

# Gambling Act 2005

## Statement of Principles



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2023 - 2026



**Walsall Council**

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**Version Details:**

<b>Date</b>	<b>Version</b>	<b>Summary Changes</b>
05.04.2023	1.1	Guidance and Legislation – Inspections

**IMPORTANT NOTE**

Where this policy refers to information, legislation, policy, or guidance produced by other governing bodies or regulatory agencies, please note that the requirement detailed within this this policy will be subject to any amendments thereof.

# **Walsall Metropolitan Borough Council**

## **Statement of Licensing Policy**

### **1 Introduction**

- 1.1 Under Section 349 of the Gambling Act 2005 ('the Act'), licensing authorities are required to prepare a statement of principles that they propose to apply in relation to their regulatory responsibilities pertaining to gambling. Walsall Council ('the Council') is the Licensing Authority for the Walsall Metropolitan Borough licensing area and is fulfilling its legal duty to prepare a statement of principles through this Gambling Policy Statement ('the Policy').
- 1.2 The Council is required to publish the Policy at least every three years. It will also review the Policy from time to time and revise it when appropriate to do so. Any amendments to the Policy must be the subject of further consultation and the Policy, or relevant parts of the Policy, must then be re-published. In exercising its functions under the Gambling Act 2005 (the Act), Walsall Council in its role as licensing authority will regulate gambling in the public interest and by having regard to the licensing objectives, as set out in Section 1 of the Act.
- 1.3 Walsall MBC is located in the West Midlands; an area comprising seven Metropolitan Councils in total. Walsall Council covers 40.2 square miles of which 24.83 square miles are predominantly urban development. With an estimated population of 293,378 (2018) it is the fourth largest area in the County, in terms of population.
- 1.4 The towns of Willenhall and Darlaston, to the west of the M6, contrast with the eastern parts of the borough, which are more residential and, in parts, agricultural in character. Traditional and growth industries are spread throughout the borough. Walsall benefits from its position at the cross-roads of the motorway network and communications have been improved further by the M6 Toll Road and the new Junction 10 improvement plan.
- 1.5 Birmingham airport and the Genting Arena Complex are within easy reach and frequent trains to Birmingham provide links to the national network. Regeneration projects focussing on Walsall town centre, local centres, the wider borough, and key transport corridors continue to transform the borough's new economic well-being.
- 1.6 Through its statement of licensing principles, Walsall Council strives to sustain core values of Honesty and Integrity, Fairness and Equality, Value for Money, Innovation and Collaboration and Listening and Responding.

Below is a map showing all the wards within the borough.



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- 1.7 Gambling is a legitimate regulated activity that is enjoyed by a large number of the population. However, there are a number of people within our society who are at risk to gambling related harm. The council, as the Licensing Authority under the Act has a duty to consider applications relating to allowing gambling facilities within the town to ensure that they meet the fundamental principles of the Act. In doing so the authority must balance the needs of business to profit and grow with the potential impact on those who are vulnerable to being exploited or susceptible to gambling related harm.

## **2 Licensing Objectives**

- 2.1 In exercising its functions under the Gambling Act 2005 (the Act), Walsall Council in its role as licensing authority will regulate gambling in the public interest and by having regard to the licensing objectives as set out in Section 1 of the Act. The licensing objectives are:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
  - Ensuring that gambling is conducted in a fair and open way.
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 2.2 In making decisions about whether to issue premises licences and temporary use notices Walsall Council will have regard to s153 of the Act and aim to permit the use of premises for gambling in so far as it thinks fit:
- in accordance with any relevant code of practice issued by the Gambling Commission
  - and in accordance with any relevant guidance issued by the Gambling Commission
  - and where the decision is reasonably consistent with the licensing objectives
  - and in accordance with the authority's statement of licensing policy.
- 2.3 The Gambling Act 2005 specifically references factors which Walsall Council as Licensing Authority must not consider in exercising its functions including:
- The expected demand for facilities (s.153(2))
  - Whether the application is to be permitted in accordance with the law relating to planning or building (s.210(1)) 1.10.
- 2.4 The aim to permit principle provides wide scope for the authority to impose conditions on a premises licence, reject, review or revoke premises

licences where there is a potential conflict with the relevant codes of practice, relevant Commissions Guidance and this Statement of Licensing Principles.

### **3 Consultation**

2.5 Section In line with the requirements of the Act the following persons, groups or organisations will be consulted with before the Statement of Policy is finalised and published:

- The Chief Officer of Police.
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area.
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.

3.0 The consultation took place between 10 February 2023 – 21 March 2023.

3.1 The policy was approved at a meeting of the Council on 17 April 2023 and was published via our website on 19 May 2023. This Policy is effective from 17 April 2023.

#### **3.2 Comments on Statement of Principles**

The Statement of Principles will be reviewed on a regular basis. Individuals and organisations that wish to comment on the policy are invited to send their comments in writing to:

Licensing Service  
Walsall M.B.C  
Civic Centre  
Darwall Street  
Walsall  
WS1 1TP

e-mail: [licensing@walsall.gov.uk](mailto:licensing@walsall.gov.uk)

website: [Walsall Council](http://Walsall Council)

3.3 It should be noted that this statement of licensing policy does not:

- override the right of any person to make an application and to have that application considered on its merits in accordance with the statutory requirements of the Act, or
- restrict the right of persons to make representations on an application or seek a review of a licence where provision has been made for them to do so.

#### **4 Declaration**

- 4.1 In producing the final statement, this licensing authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the Guidance to Licensing Authorities issued by the Gambling Commission, and any responses from those consulted on the statement.

#### **5 Responsible Authorities and Interested Parties**

##### **Responsible Authorities**

- 5.1 The Act allows for two different types of groups to make representations regarding applications and also to apply to have existing licences reviewed by the Authority. These groups are “Responsible Authorities” and “Interested Parties”.
- 5.2 The Act defines Responsible Authorities as:
- 5.3 S.157 of the Act identifies the bodies that are to be treated as responsible authorities. They are:
- a. The council’s Licensing Department (as the licensing authority)
  - b. the Gambling Commission
  - c. the chief officer of police or chief constable for the area in which the premises is wholly or partially situated
  - d. the fire and rescue authority for the same area
  - e. the council’s local planning authority
  - f. The council’s Environmental Health department (an authority which has functions in relation to pollution to the environment or harm to human health)
  - g. anybody, designated in writing by the licensing authority, as competent to advise about the protection of children from harm
  - h. HM Revenue & Customs
  - i. any other person prescribed in regulations by the Secretary of State.
- 5.4 In relation to a vessel:
- a. a navigation authority having functions in relation to the waters where the vessel is usually moored or berthed or any water where it is or is proposed to be navigated at a time when it is used for licensable activities.
  - b. the Environment Agency.
  - c. the Canal and River Trust.
  - d. the Secretary of State, or
  - e. any other person prescribed in regulations by the Secretary of State.



5.5 The contact details of Responsible Authorities under the Gambling Act 2005 are attached at Appendix 2 and are also available via the Council's website [www.walsall.gov.uk](http://www.walsall.gov.uk).

### **Interested Parties**

5.6 Interested parties may submit representations about licence applications or apply for a review of an existing licence.

5.7 Walsall Council will consider a person an interested party in relation to an application for or in respect of a premises licence where 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 or
- represents persons who satisfy paragraph (a) or (b)

5.8 Walsall Council will apply the following principles when determining whether a person lives sufficiently close to a premises to be considered an interested party:

- The size of the premises.
- The nature of the premises.
- The distance of the premises from the habitual residence or workplace of the person making the representation.
- The potential impact of the premises (numbers of customers, routes likely to be taken by those visiting the premises).
- The circumstances of the person and nature of their interests, which may be relevant to the distance from the premises.

5.9 A rigid rule will not be applied to decision making and each case will be decided upon its merits.

5.10 Where representations are made by a rival business, where no specific or reasonable evidence base exists, rival businesses will not be considered interested parties.

5.11 Democratically elected persons will generally be considered Interested Parties, providing the Councillor or MP represents the ward likely to be affected. Elected members who are also members of the Licensing and

Safety Committee must seek advice prior to agreeing to represent any person(s).

- 5.12 In determining whether a person or organisation "has business interests" the authority will adopt the widest possible interpretation and include residents' and tenants' associations, trade associations, trades unions, partnerships, charities, faith groups and medical practices, as appropriate.
- 5.13 Representatives of Community Groups for example those supporting vulnerable persons living near the proposed premises, Residents and Tenants Associations, Governors of schools, partnerships, charities, faith groups and medical practices located near proposed premises will generally be considered Interested Parties.
- 5.14 Other than democratically elected persons each case will be decided upon its merits. Where necessary written evidence for example in the form of a letter from the Interested Person(s) will be requested to assist in making a decision. The letter or written evidence should show that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities

## **6 Responsible authority for protection of children from harm**

- 6.1 In accordance with the powers under s157(h) of the Act and having regard to the Gambling Commission's Guidance to Licensing Authorities, the Walsall Safeguarding Partnership is designated as the competent body to advise Walsall Council about the protection of children from harm.
- 6.2 In making this determination consideration has been given to the following principles:
  - i. the need for the body to be responsible for covering the whole of the licensing authority's area; and
  - ii. the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.
- 6.3 The Safeguarding Partnership has the overarching responsibility to meet the requirements of section 14(1) of the Children Act 2004, including:
- 6.4 the co-ordination of what is done by each person or body represented on the Board for the purpose of safeguarding and promoting the welfare of children in the area of authority.
- 6.5 to ensure the effectiveness of what is done by each person or body for that purpose.

- 6.6 Should during the lifetime of this policy the Safeguarding Partnership change or be superseded in any way a new competent authority will be designated based upon the same principles described above.

## **7 Exchange of Information**

- 7.0 The principles that Walsall Council will apply in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act are as follows:
- 7.1 Regard will always be given to the Guidance to licensing authorities document issued by the Gambling Commission as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005
- 7.2 Information will be provided to the Commission in a manner determined by it as long as it forms part of a register maintained under the Act and that the information is in the possession of the authority in connection with the provisions of the Act.
- 7.3 Information will be exchanged with some or all of the following:
- a. A constable or police force
  - b. an enforcement officer
  - c. a licensing authority
  - d. HMRC
  - e. the First Tier Tribunal
  - f. the Secretary of State
  - g. Scottish Ministers.
- 7.4 In the course of their duties, relating to Gambling or wider socio-economic impacts, information will be exchanged in compliance with the General Data Protection Regulation, the Data Protection Act 2018, the Freedom of Information Act 2000 and any other act or Regulation that forms a relevant part of the UK data protection regime.
- 7.5 In respect of the processing, storage and use of information, Walsall Council is committed to complying with the General Data Protection Regulations (GDPR), underpinned by the council's Information Governance Policy Framework consists of an overarching strategy supported by three separate Policies. These are:
- The Information Rights Policy

- The Records Management Policy
- The Information Risk and Security Policy
- For further information in relation to these matters contact can be made with [informationmanagement@walsall.gov.uk](mailto:informationmanagement@walsall.gov.uk)

7.6 All Information received or retained by the Licensing Team is held within a secure access-controlled building. The electronic databases exist within a password protected server and any paper records are kept in locked cabinets.

7.7 Should any protocols be established as regards information exchange with other bodies then they will be made available.

## **8 Inspection and criminal proceedings**

8.0 Walsall Council will adopt the principles of good regulation and will have regard to its Enforcement Policy, current Gambling Commission Statement of Principles for Licensing and the Gambling Commission Licensing, Compliance and Enforcement Policy Statement where appropriate.

8.1 Walsall Council will exercise its regulatory activities in a way which is:

### **Proportionate**

The Regulators' Code promotes proportionate regulatory activity, which includes taking appropriate action where non-compliance is identified. The Public Interest Stage contained in the Code for Crown Prosecutors and can be accessed at Code Crown Prosecution will always be considered when determining whether it is right to prosecute. Our activities will reflect the impact of the offending on those living in, working in and visiting the area and enforcement action taken will relate to the seriousness of the offence.

### **Accountable**

Council activities will be conducted and recorded in a way that ensures they are open to public scrutiny, with clear and accessible policies, and fair and efficient complaints procedures,

### **Consistent**

Our advice to those we regulate will be robust and reliable and we will respect advice provided by others. Where circumstances are similar, we will endeavour to act in a consistent manner.

## **Transparent**

We will ensure that those we regulate are able to understand what is expected of them and what they can anticipate in return, and

## **Targeted**

We will focus our resources on higher risk enterprises and activities, reflecting local need and national priorities and intelligence.

- 8.2 Walsall Council will endeavour to avoid duplication with other regulatory regimes so far as possible, and ensure its primary focus is directed toward promoting and achieving compliance with the premises licences and other permissions it authorises.
- 8.3 Inspections of licensed premises will be carried out using intelligence and a risk-based approach.
- 8.4 Where a premises is considered to pose a high-risk inspections will be carried out no less than annually with appropriate revisits to ensure compliance.
- 8.5 Where complaints or other intelligence are received in relation to a premises these will be assessed and an appropriate response which may include inspection will be made. Should it be considered necessary to undertake test purchases or age verification exercises Walsall Council will follow the guidance set out in the Gambling Commission Test Purchasing and Age Verification toolkit or any guidance which supersedes it.
- 8.6 Walsall council will always be prepared to work in partnerships with the Gambling Commission on local test purchasing and age verification or other enforcement exercises and use any evidence gathered in decisions relating to review of a licence and implementation of its Enforcement Policy.
- 8.7 Where consultations are required as part of an application an inspection will normally be carried out.
- 8.8 This regime does not include issues relating to operating and personal licences and concerns about manufacture, supply or repair of gaming machines which are the responsibility of the Gambling Commission.
- 8.9 This authority supports the principals of better regulation to promote efficient and effective approaches to regulatory inspection and enforcement that improve regulatory outcomes without imposing unnecessary burdens on business.

- 8.10 Bearing in mind the principle of transparency, this licensing authority's enforcement policy and any protocols which may be in place are available upon request to the Licensing service.

## **9 Licensing authority functions**

- 9.1 Walsall Council is required under the Act to:
- a. Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences
  - b. Issue Provisional Statements
  - c. Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
  - d. Issue Club Machine Permits to Commercial Clubs
  - e. Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
  - f. Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
  - g. Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
  - h. Register small society lotteries below prescribed thresholds
  - i. Issue Prize Gaming Permits
  - j. Receive and Endorse Temporary Use Notices
  - k. Receive Occasional Use Notices
  - l. Set and collecting fees
- 9.2 Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
- 9.3 Maintain registers of the permits and licences that are issued.

## **10 Local risk assessments**

- 10.1 The Gambling Commission's Licence Conditions and Codes of Practice (LCCP) formalise the need for operators to consider local risks. The risk assessment requirement is intended to provide a well evidenced and transparent approach to considering and implementing measures to address the risks associated with gambling.
- 10.2 The Social responsibility (SR) code requires 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 their risk assessments, they must consider relevant matters identified in the licensing authority's policy statement.

- 10.3 Licensees are required to undertake a local risk assessment when applying for a new premises licence. This risk assessment must also be updated:
- i. when applying for a variation of a premises licence.
  - ii. to take account of significant changes in local circumstances, including those identified in a licensing authority's policy statement.
  - iii. when there are significant changes at a licensee's premises that may affect their mitigation of local risks.
- 10.4 Walsall Council expects licence holders and applicants to share their risk assessment when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise upon request.
- 10.5 Walsall Council will wherever possible facilitate operators being able to better understand the local environment and therefore proactively mitigate risks to the licensing objectives. Licensees will be given the opportunity to volunteer specific conditions that could be attached to the premises licence where appropriate.
- 10.6 The risk-based approach provides a better understanding of, and enables a proportionate response, to risk. This approach includes looking at future risks and thinking about risks in a probabilistic way. Risk is not necessarily related to an event that has happened. Risk is related to the probability of an event happening and the likely impact of that event. In this case it is the risk of the impact on the licensing objectives.
- 10.7 Walsall will work with responsible authorities and in collaboration with the industry at putting together a premises-based gambling risk assessment for new and existing businesses to conduct, assess and complete when looking at applying for a new licence, or to vary an existing one.
- 10.8 Gambling operators are required to undertake a risk assessment for all of their licensed premises. Operators must also undertake a review of those assessments when concerns are raised by the council or responsible authorities.
- 10.9 This local risk assessment process is not the same as other forms of risk assessment undertaken by gambling operators, such as Health and Safety at Work, Fire Safety and Food Hygiene, etc. These local risk assessments are specific to the potential harm that gambling premises can have on one

or more of the licensing objectives under the Act. They are specific to the premises, the local area and the local community.

## **11 Local Area Profile**

- 11.1 Walsall Council has completed its own assessment of the local environment as a means of 'mapping out' local areas of concern. This will be updated and reviewed regularly and no later than each review of this Gambling Policy.
- 11.2 The local area profile takes account of a wide range of factors, data and information held by Walsall Council and its partners. This includes public health, mental health, housing, education, community welfare groups and safety partnerships, and organisations such as Gamcare or equivalent local organisations.
- 11.3 It is envisaged that the profile will increase awareness of local risks and improved information sharing, to facilitate constructive engagement with licensees and a more coordinated response to local risks. The local area profile will help to inform specific risks that operators will need to address in their risk assessment.
- 11.4 For example, if an area is identified as high risk on the basis that it is located within close proximity to a youth centre, rehabilitation centre, or school, Walsall Council could reasonably expect, the licensee to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.
- 11.5 Walsall Council would also expect a licensee to have sufficient controls in place to mitigate associated risks in such areas and, if not, the council may itself consider other controls and impose them through conditions.
- 11.6 Walsall council will produce its local area profile in a separate document to this general gambling policy statement and review the contents regularly.
- 11.7 As stated, there is no mandatory requirement to have a local area profile, but Walsall Council considers that there are a number of benefits in doing so:
- it enables licensing authorities to better serve their local community, by better reflecting the community and the risks within it.
  - greater clarity for operators as to the relevant factors in licensing authority decision making, will lead to improved premises licence



applications, with the operator already incorporating controls and measures to mitigate risk in their application.

- it enables licensing authorities to make robust but fair decisions, based on a clear, published set of factors and risks, which are therefore less susceptible to challenge.
- it encourages a proactive approach to risk that is likely to result in reduced compliance and enforcement action.

## **12 Licensing Authority Delegations.**

12.1 A summary of the licensing authority delegations is given as Appendix 3.

12.2 A licensing sub-committee of three councillors will sit to hear applications where relevant representations have been received from responsible authorities and/or interested parties.

## **PART B**

### **PREMISES LICENCES: CONSIDERATION OF APPLICATIONS**

#### **13 General Principles**

13.0 Premises licences are subject to the requirements set out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

#### **14 Decision-making**

14.1 Walsall Council is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks the application is:

- a. in accordance with any relevant code of practice issued by the Gambling Commission,
- b. in accordance with any relevant guidance issued by the Gambling Commission,
- c. reasonably consistent with the licensing objectives, and
- d. in accordance with the authority's statement of licensing policy.

14.2 In its decision making, Walsall Council will comply with the Gambling Commission's Guidance that "moral objections to gambling are not a valid reason to reject applications for premises licences" and also that unmet demand is not a criterion for a licensing authority.

14.3 Applicants for premises licences will have to hold an operator's licence from the Commission (except occupiers of tracks who do not propose to offer gambling themselves). Generally, the licensing authority will not (unless evidence to the contrary comes to light) have to ascertain if the applicant is suitable to hold a premises licence. The licensing authority will have to be satisfied that the premises will not adversely affect the licensing objectives and is compliant with the Commission's Guidance, codes or practice and this statement of principles.

14.4 Walsall Council will expect the applicants to provide details as to their crime prevention measures and any risk assessments that they have carried out. The operator must meet the Commission's requirements to obtain and hold an operator's licence, whilst the Licensing Authority's concerns are focused on the premises and how the operation of the premises will affect the licensing objectives.

- 14.5 Walsall Council, when considering any applications in such a location that has been identified by the police as having a problem with anti-social behaviour, particularly involving groups who loiter will expect applicants or licensees to demonstrate that they have sufficient measures in place to prevent or deter people involved in unlawful activities from using their premises to support crime or to avoid apprehension.
- 14.6 For the purposes of this Policy and its responsibilities as a licensing Authority Walsall Council will use the following definition of premises.
- 14.7 "Premises" is defined as including "any place". Section 152 of the Act therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. Walsall Council will expect that mandatory conditions relating to access between premises are observed.
- 14.8 Walsall Council will give due consideration in its decision making to the Gambling Commission's Guidance to Licensing Authorities that: "In most cases the expectation is that a single building / plot will be the subject of an application for a licence, for example, 32 High Street.
- 14.9 But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing authority.
- 14.10 Walsall Council does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises. If a premises is located within a wider venue, a licensing authority should request a plan of the venue on which the premises should be identified as a separate unit.
- 14.11 Walsall Council will give due consideration in its decision making to the Gambling Commission's Guidance to Licensing Authorities which states that: licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular, they should be aware that entrances and exits from parts of a building covered by one or more licences should be separate and

identifiable so that the separation of different premises is not compromised, and that people do not 'drift' into a gambling area. The plan of the premises should clearly denote entrances and exits.

14.12 Walsall Council will consider the following and other relevant factors in making its decision, depending on all the circumstances of each case, including:

- a. Does the premises have a separate registration for business rates?
- b. Are neighbouring premises owned by the same person or someone else?
- c. Can each of the premises be accessed from the street or a public passageway?
- d. Can the premises only be accessed from any other gambling premises?

## **15 Vehicles**

15.1 Vehicles (trains, road vehicles, aircraft, sea planes and amphibious vehicles, other than a hovercraft) may not be the subject of a premises licence and therefore all forms of commercial betting and gaming will be unlawful in a vehicle in Walsall. Certain allowances may be made for private and non-commercial gaming or betting to take place in a vehicle, but these are subject to a number of stringent requirements that ensure that, at no point, can the gambling become a commercial activity.

## **16 Vessels**

16.1 Walsall Council will give due consideration into applications made for premises licences relating to passenger vessels.

16.2 The definition of a vessel for these purposes is:

- a. anything (other than a seaplane or amphibious vehicle) designed or adapted for use on water,
- b. a hovercraft,
- c. anything, or part of any place, situated on or in water, and
- d. In terms of point 3 a normal and sensible interpretation will be made. Structures which are an extension of the land will not be considered vessels, even if they arch over water. This means that, neither a pier nor a bridge will be considered a vessel and they remain premises for the purposes of this Policy.

16.3 All other matters relating to the licensing of a vessel will be considered in line with the Gambling Commission's Guidance to Licensing Authorities.

## **17 Types of Premises Licence.**

- 17.1 Walsall Council will give due consideration in its decision-making processes to the Gambling Commission's relevant access provisions for each premises type, outlined below:

### **Casinos**

- 17.2 The principal access entrance to the premises must be from a street. No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons. No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence.

### **Adult Gaming Centre**

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

### **Betting Shops**

- 17.4 Access must be from a street or from another premises with a betting premises licence. No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind unless that shop is itself a licensed betting premises.

### **Tracks**

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

### **Bingo Premises**

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

### **Family Entertainment Centre**

- 17.7 No customer must be able to access the premises directly from a casino, an adult gaming centre or a betting premises, other than a track. Walsall Council will give due consideration to Part 7 of the Gambling Commission's Guidance to Licensing Authorities which contains further guidance on this issue.

### **Premises "ready for gambling"**

- 17.8 For the purposes of this Policy and the operation of the Licensing Service Walsall Council consider that a licence to use premises for gambling

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

- 17.9 If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead. However, there is nothing to prevent a premises licence application being made in these circumstances if there is a right to occupy the premises.
- 17.10 In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process:-
- a. first, whether the premises ought to be permitted to be used for gambling; and
  - b. thereafter, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be, before gambling can take place.
- 17.11 Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

## **18 Location**

- 18.1 Walsall Council is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. The Gambling Commission's Guidance to Licensing Authorities will be followed by this authority and particular attention will be paid to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.
- 18.2 Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated.
- 18.3 The Licensing Authority will expect applicants to consider the measures necessary to be reasonably consistent with the licensing objective of protecting children and other vulnerable persons from being harmed or exploited by gambling. The location of the premises may be a significant factor if for example the premises are located near a school, hostel or other sensitive premises. Other policies specifically deal with location although the applicant will have to demonstrate that there are suitable control measures to be reasonably consistent with this objective.

- 18.4 It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.
- 18.5 Persons under 18 cannot be admitted to many types of gambling premises. New gambling premises or variations to existing premises that are in close proximity to schools or main routes to schools will expect the applicant to have carefully considered their operation and any potential for exposing children and young people to gambling. Operators should demonstrate policies and procedures that will prevent children and young people from entering premises or partaking in gambling activities.

## **19 Planning**

- 19.1 In determining applications and unless there are compelling legal or evidence-based decisions to the contrary Walsall Council will generally not take into consideration matters that are unrelated to gambling and the licensing objectives. For example, the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal or whether those buildings have to comply with the necessary planning or building consents. Walsall Council would however require confirmation that a premises will be ready to use for gambling in the reasonably near future. Walsall Council consider the placing of conditions on the licence to cater for situations where premises are not yet in a state to allow gambling to take place.

## **20 Duplication with other regulatory regimes**

- 20.1 This licensing authority will seek to avoid any duplication with other statutory or regulatory systems where possible, including planning. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.
- 20.2 Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

## **21 Licensing Objectives**

- 21.1 Those Premises licences that are granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission's Guidance to Licensing Authorities relevant comments are made below.
- 21.2 Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.

- 21.3 The Gambling Commission takes a leading role in preventing gambling from being a source of crime. Walsall Council will endeavour to pay attention to the proposed location of gambling premises in terms of this licensing objective. Where it is believed or can be reasonably proven that an area has high levels of organised crime Walsall Council will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. In order to make a distinction between disorder and nuisance consideration of factors such as whether police assistance has been required at a premises and how threatening and behaviour was to those who could see it.
- 21.4 Whether there is a history of crime or disorder associated with the premises or its use by those involved in crime to associate or dispose of the proceeds of crime.
- 21.5 Whilst issues of nuisance are not included specifically in the gambling objectives, the council may consider, when making decisions on the applications for premising licenses, that extreme instances of public nuisance and persistent public nuisance may constitute disorder and criminal offences.
- 21.6 Walsall Council will expect gambling to be conducted in a fair and open way and that this will be addressed via operating and personal licences that are issued by the Gambling Commission.
- 21.7 Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 21.8 For the purposes of this policy, consultations and operational procedures Walsall Council considers this to mean preventing children from taking part in gambling as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children. Consideration will be given by the authority as to whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances and machines and possible segregation of areas etc. Each case brought before the authority will be considered separately in relation to compliance with this licensing objective.
- 21.9 The Licensing Authority will consider each application on its own merits and will look closely at applications for types of premises that can be run by an operator where there is no requirement to hold an operator's licence.

## **22 Vulnerable Persons**



- 22.1 As regards the term “vulnerable persons” Walsall Council defines this group as people who gamble more than they want to; people whose gambling is beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.”
- 22.2 Has the operator a specific training programme for staff to ensure that they are able to identify children and vulnerable people and take appropriate action to be reasonably consistent with this objective to exclude them from the premises or parts of the premises.
- 22.3 If the premises is an adult only environment has the operator taken effective measures to implement an appropriate proof of age scheme to ensure that no one under the age of 18 is admitted to the premises or restricted areas.
- 22.4 Applicants will be required to demonstrate whether sufficient management measures are proposed or are in place to protect children and other vulnerable persons from being harmed or exploited by gambling.

### **23 Conditions**

- 23.1 Any conditions attached to licences issued by Walsall Council will be proportionate and will be:
- a. relevant to the need to make the proposed building suitable as a gambling facility;
  - b. directly related to the premises and the type of licence applied for;
  - c. fairly and reasonably related to the scale and type of premises; and
  - d. reasonable in all other respects.
- 23.2 Decisions upon individual conditions will be made on a case-by-case basis, although there will be a number of measures this authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc.
- 23.3 There are specific comments made in this regard under some of the licence types below. This licensing authority will also expect the licence applicant to offer their own suggestions as to the way in which the licensing objectives can be met effectively.
- 23.4 In order to pursue the licensing objectives Walsall Council will consider specific measures which may be required for buildings which are subject to multiple premises licences these may include:
- a. the supervision of entrances,

- b. segregation of gambling from non-gambling areas frequented by children,
- c. the supervision of gaming machines in non-adult gambling specific premises, and
- d. any other such matters in accordance with the Gambling Commission's Guidance.

## **24 Category C Machines**

- 24.1 This authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:
- a. all such machines are located in an area of the premises that can be viewed or monitored by an authorised person of the premises;
  - b. access to the area where the machines are located is supervised;
  - c. the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
  - d. at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.
  - e. These considerations will apply to premises including buildings where multiple premises licences are applicable.
- 24.2 In terms of the management of Tracks particularly where they are subject to more than one premises licence Walsall Council will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 24.3 It is noted that there are conditions which cannot be attached to premises licences such as:
- a. any condition on the premises licence which makes it impossible to comply with an operating licence condition;
  - b. conditions relating to gaming machine categories, numbers, or method of operation;
  - c. conditions which provide that membership of a club or body be required;
  - d. conditions in relation to stakes, fees, winning or prizes.

## **25 Door Supervisors**

- 25.1 Where Walsall Council is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it is likely that a requirement shall be made that

the entrances to the premises are controlled by a door supervisor. In these circumstances the applicant or licence holder will be notified by the authority as to whether these need to be SIA licensed. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary.

## **26 Adult Gaming Centres (AGC)**

- 26.1 Walsall Council is committed to protecting children and vulnerable persons from harm or being exploited by gambling and will expect any applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18-year-olds do not have access to the premises.
- 26.2 Adult gaming centres (AGCs) premises licences allow the holder of the licence to make gaming machines available for use on the premises. Persons operating an AGC must hold a gaming machines general operating licence from the Commission and must seek a premises licence from the licensing authority. The holder of an adult gaming centre premises licence that was issued prior to the 13th of July 2011 is entitled to make available four category B3/B4 gaming machines, or 20% of the total number of gaming machines, whichever, is the greater. An AGC premises licence granted after the 13th of July 2011 may make available for use a number of category B 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.
- 26.3 Gaming machines are a form of gambling which is attractive to children and AGC's will contain machines of a similar format to the Category D machines on which children are allowed to play. However, no-one under the age of 18 is permitted to enter an AGC and applicants must be aware of the location of and entry to AGC's to minimise the opportunities for children to gain access.
- 26.4 The following measures are deemed suitable for applicants to consider in relation to the promotion of the licensing objectives. The list is not mandatory, nor exhaustive, and is merely indicative of example measures.
- 26.5 All potential risks and measures taken to mitigate such risks should be considered by the operator when completing its own local risk assessment for the area where the premises are to be situated, including:
- Proof of age schemes
  - CCTV
  - Supervision of entrances / machine areas
  - Physical separation of areas
  - Location of entry
  - Notices / signage

- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.
- Measures / training for staff on how to deal with suspected truant school children on the premises.

## **27 (Licensed) Family Entertainment Centres (FEC):**

27.1 Walsall Council is committed to protecting children and vulnerable persons from harm or being exploited by gambling and will expect any applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18-year-olds do not have access to the premises.

27.2 Generally, FECs must be operated by a person or body having an operating licence from the Gambling Commission (the Act also provides that there is a class of unlicensed Family Entertainment Centres that may be run by individuals or bodies not holding an operator's licence).

Unlicensed Family Entertainment Centres do not require the operator to have a Gambling Commission operator's licence but do need to have a gaming machine permit as set out below. Gaming machines are a form of gambling which is attractive to children and FECs will contain both Category D machines on which they are allowed to play, and category C machines on which they are not.

27.3 The following measures are deemed suitable when applicants are considering how to meet the licensing objectives. The list is not mandatory, nor exhaustive, and is merely indicative of example measures.

27.4 All potential risks and measures taken to mitigate such risks, should be considered by the operator when completing its own local risk assessment for the area where the premises are to be situated.

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes

- Provision of information leaflets / helpline numbers for organisations such as GamCare.
- Measures / training for staff on how to deal with suspected truant school children on the premises.

27.5 Walsall Councils Licensing Officers will refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. They will also review any mandatory or default conditions on these premises licences, when they have been published.

## **28 Casinos**

28.1 No Casinos resolution - Walsall Council has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005 but is aware that it has the power to do so. Should it be decided in the future to pass such a resolution, this policy statement will be updated with details of that resolution. Any such decision will be made by the Full Council.

28.2 Licence considerations / conditions – Walsall Council will attach conditions to casino premises licences according to the principles set out in the Gambling Commission's Guidance, bearing in mind the mandatory conditions listed in the Guidance and the Licence Conditions and Codes of Practice published by the Gambling Commission.

28.3 Betting machines – Walsall Council will, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

28.4 It will be expected that all potential risk measures should be considered by the operator when completing its own local risk assessment for the area where the premises are to be situated.

## **29 Bingo premises**

29.1 Prior to a licence being issued an applicant will need to satisfy Walsall Council that bingo can be played in any bingo premises. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas. Before issuing additional bingo premises licences, this authority will consider whether bingo can be played at each of those new premises.

- 29.2 Children and young people are allowed into bingo premises; however, they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.
- 29.3 All potential risk measures should be considered by the operator when completing its own local risk assessment for the area where the premises are to be situated.
- 29.4 A Bingo premises licence granted before the 13th of July 2011 are entitled to make eight category B gaming machines, or 20% of the total number of gaming machines, whichever is greater. For Bingo premises licences granted after the 13th of July 2011 are entitled to make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines on the premises. There are no restrictions on category C or D machines that can be made available in any Bingo licence no matter when it was granted.
- 29.5 To avoid a situation where a premises holds a bingo premises licence primarily to benefit from the gaming machine allowance, the licensing authority will need to be satisfied that bingo can be played in any premises for which a premises licence is issued. Particular consideration will be given when the operator of an existing bingo premises applies to vary the premises licence to exclude an area of the existing premises and then applies for a new licence for the excluded area.

### **30 Betting premises**

- 30.1 Betting machines - Walsall Council will, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.
- 30.2 All potential risk measures should be considered by the operator when completing its own local risk assessment for the area where the premises are to be situated.
- 30.3 This licensing authority may consider measures to meet the licensing objectives such as:
- Proof of age schemes
  - CCTV
  - Supervision of entrances / machine areas

- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.
- Measures / training for staff on how to deal with suspected truant school children on the premises.

### **31 Tracks**

- 31.1 Walsall Council is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track.
- 31.2 As per the Gambling Commission's Guidance, this licensing authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 31.3 This authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.
- 31.4 This licensing authority may consider measures to meet the licensing objectives such as:
- Proof of age schemes
  - CCTV
  - Supervision of entrances / machine areas
  - Physical separation of areas
  - Location of entry
  - Notices / signage

- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.
- Measures / training for staff on how to deal with suspected truant school children on the premises

31.5 This list is not mandatory, nor exhaustive, and is merely indicative of example measures. All potential risks and measures taken to mitigate such risks, should be considered by the operator when completing its own local risk assessment for the area where the premises are to be situated.

## **32 Gaming machines**

Where the applicant holds a pool betting operating licence and is going to use the entitlement for up to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.

## **33 Betting machines**

Walsall Council will take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator proposes to offer.

## **34 Applications and plans**

34.1 Applicants are required to submit plans of the premises with their application, in order to ensure that this authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity.

34.2 Plans for tracks do not need to be in a particular scale but should be drawn to scale and should be sufficiently detailed to include the information required by regulations.

34.3 Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises.



- 34.4 In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined.
- 34.5 It is appreciated that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place.

### **35 Travelling Fairs**

- 35.1 This authority is responsible for deciding where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 35.2 The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 35.3 It is noted that the 27-day statutory maximum for the land being used as a fair applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.
- 35.4 Low-stake gaming machines can be made available at fairgrounds along with coin-pushers, cranes and grabbers. Higher stake machines, like those typically played in arcades and pubs, are not permitted. Fairground operators must source their machines from a Gambling Commission licensed supplier and employees working with gaming machines must be at least 18 years old.

### **36 Provisional Statements**

- 36.1 Developers are able to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

- 36.2 S.204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:
- a. expects to be constructed,
  - b. expects to be altered, or
  - c. expects to acquire a right to occupy.
- 36.3 The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.
- 36.4 In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.
- 36.5 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired.
- 36.6 When determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties will be considered unless:
- a. they concern matters which could not have been addressed at the provisional statement stage, or
  - b. they reflect a change in the applicant's circumstances.
- 36.7 In addition, Walsall Council may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:
- a. which could not have been raised by objectors at the provisional statement stage,
  - b. which in the authority's opinion reflect a change in the operator's circumstances, or
  - c. where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

## **37 Reviews**

- 37.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities. Walsall Council will then decide whether a review is to be carried-out. The matters listed below will be used to make a decision:
- a. the review is in accordance with any relevant Code of Practice issued by the Gambling Commission,
  - b. the review is in accordance with any relevant guidance issued by the Gambling Commission,
  - c. the review is reasonably consistent with the licensing objectives; and
  - d. the review is in accordance with the authority's statement of principles,
  - e. the Council has reason to suspect that premises licence conditions are not being observed,
  - f. the premises is operating outside of the principles set out in the licensing authority's statement of policy,
  - g. there is evidence to suggest that compliance with the licensing objectives is at risk, or
  - h. for any other reason which gives them cause to believe that a review may be appropriate, such as a complaint from a third party.
- 37.2 Walsall Council Licensing Officers will consider each application for a review in terms of whether it is frivolous, vexatious, or whether it will certainly not cause the authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.
- 37.3 In its role as a licensing authority Walsall Council will also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.
- 37.4 Once a valid application for a review has been received by the authority, representations can be made by responsible authorities and interested parties during a 28-day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.
- 37.5 Walsall Council will carry out the review as soon as possible after the 28-day period for making representations has passed.
- 37.6 The purpose of the review will be to determine whether any action in relation to the licence. If action is justified, the options that the authority may consider are:-
- a. add, remove or amend a licence condition imposed by the licensing authority,

- b. exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion,
  - c. suspend the premises licence for a period not exceeding three months, or
  - d. revoke the premises licence.
- 37.7 In determining what action, if any, should be taken following a review Walsall Council will have regard to the principles set out in section 153 of the Act, as well as any relevant representations.
- 37.8 Walsall Council will in appropriate circumstances seek to initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.
- 37.9 Once the review has been completed, notification of the decision and the reasons for the decision will be made to:
- a. the licence holder
  - b. the applicant for review (if any)
  - c. the Commission
  - d. any person who made representations
  - e. the chief officer of police or chief constable; and
  - f. Her Majesty's Commissioners for Revenue and Customs
- 37.10 The authority will follow the Gambling Commission advice to Local Authorities guidance in terms of any appeal provisions.

## **38 PART C - Permits / Temporary & Occasional Use Notice**

### **Permits**

- 38.1 The Policy of Walsall Council in respect of permits for unlicensed family entertainment centres, club gaming, club machine and gaming machine on alcohol licensed premises is to:
- a. promote the licensing objectives;
  - b. treat each application individually on its own merits;
  - c. comply with the statutory requirements;
  - d. ensure compliance with the guidance issued by the Gambling Commission;
  - e. promote and ensure high standards at all venues.
- 38.2 When considering a licence or permit application, Walsall Council will consult closely with the Chief of Police and Safeguarding Partnership.

- 38.3 Details on the categorisation of gaming machine entitlements and the gaming entitlements for clubs and pubs can be found on the Gambling Commissions website through the links listed below.

#### **Gaming machine entitlements**

- 38.4 [www.gamblingcommission.gov.uk/for-licensing-authorities/GLA/Appendix-B-Summary-of-gaming-machine-categories-and-entitlements.aspx](http://www.gamblingcommission.gov.uk/for-licensing-authorities/GLA/Appendix-B-Summary-of-gaming-machine-categories-and-entitlements.aspx)

#### **Gaming entitlements**

- 38.5 [www.gamblingcommission.gov.uk/for-licensing-authorities/GLA/Appendix-C-Summary-of-gaming-entitlements-for-clubs-and-alcohol-licensed-premises.aspx](http://www.gamblingcommission.gov.uk/for-licensing-authorities/GLA/Appendix-C-Summary-of-gaming-entitlements-for-clubs-and-alcohol-licensed-premises.aspx)

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

#### **Automatic entitlement: 2 machines**

- 38.6 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines of categories C and/or D. The premises need only notify the licensing authority in the prescribed manner.
- 38.7 Walsall Council may remove this automatic authorisation in respect of any particular premises if:
- a. the provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
  - b. gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e., that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
  - c. the premises are mainly used for gaming; or
  - d. an offence under the Gambling Act has been committed on the premises.

#### **Permit: 3 or more machines**

- 38.8 If a premises wishes to have more than 2 machines, then it needs to apply for a permit and Walsall Councils consideration of an application where a premises wishes to have more than 2 machines will be based upon the licensing objectives, any guidance issued by the Gambling Commission and any such matters as the authority think relevant.

- 38.9 Such matters will be decided on a case-by-case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18-year-olds do not have access to the adult only gaming machines. Measures in terms of preventing access may include the adult machines being in sight of the bar, or in the sight of staff that will monitor that the machines are not being used by those under 18. Notices and signage may also be helpful. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.
- 38.10 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as, an Adult Gaming Centre premises licence.
- 38.11 Walsall Council may grant an application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.
- 38.12 It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

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

- 38.13 Where a premises does not hold a premises licence but wishes to provide gaming machines, Walsall Council will expect the applicant to show that the premises will be wholly or mainly used for making gaming machines available for use.
- 38.14 An application for a permit will only be granted where Walsall Council is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application.
- 38.15 Walsall Council will expect applicants to demonstrate:
- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
  - that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act; and
  - that staff are trained to have a full understanding of the maximum stakes and prizes.

## **Statement of Principles**

- 38.16 Walsall Council will expect an applicant for a Family Entertainment Centre Permit to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations.

The efficiency of such policies and procedures will each be considered on their merits; however, they may include appropriate measures such as training in relation to:

- suspected truant school children being on the premises,
- how staff would deal with unsupervised very young children being on the premises, and/or
- children causing perceived problems on or around the premises.

- 38.17 Walsall Council will also expect applicants to demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

## **Prize Gaming Permits**

- 38.18 Walsall Councils Statement of Principles for Prize Gaming Permits states that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant demonstrates:

- that they understand the limits to stakes and prizes that are set out in Regulations;
- that the gaming offered is within the law
- that they have clear policies that outline the steps to be taken to protect children from harm.

- 38.19 In making any decision on an application for this permit Walsall Council will generally have regard to the licensing objectives but will always have regard to any Gambling Commission guidance.

- 38.20 It should be noted that there are conditions in the Gambling Act 2005 with which the permit holder must comply, but that the licensing authority cannot attach conditions. The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with;

- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

### **Club Gaming and Club Machines Permits**

38.21 Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in forthcoming regulations. A Club Gaming machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).

38.22 Walsall Council will take into account the statutory guidance when deciding whether it is a genuine members club.

38.23 Walsall Council may only refuse an application on the grounds that:

- the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- the applicant's premises are used wholly or mainly by children and/or young persons;
- an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities
- a permit held by the applicant has been cancelled in the previous ten years;
- an objection has been lodged by the Commission or the police.

38.24 There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). As the Gambling Commission's Guidance to Licensing Authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which an authority can refuse a permit are



reduced." and "The grounds on which an application under the process may be refused are:

- a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
- b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

38.25 There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

### **Temporary Use Notices (TUN)**

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

38.27 Walsall Council will only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence. Temporary Use Notices can only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single overall winner.

38.28 There are restrictions on the type of gambling that can be offered under a TUN:

38.29 it can only be used to offer gambling of a form authorised by the operator's operating licence, and consideration should therefore be given as to whether the form of gambling being offered on the premises will be remote, non-remote, or both.

38.30 gambling under a TUN may only be made available on a maximum of 21 days in any 12-month period for any or all of a named set of premises

38.31 it can only be used to permit the provision of facilities for equal chance gaming, and where the gaming in each tournament is intended to produce a single overall winner

38.32 gaming machines may not be made available under a TUN.

- 38.33 There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 14 of the Gambling Commission Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place".
- 38.34 In considering whether a place falls within the definition of "a set of premises", Walsall Council will look at, amongst other things, the ownership/occupation and control of the premises.
- 38.35 It is likely Walsall Council will 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.

### **Occasional Use Notices**

- 38.36 Walsall Council 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. Consideration will however be given to the definition of a 'track' and whether the applicant is permitted to avail themselves of the notice.

## **39 Safeguarding against Child Sexual exploitation (CSE)**

- 39.1 Walsall Council acknowledges that CSE awareness doesn't just apply to children on licensed premises, particularly as children are not permitted access to most gambling premises. Applicants should be equally aware of children in the proximity of the premises that may be waiting for, or seeking, older persons.
- 39.2 Applicants are encouraged to ensure that suitable management controls are in place to safeguard children against the risk of CSE as part of their policy. Measures may include, but are not limited to:
- awareness training for staff;
  - regular patrols of the premises, including external areas and the immediate proximity, to identify any vulnerable children;
  - close monitoring of patrons as they leave the premises;
  - recording and reporting concerns to the police.
- 39.3 The Council expects applicants to be aware of 'risk indicators' of CSE which include, but are not limited to:
- developing relationships between a child and an older person;

- children in the company of a group of older person;
- children regularly attending premises and meeting with a number of different older persons, particularly where older persons may be facilitating gambling for children;
- children outside of licensed premises developing relationships with an older person, particularly an older person facilitating gambling for children;
- children leaving the locality of the premises with older persons, particularly with a group of older persons;
- children looking uncomfortable in the company of, or leaving with, older persons, particularly groups of older persons.

39.4 Whilst Walsall Council does not wish to create the impression that all contact between children and older persons is inappropriate, it is strongly of the view that licence holders should be aware of the risks of CSE and should proactively manage their premises to minimise the risks.

#### 40 **Appendix 1 – Definitions**

**"Premises"** is defined as including "any place". Section 152 of the Act therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place.

**"Operator Licence"** is a licence which states that it authorises the licensee—

- to operate a casino (a "casino operating licence"),
- to provide facilities for playing bingo (a "bingo operating licence"),
- to provide facilities for betting other than pool betting (a "general betting operating licence"),
- to provide facilities for pool betting (a "pool betting operating licence"),
- to act as a betting intermediary (a "betting intermediary operating licence"),
- to make gaming machines available for use in an adult gaming centre (a "gaming machine general operating licence" for an adult gaming centre),

- to make gaming machines available for use in a family entertainment centre (a “gaming machine general operating licence” for a family entertainment centre),
- to manufacture, supply, install, adapt, maintain or repair a gaming machine, or a part of a gaming machine (a “gaming machine technical operating licence”),
- to manufacture, supply, install or adapt gambling software (a “gambling software operating licence”), or
- to promote a lottery (a “lottery operating licence”).

**“Gambling Commission”** is the body primarily concerned with ensuring that each operator conducts gambling activities in a fair and open way.

## Appendix 2

<p><b><u>Licensing Authority</u></b>  Walsall Council  2<sup>nd</sup> Floor Civic Centre  Darwall Street  Walsall  WS1 1TP  Email: <a href="mailto:Licensing@walsall.gov.uk">Licensing@walsall.gov.uk</a></p>	<p><b><u>Police</u></b>  The Licensing Officer  West Midlands Police  Walsall Council  Civic Centre  Darwall Street  Walsall  WS1 1TP  Tel: 0345 113 5000</p>
<p><b><u>Planning</u></b>  Planning &amp; Transportation  Licensed Premises Applications  Walsall MBC  2<sup>nd</sup> Floor Civic Centre  Darwall Street  Walsall  WS1 1DG  Tel: 01922 652425 or 652452  Email:  <a href="mailto:PlanningConsultations@walsall.gov.uk">PlanningConsultations@walsall.gov.uk</a></p>	<p><b><u>Fire</u></b>  Protection (Fire Safety) Admin  West Midlands Fire Service  Headquarters  99 Vauxhall Road  Birmingham  B7 4HW  Telephone 0121 380 6300  Email: <a href="mailto:firesafety.admin@wmfs.net">firesafety.admin@wmfs.net</a></p>
<p><b><u>Safeguarding Partnership</u></b>  Children Services, 2<sup>nd</sup> Floor  Civic Centre  Darwall Street  Walsall, WS1 1TP  Tel: 0300 555 2866  Email: <a href="mailto:WalsallFIS@walsall.gov.uk">WalsallFIS@walsall.gov.uk</a></p>	<p><b><u>Environmental Health</u></b>  Civic Centre  Darwall Street  Walsall  WS1 1TP  Tel: 01922 653024</p>
<p><b><u>Gambling Commission</u></b>  Victoria Square House  Victoria Square  Birmingham  B2 4BP  Tel: 0121 230 6666</p>	<p><b><u>HM Revenues &amp; Customs</u></b>  Excise Processing Teams  BX9 1GL  United Kingdom  Tel: 0300 322 7072 option 7  Email:  <a href="mailto:nrubetting@gaming@hmrc.gsi.gov.uk">nrubetting@gaming@hmrc.gsi.gov.uk</a></p>

**Appendix 3 – Summary of Licensing Authority delegations permitted under the Gambling Act 2005**

Matter to be Dealt with	Full Committee	Sub-Committee	Officers
Final approval of three year licensing policy.	X		
Policy not to permit casinos.	X	X (Where delegated by full council)	
Fee setting (where appropriate)			
Application for premises licences		Relevant representations received and not withdrawn	No representations received
Application for a variation to a licence		Relevant representations received and not withdrawn	No representations received
Application for a transfer of a licence		Relevant representations received and not withdrawn	No representations received
Application for a provisional statement		Relevant representations received and not withdrawn	No representations received
Review of premises licence		X	
Application for club gaming/club machine permits		Where objections have been made (and not withdrawn)	Where no objections made or objections have been withdrawn
Application for other permits			X
Cancellation of licensing premises gaming machine permits			X
Consideration of temporary use notices			X
Decision to give a counter notice to a temporary use notice		X	

## Comments

The Statement of Licensing Policy will be reviewed on a regular basis. Individuals and organisations that wish to comment on the policy are invited to send their comments in writing to:

Licensing Unit  
Walsall M.B.C  
Civic Centre  
Darwall Street  
Walsall  
WS1 1TP

e-mail: [licensing@walsall.gov.uk](mailto:licensing@walsall.gov.uk)

website : [www.walsall.gov.uk](http://www.walsall.gov.uk)