

## **Introduction (not part of Policy)**

Located in the heart of England, Wychavon covers 260 square miles and is the largest of six districts in Worcestershire. With a population of 116,900, the district comprises three main towns of Droitwich Spa, Evesham and Pershore, and nearly 100 villages including the picturesque Cotswold village of Broadway.

The area is largely rural with a rich natural environment, diverse geology and historic heritage. The southern part of Wychavon forms part of the Cotswolds Area of Outstanding Natural Beauty. There are a number of sites of Special Scientific Interest. Local nature reserves, conservation areas and many listed buildings.

Pershore is known for its Georgian Architecture and is home to an impressive Norman abbey and the thriving Number 8 Community Arts Centre. In the south, Evesham is situated on the banks of the River Avon.

The district has excellent transport links by road and rail and has a thriving local economy, in which the diverse range of activities at licensed premises (including many public open spaces) play a prominent part.

We have produced the statement as required by the Gambling Act 2005 to provide information and guidance to applicants, responsible authorities and interested parties on the general approach that we will take to licensing. Specific details are provided by way of advice sheets, available from our web site or sent on request.

By promoting the licensing objectives, central to the regulatory regime created by the Act, this policy statement accords with our overall vision which is of a “safe, green, healthy and beautiful district that is a vibrant and creative place for everyone to live, work and visit”. 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, and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

Together with colleagues across Worcestershire, we have produced this statement as required by Section 349 of the Gambling Act 2005 (referred to in this statement as “the Act”), the Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 and having had regard to the Gambling Commission’s formal guidance issued under Section 25 of the Act (as amended), the licensing objectives and to the views of those that we have consulted.

This statement is effective for three years from 31<sup>st</sup> January 2010. We will review it every three years, although the statement may also be reviewed from ‘time to time’ and any amended parts re-consulted upon.

Nothing in this policy takes away the right of any person to make an application under the Act and to have that application considered on its merits; nor does it undermine the right of any person to object to an application or to seek a review of a licence where the law provides that they may do so. Applications will be considered in line with our statement of general principles, below.

## **1 Statement of Policy – Gambling Act 2005**

1.1 This policy reflects our key priorities which are:

- Communities that are safe and feel safe
- A better environment – for today and tomorrow
- Improving health and well-being
- Vibrant and inclusive communities with a strong economy
- Delivering excellent and value for money services

1.2 The Act provides for gambling to be authorised in a number of different ways. Our main functions are to:

- licence premises for gambling activities, including the issue of provisional statements,
- regulate and grant permits for gambling and gaming machines in clubs, including commercial clubs,
- regulate gaming and gaming machines in alcohol licensed premises,
- grant permits to family entertainment centres for the use of certain lower stake gaming machines,
- grant permits for prize gaming,
- receive and endorse notices given for the temporary use notices,
- receive occasional use notices for betting at tracks,
- register small societies lotteries,
- Maintain public registers, and
- Provide information to the Gambling Commission on issued licences.

1.3 The Gambling Commission regulates remote gambling and issues personal and operating licences for premises. Spread betting is regulated by the Financial Services Authority. The “National Lottery” is regulated by the National Lottery Commission.

## **2 Authorised Activities**

2.1 ‘Gambling’ is defined in the Act as gaming, betting, or taking part in a lottery.

- gaming means playing a game of chance for a prize,
- betting means making or accepting a bet on the outcome of a race, competition, or any other event; the likelihood of anything occurring or not occurring; or whether anything is true or not, and
- a lottery is an arrangement where persons are required to pay in order to take part in an arrangement whereby one or more prizes are allocated by a process which relies wholly on chance.

## **3 General Statement of Principles**

3.1 In carrying out our licensing functions in accordance with the Act, particularly with regard to premises licences, we will generally aim to permit the use of premises for gambling as long as it is considered to be :-

- in accordance with any relevant Codes of Practice issued by the Gambling Commission
- in accordance with any relevant Guidance issued by the Gambling Commission
- in accordance with this Statement of Principles, and
- reasonably consistent with the licensing objectives.

- 3.2 We will not seek to use the Act to resolve matters that are better dealt with by other legislation. Licensing is not the primary mechanism for general control of nuisance and the antisocial behaviour of people once they are away from licensed premises.
- 3.3 We will ensure that in dealing with applications under the Act we follow the required procedures, and only take into account issues that are relevant. Specifically we will not have regard to “demand” when considering applications for gambling premises; nor will we consider the suitability of applicants for premises licences (which is a matter for the Gambling Commission). We will not reject an application on moral grounds. If we do decide to reject an application, we will make known our reasons for doing so.
- 3.4 Our current Council Constitution (including the scheme of delegation) details the way that we will discharge our functions under this Act. Details are available from the Licensing Unit.
- 3.5 Where an application is for a new premises licence, the responsible authorities may visit to check that gambling facilities meet all necessary legal requirements.
- 3.6 Where there are no representations (objections), licences and permissions will be granted subject only to any appropriate mandatory conditions (Section 167 of the Act) and any conditions having at least the effect of appropriate default conditions made under Section 168.
- 3.7 If there are objections that can't be resolved informally, or we intend to impose extra conditions, we will hold a public hearing at which our licensing sub-committee will hear evidence and make a decision in accordance with the Act.
- 3.8 This statement is not intended to override the right of any person to make an application under the Act, and to have that application considered on its merits. Equally, this Statement of Principles is not intended to undermine the right of any person to make representations about an application or to seek a review of a licence where provision has been made for them to do so.

#### **4 Preventing gambling from being a source of crime and disorder**

- 4.1 The Gambling Commission takes the leading role in preventing gambling from being a source of crime, and maintains rigorous licensing procedures aiming to prevent criminals from providing facilities for gambling. Applicants must hold an operating licence from the Commission before we will issue a licence to use premises for gambling.
- 4.2 Because we will not issue a premises licence to someone who does not hold an operator's licence, we will not concern ourselves about the suitability of an applicant. Where concerns about a person's suitability arise we will bring those concerns to the attention of the Commission.
- 4.3 If an application for a licence or permit is received in relation to premises which are in an area noted for particular problems with organised crime, we will, in consultation with the Police and other relevant authorities, consider whether specific controls need to be applied to prevent those premises from being a source of crime. This could include a requirement for Security Industry Association (“SIA”) registered door supervisors.
- 4.4 Disorder will only be considered under this Act if it amounts to activity which is more serious and disruptive than mere nuisance, and where it can be shown that gambling is the source of that disorder. A disturbance might be serious enough to constitute disorder if police assistance was required to deal with it; we will then consider how threatening the behaviour was to those who could see or hear it, and whether those people live sufficiently close to be affected or have business interests that might be affected.

- 4.5 “Disorder” is generally a matter for the Police; we will not use this Act to deal with general nuisance issues, for example, parking problems, which can be better dealt with using alternative powers.
- 4.6 When making decisions relating to disorder, we will give due weight to comments made by the police.

## **5 Ensuring gambling is conducted in a fair and open way**

- 5.1 The Gambling Commission does not expect local authorities to become concerned with ensuring that gambling is conducted in a fair and open way. The Commission regulates management of the gambling business and the suitability and actions of an individual through the operating and personal licensing regimes.
- 5.2 Because betting track operators do not need an operating licence from the Commission we may, in certain circumstances, apply conditions of licence relating to the suitability of the environment in which betting takes place.

## **6 Protecting children and vulnerable people from being harmed or exploited by gambling**

- 6.1 The intention of the Act is that children and young persons should not be allowed to gamble, and should be prevented from entering those gambling premises which are ‘adult-only’ environments.
- 6.2 Codes of Practice, including advice about access by children and young persons may be published by the Gambling Commission for specific kinds of premises. Applicants will be expected to heed this advice where applicable.
- 6.3 We expect steps to be taken to prevent children from taking part in, or being in close proximity to, gambling. This may include restrictions on advertising to ensure that gambling products are not aimed at children, nor advertised in such a way that makes them particularly attractive to children.
- 6.4 When determining a premises licence or permit we will consider whether any additional measures are necessary to protect children, such as the supervision of entrances, the segregation of gambling from areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises like pubs, clubs and betting tracks.
- 6.5 In seeking to protect vulnerable people we will include people who gamble more than they want to, people who gamble beyond their means, and people who may not be able to make informed or balanced decisions about gambling, perhaps due to a mental impairment, alcohol or drugs.
- 6.6 We will always treat each case on its own individual merits and when considering whether specific measures are required to protect children and other vulnerable people will balance these considerations against the overall principle of aiming to permit the use of premises for gambling.

## **7 Premises licences**

- 7.1 A premises licence can authorise the provision of facilities at the following:

- casino premises
- bingo premises
- betting premises, including betting tracks
- adult gaming centres
- family entertainment centres

- 7.2 Premises can be 'any place' but the Act generally prevents more than one premises licence applying to any one place. A single building could be subject to more than one premises licence provided they are for different parts of the building and those parts can be reasonably regarded as being separate 'premises'.
- 7.3 Large, genuinely multiple unit premises such as shopping malls or service stations may be able to obtain separate premises licences, with appropriate safeguards in place. We will pay particular attention if there are issues about sub-divisions of a single building or plot and mandatory conditions relating to access between premises are observed. We do not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partition, can properly be regarded as different premises. Whether different parts of a building can properly be regarded as being separate premises will depend on the individual circumstances of the case.
- 7.4 A particular requirement might be for entrances and exits from parts of a building covered by one or more licences to be separate and identifiable so that the separation of the premises is not compromised and people are not allowed to 'drift' accidentally into a gambling area. It should normally be possible to access the premises without going through another licensed premises or premises with a permit. We would also expect customers to be able to participate in the activity named on the premises licence.
- 7.5 The Secretary of State has appointed an independent Casino Advisory Panel to advise the Government on the areas in which small and/or large casinos may be located. Wychavon district council has not been identified as a suitable location for a casino, consequently we will be prevented from granting a Casino Premises Licence.
- 7.6 We will not turn down applications for premises licences where relevant objections can be dealt with through the use of licence conditions.
- 7.7 Other than an application for a betting premises licence for a track, we are not able to issue a premises licence unless the applicant holds the relevant operating licence from the Gambling Commission.
- 7.8 When considering applications for premises licences we will not take into account either the expected 'demand' for facilities or the likelihood of planning permission or building regulation approval being granted, now will we take into account 'moral' objections to gambling. Equally, the grant of a premises licence would not prejudice or prevent any action that may be appropriate under the law relating to planning or building regulations.
- 7.10 We will only issue a Premises Licence once we are satisfied the premises are ready to be used for gambling in the reasonably near future. Where we have agreed to grant a licence but substantial building works or alterations are still required we will impose a condition requiring the premises to be inspected on completion of the work and prior to the issue of the licence. Where the construction of a premises is not yet complete or if they need alteration an application for a Provisional Statement may be made. If an applicant does not have a right to occupy premises then an application for a Provisional Statement should be made as having a right to occupy premises is a pre-condition to making a Premises Licence application.

7.11 We will apply a two stage consideration process if there is outstanding construction or alteration work at the premises:

- should the premises be permitted to be used for gambling?
- can appropriate conditions be imposed to cater for the situation that the premises is not yet in the state in which they should be before gambling takes place?

7.12 We are entitled to decide whether or not it is appropriate to grant a licence subject to conditions.

7.13 Applicants for premises licences are encouraged to propose any prohibitions or restrictions of their own in circumstances where it is felt that the presence of children would be undesirable or inappropriate.

7.14 We will maintain a public register of Premises Licence applications received which may be viewed at our Internet site at [www.wychavon.gov.uk/lic](http://www.wychavon.gov.uk/lic) or at the Council Offices in Pershore during normal office hours which are generally Monday – Friday 9am until 5pm.

## **8 Responsible authorities**

8.1 Responsible authorities are identified in the legislation, and are notified about licence applications so that they can identify any risks. The responsible authorities that we recognise are listed below. Specific contact details are available on our website [www.wychavon.gov.uk](http://www.wychavon.gov.uk) and will be sent on request.

- The Gambling Commission
- The Chief of Police for the area
- Fire & Rescue Service
- Wychavon DC Planning Department
- Environmental Services Department (Environmental Protection team)
- 
- Worcestershire Safeguarding Children Board
- HM Revenue and Customs
- Any other bodies identified in Regulation by the Secretary of State,
- For vessels, the Environment Agency, British Waterways Board, Secretary of State.

8.2 Concerns expressed by a Responsible Authority cannot be taken into account unless they are relevant to the application itself and the licensing objectives. However, each representation will be considered on its own individual merits.

## **9 Interested Parties**

9.1 An interested party is someone who:

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

9.2 We will generally require written evidence that a person/body 'represents' someone who either has business interests or lives sufficiently close to the premises to be likely to be affected by the proposed activities.

Elected ward members, an MP or Town or Parish Councillors for the area in which the proposed premises are situated do not require written evidence that they are acting for a particular “interested party”. However, these persons should be aware of the need to represent the balanced view the whole of the community that they serve rather than a subset of that community.

- 9.3 In determining whether someone lives sufficiently close to particular premises so as to be affected, we will take into account, among other things:
- the size of the premises
  - the nature of the premises
  - the distance of the premises from the person making the representation
  - the nature of the complaint
  - the potential impact of the premises
- 9.4 In determining whether a person has a business interest which could be affected we will consider, among other things:
- the size of the premises
  - the catchment area of the premises, and
  - whether the person making the representation has business interests in the catchment area that might be affected
- 9.5 If an existing gambling business makes a representation that it is going to be affected by another gambling business starting up in the area, we would not consider this (in the absence of other evidence) as a relevant representation as it does not relate to the licensing objectives and instead relates to demand or competition.
- 9.6 We may consider a representation to be either frivolous or vexatious, and reject it. This will generally be a matter of fact given the circumstances of each individual case but, before coming to a decision we will normally consider:
- who is making the representation and whether there is a history of making representations that are not relevant,
  - whether it raises an issue relevant to the licensing objectives, and
  - whether it raises issues specifically to do with the premises which are the subject of the application.

## **10 Licence conditions**

- 10.1 In particular cases we may find it necessary to impose conditions beyond appropriate mandatory and default conditions. Any such conditions will be relevant to the need to make the building suitable for use as a gambling facility; directly related to the premises and the type of licence applied for; fairly and reasonably related to the scale and type of premises and reasonable in all other respects. We will not have recourse to a pool of standard conditions.
- 10.2 We will also ensure that where category B or C machines are on offer in premises to which children are admitted, and are located in an area of the premises which is separated by a physical barrier to prevent access other than through a designated entrance, that the designated area is supervised and observed by staff or the licence holder.
- 10.3 Examples of conditions which are likely to be attached in certain circumstances include those relating to opening hours, segregation of gambling from non-gambling areas frequented by children, SIA licensed door supervisors, appropriate signage for adult only areas, age limits, or keeping children and young persons away from gaming machines. We will also expect the applicant to offer their own suggestions as to ways in which the licensing objectives can be promoted effectively.

10.4 We will not seek to control those matters specified in the Act with conditions:

- which make it impossible to comply with an operating licence condition imposed by the Gambling Commission,
- relating to gaming machine categories or method of operation,
- which specify that membership of a club or other body is required, or
- in relation to stakes, fees, winnings or prizes.

10.5 Duplication with other statutory or regulatory regimes will be avoided as far as possible. The need for conditions will be assessed on the specific merits of each application.

## **11.0 Gaming Machines**

11.1 Gaming machines include all types of gambling activity which can take place on a machine, including betting on 'virtual' events.

11.2 The Act itself prescribes the number and category of gaming machines that are permitted in each type of gambling premises.

11.3 Subject to the provisions of the Act, gaming machines can be made available in a wide variety of premises, including:

- casinos
- bingo premises
- betting premises, (including tracks )
- adult gaming centres
- family entertainment centres
- clubs
- pubs and other alcohol licensed premises
- travelling fairs

11.4 A machine is not a gaming machine if the winning of a prize is determined purely by the player's skill. However, any element of 'chance' imparted by the action of the machine would bring it within the definition of a gaming machine.

11.5 We will encourage permit and premises licence holders to adopt applicable codes of practice which may be introduced by the amusement industry or Gambling Commission, from time to time.

## **12 Temporary Use Notices**

12.1 These 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. We would 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. Premises that might be suitable for a temporary use notice would include hotels, conference centres and sporting venues. A temporary use notice may only be granted to a person or company holding a relevant operating licence.

12.2 Temporary use notices may only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single overall winner. Equal chance gaming is gaming which does not involve playing or staking against a bank and gives equally favourable chances to all participants. Examples of equal chance gaming include games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.

## **13 Occasional Use Notices**

13.1 We have very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year at a particular premises is not exceeded. Whilst tracks are normally thought of as permanent racecourses, this can also include land which has a number of uses for example agricultural land upon which a point-to-point meeting takes place. Land used temporarily as a track can qualify, provided races or sporting events take place or will take place there. The track need not be a permanent fixture.

## **14 Lotteries**

14.1 All lotteries are unlawful unless they are run in accordance with an operating licence issued by the Gambling Commission - unless they are 'exempt' lotteries as defined by the Act. One of those exemptions is for "small society lotteries," which we will allow, after registration. We will maintain a register of small society lotteries.

14.2 A society will be allowed to register with us if it is 'non-commercial', in other words, if it is established and conducted:

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

## **15 Exchange of Information**

15.1 To ensure the licensing objectives are met, we will establish a close working relationship with the police, the Gambling Commission and, where appropriate, other responsible authorities.

15.2 Subject to the provisions of the Data Protection Act 1998, we will share any information we receive through the application process with the Gambling Commission and any relevant responsible authority. In doing so we will have regard to the Act itself, any guidance issued by the Commission and to any Regulations issued by the Secretary of State. People can access personal information that we hold about them by contacting our Legal and Support Services team.

15.3 We are committed to being open about what we do and how we come to our decisions, in accordance with the spirit of the Freedom of Information Act 2000 (FOIA). An important feature of the FOIA is the requirement for each public authority to produce a publication scheme setting out what information it will publish as a matter of course, how and when it will be published, and whether this information will be free of charge or on payment. Copies of our FOI publication scheme are available on request from our Legal & Support Services team or via the Council's website [www.wychavon.gov.uk](http://www.wychavon.gov.uk)

15.4 FOIA also provides the public with a general right of access to information held by public authorities, and subject to exemptions, be supplied with a copy of that information. Individual requests should be made in writing to our Head of Legal Services, or via the Council's website.

15.5 Unless restricted by the Gambling Act, details about applications, licences and representations will be made available in our public register. Representations that we accept will be copied in their entirety to applicants, to provide an opportunity for mediation and to ensure that the rights of the applicant are not compromised.

## **16 Enforcement Protocols**

16.1 The main enforcement and compliance role for us in terms of the Gambling Act 2005 will be to ensure compliance with the Premises Licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for the Operator and Personal Licences and will also take the lead role on the investigation and where appropriate, the prosecution of illegal gambling. Any concerns about manufacture, supply or repair of gaming machines will not be dealt with by us but will be notified to the Gambling Commission.

16.2 We will work with the Commission, the Police and other enforcing authorities, having regard to any specific guidance produced by the Gambling Commission, relevant codes of practice, the licensing objectives and this statement of principles, to provide for the targeting of agreed problem or high-risk premises. A lighter touch will be applied to those premises which are shown to be well managed and maintained.

16.3 The overall aim is to permit the use of premises for gambling. With that in mind it is intended that action will generally be taken against 'problem' premises through the licence review process.

16.4 We will also be mindful of guidance from the Better Regulation Executive and the Local Better Regulation Office whilst carrying out our regulatory functions.

16.5 We will endeavour to be proportionate, accountable, consistent, transparent and targeted, as well as avoiding duplication with other regulatory regimes so far as possible.

## 17 Reviews

17.1 A review of a premises licence can be made by interested parties or responsible authorities, however, we will decide if the review is to be carried out on the basis of the following:

- In accordance with any relevant Code of Practice and/or guidance issued by the Gambling Commission
- Consistent with the licensing objectives
- In accordance with our statement of principles.

17.2 We will also consider whether or not the request for a review is frivolous, vexatious, or repetitious or whether we would wish to alter/revoke or suspend the licence.

17.3 As Licensing Authority we can initiate a review of a premises licence on the basis of any reason which we think appropriate, including if 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.

17.4 Once a valid application for a review has been received by us, representations can be made by responsible authorities and interested parties during the statutory consultation period. The purpose of the review will be to determine whether we should take any action in relation to the licence. The options available are:

- Add, remove or amend a licence condition;
- Remove or amend a default condition, such as opening hours;
- Suspend the premises licence for a period not exceeding 3 months;
- Revoke the licence.

Issued by:

Licensing Unit

Environmental Services

Wychavon District Council

Queen Elizabeth Drive

Pershore, WR10 1PT

[www.wychavon.gov.uk/lic](http://www.wychavon.gov.uk/lic)

email: [licensing@wychavon.gov.uk](mailto:licensing@wychavon.gov.uk)

Phone: 01386 565016