



GAMBLING ACT 2005
STATEMENT OF PRINCIPLES
JANUARY 2019 – JANUARY 2022

DRAFT FOR CONSULTATION

TABLE OF CONTENTS

1	INTRODUCTION	5
1.1	Declaration	6
1.2	Geographical Area	6
1.3	Scope – Licensing Functions	6
1.4	The Licensing Objectives	7
1.5	Responsible Authorities	10
1.6	Interested Parties	10
1.7	Consultation on the Board's Policy 2019-2022	10
2	PLANNING PERMISSION AND BUILDING REGULATION	11
2.1	Relationship between planning, building regulations and granting a licence	11
3	LOCAL RISK ASSESSMENTS	11
3.1	The Local Risk Assessment and Risk Management Measures	11
3.2	Local Area Profile	12
4	PREMISES LICENCES	12
4.1	General Principles	13
4.2	Definition of Premises	14
4.3	Provisional Statements (Provisional Licences)	14
4.4	Sub-Division of Premises and Multi Premises Licences	14
4.5	Attaching Conditions to a Licence	15
4.6	Scheme of Delegation	15
4.7	Licence Reviews	16
4.8	Enforcement	16
4.9	Register of Licences and Exchange of Information	17
4.10	Complaints Against Licensed Premises	17
5	LICENSABLE PREMISES	17
5.1	Casino Premises	17
5.2	Bingo Premises	17
5.3	Betting Premises	18
5.4	Tracks	18
5.5	Adult Gaming Centres	18
5.6	Licensed Family Entertainment Centres	19
6	PERMITS, TEMPORARY USE NOTICES and OCCASIONAL USE NOTICES	19
6.1	General	19
6.2	Alcohol Licensed Premises – Automatic Entitlement, Two Gaming Machines	20
6.3	Alcohol Licensed Premises – Gaming Machine Permit, Three or more Gaming Machines	20
6.4	Unlicensed Family Entertainment Centre, Gaming Machine Permits	20
6.5	Club Gaming and Club Machines Permits	21
6.6	Prize Gaming Permit	
7	OCCASIONAL USE NOTICES	21
8	TEMPORARY USE NOTICES	21
9	REGISTRATION OF SMALL SOCIETY LOTTERIES	22
10	TRAVELLING FAIRS	22
11	EQUALITY AND DIVERSITY	22

TABLE OF APPENDICES

Appendix 1	-	Responsible Authorities Contact Details	23
Appendix 2	-	Categories of Gaming Machines	24
Appendix 3	-	Scheme of Delegation	27

DRAFT FOR CONSULTATION

GAMBLING ACT 2005 STATEMENT OF PRINCIPLES EAST Lothian LICENSING BOARD

1 INTRODUCTION

The Gambling Act 2005 (the Act) is an Act of UK Parliament and is designed to control all forms of gambling. The Act transfers authority for the licensing of gambling activities to Scottish licensing boards, and also created the Gambling Commission (the Commission).

The Commission works in partnership with licensing authorities and licensing boards to regulate gambling. The Commission will tend to focus on operators and issues of national or regional significance, and licensing boards will take the lead on regulating gambling locally.

Section 349(1) of the Act requires East Lothian Licensing Board (The Board) to publish a Statement of Principles (the Policy) to be applied in exercising the authority's functions under the Act.

The Policy will come into effect on 31 January 2019 and will remain in place for a maximum period of three years to 30 January 2022. The Policy will be reviewed, updated and modified as and when the Board considers it appropriate, and at least every three years.

The function of the Policy is to reflect local specific gambling concerns. It also sets out the expectations of gambling operators who have premises in the Board's area and for people who are applying for a premises licence in the Board's area.

Nothing in this Policy will override the right of any person to make an application under the Act or to have the application considered on its individual merits, undermine the right of any person to make representations on an application, or to seek a review of a licence where they have a legal basis to do so.

The Policy is intended to be a general statement of the Board's gambling licensing principles. Applicants and other parties should always or codes of practice issued by the Gambling Commission.

The Gambling Commission is an independent non-departmental public body and is the main advisory body to national and local government on gambling. The Commission has responsibility for granting operating and personal licences for commercial gambling operators and personnel working in the industry.

East Lothian Licensing Board is responsible for issuing gambling licences and permits for premises.

There are four principles to inform the Board as to how it carries out its duties:

- Gambling Commission codes of practice
- Gambling Commission Guidance to licensing authorities/licensing boards
- The licensing objectives as set out in the Act (see section 1.4)
- The Board's own Statement of Principles (Policy)

1.1 Declaration

As at January 2019, East Lothian Licensing Board has six members; all Board members must be members of East Lothian Council.

The Board's Policy has been prepared having regard to the statutory licensing objectives as detailed in Section 1 of the Act; the provisions of the Act itself and subsequent regulations made under it; the Guidance to local authorities (the Guidance) issued by the Commission (5th edition, published in September 2015), and responses from consultees.

1.2 Geographical Area



East Lothian had an estimated population of 104,840¹ in 2017 in an area of 682 square kilometres². East Lothian shares borders with the City of Edinburgh, Midlothian and Scottish Borders.

Although East Lothian's largest town is Musselburgh, which lies on the border with the City of Edinburgh, the administrative centre of East Lothian Council is in Haddington.

1.3 Scope – Gambling Licensing Functions

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

- Premises licences
- Temporary Use Notices
- Occasional Use Notices
- Permits as required under the Act and
- Registrations as required under the Act

¹ The National Records of Scotland Statistics, 2014

² The Scottish Office, Scottish Environmental Statistics 1998

This Policy relates to all licensable premises, notices, permits and registrations that fall within the provisions of the Act. These are:

- Casinos
- Bingo premises
- Betting premises
- Adult gaming centres
- Tracks
- Licensed family entertainment centres
- Unlicensed family entertainment centres
- Club gaming permits
- Prize gaming and prize gaming permits
- Occasional use notices
- Temporary use notices
- Registration of small society lotteries
- Travelling fairs

The Board will not be involved in licensing remote gambling as defined in Section 4 (1) of the Act.

Remote gambling is the ability to gamble without having to physically be in a land-based casino. Remote gambling could be via an online casino, by telephone, or interactive television gambling.

Regulation of remote gambling is the responsibility of the Gambling Commission.

1.4 The Licensing Objectives

In exercising its functions under the Act, the Board must have regard to the licensing objectives set out in Section 1 of the Act. There are three licensing objectives.

These are:

1.4.1 OBJECTIVE ONE

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

When determining applications, the Board will consider whether the grant of a premises licence will constitute a potential source of crime or disorder or result in an increase in crime and disorder. It will also consider whether the grant of a licence may be used to support crime.

The Gambling commission distinguishes between disorder and nuisance in its Guidance, which states: "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 Board agrees with this distinction between disorder and nuisance.

In considering premises licence applications, the Board will take the following into account in relation to the first licensing objective.

- The design and layout of the premises;
- Training given to staff in crime prevention measures appropriate for the premises;

- Physical security features installed in the premises such as the position of cash registers; 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 occurring if the licence is granted.
-

1.4.2 **OBJECTIVE TWO**

Ensuring that gambling is conducted in a fair and open way

The Board notes that the Commission has stated in its guidance that it would not expect the Board to become concerned with ensuring that gambling is conducted in a fair and open way. These are matters for the managers of the business and for the Commission.

However, if the Board suspects that gambling is not being conducted in a fair and open way, the Board is committed to referring such suspicions to the Commission.

1.4.3 **OBJECTIVE THREE**

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

Children – Protecting Children

In its Guidance, the Commission states that this objective relates to preventing children from taking part in gambling. It also provides for restrictions on advertising so that gambling products are not aimed at children or advertised in a way that is particularly attractive to them.

Section 157 (h) of the Act, requires the Board to designate a body which is competent to advise the Board about the protection of children from harm. The Board has designated East Lothian and Midlothian Public Protection Committee.

The Board considers this body to be the most appropriate to fulfil this role as its principal function is to safeguard and promote the interests of children and young persons (under the age of 18) in East Lothian.

This high level, multi-agency group has the responsibility for the strategic planning and monitoring of services for the protection of children and young people. It also provides strategic direction to support service planning and the allocation of resources to the protection of children and young people across East Lothian.

The Board will consult with the East Lothian and Midlothian Public Protection Committee on any application that indicates there may be concerns over access for children or young persons.

The Board 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.

Children - Access to Licensed Premises

The intention of the Act is that children and young persons should not be permitted to gamble and should be prevented from entering gambling premises that are adult only environments.

When considering applications, the Board will give significant weight to all matters relating to the protection of children and young persons. An applicant for a premises licence must comply explicitly with the Act regarding the permitted access or exclusion of children and young persons. Children or young persons must not be permitted to have access to, close observation of, or an invitation to participate in any gambling activities. Where the Board determines that there may be a risk of harm to children in relation to particular premises, it may exclude or limit the access of children to the premises at specific times or when certain activities are taking place.

In promoting this licensing objective, the Board may consider appropriate conditions to attach to each premises licence on an individual basis. Example conditions include:

- The configuration of the premises
- Supervision of entrances
- The display of clear signage both externally and internally indicating that entrance to the premises is restricted to those aged 18 years and over
- Clear segregation of gambling and non-gambling areas
- Supervision of access to gambling areas
- Supervision of gambling machines

Vulnerable Persons

The Act does not define “vulnerable persons”. However, based on the Guidance, this group will include people who

- gamble more than they want to
- gamble beyond their means
- 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 notifications will be expected to have an awareness that for some people gambling activities can present both potential and actual harm.

Applicants will also be required to comply with any Code of Practice and Guidance issued by the Commission regarding vulnerable persons.

The Board will consult East Lothian and Midlothian Public Protection Committee on any application that indicates that there may be concerns for vulnerable persons.

The Board shall consider, on a case by case basis, whether any special considerations should apply in relation to particular premises to ensure the protection of vulnerable persons.

1.5 Responsible Authorities

Responsible Authorities are public bodies that must be notified about applications. Responsible Authorities are entitled to make representations to the Board in relation to existing premises licences, and applications for premises licences.

Section 157 of the Act details the Responsible Authorities. In the Board's area, these are:

- The Gambling Commission
- The Chief Constable, Police Scotland
- The Chief Fire Officer, Scottish Fire and Rescue
- East Lothian and Midlothian Public Protection Committee
- East Lothian Council Elected Members
- The Planning Authority, East Lothian Council
- Environmental Health Authority, East Lothian Council
- HM Revenue and Customs

Full contact details are available at Appendix 1.

The public health body is not a Responsible Authority; however, the Board will include NHS Lothian in all notifications about licence applications and on all Policy consultations.

This is also the situation for Midlothian and East Lothian Drugs & Alcohol Partnership (MELDAP), which will also be included in all notifications and consultations.

1.6 Interested Parties

Interested Parties may make representations in writing about licence applications, or apply for a review of an existing licence. In terms of Section 158 of the Act, an interested party is a person who:

- lives sufficiently close to the premises to be likely to be affected by the activities covered by the application/existing licence
- has business interests that might be affected by these activities
- represents persons who satisfy bullet points 1 and 2 above

In determining whether a person is an interested party in relation to particular premises, the Board shall consider each case on its own merits. The Board notes the examples in the Guidance with regards to who may constitute an interested party.

1.7 Consultation on the Board's Policy 2019 - 2022

In terms of section 349(3) of the Act, the Board has consulted the Responsible Authorities listed at 1.5, together with the following parties, before finalising this Policy:

- NHS Scotland
- MELDAP
- The General Manager, Musselburgh Racecourse
- Ladbrokes, William Hill, Coral Racing, Scotbet, and BetFred,
- East Lothian Licensing Forum
- Gamblers Anonymous
- East Lothian Area Partnerships
- Local MP
- Local MSP
- All Community Councils in East Lothian

- All Parent Councils in East Lothian
- All Schools in East Lothian
- Head of Communities and Partnerships, East Lothian Council
- Head of Children and Adult Services, East Lothian Council
- Head of Education, East Lothian Council
- Licensing Standards Officer, East Lothian Council
- The general public, via publication on East Lothian Council's Consultation hub/website

2 PLANNING PERMISSION AND BUILDING REGULATIONS

2.1 Relationship between planning, building regulations and granting a licence

The Board recognises that the likelihood, or not, of planning permission being granted or building regulation approval being given, are not criteria that the Board may take into account when determining an application (Section 210 of the Act).

Fire or health and safety risks do not form part of the consideration when determining a premises licence as these issues fall under other statutory regimes.

However, the Board can consider the impact of planning and/or building control restrictions (if any) on a licence holder's ability to comply with any conditions that the Board may attach to the licence.

3 LOCAL RISK ASSESSMENTS

3.1 The Local Risk Assessment and Risk Management Measures

The Board is entitled to request such information from operators as it requires to make effective licensing decisions. Although the Act requires that an application must be accompanied by a minimum level of information, the Board agrees with the Gambling Commission's view that this does not preclude reasonable requests from the Board for additional. That information may include, for example, details of the operator's business plan.

The Board welcomes the implementation, from 6 April 2016, of the Social Responsibility Code provision 10.1.1 (which must be followed and has the force of a licence condition). The Code requires applicants and licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises. Applicants and licensees must also have policies, procedures and control measures in place to mitigate against those risks.

A local risk assessment must be fully documented and included as part of a premises licence application. Once a licence has been granted, the completed local risk assessment must be retained on the premises.

As a minimum, the Board expects the local risk assessment to address the following, and include details of the measures that will be put in place to manage any identified risks.

- The location of services for children such as schools, playgrounds, leisure/community centres and other areas where children will gather, in relation to the premises
- The location of residential areas with a high proportion of young families
- The location of hospitals, doctors' surgeries and gambling or addiction support or treatment centres and other areas where vulnerable groups may be present or congregate
- The level of crime and/or disorder in the area where the premises are located
- Age verification policies
- Preventing children and young persons entering premises unnoticed or unchallenged

- Line of sight from the counter to gambling machines
- Security of premises and cash
- Security of staff
- Gaming trends that may reflect benefit payments
- Administration of the self-exclusion process, maintaining its effectiveness, and preventing breaches
- Arrangements for localised exchange of information regarding self-exclusions and gaming trends
- Identifying and reporting attempts to launder money on the premises
- Protecting vulnerable people and those with gambling dependencies
- Dealing with complaints about the outcome of gambling
- Providing information on responsible gambling to players

The Local Risk Assessment must include a description of the risk being assessed, the level of risk (low/medium/high), the impact of the risk, the control system that has been put in place for each risk, risk management procedures, and the review date for each risk being assessed. The Local Risk Assessment must be signed and dated by the licence holder.

Existing licensees must also update their Local Risk Assessment:

- When there is an application for a variation to a premises licence; the updated local risk assessment must be included with the application paperwork
- To take account of significant changes in local circumstances, including any listed in the Board's Policy statement
- When there are significant changes at a licensee's premises that may affect their mitigation of local risks

It is the Board's intention to create and publish a local risk assessment template before the expiry of this Policy in January 2022.

3.2 Local Area Profile

A Local Area Profile for East Lothian would include deprivation statistics, data about crime hot spots, locations of local education facilities, gambling premises and addiction centres, and anti-social behaviour figures.

The Board does not currently have a Local Area Profile as referenced in the Gambling Commission's Guidance to Local Authorities. However, the Board is committed to ensuring that children and vulnerable persons are not harmed by gambling. The Board will therefore expect applicants to research and understand the local environment in which they wish to operate and to demonstrate, via a local risk assessment as outlined at 3.1, that they have effective and robust measures in place to promote this licensing objective and mitigate any risks related to it. The Board will take appropriate action where this does not appear to be the case.

It is the Board's intention to develop a detailed Local Area Profile before the expiry of the 2019-2022 Policy.

4 PREMISES LICENCES

Applications for gambling premises licences will be processed by the Licensing Office at East Lothian Council.

This Policy records that some decisions do not need to be made by the Board. These are detailed at section 4.2 and in the Board's Scheme of Delegation at Appendix 3.

Unless the application is being dealt with under delegated powers, the Licensing Officers will prepare the applications for presenting to the next meeting of East Lothian Licensing Board, where members will determine/decide the outcome of each application on a case by case basis.

The Licensing Office can be contacted at:

licensing@eastlothian.gov.uk, or

The Licensing Office
East Lothian Council
John Muir House
Haddington
East Lothian, EH41 3HA

4.1 General Principles

Premises licences will always be subject to the restrictions set out in the Act and the Regulations. Statutory mandatory conditions also apply to licences (section 4.5 refers).

Premises licence holders shall comply with relevant Codes of Practice issued by the Commission together with any relevant Guidance. The following may also be of assistance: 'The Commission's 'Licence Conditions and Codes of Practice' ('LCCP') October 2018. This document is available at: www.gamblingcommission.gov.uk

In determining applications, the Board has a duty to take into consideration all relevant matters and to disregard any matters that are not related to gambling licensing objectives.

In line with Guidance, the Board will not be concerned with demand for the services or moral objections when exercising its functions under the Act. A decision by the Board shall not be based on a dislike of gambling by any Board member, nor of a general notion that it is undesirable to allow gambling premises in an area.

Every application received will be dealt with fairly, will be seen to be dealt with fairly and will be considered on its own merits.

In determining whether the location of proposed gambling premises is acceptable to the Board in terms of the licensing objectives, the Board will consider the proximity of those proposed premises to schools and educational facilities, centres for gambling addicts or other vulnerable people, centres for children and young persons, and residential areas with a high concentration of families with children.

The Board will aim to allow the use of premises for gambling in so far as the Board thinks it is in accordance with any relevant Code issued by the Commission under Sections 24 and 25 of the Act; is reasonably consistent with the licensing objectives; and is in accordance with the Board's Policy.

The Board shall avoid, so far as possible, duplication with other regulatory and legislative regimes.

This Policy make several references to gaming machine categories. Full details of the categories are provided in Appendix 2.

4.2 Definition of Premises

In the Act, 'premises' is defined as including 'any place'. Section 152 of the Act prevents more than one premises licence applying to any place. However, the Board notes that the Guidance indicates that the proper application of Section 152 means that different premises licences cannot apply in respect of single premises at different times. For example, premises cannot be licensed as a bingo club on week days and a betting shop at weekends.

4.3 Provisional Statements (Provisional Premises Gambling Licences)

Section 204 of the Act, states that a person may make an application for a provisional statement for premises that they expect to be constructed, to be altered or acquire a right to occupy.

The Board notes the Guidance which states that: "Developers may wish to apply for provisional statements before they enter into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence."

Applicants for a premises licence must fulfil certain criteria; however, these requirements do not apply to applications for provisional statements. An applicant for a provisional statement does not require to hold an operating licence and they do not need to have acquired a right to occupy the premises that the application relates to.

If a provisional statement is granted by the Board, the Board is aware that it is constrained in the matters it may consider when an application for a full premises licence is subsequently made for the same premises. If any representations are made in respect of a full licence application, the Board will disregard these unless it thinks that the representations

- address matters that could not have been addressed at the time of the application for the provisional statement, or
- reflect a change in the applicant's circumstances.

The Board may refuse a subsequent (full) premises licence application (or grant it with conditions not included in the provisional statement), only if there are matters:

- which could not have been addressed in representations at the provisional statement stage
- which, in the Board's opinion, reflect a change in the operator's circumstances
- where the premises have not been constructed in accordance with the plan and information submitted with the provisional statement application.

4.4 Sub-Division of Premises and Multi Premises Licences

The Board notes that the Guidance indicates that there is no reason in principle why a single building cannot be subject to more than one premises licence, provided that those licences are for different parts of the building that can reasonably be regarded as being different premises.

Licence holders will be required to comply with mandatory conditions relating to access between sub-divided premises.

The Board recognises the Guidance that in most cases a licence application will be for a single building/plot. A single building or plot can be the subject of more than one premises licences – for example, the ground floor and the basement. The Board agrees with the Commission that areas of a building that are artificially or temporarily separated (by ropes, moveable partitions or similar) cannot properly be regarded as different premises.

In determining whether a single building may be regarded as different premises, the test is whether the premises merit having their own licences and are not an artificially created part of what is readily identifiable as a single premises. The Board may consider factors such as location, is there separate registration for business rates in place for the premises, can each of the premises be accessed from the street or a public passageway, and whether neighbouring premises are owned by the same person or owned by someone else.

In considering applications for multiple premises licences for a single building and those relating to a discrete part of a building used for other non-gambling purposes, the Board shall consider factors such as: preventing children and young persons from being in close proximity to gambling; the configuration of premises so that children and young persons are not invited to participate in, have access to or closely observe gambling in premises where they are prohibited from participating; ensuring that entrances and exits from parts of a building covered by one or more premises licences are separate and identifiable so that the separation of different premises is not compromised and people do not 'drift' into a gambling area.

4.5 Attaching Conditions to a Licence

The Board will judge the merits of each individual application before reaching a decision, including whether to attach conditions. Conditions might be attached to protect children or vulnerable persons; examples would include supervision of entrances, and segregation of gambling areas from areas with family based activities. Conditions are classed as mandatory, default, or local. The Board may exclude default conditions and attach additional local conditions where appropriate.

Any conditions applied to a licence must be:

- Proportionate
- Relevant to the need to make the proposed building suitable as a gambling facility
- Fairly and reasonably related to the scale and type of premises
- Reasonable in all other respects

More specifically, the Board may consider it appropriate to attach a condition to a premises licence requiring door supervision during opening hours or between specified opening hours. The Board may also specify the level of door supervision required.

4.5.1 Door Supervision

Door supervision shall have the meaning as set out in Section 178 of the Act. The Board notes that the Guidance states that:

- door staff employed by the operator at casino or bingo premises do not require to be licensed by the Security Industry Authority
- if a door supervisor is required by the Private Security Industry Act 2001 (section 178) to hold a licence under that Act, then that requirement shall be treated as if it were a condition of the premises licence

4.6 Scheme of Delegation

In terms of Section 155 of the Act, the Board may delegate some of its functions to a Committee of the Board, or members of the Board, the Clerk to the Board, or any person appointed to assist the Clerk. However, the Board cannot delegate all of its functions. The scheme of delegation for East Lothian Licensing Board is attached at Appendix 3. The Board reserves the right to determine all applications and relevant matters under the Act.

4.7 Licence Reviews

Requests for a review of a premises licence can be made by interested parties or Responsible Authorities; however, it is for the Board to decide whether the review is to be carried out. This will be based on whether the request is reasonably consistent with the licensing objectives; relates to a relevant Code of Practice or Guidance issued by the Commission; is in accordance with the Board's Policy; is not frivolous or vexatious; will not cause the Board to seek to alter/revoke/suspend the licence; and/or if the request is substantially the same as previous representations or requests for a review.

The Board can initiate a review of a premises licence on the basis of any reason that it considers to be appropriate.

Once an application for a review has been deemed competent, there are statutory timescales for seeking representations from Responsible Authorities and interested parties; and for conducting the review.

The purpose of the review is to determine if the Board should take any action in relation to the licence. Actions available to the Board are to:

- Add, remove or amend a licence condition imposed by the Board
- Exclude a default condition attached to the licence under Section 269 of the Act
- Suspend the premises licence for a period not exceeding three months
- Revoke the premises licence

4.8 Enforcement

The Board has powers under Part 15 of the Act to inspect premises, to monitor compliance with the provisions of the Act, and to investigate suspected offences. The Board shall be guided by the Guidance, and the Board's approach to compliance and enforcement will be:

- Proportionate – regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised
- Accountable – regulators must be able to justify decisions and be subject to public scrutiny
- Consistent – rules and standards must be implemented fairly
- Transparent – regulators should be open, and keep regulations simple and user friendly
- Targeted – regulation should be focused on the problem, and minimise side effects.

The Board's main enforcement and compliance role in terms of the Act is to ensure compliance with premises licences and associated conditions and other issues relating to the premises themselves.

The Board has noted the terms of the Commission's advice note entitled The Role of Authorised Persons in Scotland, which relates to the regulatory and enforcement functions of local authorities. As stated in the advice note, East Lothian Council's Licensing Standards Officer (LSO) is not, simply by virtue of the role, an authorised person for the purposes of Section 304 of the Act. That means that the LSO in Scotland has no powers to enter premises to carry out inspections and compliance visits.

The enforcement body for personal and operating licences in East Lothian is the Gambling Commission.

4.9 Register of Licences and Exchange of Information

The Board will maintain a register of all premises licences and permits issued. This register is available for public inspection at all reasonable times.

If required by the Commission under Section 29 of the Act, the Board will exchange any information it receives through the application process with the Commission and other regulatory bodies, in accordance with its obligations and functions under the Act. The information to be exchanged must form part of the Board's register and must be in the Board's possession prior to disclosure. This obligation is subject to data protection and freedom of information legislation.

4.10 Complaints against Licensed Premises

The Board may investigate complaints against licensed premises relating to the licensing objectives

Any complaints received about a particular premises or a class of premises could have an impact on the general risk rating of those premises. Complaints received by the Board in relation to particular premises or a class of premises may also initiate the Board's right to review the premises licence under Section 200 of the Act.

5 LICENSABLE PREMISES

5.1 Casino Premises

There are currently no casinos operating in the Board's licensing area. However, the Board has not passed a 'no casino' resolution under section 166 of the Act. The Board reserves its right to review this at any time in the future and shall update this Policy with any changes.

5.2 Bingo Premises

There is no statutory definition of 'bingo' in terms of the Act other than "any version of the game irrespective of by what means it is described". A bingo premises licence holder may generally be able to offer any type of bingo game, whether it be cash bingo or prize bingo.

The Board notes that it will need to satisfy itself that bingo can be played in any bingo premises for which it issues a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its licence and then applies for a new premises licence, or multiple licences, for that or those excluded areas.

The Board is aware of the Guidance at paragraph 18.8 is where an existing bingo premises covered by one premises can apply to vary the licence to split the premises into more than one separate licensed premises. In these circumstances, the Commission's position is that it is not permissible for all of the gaming machines to be grouped together in only one of the licensed premises.

Children and young persons are allowed into bingo premises but they are not permitted to participate in the bingo activity. If category B and/or C machines (Appendix 2) are made available for use these must be separated from areas where children and young people are allowed access.

In accordance with the licensing objective 'protecting children and other vulnerable persons from being harmed or exploited by gambling', the Board may require an applicant to prove that sufficient measures are in place to prevent children, young persons and vulnerable persons from having access to Category B and C machines (Appendix 2).

5.3 Betting Premises

The Act contains a single class of licence for betting premises. However, within this single class of licence there are different types of premises which require licensing.

No children and young persons will be allowed entry to premises with a betting premises licence at any time.

5.4 Tracks

Tracks are premises which include horse racecourses, dog tracks or other tracks where sporting events may take place. The Act does not define what may constitute a sporting event or race and the Board notes the Guidance that the Board may determine what constitutes a sporting event or race, on a case by case basis.

Musselburgh Racecourse (horse racing) is the only track within the Board's licensing area.

A track premises licence allows facilities for betting on the premises. If the licence holder wishes to provide a casino, bingo or other type of gambling on the track, a separate premises licence will be required. Tracks may therefore be subject to more than one premises licence.

If the operator wishes to use the premises temporarily for gambling and the premises are not licensed, the Board may issue a Temporary Use Notice (Section 8).

Where there is betting on a track on eight days or less in a calendar year, an Occasional Use Notice (Section 7) may be issued by the Board to permit betting on the premises.

An applicant for a premises licence does not need to hold an operating licence issued by the Gambling Commission as the betting that is provided on the track is provided by third party operators. However, third party operators require to hold an operating licence issued by the Commission.

Children and young persons are allowed to be present on a track whilst betting is taking place. The Board will therefore carefully consider any potential impact an accumulation of premises licences may have on the licensing objective of protecting children from being harmed or exploited by gambling.

The Board agrees with the Guidance that it is sometimes difficult to define the precise location of betting areas on tracks. The applicant therefore needs to submit a detailed plan defining the site, any area to be used for temporary "on course" betting facilities and, in the case of dog tracks and horse racecourses, any mobile pool betting facilities as well as any other proposed gambling facilities.

The Board requires each applicant to demonstrate that they have measures in place to achieve all three licensing objectives.

5.5 Adult Gaming Centres

An Adult Gaming Centre premises licence authorises the licence holder to make available for use a number of category B (see Appendix 2) gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises and any number of category C or D machines.

Premises in existence before 13 July 2011 are entitled to make available four category B 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 B 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 specify that the category B machines should be restricted to sub-category B3 and B4 machines.

No persons under the age of 18 years are allowed to enter an Adult Gaming Centre. The Board shall have particular regard to the location of, and entry to, an Adult Gaming Centre to ensure that opportunities for children to have access are minimised. The Board will therefore expect applicants to offer their own measures to protect children and other vulnerable persons from being harmed or exploited by gambling.

Examples of appropriate measures or licence conditions that may be attached to protect children and young persons are;

- proof of age scheme
- the provision of CCTV
- supervision of entrances
- physical security measures on the premises
- physical separation of areas
- self-exclusion schemes
- the display of notices and signage
- appropriately trained members of staff

5.6 Licensed Family Entertainment Centres

A Licensed Family Entertainment Centre is a premises where a licence is granted to provide any number of category C and D (Appendix 2) gaming machines. Persons under 18 years of age are allowed to enter the premises, but no persons under 18 years of age are permitted access to areas where category C gaming machines are situated. The Board requires that category C machines are situated in a separate area to ensure the segregation and supervision of machines that may only be played by those over 18 years of age.

6 PERMITS, TEMPORARY USE NOTICES and OCCASIONAL USE NOTICES

6.1 General

The Board shall expect all permit holders to adhere to both the conditions specified in the Code of Practice on Gaming Machine Permits (available from www.gamblingcommission.gov.uk) and to follow the best practice guidelines in that document.

The Board will specify the form and manner in which an application must be made, and will stipulate the information and supporting documents required. These may include:

- a plan showing the location and category of gaming machine being sought
- evidence of measures in place to prevent persons under the age of eighteen years from using any category of gaming machine 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.

6.2 Alcohol Licensed Premises - Automatic Entitlement Two Gaming Machines

On written notification to the Board, premises licensed to sell alcohol for consumption on the premises have an automatic entitlement to two gaming machines of category C or D (Appendix 2) under Section 282 of the Act.

The Board has no discretion to consider the notification or refuse it. However, if the Board gives the licensee at least 21 days' notice, the Board may remove this automatic entitlement if it thinks that:

- provision of the machines is not reasonably consistent with the licensing objectives
- gaming has taken place on the premises that breaches a condition of Section 282 of the Act
- the premises are mainly used for gaming
- an offence under the Gambling Act 2005 has been committed on the premises

6.3 Alcohol Licensed Premises – Gaming Machine Permit Three or more Gaming Machines

If a premises is looking to have more than three gaming machines, then it needs to apply for a Gaming Machine Permit and the Board must consider that application based upon the licensing objectives, the Guidance and “such matters as it thinks relevant”. Generally “such matters” will include the need to protect children and vulnerable people from harm and exploitation, access arrangements, signage, and the provision of information leaflets for organisations such as Gamblers Anonymous Scotland and other support organisations.

The Board can decide to grant the application with a smaller number of machines and/or a different category of machines that those applied for. No other conditions can be attached to the licence.

6.4 Unlicensed Family Entertainment Centre Gaming Machine Permits

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 the premises will be wholly or mainly used for gaming machines.

Unlicensed Family Entertainment Centres are able to offer only category D (Appendix 2) machines under the gaming machine permit. Any number of category D machines can be made available with such a permit, subject to other considerations such as fire regulations and health and safety. Permits cannot be issued in respect of vessels or vehicles.

The Board may grant or refuse a permit but cannot attach conditions. Applicants will be expected to demonstrate that they have policies and procedures in place to protect children from harm

6.5 Club Gaming and Club Machines Permits

Members' Clubs (but not Commercial Clubs as defined in the Act) may apply for a Club Gaming Permit. This will enable the premises to provide no more than three gaming machines of categories B, C or D (appendix 2), equal chance gaming and other games of chance as prescribed in the Regulations.

If a Members' Club does not wish to have the full range of facilities permitted by a Club Gaming Permit, or if they are a commercial club, they may apply to the Board for a Club Machine Permit. A Club Machine Permit allows the holder to have up to three gaming machines of categories B3A, B4, C and D (Appendix 2). Section 273 of the Act states that a Club Machine Permit is subject to the condition that no child or young person may use a category B or C gaming machine on the premises.

The Board may grant or refuse a permit, but it cannot attach any conditions.

The Board expects all permit holders to adhere to the conditions specified in the Commission's Code of Practice on Gaming Machine Permits and to follow these best practice guidelines.

6.6 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 authorising a person to provide facilities for gaming with prizes on specified premises. Permit holders must comply with conditions set out in Section 293 of the Act but the Board cannot attach local conditions to the permit.

7 OCCASIONAL USE NOTICES

Where there is betting on a track on eight days or less in a calendar year betting may be permitted by an Occasional Use Notice without the need for a full premises licence. The calendar year will commence on 1 January.

In determining an application for an Occasional Use Notice the Board will consider the definition of a 'track' and whether the applicant qualifies for an Occasional Use Notice.

A Notice must be given in writing to the Board and be copied to the Chief Constable, Police Scotland. The Notice must be given only 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 relate to consecutive days providing the overall statutory limit of eight days is not exceeded in a calendar year. The Board will maintain records to ensure this statutory limit is not exceeded.

8 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 may be suitable for a Temporary Use Notice include hotels, conference centres and sporting venues.

A Temporary Use Notice may only be granted to a person or company that holds a gambling operating licence.

A set of premises may not use a Temporary Use Notice for more than 21 days in a period of 12 months, although it could use several Notices during a 12 month period provided that the total does not exceed 21 days. In determining what may constitute a set of premises for the purposes of a Temporary Use Notice, the Board notes the Commission's Guidance that this is a question of fact regarding the particular circumstances of each Notice that is given. In considering if a place falls within the definition of a set of premises, the Board will look at, amongst other things, the ownership/occupation and control of the premises.

An application for a Temporary Use Notice must be submitted to the Board not less than three months in advance of the date it is required. A copy of the Notice must be served on the Gambling Commission, the Chief Constable (Police Scotland), and HM Revenue and Customs.

Each application for the grant of a Temporary Use Notice will be considered and determined on a case by case basis.

9 REGISTRATION OF SMALL SOCIETY LOTTERIES

Small Society Lotteries are non-commercial societies that run a lottery where the income is below certain specified thresholds and that are established and conducted for charitable purposes. These societies could also be established to enable participation in/provide support for sport, athletics or a cultural activity; or for any other non-commercial purpose other than private gain.

Small Society Lotteries whose principal office is located within the East Lothian area require to register with the Board.

All applications for registration must be made in the form specified by Scottish Ministers, and accompanied by all necessary documents specified by Scottish Ministers or required by the Board. When considering an application for registration the Board may request further information from an applicant.

The financial limits that apply to these societies are that the proceeds from one individual lottery cannot exceed £20,000, and in a calendar year the total proceeds cannot exceed £250,000. If these limits are likely to be exceeded, then the Society must apply to the Gambling Commission for a Lottery Operating Licence, at which point its registration with the Board would cease. Societies cannot hold both a Board registration and Gambling Commission licence at the same time.

10 TRAVELLING FAIRS

Travelling Fairs wholly or principally provide amusements and must be on a site that has been used for fairs for no more than 27 days per calendar year.

The Board will consider if the application falls within the statutory definition of a travelling fair and that the facilities for gambling amount to no more than an ancillary amusement.

The Board will monitor and keep a record of 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.

11 EQUALITY AND DIVERSITY

East Lothian Licensing Board is committed to promoting equal opportunities, valuing diversity and tackling social exclusion. The Board aims to provide opportunities that meet the diverse needs of all residents of East Lothian by ensuring that services are accessible to all. Every person making an application to, or appearing before the Board, will be treated fairly and with respect.

East Lothian Licensing Board has completed an Integrated Impact Assessment in respect of this Gambling Policy. This will be published on the Council's website before the end of the consultation period.

The Board expects all applicants, operators, permit holders and licence holders within East Lothian to be fully aware of its equality agenda and to ensure that applications support the Board's commitment to equality and diversity.

Appendix One – Responsible Authorities Contact Details

- The Gambling Commission, Victoria Square House, Victoria Square, Birmingham, B2 4BP
- The Chief Constable, Police Scotland, Fettes Avenue, Edinburgh, EH4 1AQ
- The Chief Fire Officer, Scottish Fire and Rescue Service, Lauriston Place, Edinburgh, EH3 9DE
- East Lothian and Midlothian Public Protection Committee, East Lothian Council, F28-29 Brunton Hall, Ladywell Way, Musselburgh, EH21 6AP
- East Lothian Council as a council constituted under the Local Government etc (Scotland) Act 1994, John Muir House, Haddington, EH41 3HA
- East Lothian Council as Planning Authority, John Muir House, Haddington, EH41 3HA
- East Lothian Council as Environmental Health Authority, John Muir House, Haddington, EH41 3HA
- H.M. Revenue and Customs, National Registration Unit, Portcullis House, 21 India Street, Glasgow, G2 4PZ

Appendix Two – Categories of Gaming Machines

Machine category	Maximum stake (from January 2014)	Maximum prize
A	Unlimited	Unlimited
B1	£5	£10,000(with option of max £20,000 linked progressive jackpot on a premises basis only)
B2	£100	£500
B3	£2	£500
B3A	£2	£500
B4	£2	£400
C	£1	£100
D non-money prize (other than crane grab machine)	30p	£8
D non-money prize (crane grab machine)	£1	£50
D money prize	10p	£5
D combined money and non-money prize (other than coin pusher or penny falls machines)	10p	£8 (of which no more than £5 may be a money prize)
D combined money and non-money prize (coin pusher or penny falls machine)	20p	£20 (of which no more than £10 may be a money prize)

Number and Category of Gaming Machines Allowed

Premises Type	Permissions
Large Casino (table/machine ratio of 5-1 up to maximum)	Maximum of 150 machines. Any combination of machines in categories B to D , (except B3A machines) within the total limit of 150 (subject to table ratio)
Small Casino (table/machine ratio of 2-1 up to maximum)	Maximum of 80 machines. Any combination of machines in categories B to D , (except B3A machines) within the total limit of 80 (subject to table ratio)
Pre 2005 Act Casinos (no table/machine ratio)	Maximum of 20 machines, categories B to D or C or D (except B3A machines) machines instead
Betting premises and tracks occupied by Pool Betting	Maximum of 4 machines, categories B2 to D
Bingo Premises	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 C or D machines
Adult Gaming Centre	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 C or D machines
Family Entertainment Centre (with premise licence)	No limit on category C or D machines
Family Entertainment Centre (with permit)	No limit on category D machines
Clubs or Miners' Institutes with permits	Maximum of 3 machines in categories B3A or B4 to D *
Qualifying Alcohol Licensed Premises	1 or 2 machines of category C or D automatic upon notification
Qualifying Alcohol Licensed Premises with Gaming Machine Permits	Number of category C-D machines are specified on permit.
Travelling Fair	No limit on category D Machines

*It should be noted that members' clubs and miners' welfare institutes are entitled to site a total of three machines in Categories B3A to D but only one B3A machine can be sited as part of this entitlement. Commercial clubs are entitled to a total of three machines in Categories B4 to D

** Adult gaming centre and bingo premises are entitled to make available a number category B gaming machines not exceeding 20% of the total number of gaming machines which are available

for use on the premises . Premises in existence before 13 July 2011 are entitled to make available four (adult gaming centre) or eight (bingo premises) category B gaming machines or 20% of the total number of gaming machines, whichever is the greater. Adult gaming centre premises and bingo premises licences granted on or after 13 July 2011 but before 1 April 2014 are entitled to a maximum of four or eight category B 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.

DRAFT FOR CONSULTATION

Appendix three East Lothian Licensing Board, Scheme of Delegation

1.0 INTRODUCTION

1.1 This scheme of delegation sets out the powers under the Gambling Act 2005 delegated by East Lothian Licensing Board to the Clerk and Depute Clerk.

1.2 In any particular case where powers are delegated to an officer under this scheme of delegation, if it appears to them that it is appropriate for the power to be exercised by the Board itself then they shall be entitled to refer the case to the Board for the exercise of the power.

2.0 POWERS DELEGATED UNDER THE GAMBLING ACT 2005

2.1 The following powers are delegated to and exercisable by the Clerk or Depute Clerk:-

- Determining an application premises licence application where no objection or representation has been received.
- Determining an application for the transfer of a premises licence where no objection or representation has been received.
- Determining an application for a variation of a Premises Licence where no objection or representation has been received.
- Determining an application for a Provisional Statement where no objection or representation has been received.
- Decision as to whether or not a request for a review can be rejected in terms of the regulations.
- Determining a Gaming Machine Permit in premises that hold an alcohol licence where no objection or representation has been received.
- Determining a Family Entertainment Centre Gaming Machine Permit where no objection or representation has been received