

THE MORAY LICENSING BOARD

THURSDAY 10 DECEMBER 2015

NOTICE IS HEREBY GIVEN that a Meeting of **THE MORAY LICENSING BOARD** is to be held within the The Moray Council, Council Chambers, High Street, Elgin on Thursday 10 December 2015 at 10.00am.

A. McEachan

Alasdair McEachan
CLERK

3 December 2015

BUSINESS

1. Prior Minutes
 - (i) Minutes of the Meeting held on 13 October 2015 (copy attached)
 - (ii) Minutes of the Special Meeting held on 30 November 2015 (copy attached)

The Licencing (Scotland) Act 2005

2. Applications Section– Appendix 1

Gambling Act 2005

3. Revised Statement of Policy – Report by the Clerk (copy attached)

Licensing (Scotland) Act 2005

4. Proposals for the Processing of Occasional Licence Applications – Report by the Clerk (copy attached)

National Child Protection Guidance

5. Child Sexual Exploitation (CSE) and Licensing – Report by the Clerk (copy attached)

CLERK:	Alasdair McEachan
--------	-------------------

THE MORAY LICENSING BOARD

SEDERUNT

COUNCILLOR J ALLAN

COUNCILLOR G COWIE

COUNCILLOR J DIVERS

COUNCILLOR M HOWE

COUNCILLOR G LEADBITTER

COUNCILLOR M McCONACHIE

COUNCILLOR A MCLEAN

COUNCILLOR R H SHEPHERD

COUNCILLOR D SLATER

COUNCILLOR C TUKE

CLERK TO THE BOARD: M A McEachan

ITEM: 2

PAGE: 1

APPENDIX 1

Key to Colour Coding of Applications within Appendices to the Agenda of Business for the Moray Licensing Board

All matters are to be heard by the Moray Licensing Board and the Moray Licensing Board has the final decision. However, in accordance with Government Guidance and locally agreed procedure, applications may be submitted to the Board with a general recommendation.

Please note that colour coding may be subject to change given the nature of the licensing procedure. Documents may be received and/or negotiations resolved following publication of the agenda.

RED

Indicates that the application will normally require to be heard, whether by virtue of general procedural rules or as a result of problems arising. There may be ongoing negotiations to resolve problems.

YELLOW

Indicates changing circumstances with the application. It is not ready to be granted at the time of publication but there are not normally major problems e.g. procedural issues or ongoing negotiations. Applications will normally be submitted with recommendation for grant or deferral.

GREEN

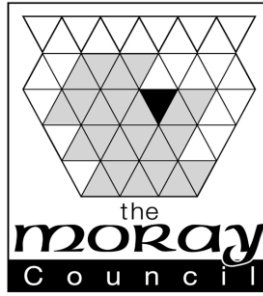
Indicates that all is in order with the application. All documents have been received and checked. All procedures have been followed. There are unlikely to be any representations, objections or problems or the same have been resolved. It is being submitted with a recommendation for grant but members are free to make enquiries as they see fit.

MORAY LICENSING BOARD

MEETING, 10 December 2015 at 10:00am in Council Chambers, Council Headquarters, High Street, Elgin, IV30 1BX

Licensing (Scotland) Act 2005

Type	Premises	Applicant	Date Received	Comments
New Premises	Allarburn Farm Dairy Ltd Allarburn Farm Shop Edgar Road Elgin Moray IV30 6XQ	Allarburn Farm Dairy Ltd	28 October 2015	New premises so must be heard. EH s50 cert outstanding. All other paperwork in order. Site visited. Applicant cited to meeting
Variation (Major)	Cullen Bowling and Tennis Club Reidhaven Place Cullen AB56 4RN	Cullen Bowling and Tennis Club	13 October 2015	Variation to change core hours from 6.30pm to 11pm Mon – Thu, 11am to 12.30am Fri and Sat and 12.30pm to 11pm Sun to 11am to 11pm Mon to Thur, 11am to 12.30am Fri and Sat and 10am to 11pm Sun. All paperwork in order. Applicant cited to meeting
Transfer by (Other)	Rehab 3 West Church Street Buckie AB56 1BN	Ian Ashley Leith	19 November 2015	Transfer requested by another party other than licence holder. Applicant cited to meeting.
Transfer by (Other)	Bowl 2000 2 Moycroft Industrial Estate Elgin IV30 1XZ	Pinz Bowling Ltd	11 November 2015	No objs from consultee. Hearing required as contested application. Applicant and current licence holder cited to the meeting.



REPORT TO: MORAY LICENSING BOARD 10 DECEMBER 2015

SUBJECT: GAMBLING ACT 2005 – REVISED STATEMENT OF POLICY

BY: CLERK TO THE BOARD

1. Reason for Report

- 1.1 The reason for this report is to update the board on progress with regard to the Moray Licensing Authority's obligation to fully revise, consult on and adopt a policy statement setting out the principles they propose to apply to the exercise of their functions under the Gambling Act 2005, to take effect by 31st January 2016.

2. Recommendations

2.1 It is recommended that the Board instruct the Clerk:-

- (i) to prepare the final version of the revised Policy Statement having regard to any revisions required by the Board, and**
- (ii) Proceed to publish the Policy Statement and advertise such publication as required.**

3. Background

- 3.1 Section 349 of the Act requires licensing authorities to publish a Policy Statement which lasts for a period of three years. The current statement of policy is due to expire on the 30th January 2016 and the revised statement will then take effect.
- 3.2 Although the new Policy Statement will be in effect for a period of three years the licensing board may choose to further review it within that period. Further information is regularly being published by various organisations. The Gambling Commission is encouraging further review of policy based on an analysis of the licensing authority area. The Scottish Government is reviewing fixed odds betting terminals and may acquire more devolved powers in relation to gambling. The Clerk will advise on developments and the Board may choose to further review the policy in due course.
- 3.3 A report was submitted to the Board at their meeting on 20th August 2015 (item 7 of the minute refers) outlining the statutory duty to consult on and publish a revised policy statement. It was agreed that:

- 3.3.1 The current policy would be revised as it is rather than undertaking a wholesale area based review of policy.
- 3.3.2 The Clerk would proceed to revision and consultation on a new draft policy as necessary;
- 3.3.3 The Clerk would consult the Board's Policy Sub Group with regard to any feedback and suggestions arising from consultation and provide input and recommendations on behalf of the Board in respect of revision of the policy;
- 3.3.4 The Board would receive the revised policy statement for adoption at the December 2015 meeting.
- 3.4 On the 23rd September 2015 the Policy Sub Group met to consider and approve changes to the draft policy and approve second stage consultation on the same.

4. Consultation

- 4.1 In accordance with Section 349(3) the Board was required to consult
- The Chief Constable
 - One or more persons who appear to the Board 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 Board's functions under this Act.
- 4.2 The list of persons to be consulted was deliberately wide to enable the Board to undertake a comprehensive consultation. Views were sought from the consultees listed in **Appendix I**.
- 4.3 Limited replies have been received from consultees and copies are attached at **Appendix II**. Copies were referred to the Policy Sub Group but given the minor nature of comments and amendments the revised policy as consulted upon is simply presented to the Board for adoption.

5. Revised Policy

- 5.1 A copy of the Policy Statement agreed by the Policy Sub Group and proposed for publication is attached to this report as **Appendix III**.
- 5.2 The revised statement of policy is very similar to the current one and changes that have been made are minor in nature. The changes relate to updating matters such as gaming machine categories and entitlements in line with developing law. The decision making principles remain the same and the Gambling Commission's guidance has also been taken into account.
- 5.3 The list of sections amended in substance are set out in the version control page of the new draft policy, which is the final page of the document.

6. Publication

- 6.1 The Policy Statement must be published. The Policy Statement shall be published on both the councils web site and at certain premises where the document may be inspected. The publication must also be advertised.
- 6.2 At this meeting the Board is being asked to agree the final version of the Policy Statement incorporating any comments members may wish to make and proceed to instruct the Clerk to publish the final revised statement as above.

7. Implications

(a) Moray 2023: A Plan for the Future/Service Plan

Licensing relates directly to priorities within the 10 Year Plan (Moray 2023) in relation to a growing and diverse economy and safer and healthier communities. The various licensed activities within industry all aid a growing economy in terms of production, retail and the positive effects on tourism. Regulation of the licensed activities contributes to a safer community by ensuring those providing licensed goods and services are fit to do so.

(b) Policy and Legal

Legal implications have been explained above.

(c) Financial Implications

There will be a modest cost to publicly advertising the new statement of policy in the local press, as required by statutory procedure. This is estimated to be approx £300.

(d) Risk Implications

None.

(e) Staffing Implications

None.

(f) Property

None.

(g) Equalities

The Clerk has consulted with the Council's Equalities officer regarding gambling related equalities issues. There are no issues identified at this stage. An equality impact assessment is not required as this is not a new policy and only minor changes have been made. However with further information due to be published as described in paragraph 3.2 above the matter will be kept under review.

(h) Consultations

Further consultation is not required.

8. Conclusion

- 8.1 The Board should consider and approve the recommendations set out in paragraph 2 of the report.

Author of Report: Sean Hoath, Senior Solicitor, Depute Clerk to the Licensing Board
Background Papers: There are no background papers
Ref: SAH/TT

Signature *A. McEachan*

Date 1 December 2015

Designation Head of Legal and Democratic Services, Clerk to the Board
Name Alasdair McEachan

ITEM: 3

PAGE: 5

Appendix I

Consultees 2015

Police Scotland
Scottish Fire and Rescue Service
NHS Grampian
The Moray Council on Addiction
British Casino Association
Moray Faculty of Solicitors
Association of British Bookmakers Ltd
The Office of the Bishop of Aberdeen
Rev C M Stewart
Rev Graham Swanson
The Gambling Commission
Bingo Association Great Britain
Moray Licensed Trade Association
Scotscoup (Elgin) Ltd
Ladbroke's Betting and Gaming Ltd
Carlton Bingo
William Hill Organisation Ltd
Siversands Leisure Park
Emails to all Community Councils
Emails to all Community Associations
Community Planning Partnership via Councillor Allan Wright
Moray Women's Aid
Emails to: - Planning, Building Standards, Environmental Health, Social Services

ITEM: 3

PAGE: 6

Appendix II

List of responses to stage 2 consultation:

1. Messrs Gosschalks on behalf of the Association of British Bookmakers
2. Coral Betting
3. Elgin Community Council also emailed to confirm they had no further comment .

Moray Council
Licensing
Council Offices
High Street
Elvin
IV30 1BX

Please ask for: Richard Taylor
Direct Tel: 01482 590216
Email: rjt@gosschalks.co.uk
Our ref: RJT / LHK / 097505.00004
#GS474869
Your ref:
Date: 16 November 2015

Dear Sir/Madam,

Re: Gambling Act 2005 Policy Statement Consultation

We act for the Association of British Bookmakers (ABB) and have received instructions to respond on behalf of our client to the current consultation on the Council's review of its gambling policy statement.

The ABB represents over 80% of the high street betting market. Its members include large national operators such as William Hill, Ladbrokes, Coral and Paddy Power, as well as almost 100 smaller independent bookmakers.

This response will explain the ABB approach to partnership working with local authorities, it will detail its views on the implementation of the new LCCP requirements, from April 2016, relating to operators' local area risk assessments and their impact on the licensing regime and will then make specific comment with regard to any statement(s) of concern/that are welcomed in your draft policy.

The ABB is concerned to ensure that any changes are not implemented in such a way as to fundamentally change the premises licence regime through undermining the "aim to permit" principle contained within s153 Gambling Act 2005.

The current regime already adequately offers key protections for communities and already provides a clear process (including putting the public on notice) for representations/objections to premises licence applications. The recent planning law changes effective since April 2015 have also already increased the ability of local authorities to consider applications for new premises, as all new betting shops must now apply for planning permission.

It is important that any consideration of the draft policy and its implementation at a local level is put into context. There has recently been press coverage suggesting that there has been a proliferation of betting offices and a rise in problem gambling rates. This is factually incorrect.

Over recent years betting shop numbers have been relatively stable at around 9,000 nationally, but more recently a trend of overall downwards decline can be seen. The latest Gambling Commission industry statistics show that numbers as at 31 Mar 2015 were 8,958 - a decline of 179 from the previous year, when there were 9,137 recorded as at 31 March 2014.

As far as problem gambling is concerned, successive prevalence surveys and health surveys reveal that problem gambling rates in the UK are stable (0.6%) and possibly falling.

Working in partnership with local authorities

The ABB is fully committed to ensuring constructive working relationships exist between betting operators and licensing authorities, and that where problems may arise that they can be dealt with in partnership. The exchange of clear information between councils and betting operators is a key part of this and we welcome the opportunity to respond to this consultation.

There are a number of examples of the ABB working closely and successfully in partnership with local authorities.

LGA – ABB Betting Partnership Framework

In January 2015 the ABB signed a partnership agreement with the Local Government Association (LGA). This was developed over a period of months by a specially formed Betting Commission consisting of councillors and betting shop firms and established a framework designed to encourage more joint working between councils and the industry.

Launching the document Cllr Tony Page, LGA Licensing spokesman, said it demonstrated the *“...desire on both sides to increase joint-working in order to try and use existing powers to tackle local concerns, whatever they might be.”*

The framework built on earlier examples of joint working between councils and the industry, for example the Ealing Southall Betwatch scheme and Medway Responsible Gambling Partnership.

In Ealing, the Southall Betwatch was set up to address concerns about crime and disorder linked to betting shops in the borough. As a result, crime within gambling premises reduced by 50 per cent alongside falls in public order and criminal damage offences.

In December last year, the Medway Responsible Gambling Partnership was launched by Medway Council and the ABB. The first of its kind in Britain, the voluntary agreement allows anyone who is concerned they are developing a problem with their gambling to exclude themselves from all betting shops in the area.

The initiative also saw the industry working together with representatives of Kent Police and with the Medway Community Safety Partnership to develop a Reporting of Crime Protocol that is helpful in informing both the industry, police and other interested parties about levels of crime and the best way to deal with any crime in a way that is proportionate and effective.

Lessons learnt from the initial self-exclusion trial in Medway have been incorporated into a second trial in Glasgow city centre, launched in July this year with the support of Glasgow City Council, which it is hoped will form the basis of a national scheme to be rolled out in time for the LCCP deadline for such a scheme by April 2016.

Jane Chitty, Medway Council's Portfolio Holder for Planning, Economic Growth & Regulation, said: *"The Council has implemented measures that work at a local level but I am pleased to note that the joint work we are doing here in Medway is going to help the development of a national scheme."*

Describing the project, Glasgow's City Treasurer and Chairman of a cross-party Sounding Board on gambling, Cllr Paul Rooney said:

"This project breaks new ground in terms of the industry sharing information, both between operators and, crucially, with their regulator."

Primary Authority Partnerships in place between the ABB and local authorities

All major operators, and the ABB on behalf of independent members, have also established Primary Authority Partnerships with local authorities.

These Partnerships help provide a consistent approach to regulation by local authorities, within the areas covered by the Partnership; such as age-verification or health and safety. We believe this level of consistency is beneficial both for local authorities and for operators.

For instance, Primary Authority Partnerships between Milton Keynes Council and Reading Council and their respective partners, Ladbrokes and Paddy Power, led to the first Primary Authority inspection plans for gambling coming into effect in January 2015.

By creating largely uniform plans, and requiring enforcing officers to inform the relevant Primary Authority before conducting a proactive test-purchase, and provide feedback afterwards, the plans have been able to bring consistency to proactive test-purchasing whilst allowing the Primary Authorities to help the businesses prevent underage gambling on their premises.

Local area risk assessments

With effect from 6th April 2016, under new Gambling Commission LCCP provisions, operators are required to complete local area risk assessments identifying any risks posed to the licensing objectives and how these would be mitigated.

Licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy and local area profile in their risk assessment, and these must be reviewed where there are significant local changes or changes to the premises, or when applying for a variation to or a new premises licence.

The ABB is concerned that overly onerous requirements on operators to review their local risk assessments with unnecessary frequency could be damaging. As set out in the LCCP a review should only be required in response to significant local or premises change. In the ABB's view this

should be where evidence can be provided to demonstrate that the change could impact the premises' ability to uphold the three licensing objectives.

Although ABB members will be implementing risk assessment at a local premises level, we do not believe that it is for the licensing authority to prescribe the form of that risk assessment. We believe that to do so would be against better regulation principles. Instead operators should be allowed to gear their risk assessments to their own operational processes informed by Statements of Principles and the local area profile.

The ABB supports the requirement as set out in the LCCP, as this will help sustain a transparent and open dialogue between operators and councils. The ABB is also committed to working pro-actively with local authorities to help drive the development of best practice in this area.

Local Area Profiles – Need for an evidence based approach

It is important that any risks identified in the local area profile are supported by substantive evidence. Where risks are unsubstantiated there is a danger that the regulatory burden will be disproportionate. This may be the case where local authorities include perceived rather than evidenced risks in their local area profiles.

This would distort the “aim to permit” principle set out in the Gambling Act 2005 by moving the burden of proof onto operators. Under the Act, it is incumbent on licensing authorities to provide evidence as to any risks to the licensing objectives, and not on the operator to provide evidence as to how they may mitigate any potential risk.

A reversal of this would represent a significant increase in the resource required for operators to be compliant whilst failing to offer a clear route by which improvements in protections against gambling related harm can be made.

We would also request that where a local area profile is produced by the licensing authority that this be made clearly available within the body of the licensing policy statement, where it will be easily accessible by the operator and also available for consultation whenever the policy statement is reviewed.

Concerns around increases in the regulatory burden on operators

Any increase in the regulatory burden would severely impact on our members at a time when overall shop numbers are in decline, and operators are continuing to respond to and absorb significant recent regulatory change. This includes the increase to 25% of MGD, changes to staking over £50 on gaming machines, and planning use class changes which require all new betting shops in England to apply for planning permission.

Moving away from an evidence based approach would lead to substantial variation between licensing authorities and increase regulatory compliance costs for our members. This is of particular concern for smaller operators, who do not have the same resources to be able to put

into monitoring differences across all licensing authorities and whose businesses are less able to absorb increases in costs, putting them at risk of closure.

Such variation would in our opinion also weaken the overall standard of regulation at a local level by preventing the easy development of standard or best practice across different local authorities.

Employing additional licence conditions

The ABB believes that additional conditions should only be imposed in exceptional circumstances where there are clear reasons for doing so - in light of the fact that there are already mandatory and default conditions attached to any premises licence. The ABB is concerned that the imposition of additional licensing conditions could become commonplace if there are no clear requirements in the revised licensing policy statements as to the need for evidence.

This would further increase variation across licensing authorities and create uncertainty amongst operators as to licensing requirements, over complicating the licensing process both for operators and local authorities.

Specific Policy Comments

The draft statement of licensing policy refers throughout to the “promotion” of the licensing objectives. Whilst it is recognised that the board may wish to promote the licensing objectives, and there is no difficulty with this, the board is reminded that it is required merely to “have regard” to the licensing objectives and that applicants and operations need be “reasonably consistent” with the licensing objectives. The only body upon whom Gambling Act 2005 confers a duty to promote the licensing objectives is the Gambling Commission.

Sections 13 (Premises Licences) and 15 (Conditions) refer to the ability of the board to attach conditions. Whilst section 15 makes it clear that the board is aware that the mandatory and default conditions are set for the general good conduct of gambling premises, the statement of policy indicates that “these make it less likely that the board will need to impose individual conditions.”

The statement of licensing policy should be clear from the outset that the starting point for consideration of any application is that it will be granted subject only to the mandatory and default conditions as these are usually sufficient to ensure operation that is reasonably consistent with the licensing objectives. The statement of licensing policy should make it clear that additional conditions will only be imposed where there is evidence of a risk to the licensing objectives that requires that the mandatory and default conditions be supplemented. The policy should be clear that conditions will only be imposed where there is evidence of a need to do so and not merely where there is a “perceived need” or concerns.

We believe that there may be words missing from the penultimate paragraph to section 13. This indicates that the board would need to be satisfied that there is sufficient evidence that the particular location of the premises would be harmful to the licensing objectives but does not say what it would do in those circumstances. The statement of policy should be clear that if there is sufficient evidence that the location of premises would be harmful to the licensing objectives then

the board may impose conditions to mitigate the risk to the licensing objectives or in extraordinary circumstances, refuse the application.

Conclusion

The industry fully supports the development of proportionate and evidenced based regulation, and is committed to minimising the harmful effects of gambling. The ABB is continuing to work closely with the Gambling Commission and the government to further evaluate and build on the measures put in place under the ABB Code for Responsible Gambling, which is mandatory for all our members.

ABB and its members are committed to working closely with both the Gambling Commission and local authorities to continually drive up standards in regulatory compliance in support of the three licensing objectives: to keep crime out of gambling, ensure that gambling is conducted in a fair and open way, and to protect the vulnerable.

Indeed, as set out, we already do this successfully in partnership with local authorities now. This includes through the ABB Code for Responsible Gambling, which is mandatory for all our members, and the Safe Bet Alliance (SBA), which sets voluntary standards across the industry to make shops safer for customers and staff. We would encourage local authorities to engage with us as we continue to develop both these codes of practice which are in direct support of the licensing objectives.

Yours faithfully,



GOSSCHALKS

Clerk to the Moray Licensing Board,
Council Offices,
High Street,
Elgin,
IV30 1BX

11th November 2015

Dear Sir,

Consultation on Moray Council's Statement of Principles – Gambling Act 2005

Coral Racing Limited is most grateful to be given the opportunity to respond to this consultation exercise. Coral was one of the first national bookmakers to be licensed under the Betting and Gaming Act of 1960, and so has been operating the length and breadth of the UK for over 50 years. Its premises comprise locations in the inner city, on the high street, in suburbs and in rural areas, and in areas of both high and low deprivation. It now operates 1850 betting offices across Great Britain, which comprise about 20% of all licensed betting offices. It is, therefore, a highly experienced operator and whilst we do not currently have any licensed premises within your area, we continually searching for suitable locations.

Coral Racing Limited are broadly supportive of the document. It again notes that the Board when considering applications are still required to 'aim to permit gambling' where this is 'reasonably consistent with the licensing objectives', additionally noting that it should not take into account of any moral objections to gambling.

We do wish to politely highlight that we are not of the opinion however regarding the proximity of a premises in relation to schools & residential areas (top of Page 13). Whilst each application will be judged on its merits as mentioned at several points within your statement, Coral knows of no evidence that the location of a licensed betting office within the proximity of schools and residential estates mentioned in the statement causes harm to the licensing objectives. Coral's general experience, in common with other bookmakers, is that children are not interested in betting, and in any case the Think 21 policy operated by Coral is adequate to ensure that under-age gambling does not occur in their premises. There are very many examples of betting offices sited immediately next to schools and colleges as well as being within residential areas and no evidence whatsoever that they cause problems. We do appreciate that the licensing board have flexibility in this regard when granting licences but caution against any inference of a link between schools, residential areas and problem gambling.

Coral Racing Limited recognise the requirement to supply risk assessments with future applications & variations following the consultation completion (requirement is from 6th April 2016) and whilst this detail is not currently included within the Statement, we would be pleased to contribute to a consultation when it is. Coral's experience is that through all it does, it achieves an exemplary degree of compliance already, and attracts negligible evidence of regulatory harm. Through the additional local risk assessment to be introduced, Coral believe that these should be a) to assess specific risks to the licensing objectives in the local area, and b) to assess whether control measures going beyond standard control measures are needed. A number of Council's have created long lists of locations which by inclusion are required to be risk assessed & strict 2

templates to be completed. Coral are of the opinion that as there is no evidence that the proximity of such locations causes harm to the licensing objectives, it is best left to the operators to provide their own risk assessments. Naturally, if these do not meet the level desired by the Council, we would adjust to suit. If we can provide any further information, we would be pleased to do so.

Yours faithfully,

John Liddle

Director of Development – Coral Retail

APPENDIX III

THE MORAY COUNCIL

STATEMENT OF LICENSING POLICY

This is the Statement of Principles (“licensing policy”) the Moray Licensing Board (“the Board”) propose to apply in the exercise of their functions under the Gambling Act 2005 (“the Act”) during the three year period from 2016 to 2019. This Statement has been prepared in terms of section 349(2) of the Act.

Index

Part I

Background Scope and General Functions

Section	Page(s)
1. Objectives	3
2. Functions and Scope	3-4
3. Introduction to Moray	4
4. Declaration	4
5. Policy Consultation	4-5
6. Responsible Authorities	5-6
7. Interested Parties	6
8. Data Protection & Exchange of Information	6-7

Part II

Promotion of the Licensing Objectives

Section	Page(s)
9. Preventing gambling from being a source of crime or disorder being associated with crime or disorder or being used to support crime	7
10. Ensuring that gambling is conducted in a fair and open way	7-8
11. Protecting Children & Young Persons	8-9
12. Protecting Other Vulnerable Persons	9-10

Part III General Consideration and Determination of Applications

Section	Pages
13. General Considerations and Premises Licences	10-13
14. Duplication with other Regulatory Regimes	13
15. Conditions	13-15
16. Door Supervision	15

Part IV Matters Specific to Particular Types of Application

Section	Pages
17. Casinos	15
18. Bingo	15-16
19. Betting	16
20. Track Betting	17
21. Adult Gaming Centres	18
22. Licensed Family Entertainment Centres	18-19
23. Unlicensed Family Entertainment Centres	19-21
24. Club Gaming Permit & Club Machine Permit	21-22
25. Prize Gaming Permit	22-24
26. Alcohol Licensed premises Gaming Machine Permit	24-25
27. Occasional Use Notice	25
28. Temporary Use Notice	25-27
29. Provisional Statements	27-28
30. Registration of Small Society Lotteries	28
31. Travelling Fairs	28-29

Part V Compliance

Section	Pages
32. Inspection of Premises	29
33. Complaints Against licensed Premises	29-30
Version Control Page	30

Part I

Background Scope and General Functions

1. Objectives

The Board intends its licensing policy to promote three broad objectives set out in the Gambling Act 2005. These are:

- To prevent gambling being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
- To ensure that gambling is conducted in a fair and open way.
- To prevent children and other vulnerable people from being harmed or exploited by gambling.

2. Functions & Scope

In short, the matters dealt with in this policy are: How we will approach the functions we are obliged to discharge under the Act; what we will do when faced with certain applications or situations over which we have jurisdiction; how we will operate so as to achieve the objectives of the Act.

The Board will also follow any regulations and statutory guidance issued in accordance with the Act and have regard to any codes of practice issued by the national gambling regulator, the Gambling Commission.

The Board 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 this document.

In particular this policy says what we will do in relation to our functions toward

- Casino premises;
- Bingo premises;
- Betting premises, including tracks;
- Adult gaming centres;
- Family entertainment centres – Licensed and Unlicensed;
- Club Gaming Permit;
- Club Machine Permit;
- Prize Gaming Permit;
- Alcohol Licensed Premises – Gaming Machine Permit;
- Occasional Use Notices;

- Temporary Use Notices;
- Provisional Statements;
- Registration of Small Society Lotteries;
- Travelling Fairs;

The geographical area covered by this licensing policy is the Moray Council local government area.

3. Introduction to Moray

Moray has a population of approx. 90,000 with three quarters of those living in or around the five main centres of Elgin, Forres, Keith, Buckie and Lossiemouth.

Traditionally there has been a reliance on fishing, farming, food, forestry, textiles and whisky. Service industries, including information services, continue to grow. The two RAF bases at Kinloss and Lossiemouth contribute greatly to local earnings and bring skilled and qualified staff in the area. Unemployment rates continue to be well below the Scottish average. Main transport links are via Inverness to the west and Aberdeen to the east, both of which have their own air connections.

4. Declaration

In adopting this Statement the Board has had regard to the licensing objectives of the Act, the guidance issued by the Gambling Commission and responses from persons consulted in terms of paragraph 5.

5. Policy Consultation

In terms of Section 349(3) of the Act the Board has undertaken a comprehensive consultation exercise with the following parties in the preparation of its licensing policy:

- Police Scotland;
- Scottish Fire & Rescue Service;
- The Moray Local Licensing Forum;
- NHS Grampian;
- The Moray Alcohol and Drug Partnership;
- Moray Faculty of Solicitors;
- British Casino Association;
- Association of British Bookmakers Limited;
- Religious sector – Church of Scotland, Catholic Church and Non Denominational;
- The Gambling Commission;
- Bingo Association Great Britain;
- Moray Licensed Trade Association;
- Existing holders of Betting Office and Bingo Licences;
- Holders of Gaming Machine Permits (via newsletter);

- Community Councils;
- Representatives of Moray Council's Environmental Services Department.
- Community Associations
- Community Planning Partnership
- Social Services
- Moray Women's Aid

6. Responsible Authorities

Certain agencies act as responsible authorities so that they can employ their particular area of expertise to help promote the licensing objectives. Applicants and/or the Moray Licensing Board will give notice of certain applications to responsible authorities and those authorities are able to make representations about licence applications.

In addition a responsible authority can apply for a review of an existing licence and offer advice and guidance to applicants.

The Board is required to designate a body which is competent to advise the authority about the protection of children from harm having regard to:

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

The Board has designated the Integrated Children's Services Division of the Moray Council as the body competent to advise the Board about the protection of children from harm.

The contact details of all the responsible authorities under the Gambling Act 2005 are:

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

Tel: 0121 230 6666
Fax: 0121 233 1096
info@gamblingcommission.gov.uk

Moray Licensing Unit
Police Scotland
Divisional Headquarters
Moray Street
Elgin
IV30 1JL

Legislative Fire Safety Officer
Grampian Fire & Rescue Service
Elgin City Fire Station
Wards Road

Elgin
IV30 1NL

The Moray Council
Chief Executive's Department
Council Offices, High Street
Elgin, IV30 1BX

7. Interested Parties

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

“A person is an interested party in relation to an application for, or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the application is made, the person:

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

We are required by regulations to state the principles we will apply in exercising our powers under the Act to determine whether a person is an interested party.

We will decide each case on its merits. We will not apply a rigid rule to our decision making but will apply local knowledge and integrity to each decision. We will consider the examples provided in the Gambling Commission's Guidance to Licensing Authorities.

Persons desirous of making representations should note that the Gambling Act 2005 does not include as a specific licensing objective the prevention of public nuisance. Objections to new premises or requests for reviews should be based on the licensing objectives of the Gambling Act 2005.

It is intended that further more detailed guidance on making representations will be provided separately.

8. Data Protection and Exchange of Information

Information supplied by an applicant for licence or permission to the Board will be held and processed by the Board for its purposes as a licensing authority. That data will be disclosed to the Gambling Commission, Police and other public bodies involved with licensing, processing and enforcement. The Board will enter data on its register of

applications which may be inspected by members of the public on request and certified copies of entries on this register may be issued to members of the public on request and on payment of the appropriate fee. Applicants may check or amend data held or request deletion of data by contacting the Clerk of the Licensing Board, Council Offices, High Street, Elgin, IV30 1BX.

The Board has adopted a freedom of information scheme under section 23 of the Freedom of Information (Scotland) Act 2002. A copy of this scheme can be accessed on the Moray Council website - www.moray.gov.uk.

The Board is committed to tackling fraud to ensure that services and funds are provided to those who most need them. One way we may do this is to provide information about our licence holders to Audit Scotland for use in a National Fraud Initiative (NFI) data matching exercise. This exercise is completed every two years. The information we may supply would be compared with data held by various departments of the council and with information provided by other public bodies.

Part II

Promotion of the Licensing Objectives

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

The Gambling Commission will take a lead role in keeping gambling crime free by vetting all applicants for personal and operators licences. The Board's main role is to try and promote this area with regard to actual premises. Thus, if an area is perceived to have high levels of organised crime the Board will consider carefully whether gambling premises are suitable to be located there and whether conditions may be required such as the provision of door supervision.

There is a distinction between disorder and nuisance. In order to make the distinction, when incidents of this nature occur, the Board will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it.

Issues of nuisance cannot be addressed by the Gambling Act provisions however problems of this nature can be addressed through other legislation as appropriate.

10. Ensuring that gambling is conducted in a fair and open way

The Board is aware that except in the case of tracks generally the Gambling Commission does not expect licensing authorities to become

concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences.

However the Board will familiarise itself with operator licence conditions and will communicate any concerns to the Gambling Commission about misleading advertising or any absence of required game rules or other matters as set out in the Gambling Commission's Code of Practice.

11. Protecting Children & Young Persons

The Act itself provides definitions of "children" and "young persons" as follows:

A "child" means an individual who is less than 16 years old.

A "young person" means an individual who is not a child but who is less than 18 years old.

The licensing objective is to protect children from being harmed or exploited by gambling however for the purpose of this section protection will be taken to include the protection of young persons.

The objective encompasses children/young persons accessing gambling in any capacity including taking part in gambling as well as advertising of gambling products and undertaking work associated with providing gambling facilities.

The Board will pay particular attention to any codes of practice which the Gambling Commission issues as regards this licensing objective in relation to specific premises.

The Board has designated the Integrated Children's Services Division of the Moray Council, as the body competent to advise the Board about the protection of children from harm. The Board will consult with that Division on any application that indicates there may be concerns over access for children or young persons.

Significant weight will be given to all matters relating to the protection of children and young persons. An applicant for a premises licence must comply explicitly with the Act and any recognised codes of practice (including those in respect of advertising) regarding the permitted access or exclusion and participation of children and young persons. Subject to the exemptions within the Act applicants for a premises licence may also be required to provide evidence that employee age checks are carried out to ensure no child or young person is being employed when facilities for gambling are being provided. Where the Board determines that there may be a risk of harm to children in relation to particular premises, it may (where permitted) exclude or limit the access of children to the premises at specific times or when certain activities are taking place. Where the Act permits access to children and young persons the Board will, in appropriate circumstances, attach conditions to the premises licence

specifically to ensure the protection of children and young persons. Issues of concern may be:

- The location and/or configuration of the premises;
- Supervision of entrances;
- Clear signage externally regarding age restricted premises (over 18 years of age);
- Age verification checks;
- Clear segregation of gambling and non gambling areas;
- Clear signage regarding age restricted areas;
- Supervision of access to gambling areas;
- Supervision of gambling machines;
- Age verification checks of employees, and persons employed through an employment agency.

The Board may, in appropriate circumstances, attach conditions to a premises licence in order to ensure adequate supervision by adult staff. It may also set requirements regarding the appropriate number of adult staff to be present at the premises based on the numbers of children present.

12. Protecting Other Vulnerable Persons

With regard to other vulnerable people the Board does not seek to prohibit particular groups of adults from gambling in the same way that it seeks to prohibit children and young persons but it will assume, for regulatory purposes, that 'vulnerable people' includes:

- People who gamble more than they want to;
- People who gamble beyond their means; and
- People who may not be able to make an informed or balanced decision about gambling due to a mental impairment, excessive alcohol consumption or drug taking.

Applicants for premises licences, permits and authorisations will be expected to have awareness that for some people gambling activities can present a potential harm. An applicant will be required to ensure that all members of their staff receive adequate training and clear instruction regarding this issue, and will also be required to comply with any code of practice and guidance issued by the Gambling Commission. The Board may also consider it appropriate to attach a condition to all premises licences requiring the holder to display in a prominent position, posters/leaflets providing the contact details for various Support Groups and Organisations specifically set up to assist people who may wish to seek help or advice regarding gambling related issues.

Applicants may consider the following example measures for protecting and supporting vulnerable persons:

- Leaflets offering assistance to problem gamblers being made available on gambling premises in locations that are both prominent and discreet. A discreet location might be, for example, toilets;
- Training for staff members which focuses on building an employee's ability to maintain a sense of awareness of how much (e.g. how long) customers are gambling, as part of measures to detect persons who may be vulnerable;
- Trained personnel for the purpose of identifying and providing support to vulnerable persons;
- Self-exclusion schemes which may extend to co-operation amongst operators on self-exclusion schemes;
- Stickers or notices on gaming machines to identify the stakes/prizes;
- Operators should demonstrate their understanding of best practice issued by organisations that represent the interests of vulnerable people;
- Fixed Odds Betting Terminals should clearly display the odds;
- Positioning of ATM machines;
- Stickers / posters with GamCare Helpline and website in prominent locations, i.e. on ATM machines;
- Careful selection and review of the placing and content of advertisements and other promotional material.

It should be noted that some of these measures form part of the mandatory conditions placed on premises licences but the Board may consider any of the above or similar measures as licence conditions should these not be adequately addressed by any mandatory conditions, default conditions or proposals from the applicant.

Part III

General Consideration and Determination of Applications

The Board may issue premises licences to allow those premises to be used for certain types of gambling e.g. amusement arcades, bingo halls, bookmakers and casinos.

Applicants should also be aware that the Gambling Commission has issued Codes of Practice for each interest area for which they must have regard. The Board will also have regard to these Codes of Practice.

Section 153 of the Act requires the Board, in making decisions concerning premises licences and temporary use notices, to aim to permit the use of premises for gambling in so far as it is perceived to be:

- In accordance with any relevant code of practice issued by the Gambling Commission;

- In accordance with any relevant guidance issued by the Gambling Commission;
- Reasonably consistent with the licensing objectives; and
- In accordance with this Statement of licensing principles.

In the event that the Gambling Commission issues further guidance on any issues that should be taken into account in relation to the suitability and layout of premises and/or in relation to other permits/permissions the Board will consider such guidance when it is published.

Nothing in this statement will:

- Override the right of any person to make an application under the Act or to have that 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 legal power to do so.

Under this legislation unmet demand is not a criterion for a licensing authority in considering an application and in accordance with Gambling Commission Guidance for Licensing Authorities, “moral objections to gambling are not a valid reason to reject applications for premises licences”. Therefore we will consider any application in accordance with the Act, on its own merits, without regard to demand or moral objection to gambling in general.

By section 155 of the Act, the Board may arrange for the delegation of certain of its functions to a Committee of the Board, the Clerk of the Board or any person appointed to assist the Clerk. We may delegate certain powers where we consider it appropriate. A copy of the Board’s scheme of delegation can be accessed separately on the website at www.moray.gov.uk/licensing or is available upon request to the Clerk to the Board at the Council Offices.

Gaming Machines

The Board notes Gambling Commission Guidance, which states that it is important that if children are allowed to enter premises, 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 the 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
- at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

In relation to gaming machines, the Board will normally expect the applicant to:

- identify the types of gaming machine which will be placed on the premises; and
- particularly have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling; and
- satisfy the authority that there will be sufficient measures to ensure that persons under 18 years of age do not have access to adult only gaming machines. Appropriate licence conditions may cover issues such as: proof of age schemes, CCTV, door supervisors, supervision of entrances / gaming machine areas, physical separation of areas, location of entry, location of adult gaming machines, notices / signage, specific opening hours, self barring schemes, provision of information leaflets / help line numbers for organisations such as GamCare or GamblingAware.

This list is indicative and not intended to exclude other conditions in appropriate cases.

13. Premises Licences

Premises licences are subject to the permissions/restrictions set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in legislative provisions. Licensing authorities are able to exclude default conditions and also attach other conditions, where it is believed to be necessary and proportionate.

Premises is defined in the Act as “any place”, including vessels and vehicles. Different premises licences cannot apply in respect of a single premises at different times. However, it is possible for a single building to be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. Whether different parts of a building can properly be regarded as being separate premises will always be a question of fact and degree in all the circumstances. The Board will take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular the Board will assess entrances and exits from parts of a building covered by one or more licences to satisfy itself that they are separate and identifiable.

The Board has not adopted any specific policy in relation to areas where gambling premises should not be located. This will be kept under review, especially in the event of further information on specific areas being brought to the Board's attention.

The Board will also pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). Issues to consider before granting such applications include whether children can gain access, compatibility of the two establishments; and the ability to comply with the requirements of the Act.

The Board is aware that demand issues (e.g. the likely demand or need for gambling facilities in an area) and moral objections to gambling cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. With regards to these objectives, particularly upon receipt of any relevant representations, it may be appropriate to look at specific location issues including:

- The possible impact a gambling premises may have on any premises that provide services to children or young people, i.e. a school, or vulnerable adult centres in the area;
- The possible impact a gambling premises may have on residential areas where there may be a high concentration of families with children;
- The size of the premises and the nature of the activities taking place;
- Any levels of organised crime in the area.

The Board will need to be satisfied that there is sufficient evidence that the particular location of the premises would be harmful to the licensing objectives. Such evidence may be used to inform the decision the Board makes about whether to grant the licence, to grant the licence with special conditions or to refuse the application. The absence of evidence to directly link granting a premises licence with harm to one or more licensing objectives will mean that the Board may be required to grant the licence.

In the absence of a policy in relation to areas, the principle is that this policy does not preclude any application being made and each application will be decided on its merits.

14. Duplication with other Regulatory Regimes

The Board will seek to avoid any duplication with other statutory/regulatory systems where possible, including planning. The Board will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though, listen to, and consider carefully, any

concerns about proposed conditions which are not able to be met by the applicant due to planning restrictions, should such a situation arise.

15. Conditions

The Board is aware that mandatory and default conditions have been set which are necessary for the general good conduct of gambling premises. These make it less likely that the Board will need to impose individual conditions. If the Board is minded to do so because there is regulatory concerns of an exceptional nature, then any additional licence conditions must relate to the licensing objectives.

Where there are specific risks or problems associated with a particular locality, or specific premises, or class of premises, the Board may attach individual conditions to address this. Any conditions attached will be:

- Proportionate;
- 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, and/or related to the area where the premises is based;
- Fairly and reasonably related to the scale, type and location of premises;
- Consistent with the licensing objectives; and
- Reasonable in all other respects including being within the power of the licence holder.

The Board may consider 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 in non-adult gambling specific premises and the display of notices regarding age restrictions.

The Board will also expect the applicant to offer his/her own suggestions as to the way in which the licensing objectives can be met effectively.

Where certain measures are not already addressed by the mandatory/default conditions or by the applicant, the Board may consider licence conditions to cover issues such as:

- Proof of age schemes;
- CCTV;
- Supervision of entrances;
- Supervision of machine areas;
- Physical separation of areas;

- Location of entrance points;
- Notices / signage;
- Specific opening hours;
- A requirement that children must be accompanied by an adult;
- Enhanced CRB checks of the applicant and/or staff;
- Support to persons with gambling addiction;
- Policies to address seasonal periods where children may more frequently attempt to gain access to premises and gamble such as half terms and summer holidays;
- Policies to address the problems associated with truant children who may attempt to gain access to premises and gamble;
- Any one or a combination of the measures.

This list is not mandatory or exhaustive and is merely indicative of examples.

There are conditions which cannot be attached to premises licences and those are:

- Any condition on the premises licence which makes it impossible for the applicant to comply with an operating licence condition;
- Conditions relating to gaming machine categories, numbers, or method of operation;
- Conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated); and
- Conditions in relation to stakes, fees, winnings or prizes.

16. Door Supervision

The Board consider whether there is a need for door supervision in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime. It is noted though that the Gambling Act 2005 has amended the Private Security Industry Act 2001 and that door supervisors at casinos or bingo premises are not required to be licensed by the Security Industry Authority. Where door supervisors are provided at these premises the operator should ensure that any persons employed in this capacity are fit and proper to carry out such duties.

Part IV Matters Specific to Particular Types of Application

17. Casinos

There is no resolution to prohibit casinos in the Board's area at present. However, the Board reserves its right to review this situation and may, at some time in the future, make such a resolution.

18. Bingo

An applicant for a premises licence must comply explicitly with the Act regarding the exclusion of children and young persons from any area where category C (see separately published schedule for machine categories) or above machines are made available for use. The Board will firstly expect applicants to offer their own measures to promote the licensing objectives. However, the Board may attach conditions to the licence.

The following machines can be provided:

- Category B3 or B4 gaming machines – a number not exceeding 20% of the total number of gaming machines which are available for use on the premises; and
- Category C or D machines – any number.

Premises in existence before 13 July 2011 are entitled to make available eight category B3 or B4 gaming machines or 20% of the total number of gaming machines, whichever is the greater.

The holder of a bingo premises licence granted on or after 13 July 2011, but before 1 April 2014, is entitled to make available a maximum of eight category B3/B4 gaming machines or 20% of the total number of gaming machines, whichever is the greater. From 1 April 2014 these premises will be entitled to 20% of the total number of gaming machines only.

Regulations state that category B machines at bingo premises should be restricted to sub-category B3 and B4 machines, but not B3A lottery machines.

19. Betting

The Act contains a single class of licence for betting premises. There will be different types of premises which require licensing, including betting offices on tracks, that have a separate premises licence from the track licence. The regional, large and small categories of new casinos permitted under the Act will be entitled to provide facilities for betting without a separate betting premises licence. Licence holders may, subject to certain restrictions, make available for use up to 4 gaming machines of Categories B2 to D.

Other than in the case of tracks, for which special rules apply, children and young persons will not be able to enter licensed betting premises.

It is noted that the Gambling Commission's Guidance for Local Authorities states that 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. The Commission states this in connection with a restriction on the use of what are termed Self-Service Betting Terminals (SSBTs) although the power is more general in nature. When considering whether to impose a condition to restrict the number of betting machines in particular premises, the Board will take into account the size of the premises, the number of counter positions available for person-to-person transactions and the ability of staff to monitor the use of such machines by children and young people or by vulnerable persons.

The Board will expect applicants to offer their own measures to promote the licensing objectives however the Board may attach conditions to the licence.

In accordance with the Gambling Commission's Guidance for Local Authorities – "Should a licensing authority receive an application to vary a premises licence for betting in order to extend the opening hours, the authority should satisfy itself that the reason for the application is in line with the requirements of the operating licence conditions."

20. Track Betting

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 that 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.

Children and young persons are allowed to be present on the track while a sporting event is taking place on those licensed premises. This authority will particularly consider the impact of the third licensing objective in this area.

The Gambling Commission's Guidance that Tracks may be subject to more than one premises licence, provided each licence relates to a specified area of the track. This would ensure a clear division of responsibilities.

An application for a track premises licence will be required to submit detailed plans of the premises in order that the Board understands clearly what it is being asked to licence. This should include detailed plans for the racetrack itself and the area that will be used for temporary "on-course" betting facilities (also known as the "betting ring") and in the case of dog tracks and horse racecourses fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other

proposed gambling facilities. Plans should make clear what is being sought for authorisation under the track betting premises licence and what other areas are to be subject to a separate application for a different type of premises licence.

Licensing authorities need to consider the location of gaming machines at tracks and applicants for licences at tracks will need to demonstrate that, where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, these machines will be located in areas from which children are excluded. The Board will follow guidance to be issued by the Gambling Commission addressing where gaming machines may be located on tracks and any special considerations that should apply to promote the licensing objectives and in particular the third objective.

An applicant for a premises licence must comply explicitly with the Act regarding the permitted access or exclusion of children and young persons from gambling areas. The Board will expect applicants to offer their own measures to promote the licensing objectives however the Board may attach conditions to the licence.

21. Adult Gaming Centres

An applicant for a premises licence must comply explicitly with the Act regarding the exclusion of children and young persons. No children or young person (under 18 years old) must be permitted to have access to the premises.

An adult gaming centre consists of premises for which a premises licence is granted to make certain prescribed gaming machines available only to persons aged eighteen years and over. The following machines can be provided:

- Category B3 or B4 gaming machines – a number not exceeding 20% of the total number of gaming machines which are available for use on the premises; and
- Category C or D machines – any number.

Premises in existence before 13 July 2011 are entitled to make available four category B3 or B4 gaming machines or 20% of the total number of gaming machines, whichever is the greater.

The holder of an adult gaming centre premises licence granted on or after 13 July 2011, but before 1 April 2014, is entitled to make available a maximum of four category B3 or B4 gaming machines or 20% of the total number of gaming machines, whichever is the greater. From 1 April 2014, these premises will be entitled to 20% of the total number of gaming machines only.

See separately published schedule for gaming machine categories.

The Board will expect applicants to offer their own measures to promote the licensing objectives however the Board may attach conditions to the licence.

22. Licensed Family Entertainment Centres

A licensed family entertainment centre consists of premises for which a premises licence is granted to provide, subject to certain restrictions, any number of Category C or D gaming machines.

An applicant for a premises licence may comply explicitly with the Act regarding all category C gaming machines (see separately published schedule for machine categorisation) on the premises.

No children or young persons must be permitted access to restricted areas of the premises where category C gaming machine are sited. There will need to be segregation between the different gaming machine types.

The Board will expect applicants to offer their own measures to promote the licensing objectives however the Board may attach conditions to the licence. Particularly, applicants should have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling.

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. It will also be aware of any mandatory or default conditions on premises licences.

23. Unlicensed Family Entertainment Centres (uFECs)

Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the Board for a Gaming Machine permit. The applicant must show that that the premises will be wholly or mainly used for making gaming machines available for use.

Unlicensed FECs will be able to offer only category D machines (see separately published schedule for machine categorisation) in reliance on a gaming machine permit. Any number of category D machines can be made available with such a permit. Permits cannot be issued to vessels or vehicles.

We note that the Board can grant or refuse a licence but cannot attach conditions to this type of permit. However the Act imposes mandatory conditions on Unlicensed FEC gaming machine permits

The Gambling Act 2005 contains provision for local authorities to prepare a "Statement of Principles" that they propose to consider in determining the suitability of an applicant for a permit. Schedule 10, Para 7 of the Act states "In preparing this statement, and/or considering applications, it the licensing authority need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under Section 25.

In line with the above provision the Board has prepared a 'Statement of Principles' in relation to unlicensed family entertainment centre gaming machines as follows:

Statement of Principles for uFECs

Suitability of Applicant

The Board will expect, as per the Gambling Commission Guidance, applicants 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 conviction (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.

Suitability of Premises

In relation to suitability of premises the Board will have particular regard, amongst all circumstances, to:

- The location of the premises;
- Evidence that a premises will only operate as an unlicensed family entertainment centre;
- Confirmation of intended opening hours;
- Display of posters and information leaflets for organisations set up to assist people wishing to seek help and advice regarding gambling related issues;
- Any other factors that are within the control of the permit holder or designated management.

Policies and Procedures

The Board will expect the applicant to show that there are policies and procedures in place to protect children from harm. Applicants should undertake a full risk assessment specific to the type of premises, location, clientele and possible harm. For the avoidance of doubt, in this context harm is not limited to harm from gambling but should include wider child

protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include:

- Appropriate measures and training for staff e.g. as regards suspected truant children on the premises;
- Measures and training covering how staff would deal with unsupervised very young children being on the premises;
- Measures and training covering how staff would deal with children causing perceived problems on or around the premises;
- Detailed arrangements for the supervision of premises whether by staff or the use of CCTV. Any CCTV system installed should be to the satisfaction of the Board and Grampian police and notice must be displayed at the entrances advising that CCTV is in operation;
- Due to the nature of these premises, which are attractive to children, applicants who employ staff to supervise the premises should determine if their staff need to be background checked.

The Board recognises that it cannot attach conditions to this type of permit but can refuse applications if they are not satisfied that the issues raised in the “Statement of Principles” have been addressed through the application. Applicants only need to address the “Statement of Principles” when making their initial applications and not at renewal time.

The Board will give significant weight to all issues relating to the protection of children and young persons.

The Board may not refuse an application unless it has notified the applicant of the intention to refuse and the reasons for it, and given them an opportunity to make representations orally or in writing or both.

24. Club Gaming Permit & Club Machine Permit

A Club Gaming Permit authorises Members’ Clubs to provide, subject to certain restrictions, no more than 3 gaming machines (categories B3A (one only), B4, C or D) (see Separately published schedule for machine categorisation), equal chance gaming and other games of chance as prescribed in regulations.

The Club Gaming Permit also allows the Club to provide facilities for Gambling provided the gambling meets a number of conditions.

If a club does not wish to have full range of facilities permitted by a club gaming permit or if they are a commercial club not permitted to provide non-machine gaming, they may apply to the Board for a club machine permit.

Members’ clubs and miners’ welfare institutes who do not provide other forms of gaming can hold a permit that allows them to have up to 3 gaming machines. (Categories B3A (one only) B4, C or D) (see separately published schedule for machine categorisation).

Commercial clubs (clubs established for profit) may apply for a permit that allows them to have up to 3 gaming machines in total of categories B4, C or D (not B3A).

The same criteria apply to both Club Gaming Permits and Club Machine Permits. To qualify for these special club permits a members club 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. A members’ club must be permanent in nature, not established to make commercial profit, and controlled by its members equally.

Clubs must have regard to the protection of children and vulnerable persons from harm or being exploited by gambling. They must provide sufficient measures to ensure that under 18 year olds do not use the adult only gaming machines. These measures may include:

- the machines being in close proximity to the bar, or in any other area where they are capable of being adequately supervised;
- notices and signage;
- the provision of information leaflets / helpline numbers for organisations such as GamCare.

Before granting any permit the Board will need to satisfy itself that the premises meets the requirements of a members’ club and that the majority of members are over 18. The Board may request a copy of the constitution and/or other documents for this purpose.

The Board may grant or refuse a permit, but it may not attach any conditions. The Board may only refuse an application on the grounds that:

- The applicant does not fulfil the requirements of a member’s or commercial club;
- The applicant’s premises are used wholly or mainly by persons under the age of eighteen;
- An offence under the Act, or a breach of permit has been committed by the applicant in the course of gaming activities being carried on;
- A permit held by the applicant has been cancelled in the last ten years; or
- An objection to the application has been made by the Gambling Commission or the Police.

25. Prize Gaming Permit

Section 288 defines gaming as 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.

A prize gaming permit is a permit issued by the Board to authorise the provision of facilities for gaming and prizes on specified premises.

The Board may specify the form and manner in which an application must be made, and supporting documents will be required, including:

- Plans of the proposed building;
- Insurance certificates; and
- Any other documents deemed necessary or appropriate.

The Board will comply with any guidance produced by the Gambling Commission, and when considering a permit application may request further information from an applicant regarding any matters of concern.

The Gambling Act 2005 contains provision for local authorities to prepare a “Statement of Principles” that they propose to consider in determining the suitability of an applicant for a permit, having regard to the licensing objectives and guidance issued by the Gambling Commission. The Board has prepared a Statement of Principles in relation to prize gaming permits as follows:

Statement of Principles

The Board will expect the applicant to show the applicant’s suitability to hold a permit and that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, matters to address will include:

- The location of the premises;
- Confirmation of intended opening hours;
- Confirmation of the types of gaming to be offered;
- The applicant will be required to demonstrate they fully understand the limits to stakes and prizes that are set out in Regulations;
- The applicant will be required to demonstrate the gaming offered is within the law;
- Ensuring a premises maintains acceptable levels of management supervision at all times during opening hours;
- Ensuring a premises maintains acceptable levels of security at all times during opening hours;
- CCTV provisions at the premises;
- Surveillance of the premises;
- Evidence that members of staff are appropriately trained including training for staff as regards suspected truant children on

the premises and how staff would deal with children causing perceived problems on or around the premises;

- Any other factors that are within the control of the permit holder or designated management.

In line with the Act, while the council cannot attach conditions to this type of permit, the council can refuse applications if they are not satisfied that the issues raised in the “Statement of Principles” have been addressed through the application. Applicants only need to address the “Statement of Principles” when making their initial applications and not at renewal time.

There are conditions in the Gambling Act 2005 by which the permit holder must comply. 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.

The Board may grant a permit only if the appropriate Chief Constable has been consulted about the application.

The Board may not refuse an application unless they have notified the applicant of the intention to refuse and the reasons for it, and given them an opportunity to make representations orally or in writing or both.

26. Alcohol Licensed Premises – Gaming Machine Permit

On notifying the Board, premises licensed to sell alcohol for consumption on the premises, subject to certain restrictions, have an automatic entitlement to 2 gaming machines (of category C or D).

The Board has the power to remove this right where:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises in breach of a condition i.e. where written notice has not been provided to the licensing authority, a fee has not been paid or that any relevant code of

practice issued by the Gambling Commission about the location and operation of the machine has not been complied with;

- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises.

An Alcohol Licensed Premises Gaming Machine Permit is required if more than 2 gaming machines are sought. The issue of such a permit will effectively replace, not be in addition to any automatic entitlement to 2 gaming machines.

The Board will comply with any guidance produced by the Gambling Commission, and when considering a permit application will take account of the licensing objectives and such other matters as are thought relevant. The Board may request further information from an applicant regarding any matters of concern, which may include:

- A plan showing the location and category of gaming machine being sought; and
- Full details as to how machines will be supervised including all proposed precautions for preventing persons under eighteen from using any category of gaming machine being sought and how it would be implemented. This is especially true in alcohol licensed premises where it is stated that children and young persons may have access to all parts of the premise.

Each application will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling. The Board will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that children and young people under the age of 18 do not have access to the adult only gaming machines. Measures which may satisfy the Board that persons under 18 years will be prevented from using the machines may include the machines being in close proximity to the bar, or in any other area where they are capable of being adequately supervised.

It is recognised that some alcohol licensed premises may apply for a form of gambling premises licence for their non-alcohol licensed areas. Any such application would need to be dealt with under the relevant provisions of the Act.

The Board may decide to grant an application with a smaller number of machines and/or a different category of machine but cannot attach any other conditions.

27. Occasional Use Notices

Where there is betting on 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. The calendar year will commence on 1 January.

In considering an application for an occasional use notice the Board will consider the definition of a “track” and whether the applicant is permitted to avail him/herself of the notice.

A notice must be served on the Board and copied to the Chief Constable. The notice must be served by a person who is responsible for the administration of events on the track, or by an occupier of the track.

The notice must specify the day on which it has effect, and may be given in relation to consecutive days providing the overall limit of 8 days is not exceeded in a calendar year.

The Board will maintain a record of the number of notices served in a calendar year to ensure the limit of 8 days is not exceeded.

28. Temporary Use Notices

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 would include hotels, conference centres and sporting venues.

An application for a Temporary Use Notice must be submitted to the Board not less than 3 months and one day before the day on which the gambling event will begin.

In addition a copy of the notice must also be served on:

- The Gambling Commission;
- The Chief Constable of Grampian Police;
- H M Revenue and Customs;
- Any other licensing authority in whose area the premises are situated.

The person who is giving the temporary use notice must ensure that the notice and the copies are with the recipients within seven days of the date of the notice.

Each application for the grant of a Temporary Use Notice will be considered and determined on its individual merits.

It is for the Board to determine in each case what constitutes premises having regard to, amongst other things, ownership, occupation and control of the premises.

The same premises may not be the subject of a temporary use notice for more than 21 days in any 12-month period, but may be the subject of several notices provided that the total does not exceed 21 days.

Should the Board or the other bodies served with copies of the temporary use notice consider that the gambling should not take place, or take place with modifications, they will issue a notice of objection to the applicant within 14 days of the date of the temporary use notice.

Where relevant representations are made a hearing will be held before the Board or sub committee as appropriate and the application will be determined once the application and representations have been considered. If all participants agree that a hearing is unnecessary, it may be dispensed with.

The Board will determine the application using and considering supporting evidence from the applicant and any objectors who have made representations.

If the Board considers that a temporary use notice should not have effect a counter-notice will be issued which may:

- Prevent the temporary use notice from taking effect;
- Limit the activities that are permitted;
- Limit the time period of the gambling; or
- Allow the activity to take place subject to a specified condition.

If the Board gives a counter notice, it must give reasons for doing so and must copy the counter notice to all those who received copies of the temporary use notice.

If the Board decides not to issue a counter notice, the temporary use notice will take effect. The Board will give notice of its decision to the person who gave the temporary use notice and others to whom it was copied.

29. Provisional Statements

A provisional statement application allows a prospective provider of gambling facilities to examine the likelihood of whether a building which he expects to be constructed, to be altered or to acquire a right to occupy would be granted a premises licence. A provisional statement is not a licence and merely gives the holder some form of guarantee that a premises licence would be granted so it can be judged whether a development is worth taking forward in light of the need to obtain a premises licence. An applicant may also apply for a provisional statement for premises which already hold a premises licence (either for a different type of gambling or the same type).

The process for considering a provisional statement is the same as that for a premises licence.

The Gambling Commission's Guidance states that licensing authorities should not take into account irrelevant matters such as the likelihood of the applicant obtaining planning or building consent for the proposal.

Once the premises are constructed, altered, or acquired the holder of a provisional statement can put in an application for the necessary premises licence. Section 205 of the Act sets out rules on how the authority must treat this application.

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

In addition, 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 authority's opinion, reflects a change in the operator's circumstances.

The Board has noted the Gambling Commission Guidance that licensing authorities should not take into account irrelevant matters such as the likelihood of the applicant obtaining planning or building consent for the proposal.

30.Registration of Small Society Lotteries

Small society lotteries are non-commercial societies which are established and conducted:

- For charitable purposes;
- For the purpose of enabling or participation in, or supporting, sport, athletics or a cultural activity; or
- For any other non-commercial purpose other than private gain.

All applications for registration must be made in the form specified by Scottish Ministers, and accompanied by any supporting documents specified by Scottish Ministers or required by the Board.

The Board will comply with any guidance produced by the Gambling Commission, and when considering an application for registration and

may request further information from an applicant regarding any matters of concern, which may include:

- The application is on behalf of a bona fide non-commercial society;
- That all persons to be connected with the promotion of the lottery have no relevant convictions or cautions recorded against them;
- The purpose of the Society and; the purpose of the fund raising;
- Confirmation of the appointment of two members of the society who have the authority to sign and complete the required financial returns;
- Evidence that an external lottery manager holds an operators licence issued by the Gambling Commission.

If the Board is intending to refuse an application to join the register the applicant will be notified in writing of the reasons why it is considering refusal, and the evidence on which it has based that preliminary conclusion. The applicant will then be given the opportunity to provide further evidence in support of the application or to make representations regarding these matters.

31. Travelling Fairs

Travelling Fairs wholly or principally provide amusements and they must be on a site that has been used for fairs for no more than 27 days per calendar year. Travelling fairs do not require a permit or licence to provide category D gaming machines or equal chance prize gaming.

The Board will also consider whether the applicant falls within the statutory definition of a travelling fair and that the facilities for gambling amount to no more than ancillary amusement. The Board will monitor the number of days a piece of land is used as a fair to ensure the maximum statutory 27 days is not exceeded in a calendar year.

Part V Compliance

32. Inspections of Premises

In exercising functions under the Act with regard to the inspection of premises the Board will be guided by the Gambling Commission's Guidance. Any approach will be:

- Proportionate
- Accountable
- Consistent
- Transparent
- Targeted

The Board will work with the Council to look at a risk based inspection programme. Premises may be subject to a scheme of routine inspection, the frequency of which will be determined by the risks posed; those premises considered to pose the greatest risk will be subject to more frequent inspections than those presenting a lower risk.

This authority will reserve stating the criteria we will use for risk base inspections. Consideration will be given to the Gambling Commission's own risk criteria and any risk model for premises licences.

The main enforcement and compliance role for this licensing authority in terms of the Act will be to ensure compliance with premises licence and other permissions, which it authorises.

33. Complaints Against Licensed Premises

The Board will investigate complaints against licensed premises in relation to matters relating to the licensing objectives for which it has responsibility. In the first instance, complainers are encouraged to raise the complaint directly with the licensee or business concerned to seek a resolution.

Where an interested party has made valid representations about licensed premises, or a valid application for a licence to be reviewed, the Board may initially recommend a conciliation meeting to address and clarify the issues of concern.

This process will not override the right of any interested party to ask that the Board consider their valid objections or for any licence holder to decline to participate in a conciliation meeting.

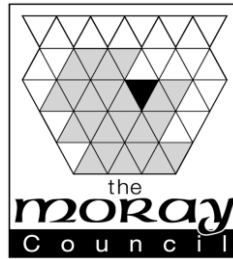
Due consideration will be given to all relevant representations unless they are considered to be frivolous, vexatious or repetitious.

Version Control Page

The list of sections amended in substance in January 2016 are as follows:

- 1 Update responsible authorities (page 5 section 6).
- 2 Update body responsible for advising on protection of children (page 8 section 11).
- 3 Update self-exclusion schemes (page 10 section 12).
- 4 Update gaming machine categorisation (page 11 and separately published schedule).
- 5 Update policy on areas (page 12 section 13).

- 6 Update gaming machine information for section on Bingo premises (page 15 section 18).
- 7 Update information on Gambling Commission Guidance and betting (page 16 section 19).
- 8 Update information on Track betting premises (page 17 section 20) to account for updated Gambling Commission guidance.
- 9 Update gaming machine information for section on adult gaming centres (page 18 section 21).
- 10 Update gaming machine information for section on family entertainment centres (pages 18 and 19 sections 22 and 23).
- 11 Update gaming machine information for section on club gaming and machine permits (page 21 section 24).
- 12 Update section on provisional premises licences to account for updated guidance (page 27 section 29).
- 13 Update compliance to account for updated guidance (page 29 section 32).



ITEM: 4
PAGE: 1

REPORT TO: THE MORAY LICENSING BOARD ON 10 DECEMBER 2015

SUBJECT: LICENSING (SCOTLAND) ACT 2005 - PROPOSALS FOR THE PROCESSING OF OCCASIONAL LICENCE APPLICATIONS

BY: CLERK TO THE BOARD

1. Reason for Report

- 1.1 The reason for this report is to ask the Board to consider and if minded, agree the proposed changes to the local procedures for processing of Occasional Licence Applications.

2. Recommendations

It is recommended that the Board:-

- 2.1 Note the requirements for Occasional Licence applications;**
- and**
- 2.2 Consider, and if minded, approve the proposed changes to local procedures contained in paragraph 4.7 of this report.**

3. Background - Occasional Licence Applications

- 3.1 On the 23rd September 2015 the Policy Sub Group met at the request of the Convenor and Vice Convenor. The remit was to consider the desirability of having a policy on timescales for accepting occasional licence applications for processing and, depending on the outcome, make any appropriate recommendations to the Board.
- 3.2 Members will be aware of the current scheme for determining occasional licence applications under the Licensing (S) Act 2005. Currently the licensing service processes between 500 – 600 occasional licences per year.
- 3.3 In accordance with the Licensing (S) Act 2005 the normal minimum public advertisement period is 7 days. Also the police and LSO also have up to 21 days to respond to an application consultation, but both generally respond sooner. Therefore it is normally recommended (and set out in guidance on completing the forms) that application is made at least 28 days before an event. Where application is made at shorter (than 28 days') notice then licensing staff currently advise applicants that every effort will be made to process the application to conclusion but it cannot be guaranteed to be done

in time for any event and the applicant is given the option of proceeding or withdrawing the application.

- 3.4 The Act provides that where there is no representation or objection from consultees then the licence must be granted. As a result, the vast majority of occasional licences are determined by officers under delegated powers.
- 3.5 The police make representations in response to many applications but that is normally to suggest the addition of conditions on the licence. In the vast majority of cases the applicant agrees to the conditions and so the representation is withdrawn and the licence is granted with the conditions added. In a small number of cases the applicant does not agree to certain conditions. In such cases the application falls to be determined in accordance with the scheme of delegation.
- 3.6 An extract of the relevant sections of the scheme of delegation is attached at **Appendix I**.
- 3.7 There is no requirement to hold a hearing but the applicant must be given an opportunity to comment. This is all done by email.
- 3.8 What is becoming a more common occurrence is that applications are being made at relatively late (7 to 28 days') notice and certainly a shorter period than the recommended timeframe.
- 3.9 Statistics are not kept but recollection of officers is that, so far, it has not been necessary to advise an applicant that staff have run out of time and it has not been possible to process their application prior to the event. However, the processing of applications at late notice places pressure on licensing staff who have many and varied duties.
- 3.10 Where application is made at less than 7 days' notice then it is not normally possible to process, given the minimum public advertisement period. However, applications can be accepted and advertised at not less than 24 hours' notice where the Board is satisfied that the application should be dealt with at short notice. This is a statutory procedure and applications are known as short notice applications where there is a genuine reason for the short notice. There is provision in the scheme of delegation (paragrapoh 13) for reference to the Convenor for this purpose. In practice the Convenor and Vice Convenor act in concert. In respect of funerals the clerk can accept the application in any event.

4. Proposals – Occasional Licence applications

- 4.1 The Policy Sub Group approved a proposal that they wished put to the Board to make processing procedures more robust in order to deter short notice applications for occasional licences. That can be done through a combination of both policy and guidance.
- 4.2 An example of an area where this has been considered previously is Aberdeenshire where the published policy is as follows:

“You should apply giving as much time as possible, and at least 6 weeks prior to the date the licence is required. Applications made 2 weeks or less prior to the date requested are unlikely to be accepted. Application made between 2 and 6 weeks prior to the date requested are likely to be classed as ‘late applications’. This will mean that future late applications might be rejected. You should always give plenty of notice because your Application must be advertised for 1 week to allow members of the public to make any objections or representations.”

The difference between policy and guidance is blurred here. The way it is expressed on the website still leaves the door open to applicants by saying “unlikely to be accepted”. Aberdeenshire used to be more rigid in that applications would not be accepted at all at less than 4 weeks’ notice. However it appears to have been necessary to revise that position in light of the statutory short notice procedure.

- 4.3 Given that there is a legislative procedure for short notice applications it would not be competent to have a blanket refusal of applications at less than 28 days’ notice.
- 4.4 It is therefore difficult to formulate a definite policy. It may be that a policy would simply elicit more requests for an application to be considered at less than 28 days’ notice, which would mean referring more requests to the Covenor under the scheme of delegation.
- 4.5 Technically every application that passes the basic validation (completed form and payment) and is therefore competent must be processed anyway. However the shorter the notice period, the more likely it would be that processing would not be possible in the timescale. As the fee is for processing the fee would not be refunded.
- 4.7 The proposal from the Policy Sub Group is therefore as follows:
 - 4.7.1 To leave the current statutory (and Board) short notice procedure in place for consideration of applications at short notice (Para 13, Scheme of Delegation) subject to the changes below.
 - 4.7.2 To change policy to allow the Clerk to not accept for processing an application where it appears likely that insufficient time will be available for statutory consultation. This will cover applications where the application cannot be advertised publicly for at least 7 days. Also where any statutory consultee advises the Clerk that it will not be able to respond within the available time (< 21 days). It will also cover applications where in the opinion of the Clerk there appears to be no valid reason to use the statutory short notice procedure.
 - 4.7.3 To change the policy to allow the Clerk to not accept for processing a “late application”. A “late application” is one that is received with less than 28 days notice from an individual or organisation who persistently submits applications with less than 28 days notice and where in the opinion of the Clerk there appears to be no valid reason to use the statutory short notice procedure. What is “persistently” will depend on all the circumstances, not least the number of regular applications. For example more than two applications in a row. The greater the proportion of applications that are late, the more likely it is that another will not be accepted.

- 4.7.4 To publish guidance and amend the scheme of delegation to implement the above policy changes as appropriate.
- 4.8 There is no specific, legal basis for such a policy. It is a practical policy given that processing may not be possible in the time available. However it would save the applicant the fee as the fee will be returned with the rejected application. It should be noted that where at any time the Clerk is unsure about how to treat a particular application then the matter will be referred in accordance with paragraph 13 of the current scheme of delegation to the Convenor.
- 4.9 Any change will have to be incorporated into existing procedures. It will also necessitate a standard and objectively easy to follow procedure as set out above as applications are received and input into the licensing system by the Mailroom staff. Licensing staff only see the application once it has been input into the system and processing has begun. Therefore it would not be possible for licensing staff to provide input on workloads and potential processing time available prior to acceptance of the application to support a more flexible and subjective approach.
- 4.10 Whether or not a policy is considered desirable, officers would be able to add further information to the website to make guidance on acceptable notice periods more prominent.

5. Implications

- (a) **Corporate Development Plan / Community Plan / Service Improvement Plan**
Implications are the same as for the Licensing (Scotland) Act 2005 itself.
- (b) **Policy and Legal**
As set out within this report.
- (c) **Financial Implications**
The idea behind the proposals is to put in place practical systems for dealing with these types of applications in an efficient manner and thus save time and the resources of the Moray Council/ Licensing Board and staff.
- (d) **Risk Implications**
None.
- (e) **Staffing Implications**
None.
- (f) **Property**
None.
- (g) **Equalities**
There are no equalities issues identified at this stage. The Council's Equalities Officer has confirmed that an equality impact assessment is not required as this is not a new policy and only minor changes are proposed.

(h) Consultations

Consultation on the proposal beyond the Board is not required.

Consultation on this report has taken place with the Legal Services Manager (Litigation & Licensing) and comments received incorporated.

6. Conclusion

It is proposed that the Board note the requirements of the Licensing (Scotland) Act 2005 and the proposals to deal with those requirements. The ethos behind the proposals is to comply with the Act but take a pragmatic approach to the procedural requirements.

Author of Report: Sean Hoath, Senior Solicitor, Litigation & Licensing
Background Papers: There are no background papers
Ref: SAH/TT

A. McEachan

Signature

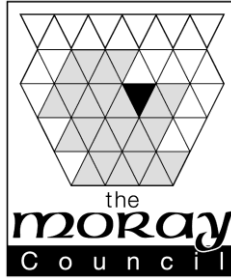
Date 1 December 2015

Designation Head of Legal and Democratic Services, Clerk to the Board
Name Alasdair McEachan

APPENDIX I

Extract Scheme of delegation for Occasional Licences

13	Occasional Licences	Determine whether to permit applications for occasional licences to be considered at short notice (i.e. being a period less than 21 days but not less than 24 hours).	Convenor of the Board, whom failing the Vice Convenor, whom failing any other member of the Licensing Board.
14	Occasional Licences	Accept an occasional licence application at short notice (i.e. a period less than 21 days but not less than 24 hours) where the application is in respect of a funeral tea, wake or similar.	Clerk or person appointed to assist the Clerk
15	Occasional licences	Grant an occasional licence application where there is notice of objection or representation and or notice from the chief constable recommending refusal in relation to the application	Convenor and Vice Convenor of the Board acting in agreement, failing which reference will be made to a third member for a majority decision of two out of three. If the Convenor and/or Vice Convenor is not available then reference can be made to any other member of the Licensing Board.,
16	Occasional licences	Grant an occasional licence application where there is no notice of objection or representation and no notice from the chief constable recommending refusal in relation to the application (or where any such objection, representation or notice has been withdrawn)	Clerk or person appointed to assist the Clerk
17	Occasional Licence conditions	To impose conditions under section 60 in respect of an occasional as necessary or expedient for the purpose of any licensing objective	Clerk or person appointed to assist the Clerk



REPORT TO: MORAY LICENSING BOARD ON 10 DECEMBER 2015

SUBJECT: CHILD SEXUAL EXPLOITATION (CSE) AND LICENSING

BY: CLERK TO THE BOARD

1. REASON FOR REPORT

- 1.1 To present to the Board information in relation to Child Sexual Exploitation (CSE) and licensing.

2. RECOMMENDATION

2.1 It is recommended that the Board:

- i) considers the information in relation to child sexual exploitation;**
- ii) notes the request for assistance with the dissemination of information to licence holders via licensing links and channels; and**
- iii) supports awareness raising activity.**

3. BACKGROUND

- 3.1 On 20 August 2015, some board members attended a presentation on Child Sexual Exploitation (CSE) given by the Council's Partnership Officer, Child Protection.

- 3.2 At this presentation, members learned that CSE of children and young people, as set out in Scottish Government National Child Protection Guidance 2014 (para. 572), is considered to involve them "being coerced, manipulated, forced or deceived into performing and / or others performing on them, sexual activities in exchange for receiving some form of material goods or other entity (for e.g. food, accommodation, drugs, alcohol, cigarettes, gifts, affection)." Reference was also made to a number of high profile inquiries that have received national media coverage within recent years e.g Rotherham (1997 – 2013) [\http://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0CCMQFjAAahUKEwj7tYfXoJrJAhUDqxoKHVoiAww&url=http%3A%2F%2Fwww.rotherham.gov.uk%2Finfo%2F200109%2Fcouncil_news%2F884%2Find

[ependent inquiry into child sexual exploitation in rotherham 1997 %25E2%2580%2593 2013&usg=AFQjCNGMMYe7GFaLdYdaGpIPXybyYxcCg\]](http://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&act=8&ved=0CCMQFjAAahUKEwjgmrijoZrJAhXLnRoKHbtUA0E&url=http%3A%2F%2Fwww.rochdaleonline.co.uk%2Fuploads%2F1%2Fnews%2Fdocument%2F20131220_93449.pdf&usg=AFQjCNEsgSBDbTMUrAem3dKJ7AVvX75FAQI)

and Rochdale (2006 - 2013)

[\[http://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&act=8&ved=0CCMQFjAAahUKEwjgmrijoZrJAhXLnRoKHbtUA0E&url=http%3A%2F%2Fwww.rochdaleonline.co.uk%2Fuploads%2F1%2Fnews%2Fdocument%2F20131220_93449.pdf&usg=AFQjCNEsgSBDbTMUrAem3dKJ7AVvX75FAQI\]](http://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&act=8&ved=0CCMQFjAAahUKEwjgmrijoZrJAhXLnRoKHbtUA0E&url=http%3A%2F%2Fwww.rochdaleonline.co.uk%2Fuploads%2F1%2Fnews%2Fdocument%2F20131220_93449.pdf&usg=AFQjCNEsgSBDbTMUrAem3dKJ7AVvX75FAQI)

where there were failures to identify children as victims of CSE.

- 3.3 CSE is abuse and local child protection procedures are in place for reporting and sharing concerns. The Partnership Officer, Child Protection is keen to explore the dissemination of information on the issue to the trade and provide some guidance to them on what to be aware of, and how they could assist and alert authorities to any concerns. The Partnership Officer, Child Protection is particularly keen to engage with taxi/private hire drivers and late night takeaways as well as hotels and other premises licensed for the sale of alcohol as the perpetrators of CSE can target areas where children and young people might gather without much adult supervision such as takeaways and taxi ranks and activity may be visible in e.g. pubs and off licences, amongst others.
- 3.4 Following the presentation, the Partnership Officer, Child Protection and the Legal Services Manager (Litigation & Licensing) met on 28 September 2015 to discuss potential avenues for dissemination of information via licensing links and channels. Links exist with the Moray Licensed Trade Association. Although the association is fairly representative of the trade, they do not account for all licensed premises. The Local Licensing Forum is another link although there have been no meetings for some time. Licensing Officers also issue from time to time, electronic newsletters to the trade. Contact details are held in relation to all licenses issued and licensing officers have the facility to post news and information via mail and/or the licensing pages on the Council's website. It was agreed that the Partnership Officer, Child Protection consider further the information that he would like licensing officers to distribute via licensing links and channels. This information is awaited but in the meantime the Partnership Officer, Child Protection has been provided with contact details for the secretary of the Licensed Trade Association in case he wishes to make contact independently and advised to contact the Trading Standards Manager re the Local Licensing Forum and potential assistance from Licensing Standards Officer's.
- 3.5 In November 2014 a National Action Plan to Tackle Child Sexual Exploitation in Scotland was published. Raising awareness of CSE amongst children and young people, parents and the wider population is one aspect of this as is improving early identification of CSE and reporting of concerns. Further work is being undertaken nationally with a campaign to raise awareness of CSE being anticipated in January 2016. The campaign will target young people aged 11 to 17 and the general public and highlight the warning signs that may indicate a young person is being exploited and will include TV and social media advertising. It is also anticipated that work will be done nationally to develop guidance and training for taxi drivers, hotel workers, bar staff and others who may come into contact with children and young people so that they can identify CSE and take appropriate steps. The request by the Partnership Officer, Child Protection is for assistance with the dissemination of information locally to the trade on a more targeted basis.

- 3.7 A report on this issue, in similar terms to this report, will be submitted to the Council's Licensing Committee at their meeting on 16 December 2015 for consideration in relation to licensing within their remit.

4. **SUMMARY OF IMPLICATIONS**

(a) Moray 2023: A Plan for the Future/Service Plan

Licensing relates directly to priorities within the 10 Year Plan (Moray 2023) in relation to a growing and diverse economy and safer and healthier communities. The various licensed activities within industry all aid a growing economy in terms of production, retail and the positive effects on tourism. Regulation of the licensed activities contributes to a safer community by ensuring those providing licensed goods and services are fit to do so.

(b) Policy and Legal

The Moray Child Protection Committee leads locally on child protection issues and public information and communication about this. The Committee's 2015-16 Improvement Plan lists the pursuit of links with the Licensing Committee and Board to increase awareness and understanding re CSE amongst key licence holders.

Using licensing links and channels to assist with the dissemination of information on CSE will enhance children's wellbeing and child protection arrangements in Moray.

(c) Financial Implications

There would be no additional costs were information to be disseminated via electronic newsletters and/or the Licensing news and information pages on the Council's website. There may be costs associated with mail shots if used and the costs of this are unknown at this time.

(d) Risk Implications

The dissemination of information on CSE increases the likelihood of risk to children and young people in Moray being identified.

(e) Staffing Implications

Staff time will be involved in assisting with the dissemination of any information on behalf of the Partnership Officer, Child Protection, to the trade. Licensing Standards Officers will assist if possible but given limited capacity will not be able to devote significant resources to this.

(f) Property

None.

(g) Equalities

Action to tackle CSE is focussed on children and young people regardless of gender, age, race or sexual orientation.

(h) Consultations

Consultation has taken place in respect of this report with Stuart Lamberton, Partnership Officer, Child Protection; Don Toonen, Equalities Officer; and Peter Adamson, Trading Standards Manager and any comments received have been incorporated.

5. CONCLUSION

5.1 Activity to raise awareness locally re CSE is being led by Moray's Child Protection Committee. Licensing officers are being asked to support the dissemination of information on CSE to the trade.

Author of Report: Margaret Forrest, Legal Services Manager (Litigation & Licensing),
Depute Clerk to the Board

Background Papers: National Action Plan on CSE:
<http://www.gov.scot/Resource/0046/00463120.pdf>
Progress Report on the National Action Plan to Tackle CSE and
Brock Report: <http://www.gov.scot/Resource/0048/00486835.pdf>

Ref: MAF



Signature

Date 1 December 2015

Designation Head of Legal and Democratic Services, Clerk to the Board
Name Alasdair McEachan