

# Pecyn Dogfen Gyhoeddus



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At: Cyng Tony Sharps (Chairman)

Y Cynghorwyr: Glyn Banks, David Cox, Adele Davies-Cooke, Rob Davies, Chris Dolphin, Rosetta Dolphin, Brian Lloyd, Ted Palmer, Mike Reece, Ralph Small and Martin White

Dydd Gwener, 2 Tachwedd 2018

Annwyl Gyngorydd,

Fe'ch gwahoddir i fynychu cyfarfod Pwyllgor Trwyddedu y Fflint a fydd yn cael ei gynnal am 10.00 am Dydd Iau, 8fed Tachwedd, 2018 yn Ystafell Bwyllgor Delyn, Neuadd y Sir, Yr Wyddgrug CH7 6NA i ystyried yr eitemau canlynol

## R H A G L E N

### 1 YMDDIHEURIADAU

**Pwrpas:** I dderbyn unrhyw ymddiheuriadau.

### 2 DATGAN CYSYLLTIAD (GAN GYNNWYS DATGANIADAU CHWIPIO)

**Pwrpas:** I dderbyn unrhyw ddatganiad o gysylltiad a chynghori'r Aelodau yn unol a hynny.

### 3 COFNODION (Tudalennau 3 - 8)

**Pwrpas:** I gadarnhau, fel cofnod cywir gofnodion y cyfarfod ar 28 Mehefin 2018.

### 4 DEDDF GAMBLO 2005 ADOLYGIAD O DDATGANIAD POLISI GAMBLO (Tudalennau 9 - 54)

Rhoi gwybod i Aelodau am y gofyniad i adolygu'r datganiad Polisi Gamblo, a darparu drafft terfynol o'r polisi.

Yn gywir

Robert Robins  
Rheolwr Gwasanaethau Democrataidd

Mae'r dudalen hon yn wag yn bwrpasol

# Eitem ar gyfer y Rhaglen 3

## **LICENSING COMMITTEE** **28 JUNE 2018**

Minutes of the meeting of the Licensing Committee of Flintshire County Council held in the Delyn Committee Room, County Hall, Mold on Thursday, 28 June 2018

### **PRESENT:**

Councillors: David Cox, Adele Davies-Cooke, Rob Davies, Chris Dolphin, Rosetta Dolphin, Brian Lloyd, Mike Reece, Tony Sharps, Ralph Small and Martin White

**APOLOGIES:** Councillors: Glyn Banks and Ted Palmer

**ALSO PRESENT:** Councillor Patrick Heesom

**CONTRIBUTORS:** Community and Business Protection Manager; Solicitor and Licensing Team Leader

### **IN ATTENDANCE:**

#### **1. APPOINTMENT OF CHAIR**

Councillor Tony Sharps informed the Committee that he had been appointed Chairman of the Licensing Committee during the Flintshire County Council Annual Meeting held on 1 May 2018.

### **RESOLVED:**

That the appointment of Councillor Tony Sharps as Chairman of the Licensing Committee be noted.

#### **2. APPOINTMENT OF VICE-CHAIR**

The Chairman nominated Councillor Dave Cox as Vice-Chair of the Committee which was duly seconded.

Councillor Rosetta Dolphin nominated Councillor Ralph Small and this was seconded.

On being put to the vote Councillor Dave Cox was appointed Vice-Chair of the Committee.

### **RESOLVED:**

That Councillor Dave Cox be appointed Vice-Chair of the Committee.

#### **3. DECLARATIONS OF INTEREST**

Councillor Rob Davies declared a personal interest in the following items, as they related to his profession as a Publican:

- Agenda item 7 – Revised Guidance issued under Section 182 of the Licensing Act 2003; and
- Agenda item 8 – Minimum Unit Pricing

#### **4. MINUTES**

The minutes of the meeting held on 12 October 2017 had been circulated with the agenda.

#### **RESOLVED:**

That the minutes be approved as a correct record and signed by the Chair.

#### **5. CHANGES TO THE MEDICAL REQUIREMENTS FOR A PRIVATE HIRE/HACKNEY CARRIAGE (JOINT) DRIVER**

The Licensing Team Leader introduced the report which proposed a small change to the medical requirements for a Hackney Carriage/Private Hire (Joint) Driver License in order to ensure the GP undertaking the medical had full access to the patient's medical record.

In order to hold a Private Hire/Hackney Carriage (Joint) Licence, the Authority must be satisfied that the applicant was a fit and proper person within the meaning of the Local Government (Miscellaneous Provision) Act 1976. One of the ways in which the Authority satisfied this criteria was by asking the applicant (or in the case of a renewal, the licence holder) to provide a medical examination which satisfied the DVLA Group II standard. The Group II standard was adopted in line with the Department for Transport Best Practice Guidance, and was detailed within the report.

The Licensing Section provide a medical form which a GP must complete before a licence can be granted. Currently, Flintshire Council allowed the medical form to be completed by the applicant/licence holders' own GP, or another GP but there is nothing on the current form which allows the GP to confirm that they have had access to the patient's medical record.

In conclusion, the Licensing Team Leader reported that the Licensing Section would like to make it compulsory for the GP completing the form to have access to the patient's medical record which can be obtained from the patient's own GP. A declaration would be added to the end of the form for the GP to confirm that they have had access to the medical records, therefore any medical completed without the patient's medical records would be invalid.

Councillor Chris Dolphin asked if applicants/licence holders would view this change as an intrusion of their privacy. The Solicitor explained that this was proportionate and would not infringe on their human rights. It was

important that the Authority was satisfied that the applicant/licence holder was a fit and proper person.

Councillor Adele Davies-Cooke asked why the medical form was reviewed up to the age of 65 as many people over this age may wish to apply to hold a Private Hire/Hackney Carriage (Joint) Licence. The Licensing Team Leader explained that the medical would be reviewed every five years until the age of 65, after which, a medical examination must be provided annually. This did not discourage people over the age of 65 from applying to hold a licence.

**RESOLVED:**

That the proposed changes, in order to make the process more robust, be approved by the Licensing Committee.

**6. REVISED GUIDANCE ISSUED UNDER SECTION 182 OF THE LICENSING ACT 2003**

The Licensing Team Leader introduced the report which provided details of the Home Office revised guidance issued under Section 182 of the Licensing Act 2003.

Section 182 of the Licensing Act 2003 provided that the Secretary of State must issue, and from time to time revise guidance to Licensing Authorities on the discharge of their functions on the 2003 Act. The Home Office published revised guidance in April, 2018 and a link to the document was shown within the report. Member's attention was drawn particularly to the changes of paragraphs of the Licensing Act 2003, as detailed within sections 1.05 – 1.09 of the report.

In conclusion the Licensing Team Leader explained that the summary of changes was not exhaustive and Members were urged to consider the document in its entirety.

**RESOLVED:**

That the report be noted.

**7. MINIMUM UNIT PRICING**

The Licensing Team Leader introduced the report to make Members aware of the Public Health (Minimum Price for Alcohol) (Wales) Bill.

A new law which would introduce a minimum price for alcohol in Wales had been approved by the National Assembly for Wales. The Public Health (Minimum Price for Alcohol) (Wales) Bill was part of the Welsh Government's (WG) wider aim to reduce excessive drinking, recognising the impacts this can have on people's health and well-being.

In conclusion, the Licensing Team Leader explained that once enacted, the new law would allow Welsh Ministers to introduce a minimum unit price for alcohol supplied in Wales. The legislation would target and aim to reduce the amount of alcohol being consumed by hazardous and harmful drinkers, whilst minimising the impact on moderate drinkers. Guidance would be issued and WG would work with retailers, Local Authorities and trading standards to prepare for implementation in the summer of 2019.

Councillor Martin White welcomed the Bill which he hoped would have a similar positive income as had been witnessed in Scotland but questioned how this would be enforced. The Licensing Team Leader commented on the health benefits which had been reported in Scotland following introduction of a similar Bill.

Councillor Ralph Small was concerned on the impact the Bill would have on Public Houses. Councillor Brian Lloyd agreed with the comments and said that the Bill would benefit local supermarkets and off-licences and was concerned of the impact on low income families. The Licensing Team Leader explained that the level of the minimum unit price would be made by the WG following consultation this year and the purpose of the new law was to address longstanding and specific health concerns around the effects of excess alcohol consumption which was estimated to be costing the Welsh NHS over £150m annually.

Councillor Rosetta Dolphin commented that when increasing low cost alcohol this would have a knock on effect for all alcohol costs.

**RESOLVED:**

That the report be noted.

**8. TAXI AND PRIVATE HIRE VEHICLE LICENSING IN WALES**

The Licensing Team Leader introduced the report to inform of proposed changes in legislation for Wales, in relation to taxi and private hire vehicle licensing in Wales.

Following commencement of relevant provisions of the Wales Act 2017, licensing of taxis and private hire vehicles would be a matter within the legislative competence of the National Assembly for Wales. It was under this new devolved settlement that the Welsh Government (WG) had again considered the proposals for the framework for licensing taxis and private hire vehicles put forward by the Law Commission, for the purposes of bringing new arrangement into effect in relation to Wales. The proposed arrangements were detailed within section 1.03 of the report.

In conclusion, the Licensing Team Leader advised that the WG considered that the majority of the recommendations put forward by the Law Commission would, if introduced, clarify and simplify the legislation governing the licensing of taxis and private hire vehicles. A public consultation was

launched on 12 June, 2017 and following the results of the consultation, the WG intended to publish a White Paper in summer 2018. Proposals included in the White Paper were detailed in section 1.06 of the report.

Councillor Dave Cox asked if the White Paper had been published by WG. The Licensing Team Leader advised that was yet to be published but Members would be updated on its progress. Any changes to the legislation would need to be implemented by the Licensing Team.

The Chairman commented on the proposals for all taxi firm employees to undertake a basic Disclosure and Barring Service (DBS) check. The Licensing Team Leader welcomed this proposal as many employees handled sensitive information on members of the public and it was important to ensure public safety.

**RESOLVED:**

That the report be noted.

**9. MEMBERS OF THE PUBLIC AND PRESS IN ATTENDANCE**

There were no members of the public and press in attendance.

(The meeting started at 10.00am and ended at 10.45am)

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**Chair**

Mae'r dudalen hon yn wag yn bwrpasol

# Eitem ar gyfer y Rhaglen 4



## MEETING

|                        |  |
|------------------------|--|
| <b>Date of Meeting</b> | Thursday, 8 November 2018                                |
| <b>Report Subject</b>  | Gambling Act 2005 Review of Statement of Gambling Policy |
| <b>Report Author</b>   | Chief Officer (Planning, Environment and Economy)        |

## EXECUTIVE SUMMARY

To inform Members of the requirement to review the Statement of Gambling Policy under the Gambling Act 2005, and to provide a copy of the draft policy which is now out for consultation.

## RECOMMENDATIONS

|   |                     |
|---|---------------------|
| 1 | To note the report. |
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## **REPORT DETAILS**

|             |  |
|-------------|--|
| <b>1.00</b> | <b>EXPLAINING THE REVIEW OF THE GAMBLING POLICY</b>  |
| 1.01        | Each Local Authority, under the provisions of Section 154 of the Gambling Act 2005, must issue a policy which will determine how they will discharge their functions. The current policy held by this Authority under the Gambling Act is due to be renewed before 31 January 2019.  |
| 1.02        | The new policy will be required to commence on 31st January 2019, in accordance with the Act. The draft policy is shown as Appendix A. This report sets out the procedure and draft policy statement.  |
| 1.03        | <p>With regard to the policy, and how the Council will discharge their functions. The Policy must contain objectives regarding the following;</p> <ul style="list-style-type: none"><li>• preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime,</li><li>• Ensuring that gambling is conducted in a fair and open way, and</li><li>• Protecting children and other vulnerable persons from being harmed or exploited by gambling.</li></ul>   |
| 1.04        | The Council will also need to have regard to any relevant code of practice issued by the Secretary of State, guidance issued by the Gambling Commission, how they exercise their functions consistent with the objectives and in accordance with the policy itself.  |
| 1.05        | <p>The Policy must be approved by Full Council and can last for a period of three years, in accordance with Section 154(2) of the Gambling Act 2005. It further states within Section 349 that prior to approval consultation must take place with;</p> <ul style="list-style-type: none"><li>• The Police</li><li>• The Fire Authority</li><li>• One or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority area, and</li><li>• One or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's functions under the Act.</li></ul> |
| 1.06        | Flintshire have played an active part in the North Wales Licensing Group plan to bring in line the contents of all the separate Gambling Policies to make them follow the same order. Each Authority has had to keep area specific content, but each individual authority has followed the same structure to make the policies more user friendly across the North Wales regions.  |

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| <b>2.00</b> | <b>RESOURCE IMPLICATIONS</b>  |
| 2.01        | Officers will be required to prepare consultation documents and liaise with consultees which is in addition to normal duties. |

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| <b>3.00</b> | <b>CONSULTATIONS REQUIRED / CARRIED OUT</b>   |
| 3.01        | <p>The Licensing Authority is required to consult in relation to the policy review.</p> <p>The consultation is underway, and has been published to the Council's website. It will run from 23<sup>rd</sup> October until 19 November.</p> <p>There have been very few changes in terms of the policy and principles. Any additions are non-contentious.</p> |

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| <b>4.00</b> | <b>RISK MANAGEMENT</b>   |
| 4.01        | All necessary consultees have been informed of the consultation, including Children's Safeguarding, and representatives from Gamcare and Gamble Aware. |

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| <b>5.00</b> | <b>APPENDICES</b>  |
| 5.01        | <p>Appendix A – Draft Statement of Gambling Policy</p> <p>Each Member of Flintshire County Council has received a link to the consultation, which includes access to the full policy document in both Welsh and English.</p> |

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|-------------|--|
| <b>6.00</b> | <b>LIST OF ACCESSIBLE BACKGROUND DOCUMENTS</b>   |
| 6.01        | <p>Consultation and Policy: English<br/> <a href="https://www.flintshire.gov.uk/en/Business/Licences-and-permits/Gambling-premises-licence.aspx">https://www.flintshire.gov.uk/en/Business/Licences-and-permits/Gambling-premises-licence.aspx</a><br/> Consultation and Policy – Cymraeg:<br/> <a href="http://www.sirffflint.gov.uk/cy/Business/Licences-and-permits/Gambling-premises-licence.aspx">http://www.sirffflint.gov.uk/cy/Business/Licences-and-permits/Gambling-premises-licence.aspx</a></p> <p><b>Contact Officer:</b> Gemma Potter – Team Leader, Licensing and Pest Control<br/> <b>Telephone:</b> 01352 703371<br/> <b>E-mail:</b> <a href="mailto:gemma.potter@flintshire.gov.uk">gemma.potter@flintshire.gov.uk</a></p> |

|      |   |
|------|---|
| 7.00 | <b>GLOSSARY OF TERMS</b>  |
| 7.01 | <p><b>Statement of Gambling Policy:</b> a document that the Licensing Authority are required to produce in line with the Gambling Act 2005 to outline the expectations of the Authority.</p> <p><b>Licensing Authority:</b> Flintshire County Council's Licensing Team, responsible for key decisions in relation to Licensing and Gambling.</p> <p><b>North Wales Licensing Group:</b> A group consisting of Licensing Managers from the North Wales Authorities, and partners such as North Wales Police and the Gambling Commission.</p> <p><b>GamCare and Gamble Aware:</b> Organisations to protect vulnerable persons from gambling</p> |

# Statement of Gambling Policy

GAMBLING ACT 2005  
January 2019

# FOREWORD

Since the Gambling Act 2005 has been in force, the Council has worked effectively with the industry and with its partner agencies to ensure that standards continue to be met.

The Council will continue to work in partnership with the Gambling Commission and the various Responsible Authorities to ensure that the licensing objectives are promoted, and in particular that there are measures in place to protect children and other vulnerable persons from being harmed or exploited by gambling.



**Councillor Tony Sharps**  
**Chair of the Licensing Committee**  
**January 2019**

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# 1. INTRODUCTION

## 1.1 BACKGROUND

- 1.1.1 Under the provisions of the Gambling Act 2005, Flintshire County Council is the **Licensing Authority** (and is referred to in this document as “the licensing authority”) responsible for granting gambling Premises Licences, Notices, Permits and Registrations in the county of Flintshire.
- 1.1.2 The Gambling Act 2003 (“the Act”) requires a licensing authority to prepare and publish a statement of licensing policy (“the policy”) at least every three years. This policy is made under Section 349 of the Act and in accordance with the ‘Guidance to Local Authorities’ issued by the Gambling Commission under Section 25 of the Act (“the Guidance”).
- 1.1.3 The licensing authority is bound by the Act and any regulations made under the Act. The licensing authority must have regard to the Guidance and the Licence Conditions and Codes of Practice (LCCP) issued by the Gambling Commission (Section 153). If it considers it appropriate, the licensing authority may depart from the Guidance if they have good reason to do so and can provide full reasons.
- 1.1.4 The policy comes into force at the time of adoption, and will remain in force until a statutory or other review and consultation process is deemed necessary. The licensing authority will keep the policy under review, making any amendments it considers appropriate to support the licensing objectives. Any amendments will be published in the form of a new policy statement or, if appropriate, by publishing the amendment.
- 1.1.5 The policy will normally apply to any application determined after the date that the licensing authority resolved to make these policies operational, irrespective of the date on which the application was made.
- 1.1.6 The Appendixes are to be read in conjunction with this policy however they do not form part of the policy and may be updated at any time.

## 1.2 GEOGRAPHY OF FLINTSHIRE COUNTY COUNCIL

- 1.2.1 Flintshire is the north-eastern gateway to Wales, and is bounded by the counties of Wrexham, Denbighshire and Cheshire West and Chester. The Dee Estuary defines the North Eastern limit of the County. The extreme north-west of the county is bounded by the Irish Sea, although the North Wales coastal resorts of Rhyl and Prestatyn lie just outside the county, while the built-up area around Chester straddles the English / Welsh border at Saltney. The south-west of the county is bounded by the Clwydian Hills which forms a distinct boundary with Denbighshire.
- 1.2.2 Flintshire covers an area of 438 km<sup>2</sup> including the Dee Estuary and 43,464 hectares excluding the estuary. Census 2001 statistics show that the area supports 152,500 people, making the county the sixth largest in Wales in terms of population (exceeded only by Cardiff, Rhondda Cynon Taf, Swansea, Carmarthenshire and Caerphilly). A map of the county is shown at [Appendix A](#).
- 1.2.3 This gives a population of 342 persons per square kilometre. This is more than double the average population densities for both North Wales and for Wales as a whole. Flintshire's density is average for England and Wales, but above that of the UK as a whole. From its close neighbours, only the urban areas of the Wirral and Ellesmere Port have a higher density.

## 1.3 CONSULTATION PROCESS

- 1.3.1 The necessary consultation process has been undertaken and the responses incorporated into this policy where applicable.

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## 2. SCOPE AND EXTENT

- 2.0.1 The purpose of this statement of licensing policy is to set out the principles the licensing authority will apply when exercising its licensing function, i.e. when regulating the gambling activities within the terms of the Act. Reference will be made to the Act for ease of understanding however it is not intended to be a simplified summary of the law.
- 2.0.2 The Act defines **Gambling** as:-
- 2.0.3 **Gaming** - means playing a 'game of chance' for a prize. A 'game of chance' includes a game that involves both an element of chance and skill, a game that involves an element of chance that can be eliminated by superlative skill, and a game that is presented as involving an element of chance, but does not include a sport.
- 2.0.4 **Betting** – means making or accepting a bet on the outcome of a race, competition, or any other event; the likelihood of anything occurring or not occurring; or whether anything is true or not.
- 2.0.5 **Taking part in a lottery** – means paying in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance.

A full glossary of the terms used in the Act and in this policy can be found in **Appendix B**.

- 2.0.6 It is a criminal offence under Section 33 of the Act to provide facilities for Gambling unless an exception is provided for under the Act.
- 2.0.7 The **types of authorisation** the Act requires the licensing authority to regulate are:-
- Premises Licences
  - Temporary Use Notices
  - Occasional Use Notices
  - Permits as required under the Act; and
  - Registrations as required under the Act.
- 2.0.8 This policy relates to all premises licences, notices, permits and registrations identified as falling within the provisions of the Act, namely: -
- Premises Licences
    - Casinos;
    - Bingo Premises;
    - Betting Premises;
    - Tracks (*site where races or other sporting events take place*);
    - Adult Gaming Centres;
    - Licensed Family Entertainment Centres;

- Notices
  - Temporary Use Notices
  - Occasional Use Notices
- Permits
  - Family Entertainment Centre Gaming Machine Permits;
  - Club Gaming Permits;
  - Club Gaming Machine Permits;
  - Alcohol licensed premises Gaming Machine Permits;
  - Prize Gaming Permits;
- Registrations
  - Registrations of Small Society lotteries.

## 3. LICENSING OBJECTIVES

3.0.1 When exercising its functions under the Act the licensing authority must seek to promote the three **licensing objectives** contained in the Act. The three objectives are:

- preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime;
- ensuring that gambling is conducted in a fair and open way; and
- protecting children and other vulnerable persons from being harmed or exploited by gambling.

### 3.1 OBJECTIVE 1: PREVENTING GAMBLING FROM BEING A SOURCE OF CRIME AND DISORDER

3.1.1 The licensing authority will, when determining applications, consider whether the grant of a premises licence will result in an increase in crime and disorder.

3.1.2 The Guidance for local authorities notes that “disorder is intended to mean activity that is more serious and disruptive than mere nuisance. Factors to consider in determining whether a disturbance was serious enough to constitute disorder would include whether police assistance was required and how threatening the behaviour was to those who could see or hear it.” The licensing authority agrees with this statement.

3.1.3 Applicants are encouraged to discuss the crime prevention procedures in their premises with the licensing authority Licensing Officers and/or North Wales Police before making a formal application.

3.1.4 In considering licence applications, the licensing authority will particularly take into account the following:

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

## 3.2 OBJECTIVE 2: ENSURING THAT GAMBLING IS CONDUCTED IN A FAIR AND OPEN WAY

- 3.2.1 Generally, the Commission would not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be a matter for either the management of the gambling business, and therefore subject to the Operating Licence, or will be in relation to the suitability and actions of an individual and therefore subject to the Personal Licence, both of which are the responsibility of the Gambling Commission.

## 3.3 OBJECTIVE 3: PROTECTING CHILDREN AND OTHER VULNERABLE PERSONS

- 3.3.1 With limited exceptions, the access of children and young persons to licensed gambling premises, which are adult only environments, will not be permitted.

- 3.3.2 The licensing authority will seek to limit the advertising for premises so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children.

- 3.3.3 The licensing authority will consult with the Local Safeguarding Children Board on any application that indicates there may be concerns over access for children or vulnerable persons.

- 3.3.4 The licensing authority will judge the merits of each separate application before deciding whether to impose conditions to protect children on particular categories of premises. This may include such requirements as:
- Supervision of entrances;
  - Segregation of gambling areas from areas frequented by children;
  - Supervision of gaming machines in non-adult gambling specific premises.

- 3.3.5 The 2005 Act provides for a Code of Practice on access to casino premises by children and young persons and the licensing authority will work closely with the police to ensure the appropriate enforcement of the law.

- 3.3.6 The licensing authority does not seek to prohibit particular groups of adults from gambling in the same way that it seeks to prohibit children but it will assume, for regulatory purposes, that '**vulnerable persons**' 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, alcohol or drugs.

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## 4. LEGISLATION AND POLICIES

### 4.1 LEGISLATION

4.1.1 In undertaking its licensing function under the Gambling Act 2005, the licensing authority must also consider other legislation. These include:-

- Equalities Act 2010
- Section 17 of the Crime and Disorder Act 1988;
- Human Rights Act 1998;
- Health and Safety at Work etc. Act 1974;
- Environmental Protection Act 1990;
- The Anti-social Behaviour Act 2003;
- Race Relations Act, 1976 (as amended)
- The Licensing Act 2003
- Regulatory Return (Fire Safety) Order 2005
- The Regulators' Compliance code
- Flintshire County Council's Public Protection Enforcement Policy

However, the policy is not intended to duplicate existing legislation and regulation regimes that already place obligations on employers and operators.

### 4.2 PLANNING AND BUILDING CONTROL

4.2.1 When determining an application regard cannot, under the terms of the Act, be given to planning or building control permissions and / or any planning restrictions.

4.2.2 Flintshire County Council's planning policies are set out in the 'Flintshire Unitary Development Plan' and various supplementary planning guidance, all of which are available to view on the Council's website. Building Regulation Guidance is also available on the Council's website and it is important to check that any changes made to a building, including structural, drainage or electrical accord with those regulations.

4.2.3 The issue of a Provisional Grant of a premises licence is a separate and distinct process to the granting of Planning Permission. Planning and Building Control permissions will have to be sought and approved before any development takes place.

|       |   |
|-------|---|
| 4.2.4 | The licensing authority will normally expect that prior to the submission of a licensing application, the appropriate planning permission will have been granted in respect of any premises. However, applications for licences may be made before any relevant planning permission has been sought or granted. |
| 4.2.5 | The authority will also normally expect the activity to be authorised by the licence to be a lawful planning use and that any operating hours sought do not exceed those, if any, authorised by the planning permission.  |
| 4.2.6 | Operating hours granted within the licensing process do not replace any restrictions imposed as a planning condition. Planning conditions will be addressed through the planning process.   |

4.2.7 The licensing authority will seek to discharge its responsibilities identified by other Government Strategies, so far as they impact on the objectives of the licensing function.

4.2.8 The licensing authority will consider applications with reference to other adopted local policies, including the following:

- The Council's Visions, Strategic Aims and Priorities
- Community Safety Strategy
- Enforcement Policy

## 5. DELEGATION, LICENSING COMMITTEE AND DECISION MAKING

### 5.1 DELEGATION

5.1.1 The licensing authority will be involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them. Appreciating the need to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process, the Committee has delegated certain decisions and functions and has established a Sub Committee to deal with them.

5.1.2 Many of the decisions and functions will be purely administrative in nature and the grant of non-contentious applications, for example, those licences and permits where no representations have been made, will be delegated to Council Officers.

5.1.3 The table shown at Appendix C sets out the agreed delegation of decisions and functions to the Licensing Committee, Sub Committee and Officers.

5.1.4 This form of delegation is without prejudice to Officers referring an application to a Panel, a Panel to Full Committee, or Committee to Full Council, if appropriate.

### 5.2 LICENSING COMMITTEE

5.2.1 The Act provides that the functions of the licensing authority, including its determinations are to be carried out by its licensing committee.

5.2.2 The licensing committee may delegate these functions to sub-committees or in appropriate cases, to officials supporting the licensing authority.

5.2.4 A Sub Committee made up of three councillors from the Licensing Committee will sit to hear applications where representations have been received from interested parties and responsible authorities. Ward Councillors will not sit on a panel involving an application within their ward.

5.2.5 Where a councillor who is a member of the licensing committee is making or has made representations regarding a licence on behalf of an interested party, in the interests of good governance they will disqualify themselves from any involvement in the decision-making process affecting the licence in question.

## 5.3 DECISION MAKING

- 5.3.1 Every determination of a licensing decision by the Licensing Committee or Subcommittee shall be accompanied with clear, cogent reasons for the decision. The decision and the reasons for that decision will be sent to the Applicant and those who have made relevant representations as soon as practicable.
- 5.3.2 The Council's licensing officers will deal with all other licence applications where either no representation have been received, or where representations have been received and it is agreed by the parties that a hearing is not necessary.
- 5.3.3 Decisions as to whether representations are irrelevant, frivolous or vexatious will be made by Council officers, who will make the decisions on whether representations or applications for licence reviews should be referred to the licensing committee or panels. Where representations are rejected written reasons as to why that is the case will be given.
- 5.3.4 In order to avoid duplication with other statutory regimes as far as possible the licensing authority will not attach conditions to a licence unless they are considered necessary for the promotion of the licensing objectives. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

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## 6. GENERAL PRINCIPLES

- 6.0.1 Nothing in this 'Statement of Policy' will:
- Undermine the rights of any person to apply under the Act for a variety of permissions and have the application considered on its individual merits; OR
  - Override the right of any person to make representations on any application or seek a review of a licence or permit where they are permitted to do so under the Act.
- 6.0.2 The licensing authority, in undertaking its licensing function, will have due regard to the need to eliminate unlawful discrimination and to promote equality and good relations between persons of different racial groups.
- 6.0.3 The licensing authority shall aim to permit the use of premises for gambling in so far as they think it is
- In accordance with any relevant code of practice under Section 24 of the Act;
  - In accordance with any relevant guidance issued by the Commission;
  - Reasonably consistent with the licensing objectives
  - In accordance with the licensing authority's statement of licensing policy.
- 6.0.4 Unmet demand is not a criterion that will be taken into consideration when determining an application for a premises licence under the Act.

### 6.1 COMPETENT AUTHORITY FOR PROTECTION OF CHILDREN FROM HARM

- 6.1.1 The licensing authority, designates the Local Safeguarding Children Board as the competent authority to provide advice on the protection of children from harm given the wealth of specialist knowledge and expertise to hand to fulfil this role.
- 6.1.2 The Act indicates each licensing authority must nominate a single body to undertake this function but it may be prudent for the licensing authority to involve other organisations if it believes it is right to do so for the prevention of their physical, moral or psychological harm, especially where it receives representations to that effect.

## 6.2 INTERESTED PARTIES

- 6.2.1 For the purposes of the Gambling Act 2005, a person is an interested party in relation to a premises licence if, in the opinion of the licensing authority which issues the licence or to which the application is made, the person:
- Lives sufficiently close to the premises to be likely to be affected by the authorised activities;
  - Has business interests that might be affected by the authorised activities; this could also include, for example, trade associations, charities, faith groups and medical practices.
  - Represents persons who satisfy either of the above; for example Residents' and Tenants' Associations.
- 6.2.2 When considering whether a person is an interested party, each case will be judged on its merits taking into consideration the relevant circumstances, including those contained in the Guidance to local authorities.
- 6.2.3 Where a person, whether or not directly affected by an application or living in the vicinity of a licensable premise under consideration, puts themselves forward as representing the interests of residents in the vicinity, the licensing authority will normally ask them to provide evidence that they are acting as representatives of others.

## 6.3 EXCHANGE OF INFORMATION

- 6.3.1 In fulfilling its functions and obligations under the Gambling Act 2005 the licensing authority will exchange relevant information with other regulatory bodies and will establish protocols in this respect. In exchanging such information the licensing authority will conform to the requirements of the Gambling Act, Data Protection and Freedom of Information legislation in accordance with the Council's existing policies.
- 6.3.2 Contact details of those persons making representations and details of the representations will be made available to applicants to allow for negotiation and, in the event of a hearing being held, will form part of a public document. Anyone making representation or applying for a review of a premises licence will be informed that these details will be disclosed.

## 6.4 INSPECTION AND CRIMINAL PROCEEDINGS

- 6.4.1 The licensing authority will be guided by the Gambling Commission's Guidance and will endeavour to be:
- **Proportional:** regulators will only intervene when necessary; remedies will be appropriate to the risk posed and costs identified and minimized.
  - **Accountable:** regulators will be able to justify decisions and be subject to public scrutiny.
  - **Consistent:** rules and standards will be joined up and implemented fairly.
  - **Transparent:** regulators will be open and endeavour to keep regulations simple and user friendly;
  - **Targeted:** regulation will be focused on the problem and minimize side effects.
- 6.4.2 The licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 6.4.3 The licensing authority recognises that, apart from the licensing function, there are a number of other mechanisms available for addressing issues of unruly behaviour that can occur away from licensed premises, including:
- Planning controls;
  - Ongoing measures to create a safe and clean environment in these areas in partnership with local businesses, transport operators and other Council Departments;
  - Regular liaison with the Police on law enforcement issues regarding disorder and anti-social behaviour;
  - The power of the police, other responsible authorities or a local resident or business to seek a review of the licence.
- 6.4.4 This licensing authority has adopted a risk based inspection programme, i.e. those premises considered to pose a greater risk will be subject to more frequent inspections than those posing a lower risk.
- 6.4.5 When determining risk, consideration will be given to :-
- the nature of the gambling activities carried out on the premises
  - the location of the premises in relation to schools etc.
  - the procedures put in place by the management to meet the licensing objectives.
- 6.4.6 The licensing authority will make arrangements to monitor premises, undertake inspections and take appropriate enforcement is deems necessary to support and promote the licensing objectives or following receipt of complaint. The district will be monitored for unlicensed premises.
- 6.4.7 The licensing authority will seek to work actively with the police in enforcing

licensing legislation. It encourages the police to share information about licensees and licensed premises under the Crime and Disorder Act 1998.

6.4.8 In general terms, action will only be taken in accordance with the Public Protection Service Enforcement Policy. To this end the key principles of consistency, transparency and proportionality will be maintained.

6.4.9 Where conditions have been imposed on a licence, an authorised person of the licensing authority may inspect the premises at any reasonable time for the purpose of checking that those conditions are being complied with.

6.4.10 The licensing authority will consider issuing a written informal warning to a licence holders specifying recommended improvement within a particular period of time if it deems necessary to support and promote the licensing objectives.

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## 7. LICENSING PROCESS

- 7.0.1 **Applicants are advised that the application process for each type of authorisation or permission is set out in detail in the Act, the Regulations and the Guidance.**
- 7.0.2 Applications must be made on the prescribed or local form, and be accompanied by a fee. All prescribed forms and notices can be downloaded from the Commission's website [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk).
- 7.0.3 A request for an application form may also be made directly to the licensing authority via telephone 01352 703030
- 7.0.4 Applicants may submit applications electronically to the licensing authority by hardcopy or via email to [Licensing@Flintshire.gov.uk](mailto:Licensing@Flintshire.gov.uk).

### 7.1 APPLICATIONS

- 7.1.1 The starting point in determining applications will be to grant the application, without conditions.
- 7.1.2 Conditions will only be considered where they are needed to meet the requirements of the licensing objectives and any conditions applied will not be overly onerous and will be proportionate to the scale of the application and the 'risks' involved. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.
- 7.1.3 When determining an application to grant a premises licence or whether to review a premises licence, regard will be given to
- the proximity of the premises to schools, vulnerable adult centres, or to residential areas with a high concentration of families with children, and
  - the size and scope of the gambling premises concerned.
- 7.1.4 **Each case will be determined on its own merits.** Therefore, if an applicant can effectively demonstrate how they might overcome licensing objective concerns, this will be taken into account.
- 7.1.5 Where there are no **relevant representations** from Responsible Authorities or Interested Parties to an application the licence will be granted provided that the application is made in accordance with the requirements of the Act. For representations to be relevant they must
- relate to the promotion of one of the three licensing objectives;
  - be made by a responsible authority or interested party within the

- prescribed period;
- not been withdrawn; and
- they are not, in the opinion of the relevant licensing authority, frivolous or vexatious.

Where relevant representations on an application are received and the application has been made in accordance with the requirements of the Act, any non-compliance with other statutory requirements may be taken into account in reaching a decision about whether to grant a licence.

## 7.2 MEDIATION

7.2.1 Where a relevant representation concerning the licensing objectives is made by a responsible authorities or interested party, the licensing section will decide whether the representation is relevant.

7.2.2 Where the licensing authority find the representation to be relevant it may recommend a **mediation meeting** to address and clarify the issues of concern.

7.2.3 This process will not override the right of an applicant or interested party to decline to participate in a mediation meeting.

7.2.4 If this informal process is unsuccessful a hearing before the licensing committee or sub-committee will follow. All relevant parties will be notified.

7.2.5 The determination of the application will be made by the licensing committee or sub-committee and the details of that decision will be circulated to the parties concerned.

## 7.3 CONDITIONS

- 7.3.1 The Act and regulations provide for specific conditions to be attached to a Premises Licence as either “**mandatory**” or “**default**” conditions.
- 7.3.2 Section 169 of the Act gives licensing authorities the power to impose default conditions on premises licences that they issue.
- 7.3.3 When considering any conditions to be attached to licences, the licensing authority will consider the local circumstances and risks associated with specific premises or class of premises, which might give rise to the need for conditions.

- 7.3.4 The licensing authority will not impose any conditions unless its discretion has been engaged following the making of a relevant representation and it has been satisfied at a hearing of the necessity to impose conditions due to the representations raised. It will then only impose such conditions which are appropriate and proportionate to promote the licensing objectives arising out of the consideration of the representations.
- 7.3.5 Conditions on premises licences will relate only to gambling, as considered appropriate in light of the following principles:
- Must be proportionate to the circumstance which they are seeking to address;
  - Should be relevant to the need to make the proposed building suitable as a gambling facility;
  - Should be directly related to the premises (including the locality and any identified local risks) and the type of licence applied for;
  - Should be fairly and reasonably related to the scale and type of premises;
  - Should be reasonable in all other respects.

## 7.4 REVIEWS

- 7.4.1 At any time following the grant of a premises licence a **responsible authority** or any **interested party** may ask the licensing authority to review the premises licence because of a matter arising at the premises in connection with any of the three licensing objectives.
- 7.4.2 The review process represents a key protection for the community where problems associated with the licensing objectives occur at a premises.
- 7.4.3 In every case, an application for a review must relate to a particular premises and **must be relevant to the promotion of one or more of the licensing objectives.**

7.4.4 Grounds for a review may be that activities, including the following, are taking place at the premises:

- Use of licensed premises for the sale and distribution of Class A drugs and the laundering of the proceeds of drugs crimes;
- Use of licensed premises for the sale and distribution of illegal firearms;
- Use of licensed premises for prostitution or the sale of unlawful pornography;
- Use of licensed premises as a base for organised criminal activity;
- Use of licensed premises for the organisation of racist, homophobic or sexual abuse or attacks;
- Use of licensed premises for the sale of smuggled tobacco or goods;
- The use of licensed premises for the sale of stolen goods.
- Children and/or vulnerable persons are put at risk.

7.4.5 The licensing authority will reject an application for a review if the applicant fails to provide supporting information and documents that one or more of the licensing objectives are not being met or if the reason for the review does not relate to the licensing objectives.

7.4.6 The licensing authority will also reject an application for a review if

- the grounds are frivolous;
- the grounds are vexatious;
- the grounds are irrelevant;
- the grounds will not cause the Council to revoke or suspend a licence or to remove or attach conditions on the Premises Licence;
- the grounds are substantially the same as the grounds cited in a previous application relating to the same premises; or
- the grounds are substantially the same as representations made at the time the application for a Premises Licence was considered.

7.4.7 The licensing authority considers it good practice for all responsible authorities that have concerns about problems identified at premises to give licence holders early warning of their concern and the need for improvement, and where possible they should advise the licence holder of the steps they need to take to address those concerns.

## INITIATION OF REVIEW BY LICENSING AUTHORITY

7.4.8 A Premises Licence may also be reviewed by the licensing authority on its own volition.

7.4.9 Prior to discharging its power to initiate a review, the licensing authority will attempt to have constructive discussions with the operators about any concerns and may ask the operator to provide the licensing authority with its own **risk assessment** which sets out the controls it has put in place to mitigate risks.

## 8. LOCAL STANDARDS

### 8.1 PREMISES LICENCES

8.1.1 Premises Licences can authorise the provision of gambling facilities on

- Casinos;
- Bingo Premises;
- Betting Premises, including Tracks;
- Adult Gaming Centres (AGC); and
- Family Entertainment Centres.

By distinguishing between premises types, the Act makes it clear that gambling activity of the premises should be linked to the premises described. **The Act does not permit premises to be licensed for more than one of the above activities.**

8.1.1 An application for a Premises Licence can only be made by persons (which includes companies or partnerships):

- Who are aged 18 or over, **and**
- Who have the right to occupy the premises and
- Who have an Operating Licence authorising him to carry out the proposed activity **OR** who have applied for an Operating Licence to allow them to carry out the proposed activity.

**The premises licence cannot be determined until an operating licence has been issued.**

8.1.2 The exception to this is an applicant for a premises licence to allow a track to be used for betting, as these applicants are not required to hold an operating licence if they merely provide space for other people to provide betting (and those other people hold valid betting operating licences).

8.1.3 The licensing authority strongly encourages applicants to discuss proposed applications with a licensing officer and responsible authorities at an early stage and prior to the submission of the application itself. This should identify potential problems and help to build good partnership working. It may also reduce the need for a hearing at a later stage.

8.1.4 Applicants are encouraged to make themselves aware of any relevant planning and transport policies, tourism and cultural strategies and local crime and disorder strategies, and to take these into account, where appropriate, in the formulation of their operating schedules.

8.1.5 The licensing authority will expect all applicants to specify the methods by which

they will promote the three licensing objectives in their operating schedules, having regard to the type of premises, the licensable activity proposed, the operational procedures, the nature of the location and the needs of the local community.

8.1.6 The authority considers that a well-drawn, specific operating schedule indicates that an applicant understands and is prepared to meet the responsibilities of a licence holder under the Act.

8.1.7 The authority considers that a blank or sparsely completed operating schedule may give the impression that the applicant has given inadequate thought to the responsibilities of a licence holder.

8.1.9 Unmet demand is not a criterion that will be taken into consideration when determining an application for a premises licence under the Gambling Act 2005.

## CASINOS

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8.1.10 There is no resolution to prohibit casinos in Flintshire at present. However, the licensing authority reserves its right to review this situation and may, at some time in the future, resolve not to permit casinos. Currently there are no casinos operating within Flintshire.

8.1.11 Should the licensing authority choose to make such a resolution, this will be a resolution of Full Council following considered debate and the reasons for making the resolution will be provided. There will be no right of appeal against such a resolution.

## BINGO PREMISES

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8.1.12 Bingo is not given a statutory definition in the Act although two types of bingo are commonly understood:

- Cash bingo, where the stakes paid make up the cash prizes that are won
- Prize bingo, where various forms of prizes are won, not directly related to the stakes paid.

8.1.13 The licensing authority will attach mandatory and default conditions to all Bingo Premises licences.

## BETTING PREMISES

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8.1.14 The licensing authority is responsible for issuing and monitoring premises licences for all betting premises.

8.1.15 The licensing authority will attach mandatory and default conditions to all Betting Premises licences.

## TRACKS

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8.1.16 The Act does not give a list of premises that are officially recognised as ‘tracks’ but there are a number of venues where sporting events do or could take place, and accordingly could accommodate the provision of betting facilities. Examples of tracks include

- A horse racecourse
- A greyhound track
- A point-to-point horserace meeting
- Football, cricket and rugby grounds
- A golf course
- Venues hosting darts, bowls or snooker tournaments.

8.1.17 The licensing authority will determine what constitutes a sporting event or race on a case by case basis.

### ADULT GAMING CENTRES (AGC)

8.1.18 Applicants for an Adult Gaming Centre Premises Licence must hold a ‘Gaming Machines General Operating Licence (Adult Gaming Centre)’ from the Gambling Commission before the premises licence can be determined.

8.1.19 The licensing authority will attach mandatory conditions to all AGC Premises licences.

### FAMILY ENTERTAINMENT CENTRES (FEC)

8.1.20 Applicants for a Family Entertainment Centre Premises Licence must hold a ‘Gaming Machines General Operating Licence (Family Entertainment Centre)’ from the Gambling Commission before the premises licence can be determined.

8.1.21 Licensed Family Entertainment Centres (FECs) are commonly located at seaside resorts, in airports and at motorway service stations, and cater for families, including unaccompanied children and young persons. They are permitted to make available category C and D gaming machines.

8.1.22 Children and young persons are not permitted to use category C machines and it is a requirement that there must be clear segregation between the types of machines so that persons under 18 years of age do not have access to them.

8.1.23 The licensing authority will take into account the policies and procedure proposed by the applicant to protect children and young persons when considering applications for FEC Premises licences.

8.1.24 The licensing authority will attach mandatory conditions to all FEC Premises licences.

## 8.2 NOTICES

### TEMPORARY USE NOTICES (TUN)

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- 8.2.1 Temporary use notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a temporary use notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.
- 8.2.2 The licensing authority can only grant a temporary use notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.
- 8.2.3 There are a number of statutory limits as regards temporary use notices.

- 8.2.4 In considering whether a place falls within the definition of "a set of premises", the licensing authority will look at, amongst other things, the ownership/occupation and control of the premises.
- 8.2.5 This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the gambling commission's guidance to licensing authorities.

### OCCASIONAL USE NOTICES (OUN)

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- 8.2.6 The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

## 8.3 PERMITS

- 8.3.1 Permits are designed as a light-touch approach to low level ancillary gambling. The permits regulate gambling and the use of gaming machines in specific premises.
- 8.3.2 The licensing authority are responsible for issuing
- Family Entertainment Centre Gaming Machine Permits;
  - Club Gaming Permits and Club Gaming Machine Permits;
  - Alcohol-licensed premises Gaming Machine Permits;
  - Prize Gaming Permits.
- 8.3.3 The licensing authority will grant or reject an application for a permit. **No conditions may be attached to a permit.**
- 8.3.4 In addition, the licensing authority are responsible for receiving notification from holder of alcohol licences under the Licensing Act 2003 that they intend to exercise their automatic entitlement to 2 gaming machines in their premises.
- 8.3.5 See **Appendix D** for further information regarding the categories of gaming machines allowed by permit and information regarding stakes and prize limits.

8.3.6 When determining applications for permits the licensing authority will consider any convictions held by the applicant that would make them unsuitable to operate the premises plus the suitability of the premises in relation to their location and issues about disorder.

### FAMILY ENTERTAINMENT CENTRE GAMING MACHINE PERMIT

- 8.3.7 Unlicensed Family Entertainment Centres are able to offer only category D machines on a gaming machine permit. Any number of category D machines can be made available.
- 8.3.8 An application for a permit can only be made by a person who occupies or plans to occupy the premises to be used as an unlicensed Family Entertainment Centre and, if the applicant is an individual, is aged over 18 years.
- 8.3.9 The permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed Family Entertainment Centre, and if the chief officer of police has been consulted on the application.

8.3.10 There is no prescribed application form for this permit however the licensing authority have created a **local application form** for this purpose. A plan for the unlicensed Family Entertainment Centre must be submitted with each application.

## CLUB GAMING PERMITS AND CLUB GAMING MACHINE PERMITS

- 8.3.11 The licensing authority may grant members clubs and miners' welfare institutes (but not commercial clubs) club gaming permits which authorise the provision of gaming machines, equal chance gaming and games of chance as prescribed in regulations.
- 8.3.12 If a members' club or minter's welfare institute does not wish to have the full range of facilities permitted by a club gaming permit, they may apply for a club gaming machine permit using the prescribed form.
- 8.3.13 Holders of club gaming permits and club gaming machine permits are required to comply with the code of practice issued by the Gambling Commission on the location and operation of machines.

## ALCOHOL-LICENSED PREMISES GAMING MACHINE PERMITS

- 8.3.14 The licensing authority may issue holders of alcohol licences under the Licensing Act 2003 a gaming machine permit which permits any number of Category C or D machines in licensed premises.
- 8.3.15 The application must be made by the person that holds the alcohol premises licence issued under the Licensing Act 2003.
- 8.3.16 The licensing authority may vary the number and category of gaming machines authorised by the permit if it considers it necessary to promote the licensing objectives.
- 8.3.17 Holders of licensed premises gaming machine permits are required to comply with the code of practice issued by the Gambling Commission on the location and operation of machines.

- 8.3.18 There is no prescribed form for this permit however the licensing authority have created a local application form for this purpose.

## PRIZE GAMING PERMITS

- 8.3.19 The licensing authority may issue prize gaming permits to authorise the provision of facilities for gaming with prizes on specific premises.
- 8.3.20 The application must be made by the person who occupies or plans to occupy the premises and if the applicant is an individual, must be aged 18 or over.
- 8.3.21 Applicants are asked to set out the types of gaming that they are intending to offer in their application.

- 8.3.22 There is no prescribed form for this permit however the licensing authority have created a local application form for this purpose.

## 8.4 REGISTRATIONS

- 8.4.1 The Act denotes 'local authorities' as being responsible for registering societies to run Small Society Lotteries, as opposed to licensing authorities. In the interest of consistency, Flintshire County Council being the local authority defined under Section 25 of the Act will be referred to as the licensing authority in this document.
- 8.4.2 Applications for small society lottery registrations must be in the form prescribed and be accompanied by both the required registration fee and all necessary documents required by the licensing authority.
- 8.4.3 The licensing authority will require applicants to provide a copy of their terms and conditions and their constitution to establish that they are a non-commercial society.

## 8.5 LOCAL RISK ASSESSMENTS

- 8.5.1 The Gambling Commission's '**Licence Conditions and Codes of Practice**' (LCCP) formalise the need for operators to consider local risks.
- 8.5.2 The Social Responsibility code 10.1.1 requires all premises licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In undertaking a risk assessment, licensees must take into account the matters identified in this statement of policy.
- 8.5.3 A local risk assessment must be undertaken when applying for a new premises licence and must be updated
- When applying for a variation of a premises licence;
  - To take account any significant changes in local risks;
  - When there are significant changes at a licensee's premises that may affect their mitigation of local risks.

- 8.5.4 The licensing authority will expect every risk assessment to cover the following broad headings:
- Reference to any specific local risks
  - How the operator proposes to mitigate these risks
  - How the operator will monitor the risks
- 8.5.5 The **Local risks** identified by the licensing authority include, but are not restricted to:
- The proximity of the premises to sensitive establishments such as schools, vulnerable adult centres, or to residential areas with a high concentration of families with children.
  - The nature of the gambling activities and category of gaming machines made available at the premises.
  - Any age restrictions and segregation requirements at the premises necessary for the protection of children and young persons.
  - The prevalence of vulnerable persons in the locality of the premises.

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## **9. COMPLAINTS AGAINST LICENSED PREMISES**

- 9.0.1 The licensing authority will investigate complaints against licensed premises in relation to matters concerning the licensing objectives. In the first instance, complainants are encouraged to raise the complaint directly with the licensee or business concerned to seek a local resolution.
- 9.0.2 Where an interested party has made a complaint about licensed premises, or a valid application for a licence to be reviewed, the Council may initially recommend a conciliation meeting to address and clarify the issues of concern.
- 9.0.3 This process will not override the right of any interested party or for any licence holder to decline to participate in a conciliation meeting.
- 9.0.4 Due consideration will be given to all complaints unless they are considered to be frivolous, vexatious or repetitious.

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## 10. FURTHER INFORMATION

### 10.1 GAMING MACHINES

- 10.1.1 The licensing authority notes that the term “Gaming Machine” covers all machines on which people can gamble and the term has only been preserved in the Act because it is one that is readily understood.
- 10.1.2 The definition of “gaming machines” is wider in the Gambling Act 2005 than those in previous gaming legislation and covers all types of gambling activities which can take place on a machine, including betting on virtual events.
- 10.1.3 It should be noted however that there still remains a distinction between skill machines and gaming machines plus important exemptions remain for certain equipment that is not considered a gaming machine, even when gambling can be performed on it, for example a home personal computer.
- 10.1.4 In order for a premises to site gaming machines an authorisation is normally required. Typically this is
- An operating licence from the Commission **and** a gambling premises licence from the licensing authority;
  - An alcohol premises licence, or
  - A gaming machine permit.
- 10.1.5 Where the licensing authority is concerned regarding the manufacture, supply, installation, maintenance or repair of gaming machines, or the manner in which they are operating will contact the Commission for guidance.
- 10.1.6 Regulations define four categories of gaming machine: categories A, B, C and D with category B divided into five further sub-categories. The maximum number of machines permitted varies according to the premises type.
- 10.1.7 There is no minimum age for players of Category D gaming machines however players of category A, B and C gaming machines must be aged 18 years or above.
- 10.1.8 See **Appendix D** for further information regarding machine categories and entitlements.

## 10.2 LICENSING REGISTER

- 10.2.1 Under the Act, every licensing authority is required to keep a **licensing register** containing
- a record of each premises licence, club premises certificate and personal licence issued by it,
  - a record of each temporary event notice received by it,
  - a record of every other applications made to it, notices given to it and any counter notice given by it, and
  - such other information as may be prescribed by regulations.
- 10.2.2 The information contained in the licensing register is available to view online at **[www.flintshire.gov.uk](http://www.flintshire.gov.uk)**.

10.2.3 Any person wishing to view the licensing register in person should contact the licensing authority by email **[Licensing@Flintshire.gov.uk](mailto:Licensing@Flintshire.gov.uk)** or via telephone 01352 703030 to arrange an appointment.

10.2.4 To ensure that the information contained in the register is presented in an appropriate format, any person wishing to view the register in person will be requested to clarify which part of the register they wish to have available during the appointment.

## 10.3 DATABASE OF PREMISES RECORDS

- 10.3.1 A database of premises licences is available on the Commission's website and consists of information submitted by licensing authorities. The Commission's website address is **[www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)**.

## APPENDIX A: LOCAL AREA MAP OF FLINTSHIRE



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## APPENDIX B: GLOSSARY OF TERMS

**Adult Gaming Centre:** licensed gambling premises which can provide gaming machines. Only adults (persons 18 years old or over) can enter an Adult Gaming Centre.

**Betting premises:** licensed gambling premises which can provide betting facilities and gaming machines. Only adults (persons 18 years old or over) can enter Betting Premises unless the premises are on a track.

**Bingo:** there are two types of bingo

**High Turnover Bingo** - Bingo where the aggregate of stakes and prizes in any 7 day period exceeds £2000. High turnover bingo can only take place in casinos and bingo halls.

**Low Turnover Bingo** - (sometimes described as non-high turnover bingo) Bingo where the aggregate of stakes and prizes in any 7 day period is less than £2000. Low turnover bingo can take place in pubs and clubs, and in premises that hold a Prize Gaming Permit or Unlicensed Family Entertainment Centre Gaming Machine Permit.

**Bingo Premises:** licensed gambling premises which can provide high turnover bingo and gaming machines.

**Casino:** there are 3 types of casino that can exist in England and Wales: large, small, or “tiny” (casinos that existed under the old law and have retained their licences under the new law). The differences are based on overall size and the number of machines and gaming tables that can be provided. Casinos can provide casino games (games which are not equal chance gaming and may involve playing against a bank) and bingo as well as gaming machines.

**Child:** For the purposes of the Gambling Act 2005, anyone under the age of 16 years.

**Club:** the 2005 Act recognises 2 types of club: **members clubs** (at least 25 members and established for purposes other than gaming unless it is a bridge or whist club, including Miners Welfare Institutes); and **commercial clubs**. Equal chance gaming can take place without any further permit provided the limits on stakes and prizes are not exceeded. In addition low turnover bingo can take place and if it is a bridge or whist club then bridge or whist can be played.

**Club Gaming Permit:** a permit to enable the premises to provide gaming machines (three machines of Categories B3A, B4, C or D), equal chance gaming and games of chance (limited to pontoon and chemin de fer).

**Club Machine Permit:** a permit to enable the premises to provide gaming machines (three machines of Categories B3A, B4, C or D).

**Conditions:** there are two types of conditions

1. **Default Conditions** – are prescribed in regulations and will be attached to all classes of premises licence, unless excluded by the licensing authority.
2. **Mandatory Conditions** – are conditions set by the Secretary of State (some are set out in the Act and some will be prescribed by regulations) which will be automatically attached to a specific type of premises licence. The licensing authority will have no discretion to alter or remove these conditions.

**Crane grab machine:** a non-money prize machine in respect of which every prize which can be won consists of an individual physical object (such as a stuffed toy) won by a person's success in manipulating a machine to separate one or more physical objects from another.

**Equal Chance Gaming:** games that do not involve playing or staking against a bank and where the chances are equally favourable to all participants.

**Exempting gambling:** certain specified low-level gambling can take place in private premises, workplaces, pubs and clubs without any requirements for licensing or registration.

**Exempt Lotteries:** certain types of lottery can be run without either a licence from the Gambling Commission or registration with the local authority. They are Incidental Non Commercial Lotteries, Private Lotteries and Customer Lotteries.

**Family Entertainment Centre:** there are 2 types of Family Entertainment Centres: licensed and unlicensed. In both cases children and young persons can enter the premises unaccompanied by adults and use category D machines. Licensed Family Entertainment Centre can provide category C and D machines, but only persons aged 18 or over can use the category C machines. An Unlicensed Family Entertainment Centre can only provide category D machines.

**Fixed Odds Betting:** if a gambler is able to establish what the return on a bet will be when it is placed, (and the activity is not 'gaming'), then it is likely to be betting at fixed odds.

**Fixed Odds Betting Terminals (FOBTs):** FOBTs are a type of gaming machines which generally appear in licensed betting shops. FOBTs have 'touch-screen' displays and look similar to quiz machines familiar in pubs and clubs. They normally offer a number of games, roulette being the most popular.

**Gaming:** playing a game of chance for a prize. This includes games of pure chance (or luck), games that have an element of skill and chance combined, and games where "superlative skill" can eliminate the element of chance. Sports are excluded from the definition of Games of Chance.

**Gaming Machine:** a machine used for gambling. There are divided into 8 categories, (A, B1, B2, B3A, B3, B4, C & D) depending on the maximum stakes and maximum prizes. Different categories of machines can be used in different types of licensed gambling premises and under different permits.

**Guidance to Licensing Authorities:** guidance issued by the Gambling Commission.

**Incidental non-commercial lottery:** see Exempt Lotteries above.

**Large Lottery:** where the total value of tickets in any one lottery exceeds £20,000 or £250,000 in separate lotteries over one calendar year. This type of lottery requires an operating Licence from the Gambling Commission.

**Licensed premises Gaming Machine Permit:** allows pubs to have more than 2 gaming machines, provided the main purpose of the premises is to remain a pub, rather than an Entertainment Centre with a bar.

**Licensing authority:** the district, borough or unitary authority responsible for licensing gambling and other activities in the area.

**Licensing Objectives:** there are three objectives

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime;
- Ensuring that gambling is conducted in a fair and open way; and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

**Lottery:** the 2005 Act recognises 2 types of lottery, a simple lottery or a complex lottery. In both cases players pay to take part and prizes are allocated. In the case of a simple lottery, that allocation is wholly by chance, but in the case of a complex lottery there can be further steps which are not dependent upon chance. Some lotteries are exempt from regulation (see above).

**Occasional Use Notice:** a notice that may only be issued in respect of a track (see below) that permits betting on a track without the need for a Premises Licence.

**Prize Gaming:** gaming in which the nature and size of the prize is not determined by the number of players or stakes, e.g. bingo with non-cash prizes.

**Prize Gaming Permit:** a permit issued by the Licensing Authority allowing prize gaming to take place.

**Pub:** premises that have a premises licence under the Licensing Act 2003 to sell alcohol for consumption on the premises in a bar at which alcohol is served to customers. Pubs can have 2 category C or D gaming machines. If a pub has a Licensed Premises Gaming Machine Permit (see above) it can have more gaming machines.

**Risk Assessments:** the requirement under the Social Responsibility code 10.1.1 for operators to assess the local risks to the licensing objectives posed by the provision of gambling facilities at their premises and have policies, procedures and control measures to mitigate those risks.

**Relevant representations:** are representations made by responsible authorities or interested parties within the prescribed period, which relate to the promotion of at least one of the three

licensing objectives, have not been withdrawn; and, in the opinion of the licensing authority, are not frivolous or vexatious.

**Responsible authority:** public bodies that must be notified of applications and are entitled to make representations to the licensing authority. They include

- the licensing authority in whose area the premises is wholly or partly situated,
- the Gambling Commission,
- the chief officer of police or chief constable for the area in which the premises is wholly or partly situated,
- the fire and rescue authority for the same area,
- the local planning authority for the area in which the premises is wholly or partly situated,
- the relevant authority which has functions in relation to pollution to the environment or harm to human health for the area in which the premises is wholly or partly situated,
- a body, designated by the licensing authority, as competent to advise about the protection of children from harm,
- HM Revenue and Customs
- Any other person prescribed in regulations by the Secretary of State.

**Review:** following the grant of a premises licence a responsible authority or interested party may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the three licensing objectives.

**Skills with Prizes machine:** a machine on which the winning of a prize is determined only by the player's skill and there is no element of chance. These are unregulated.

**Small Society Lottery:** these are for non-commercial societies (a society established and conducted for charitable purposes; for the purpose of enabling participation in, or of supporting, sport athletics or a cultural activity; or for any other non-commercial purpose other than that of private gain) who must register their lotteries with the local authority.

**Temporary Use Notice:** a notice that allows limited types of gambling to take place for a limited period on premises that do not have a premises licence.

**Track:** a site where races or other sporting events take place e.g. horse racing, dog racing, athletics, football, motor racing etc.

**Travelling Fair:** a fair that 'wholly or principally' provides amusements and must be on a site used for fairs for no more than 27 days per calendar year. Fairs can provide prize gaming and category D gaming machines.

**Young Person:** for the purposes of the Gambling Act 2005, anyone who is not a child but is aged under 18.

## APPENDIX C: TABLE OF DELEGATION

| Matter to be Dealt With                                  | Full Council | Licensing Sub-Committee                                      | Officers  |
|--|--------------|--|---|
| Three year licensing policy                              | X            |  |   |
| Policy not to permit casinos                             | X            |  |   |
| Fee Setting – when appropriate                           |              |  | X   |
| Application for premises licences                        |              | Where representations have been received and not withdrawn   | Where no representations received / representations have been withdrawn |
| Application for a variation to a licence.                |              | Where representations have been received and not withdrawn   | Where no representations received / representations have been withdrawn |
| Application for transfer of a licence                    |              | Where representations have been received from the Commission | Where no representations received from the Commission                   |
| Application for a provision statement                    |              | Where representations have been received and not withdrawn   | Where no representations received / representations have been withdrawn |
| Review of a premises licence                             |              | X  |   |
| Application for club gaming / club machine permits       |              | Where representations have been received and not withdrawn   | Where no representations received / representations have been withdrawn |
| Cancellation of club gaming / club machine permits       |              | X  |   |
| Applications for other permits                           |              |  | X   |
| Cancellation of licensed premises gaming machine permits |              |  | X   |
| Consideration of temporary use notice                    |              |  | X   |

|  |  |   |   |
|--|--|---|---|
| Decision to give a counter notice to a temporary use notice                        |  | X |   |
| Determination as to whether a person is an Interested Party                        |  |   | X |
| Determination as to whether representations are relevant                           |  |   | X |
| Determination as to whether a representation is frivolous, vexatious or repetitive |  |   | X |



## APPENDIX D: GAMING MACHINE SUMMARY

### SUMMARY OF MACHINE PROVISION BY PREMISES

| Premises Type  | A | B1  | B2   | B3  | B4                                   | C  | D                               |
|--|---|---|--|---|--------------------------------------|--|---------------------------------|
| <b>Large casino</b><br>(machine/table ratio of 5-1 up to maximum)                          |   | Maximum of 150 machines<br>Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine/table ratio) |  |   |                                      |  |                                 |
| <b>Small casino</b><br>(machine/table ratio of 2-1 up to maximum)                          |   | Maximum of 80 machines<br>Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine/table ratio)   |  |   |                                      |  |                                 |
| <b>Pre-2005 Act casino</b> (no machine/table ratio)  |   | Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead  |  |   |                                      |  |                                 |
| <b>Betting premises and tracks occupied by Pool betting</b>                                |   |   | Maximum of 4 machines categories B2 to D (except B3A Machines) |   |                                      |  |                                 |
| <b>Bingo premises</b>  |   |   |  | Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4 | No limit on category C or D machines |  |                                 |
| <b>Adult gaming centre</b>   |   |   |  | Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4 | No limit on category C or D machines |  |                                 |
| <b>Licensed family entertainment centre</b>  |   |   |  |   |                                      | No limit on category C or D machines                           |                                 |
| <b>Family entertainment centre</b> (with permit)   |   |   |  |   |                                      |  | No limit on category D machines |
| <b>Clubs or miners' welfare institute</b> (with permits)                                   |   |   |  | Maximum of 3 machines in categories B3A or B4 to D  |                                      |  |                                 |
| <b>Qualifying alcohol-Licensed premises</b>  |   |   |  |   |                                      | 1 or 2 machines of category C or D automatic upon notification |                                 |
| <b>Qualifying alcohol-licensed premises</b> (with licensed premises gaming machine permit) |   |   |  |   |                                      | Number of category C-D machines as specified on permit         |                                 |
| <b>Travelling fair</b>   |   |   |  |   |                                      |  | No limit on category D machines |

## SUMMARY OF GAMING MACHINE CATEGORIES AND ENTITLEMENTS

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