The Board recognises the Gambling Commission’s distinction between disorder and nuisance, disorder meaning activity, which is more serious and disruptive than mere nuisance. The Board will consider factors such

as whether police assistance was required and how threatening the behaviour was to those who could see it, to assess a disturbance.

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

- the design and layout of the premises;
- the training given to staff and crime prevention measures appropriate to those premises;
- physical security features installed in the premises, which may include matters such as position of cash registers or the standard of CCTV installed in the premises;
- where premises are subject to age restrictions, the procedures in place to conduct age verification checks; and
- the likelihood of any violence, public order or policing problem if the licence is granted.

Objective 2: Ensuring that gambling is conducted in a fair and open way

10.14 The Gambling Commission has stated that it would generally not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will relate either to the management of the business, therefore subject to an operating licence, or to an individual and therefore subject to a personal licence. The Board recognises that both of the matters are the responsibility of the Gambling Commission.

Objective 3: Protecting children and other vulnerable persons from being harmed or exploited by gambling

10.15 The Gambling Commission's Guidance states that this objective relates to preventing children from taking part in gambling as well as restriction of advertising, so that gambling products are not aimed at children or are particularly attractive to them.

10.16 The Board will consider whether specific measures are required at individual premises to promote this licensing objective. Appropriate measures may include supervision of access points or machines, or segregation of areas. The Board will consult the East Renfrewshire Child Protection Committee on any application that indicates there may be concerns over access for children or vulnerable persons.

10.17 The term “vulnerable persons” is not defined but the Gambling Commission’s Guidance 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”.

10.18 The Board will consider the promotion of this licensing objective on a common sense, case-by-case basis.

Conditions on Premises Licences

10.19 Any conditions attached to licences will be proportionate and will be: -

- relevant to the need to make the premises 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 aspects.

10.20 Decisions on individual conditions will be made on a case-by-case basis. The control measures, which the Board may consider imposing, include door supervisors and appropriate signage for adult only areas. Licence Applicants will be invited to offer their own suggestions as to ways in which the licensing objectives can be effectively met.

10.21 The Board may consider imposing specific measures for buildings, which are subject to multiple premises licences. Such measures may include the supervision of entrances, segregation of gambling and non-gambling areas frequented by children, the supervision of gaming machines and the display of notices regarding age restriction.

Door Supervisors

10.22 In accordance with the Gambling Commission’s Guidance the Board will consider whether there is a need for door supervisors in terms of the licensing objectives relating to children and vulnerable persons and the prevention of crime.

11. Adult Gaming Centres

11.1 The Board will have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the

applicant to demonstrate that there will be sufficient measures to ensure that persons under 18 years of age do not have access to the premises.

- 11.2 Sufficient measures that will be imposed as appropriate licensing conditions may include proof of age schemes, CCTV, door supervisors, supervision of entrances/machine areas, physical separation of areas, location of entry notices/signage and specific opening hours.
- 11.3 The measures detailed in 11.2 above are not exhaustive and are not intended to exclude other conditions in appropriate cases.

12. **Family Entertainment Centres**

- 12.1 The Board will have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to demonstrate that there will be sufficient measures to ensure that persons under 18 years of age do not have access to the adult only gaming machine areas.
- 12.2 Licence applicants will be invited as part of their application to offer their own suggestions upon measures to promote the licensing objectives. Sufficient measures that will be imposed as appropriate include CCTV, supervision of entrances/machine areas, physical separation of areas, location of entry notices/signage, specific opening hours, and measures/training for staff on how to deal with suspected school children on the premises.
- 12.3 The measures detailed in 12.2 above are not exhaustive and are not intended to exclude other conditions in appropriate cases.
- 12.4 In accordance with the Gambling Commission's Guidance, the Board will ensure that it is sufficiently aware of any conditions that apply to operating licences, for instance those covering the way in which the area containing the category C or higher machines, should be delineated.

13. **Casinos**

The Board has not passed a "no casino" resolution under Section 166 of the Act.

14. **Bingo Premises**

- 14.1 The Board notes the Gambling Commission's Guidance which states: "It is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in

premises to which children are admitted licensing authorities should ensure that: -

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

14.2 The Gambling Commission will issue further guidance on particular issues that should be taken into account in relation to the suitability and layout of bingo premises and the Board will consider such Guidance when it is published.

Betting Premises

15.1 The Act contains a single class of licence for betting premises. Different types of premises will require licensing, including betting offices on tracks that have a separate premises licence from the track licence.

15.2 The Gambling Commission’s Guidance states “Section 181 contains an express power for licensing authorities to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence or to a casino premises licence (where betting is permitted in the casino)”.

15.3 When considering whether to impose conditions to restrict the betting machines in particular premises, the Board will consider 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 machines by children and young people or by vulnerable persons.

16. **Tracks**

- 16.1 The Act contains rules, which apply to applicants for a premises licence in relation to a track. The applicant need not hold an operating licence because the betting which is provided upon the track will be provided by other operators, who come on-course. Since those people will require the necessary operating licences, the Act allows the track operator to obtain a premises licence without also having to hold an operating licence. This track premises licence then authorises anyone upon the premises with an operating licence to offer betting facilities.
- 16.2 Tracks are different from other premises in that there may be more than one premises licence in effect, each covering a specified area of the track. In accordance with the Gambling Commission's Guidance, the Board will especially consider the impact of the third licensing objective in this area.
- 16.3 There may be some specific considerations with regard to the protection of children and vulnerable persons from being harmed or exploited by gambling, the need to ensure entrances to each type of premises are distinct and that children are excluded from gambling or betting areas where they are not permitted to enter.
- 16.4 Children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog racing takes place, although they are still prevented from entering areas where gaming machines (other than category D machines) are provided. Premises licence applicants will have to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities.
- 16.5 Appropriate licence conditions may include proof of age schemes, CCTV, door supervisors, supervision of entrances/machine areas, physical separation of areas, location of entry notices/signage, specific opening hours and the location of gaming machines.
- 16.6 This list is not exhaustive and does not intend to exclude other conditions in appropriate cases.
- 16.7 The Gambling Commission will issue guidance addressing where such machines may be located on tracks and any special considerations that should apply to promote the licensing objectives.

Condition on Rules being displayed

- 16.8 In accordance with the Gambling Commission's Guidance, the Board will 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.

17. **Travelling Fairs**

- 17.1 The Board will consider whether the application falls within the statutory definition of a travelling fair.
- 17.2 Where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the Board will decide whether the statutory requirement, that the facilities for gambling amount to no more than an ancillary amusement at the fair, is met.
- 17.3 The 27-day statutory maximum for the land being used for a fair is per calendar year shall apply 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.

18. **Provisional Statements**

- 18.1 Section 204 of the Act provides that a person may 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.
- 18.2 The Gambling Commission's Guidance states that "it is a question of fact and degree whether the premises are finished to a degree that they can be considered for a premises licence" and that "requiring the building to be complete ensures that the authority could, if necessary, inspect it fully".
- 18.3 In terms of representations about premises licence applications following the grant of a provisional statement, no further representations from relevant authorities or interested parties will 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.
- 18.4 The Board may refuse the premises licence or grant it on terms different to those attached to the provisional statement only by reference to matters: -
- which could not have been raised at the provisional licence stage; or
 - which, in the Board's opinion, reflects a change in the operator's circumstances.

18.5 The Gambling Commission's Guidance states that licensing authorities must not have regard to whether or not a proposal by an applicant is likely to be permitted in accordance with planning or building law.

19. **Reviews**

19.1 A premises licence may be reviewed by the Board of its own accord for any appropriate reason or following the receipt of an application for a review by an interested party or responsible authority. It is for the Board to decide whether the review should be carried out.

19.2 Section 200 of the Act provides that licensing authorities may initiate a review in relation to a particular class of premises licence or in relation to particular premises.

19.3 An application for a review may be rejected if the Board is of the view that the grounds on which the review is sought: -

- are not relevant to the principles that must be applied by the licensing authority in accordance with Section 153;
- are frivolous or vexatious;
- will certainly not cause the authority to revoke or suspend the licence or exclude, remove or amend a condition attached to the licence; or
- are substantially the same as the grounds specified in an earlier application in respect of the same premises or are substantially the same as representations made in relation to the application for the premises licence.

19.4 In determining, whether to exercise the power to reject an application, the Board will take into account the length of time that has elapsed since the making of the earlier application or since the making of the representation.

20. **Unlicensed Family Entertainment Centre Gaming Machine Permits**

20.1 Where the operator of a family entertainment centre (FEC) does not hold a premises licence but wishes to provide gaming machines, he or she may apply to the licensing authority for this permit. The applicant must demonstrate that the premises will be wholly or mainly used for making gaming machines available for use.

20.2 Unlicensed FECs will be able to offer only category D machines in reliance of a gaming machine permit. Any number of category D machines can be

made available with such a permit. Permits cannot be issued in respect of vessels or vehicles.

- 20.3 The Board can grant or refuse a licence but cannot attach conditions to this type of permit.
- 20.4 The Board will expect the applicant to demonstrate that there are policies and procedures in place to protect children from harm. Harm is not limited to harm from gambling, but includes wider child protection considerations.

21. **Prize Gaming Permits**

- 21.1 The Act states that a licensing authority may prepare a statement of principles that they propose to apply in exercising their functions in considering applications for permits which in particular specifies matters that the licensing authority propose to consider in determining the suitability of the applicant for a permit.
- 21.2 The applicant should set out the types of gaming that he or she is intending to offer and should be able to demonstrate an understanding of the limits to stakes and prizes that are set out in regulations and should demonstrate that the gaming offered is within the law. In making a decision on the application for this permit the Board will have regard to any Gambling Commission Guidance.

22. **Temporary Use Notices**

- 22.1 Where a gambling operator does not hold a premises licence but wishes to use the premises temporarily for providing facilities for gambling he or she may apply for a temporary use notice which may only be granted if the applicant holds a relevant operating licence.
- 22.2 The Gambling Commission's Guidance defines premises as including "any place". The Board will consider amongst other things, the ownership/occupation and the control of the premises when determining any particular case.
- 22.3 A set of premises may not be the subject of a temporary use notification for more than 21 days in a period of 12 months. In consideration of temporary use notice applications, the Board will apply any regulations made under the provisions of the Act.

23. Occasional Use Notices

- 23.1 Where there is betting on a track on eight days or less in a calendar year, betting may be permitted by an occasional use notice, without the need for a full premises licence.
- 23.2 The Board will ensure that the statutory limit of eight days in a calendar year is not exceeded and will consider the definition of a “track” in determining whether the applicant is permitted to avail him/herself of this notice.

APPENDIX 1

LIST OF CONSULTEES

This document was made available on the website of East Renfrewshire Licensing Board
www.eastrenfrewshire.gov.uk/liquor

It was sent out to all the consultees listed below and will be sent to any other interested parties on request.

Thereafter all responses will be considered and any appropriate adjustments will be made to the text.

Should you have any comments as regards the contents of this policy statement please send them to Joe Abrami , Depute Clerk, East Renfrewshire Licensing Board email joe.abrami@eastrenfrewshire.gov.uk or Tel: 0141 577 3012.

1. All members of East Renfrewshire Licensing Board
2. The Gambling Commission, Victoria Square House, Victoria Square, Birmingham B2 4BP
3. The Chief Constable, Licensing Division, Strathclyde Police, Helen Street Street, Glasgow, G52 1EE.
4. The Chief Fire Officer, Strathclyde Fire & Rescue Service, Fire Safety Dept., Barrhead Fire Station, Grahamston Road, Barrhead, G78 1TL.
5. HM Revenue & Customs National Registration Unit, Portcullis House, 21 India Street, Glasgow G2 4PZ

6. Association of British Bookmakers Limited, Regency House, 1 – 4
Warwick Street, London W1 5LT per Harper Macleod, The Ca'd'oro, 45
Gordon Street, Glasgow, G1 3PE
7. East Renfrewshire Community Councils