

Public Document Pack

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Pennaeth Gwasanaethau Cyfreithiol a Democraataidd



To: Cllr Tony Sharps (Chairman)

CS/NG

Councillors: Glyn Banks, David Cox, Alan Diskin,
Rosetta Dolphin, Ian Dunbar, Brian Dunn,
Jim Falshaw, Phil Lightfoot, Hilary McGuill,
Mike Reece and Gareth Roberts

23 November 2012

Ceri Owen 01352 702350
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Dear Sir / Madam

A meeting of the **LICENSING COMMITTEE** will be held in the **CLWYD COMMITTEE ROOM, COUNTY HALL, MOLD CH7 6NA** on **THURSDAY, 29TH NOVEMBER, 2012** at **10.00 AM** to consider the following items.

Yours faithfully

Democracy & Governance Manager

AGENDA

- 1 **APOLOGIES**
- 2 **DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)**
- 3 **MINUTES** (Pages 1 - 4)

To confirm as a correct record the minutes of the last meeting held on the 24 September, 2012.

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The Council welcomes correspondence in Welsh or English
Mae'r Cyngor yn croesawau gohebiaeth yn y Cymraeg neu'r Saesneg

4 **IMPOSING SANCTIONS ON PRIVATE HIRE AND HACKNEY CARRIAGE DRIVERS** (Pages 5 - 10)

Report of the Director of Environment enclosed.

5 **THE GAMBLING ACT 2005 - THREE YEAR LICENSING POLICY 2013 - 2016** (Pages 11 - 44)

Report of the Director of Environment enclosed.

LICENSING COMMITTEE **24 SEPTEMBER, 2012**

Minutes of the meeting of the Licensing Committee of Flintshire County Council held at County Hall, Mold on Monday 24 September, 2012

PRESENT: Councillor L.A. Sharps (Chairman)

Councillors: G. Banks, D.L. Cox, R. Dolphin, I. Dunbar, J.E. Falshaw, P. Lightfoot, H.J. McGuill and M.A. Reece

APOLOGIES:

Councillor H.G. Roberts

IN ATTENDANCE:

Solicitor (Litigation), Community Protection Manager, Community Protection Team Leader – Licensing and Committee Officer

1. APPOINTMENT OF VICE-CHAIR

The Chairman sought nominations for a Vice-Chair for the Committee.

RESOLVED:

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

2. MINUTES

The minutes of the meeting held on 26 January, 2012 had been circulated with the agenda.

Matters arising

In response to a question on the motorised tricycle (trike), the Chairman confirmed that the vehicle was in operation and had been advertised at the recent Mold Food Festival.

RESOLVED:

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

3. DECLARATIONS OF INTEREST

No declarations of interest were made.

4. LAW COMMISSION CONSULTATION ON THE FUTURE OF TAXI AND PRIVATE HIRE LEGISLATION

The Community Protection Manager introduced a report to inform Members of the Law Commission consultation in relation to Taxi and Private Hire Legislation.

In July 2012 the Law Commission agreed to undertake a law reform project relating to taxis and Private Hire Vehicles. Flintshire had responded to the consultation by working with the other Local Authorities in Wales to formulate a response co-ordinated by the Institute of Licensing (Wales).

It was understood that in Wales the Welsh Minister would have to bring in separate legislation to that which would have effect in England and as Flintshire was a border County it was a matter of concern that standards may differ between the two countries.

Following discussion, the Community Protection Manager reported that a copy of the draft legislation would be submitted to the Committee towards the end of 2013.

RESOLVED:

- (a) That the Law Commission consultation on the future of taxi and private hire licensing be noted; and
- (b) That a copy of the draft legislation be submitted to the Committee towards the end of 2013.

5. THE GAMBLING ACT 2005 – THREE YEAR LICENSING POLICY 2013 - 2016

The Community Protection Manager introduced a report to inform Members about the renewal of the three year Gambling Policy which will cover the period between 2013 – 2016.

Flintshire County Council had been administering and enforcing the requirements of the Gambling Act since it became operational in 2007. In light of this, the Council was not minded to depart significantly from the existing Policy document apart from updating any factual information which had changed.

The legislation required a consultation process to be undertaken which would be initiated in September with responses requested by November 2012. The responses would be summarised together with the view of the Licensing Section and the final draft Policy would be presented to a future Licensing Committee meeting for consideration and approval.

RESOLVED:

That the proposals for the renewal of the Council's Gambling Act 2005 policy be noted.

6. LICENSING ACT 2003 – UPDATE

The Community Protection Manager introduced a report to inform Members of the recent changes to the Licensing Act 2003 as amended by the Police Reform and Social Responsibility Act 2011.

In 2010, the Home Office launched a public consultation entitled 'Rebalancing the Licensing Act'. The Bill had been subject to amendments and received Royal Assent and became law on 15 September, 2011. The timetable for commencement had been divided into two stages. The first came into effect in April 2012 and the later changes were due to take effect in October, 2012 as detailed within the report.

The Chairman welcomed that residents, businesses or associations would now be able to make representations on applications even if they did not live or work in the 'vicinity' as this had been a concern for residents for a number of years.

Following discussion, the Community Protection Manager reported that the introduction of a Late Night Levy (LNL) would enable Licensing Authorities to introduce a charge for all premises in the Local Authority area which were authorised to sell alcohol between midnight and 6am. Home Office Guidance on this matter was being awaited and this topic would need separate consideration in due course.

It was noted that the Licensing Authority itself was now also a Responsible Authority as defined within the Licensing Act 2003. There was a potential conflict of interest if Licensing Officers were to act in both roles at once and it was therefore proposed that only the Community Protection Manager should act in the role of Responsible Authority.

RESOLVED:

- (a) That the changes to the Licensing Act as outlined within the report be noted; and
- (b) That the Community Protection Manager be nominated as the officer authorised to act as a Responsible Authority when necessary.

7. FOR INFORMATION

Live Music Act 2012

The Community Protection Manager circulated a briefing note on the Live Music Act 2012 which passed into law on 8 March, 2012 and was due to

take effect from 1 October, 2012. The Act removed the need to licence entertainment facilities completely, regardless of time or audience size. Health and Safety law would continue to apply. The Act also disapplies live music related licence conditions in certain circumstances such as when live music is taking place between 8:00 am and 11:00pm and if the live music is amplified, the audience consists of no more than 200 people.

The Regulation of Investigatory Powers Act 2000.

The Community Protection Manager provided details on proposed changes to the Regulation of Investigatory Powers Act 2000. The changes would take effect in November, 2012 and mean that officers would not be able to undertake covert surveillance unless the legislation being breached provided for a prison term of more than 6 months. This would rule out the majority of covert surveillance that may have taken place in relation to licensed premises or the private hire/hackney carriage trade. Under-age sales of alcohol were however unaffected by the changes and test purchasing using a young person would still be permitted.

Licences Issued in Flintshire

The Community Protection Manager circulated a list of Licences which had been issued in Flintshire from December 2011 to September 2012.

8. DURATION OF MEETING

The meeting commenced at 10.00 a.m. and ended at 10.35 a.m.

9. MEMBERS OF THE PRESS AND PUBLIC IN ATTENDANCE

There were no members of the press and public present.

.....
Chairman

FLINTSHIRE COUNTY COUNCIL

REPORT TO: LICENSING COMMITTEE

DATE: THURSDAY, 29 NOVEMBER 2012

REPORT BY: THE DIRECTOR OF ENVIRONMENT

SUBJECT: IMPOSING SANCTIONS ON PRIVATE HIRE AND HACKNEY CARRIAGE DRIVERS

1.00 PURPOSE OF REPORT

1.01 To update the Committee in relation to a recent Judicial Review addressing suspension of a licence and when this sanction should be used.

2.00 BACKGROUND

2.01 It is the responsibility of the Licensing Section to ensure that any individual licensed as a Private Hire / Hackney Carriage Driver is a fit and proper person to hold such a licence.

2.02 There have been instances when Flintshire County Council (and other authorities) has suspended a Private Hire / Hackney Carriage driver's licence pending further investigation, for example, when serious allegations in relation to the conduct of a driver have been made by a child or other vulnerable passenger.

2.03 The power to suspend and revoke drivers' licences is contained in Section 61 of the Local Government (Miscellaneous Provisions) Act 1976.

3.00 CONSIDERATIONS

3.01 A recent Judicial Review (R v Cardiff City Council) makes it clear that suspension of a Driver's Licence is a final decision in relation to whether the individual is a fit and proper person. It should not be used as an interim measure pending further investigation in to a matter of concern. This aspect was addressed directly by the Judge and the relevant wording is shown at Appendix A.

3.02 In light of the judgement, any suspension used in this way would be unlawful.

3.03 A suspension can be used as a sanction, but it will be a lesser sanction than revocation, for example, suspending the licence for a specific period of time.

3.04 The alternatives would be voluntary suspension by the driver himself or herself; suspension of the driver by the Private Hire Operator; suspension by the employer of the driver; suspension by Flintshire County Council Transportation or Social Services Departments when the driver concerned is operating under contract or prohibition from driving made a condition of police bail in the circumstances of an ongoing police investigation.

3.05 The Law Commission is currently reviewing the 1847 and 1976 legislation and it is hoped that they consider the introduction of a provision for 'suspension for the purposes of investigation' when they present their proposed draft legislation towards the end of 2013.

4.00 RECOMMENDATIONS

4.01 That Members note that any future suspension of a Private Hire / Hackney Carriage Driver's Licence by a Licensing Sub-committee is part of a final decision on the fitness and propriety of a licensed driver and cannot be used as an interim measure while further investigations are undertaken.

5.00 FINANCIAL IMPLICATIONS

5.01 None.

6.00 ANTI POVERTY IMPACT

6.01 None.

7.00 ENVIRONMENTAL IMPACT

7.01 None.

8.00 EQUALITIES IMPACT

8.01 None.

9.00 PERSONNEL IMPLICATIONS

9.01 None.

10.00 CONSULTATION REQUIRED

10.01 None.

11.00 CONSULTATION UNDERTAKEN

11.01 None.

12.00 APPENDICES

12.01 Attached.

LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985
BACKGROUND DOCUMENTS

Contact Officer: Gemma Potter
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R V Cardiff City Council 2012

Paragraphs 103 – 105

103: In my judgement, the way in which the concept of suspension is used by Parliament in Section 61 of the 1976 Act is not, as it were, to create a power of interim suspension, it is rather after a considered determination in other words, a final decision on whether a ground for either revocation, or suspension of a licence is made out, for there to be either revocation or, as a lesser sanction, a sanction of suspension.

104: By way of an analogy, one can envisage for example in a professional context a solicitor or a barrister can be disciplined on grounds of his conduct. The relevant disciplinary body may conclude that even if the misconduct has been established, that the appropriate sanction should be something less than complete revocation of the practicing certificate for the relevant lawyer. It may be, for example, a suspension for a period of one year will constitute sufficient sanction in the interest of the public.

105: It is in that sense, in my judgement, that Parliament uses the concept of suspension in section 61 of the 1976 Act. It does not use it, as it were, to create an interim power, before a reasoned determination has been made, that the grounds in subsection (1A) or (1B) have been made out. It is not, as it were, a protective or holding power. It is a power of final suspension, as an alternative to a power of final revocation.

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FLINTSHIRE COUNTY COUNCIL

REPORT TO: LICENSING COMMITTEE

DATE: THURSDAY, 29 NOVEMBER 2012

REPORT BY: THE DIRECTOR OF ENVIRONMENT

SUBJECT: THE GAMBLING ACT 2005 - THREE YEAR
LICENSING POLICY 2013 - 2016

1.00 PURPOSE OF REPORT

1.01 To request that Members consider and approve the proposed Gambling Act 2005 Three Year Licensing Policy which will cover 2013 – 2016.

2.00 BACKGROUND

2.01 It is a requirement of Section 349 of the Gambling Act 2005 that a Licensing Authority shall before each successive period of three years prepare a statement of the principles that they propose to apply in exercising their functions under the Act and publish that statement.

2.02 Flintshire's existing policy which fulfils the function came into force on 31st January 2010 and lasts for 3 years.

3.00 CONSIDERATIONS

3.01 Flintshire County Council has been administering and enforcing the requirements of the Gambling Act since it became operational.

3.02 In the light of this experience the Council is not minded to depart significantly from the existing Policy document apart from updating any factual information that has changed.

3.03 The legislation requires a consultation process to be undertaken. This has been carried out and ended on 19th October 2012. A schedule of those consulted is shown as Appendix A. The response received is summarised in Appendix B, together with the view of the Licensing Authority.

3.04 The proposed Statement of Licensing Policy is shown at Appendix C.

4.00 RECOMMENDATIONS

4.01 That Members approve the Flintshire County Council Gambling Act 2005 Statement of Licensing Policy to cover the period 2013 – 2016.

5.00 FINANCIAL IMPLICATIONS

5.01 None in respect of this report. Consultation process funded from licensing income.

6.00 ANTI POVERTY IMPACT

6.01 One of the Gambling Act Licensing Objectives is to protect children and other vulnerable persons from being harmed or exploited by gambling.

7.00 ENVIRONMENTAL IMPACT

7.01 None.

8.00 EQUALITIES IMPACT

8.01 None.

9.00 PERSONNEL IMPLICATIONS

9.01 None.

10.00 CONSULTATION REQUIRED

10.01 As detailed above and in the appendices.

11.00 CONSULTATION UNDERTAKEN

11.01 As detailed above and in the appendices.

12.00 APPENDICES

Appendix A – Consultation schedule.

Appendix B – Summarised response to consultation.

Appendix C – Proposed Statement of Licensing Policy.

**LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985
BACKGROUND DOCUMENTS**

Contact Officer: Gemma Potter

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Gambling Act Policy Consultees

Town and Community Councils in Flintshire

The Gambling Commission

North Wales Police

North Wales Fire and Rescue Service

Head of Planning – Flintshire County Council

Head of Children’s Services – Flintshire County Council

Flintshire Community Safety Partnership

Primary Care Trust

Corbett Bookmakers

William Hill, Ladbrokes, Gala

Association of British Bookmakers

Rank Group

The Bingo Association

Crown Leisure, Leisure Link, City Vending, Parkers, Sceptre Leisure

Parkinsons

Poppleston Allen Licensing Solicitors

Gamcare

Casino Operators Association

Faith Groups

Citizens Advice Bureau

Voluntary Groups and Community Organisations working with children and vulnerable adults

Other Leisure Groups

Other Legal Firms

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Gambling Act Policy Consultation 2012

One response received:

Hope Community Council Concerned about more recent developments in gambling, particularly through interactive TV, the internet and mobile phones and ask what controls can be implemented in these areas.

Licensing Authority's View

In the light of the above it is not deemed necessary to further amend the proposed Gambling Act 2005 Statement of Licensing Policy which will have effect from 31st January 2013 for three years.

The Licensing Authority recognises the concerns expressed by the Community Council but matters relating to remote gambling via those forms of media are the remit of the Gambling Commission and the UK Government.

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Gambling Act 2005

Statement of Licensing Policy

January 2013

Foreword

It is now three years since Flintshire County Council's Gambling Act 2005 Licensing Policy was reviewed.

The Council has worked effectively with the industry and with its partner agencies to ensure that standards continue to be met.

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



Councillor Tony Sharps
Chair of the Licensing Committee

January 2013

Flintshire County Council Gambling Act 2005 Statement of Licensing Policy

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1. Introduction

1.1 Licensing Objectives

The Gambling Act 2005 requires that the Council carry out its various licensing functions with a view to promoting the following three licensing objectives:

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

The 2005 Act requires the Council to publish a 'Statement of Licensing Policy' that sets out the policies the Council will generally apply to promote the licensing objectives when making decisions on applications made under the Act. This is our second three-year Policy.

This 'Statement of Licensing Policy' has been prepared having regard to the provisions of the Gambling Act, Guidance issued by the Gambling Commission and responses received in response to the consultation process.

The policy will come into effect on 31 January 2013 and will be reviewed as necessary and at least every three years from the date of adoption.

The Council is responsible for granting premises licences in respect of –

- casinos
- bingo premises
- betting premises
- adult gaming centres
- family entertainment centres

The Council is also responsible for issuing a range of permits in respect of other smaller scale gambling activities.

1.2 Flintshire County Council Information

- Flintshire is the north-eastern gateway to Wales, and is bounded by the counties of Wrexham, Denbighshire and Cheshire West and Chester. The Dee Estuary defines the North Eastern limit of the County. The extreme north-west of the county is bounded by the Irish Sea, although the North Wales coastal resorts of Rhyl and Prestatyn lie just outside the county, while the built-up area around Chester straddles the English / Welsh border at Saltney. The south-west of the county is bounded by the Clwydian Hills which forms a distinct boundary with Denbighshire.
- Flintshire covers an area of 438 km² including the Dee Estuary and 43,464 hectares excluding the estuary. Census 2001 statistics show that the area supports 152,500 people, making the county the sixth largest in Wales in terms of population

(exceeded only by Cardiff, Rhondda Cynon Taf, Swansea, Carmarthenshire and Caerphilly). A map of the county is shown at Appendix A.

- This gives a population of 342 persons per square kilometre. This is more than double the average population densities for both North Wales and for Wales as a whole. Flintshire's density is average for England and Wales, but above that of the UK as a whole. From its close neighbours, only the urban areas of the Wirral and Ellesmere Port have a higher density.

1.3 Consultation

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

1.4 Types of Licence

This document sets out the policies that the Council will apply when making decisions upon applications or notifications made for:

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

1.5 Licensable Premises and Permits

This policy relates to all those licensable premises, notices, permits and registrations identified as falling within the provisions of the Act, namely :-

- Casinos
- Bingo Premises
- Betting Premises
- Tracks
- Adult Gaming Centres
- Licensed Family Entertainment Centres
- Unlicensed Family Entertainment Centres
- Club Gaming Premises
- Prize Gaming and Prize Gaming Permits
- Occasional Use Notices
- Temporary Use Notices
- Registration of small society lotteries

1.6 General Principles

Nothing in this Statement of Policy will:

1. Undermine the rights of any person to apply under the Act for a variety of permissions and have the application considered on its individual merits; or
2. Override the right of any person to make representations on any application or seek a review of a licence or permit where they are permitted to do so under the Act.

The starting point in determining applications will be to grant the application, without conditions. Conditions will only be considered where they are needed to meet the requirements of the licensing objectives and any conditions applied will not be overly onerous and will be proportionate to the scale of the application and the “risks” involved. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

When determining an application to grant a premises licence or whether to review a premises licence, regard will be taken of the proximity of the premises to schools, vulnerable adult centres, or to residential areas with a high concentration of families with children. The proximity of premises etc. taken into consideration will vary depending upon the size and scope of the gambling premises concerned. Each case will, however, be determined on its merits. Therefore, if an applicant can effectively demonstrate how they might overcome licensing objective concerns, this will be taken into account.

Conditions may be attached to licences that will cover matters that are within the control of individual licensees.

When considering any conditions to be attached to licences, the Council will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned. The Secretary of State has, by regulation, provide for specific conditions to be attached to a Premises Licence as either “mandatory” or “default” conditions. In determining an application, the Licensing Authority may not have regard to the expected demand for the facilities which it is proposed to provide.

In this respect, the Council recognises that, apart from the licensing function, there are a number of other mechanisms available for addressing issues of unruly behaviour that can occur away from licensed premises, including:

- Planning controls
- Ongoing measures to create a safe and clean environment in these areas in partnership with local businesses, transport and other Council Departments
- Regular liaison with the Police on law enforcement issues regarding disorder and anti-social behaviour
- The power of the police, other responsible authorities or a local resident or business to seek a review of the licence

Objectors will be required to relate their objection to one or more of the Licensing Objectives, as specified in Section 1.1 above, before the Licensing Authority will be able to consider it.

Where a person, whether or not directly affected by an application or living in the vicinity of licensable premises under consideration, puts themselves forward as representing the interests of residents in the vicinity, the Licensing Authority will normally ask them to provide evidence that they are acting as representatives of others.

The Council, in undertaking its licensing function, will have due regard to the need to eliminate unlawful discrimination and to promote equality and good relations between persons of different racial groups.

1.7 Advisory Body for the Protection of Children from Harm

Flintshire County Council, as the licensing authority, designates the Local Safeguarding Children Board as the competent authority to provide advice on the protection of children from harm.

The Local Safeguarding Children Board has been established in Flintshire under guidance relating to the Children Act 2004 and is chaired by the Director of Lifelong Learning as lead director under the Act.

1.8 Consultees

This Statement of Licensing Policy was subject to formal consultation with:

- North Wales Police
- North Wales Fire & Rescue Service
- The Local Safeguarding Children Board
- Flintshire Community Safety Partnership
- Representatives of the holders of the various licences for premises in the County who will be affected by this policy
- Elected Members of County, Community and Town Councils
- Faith Groups
- Voluntary Groups and Community Organisations working with children and vulnerable adults
- Gambling businesses
- Persons and businesses likely to be affected by authorised gambling within the area.

1.9 Information Exchange

In fulfilling its functions and obligations under the Gambling Act 2005 the Council will exchange relevant information with other regulatory bodies and will establish protocols in this respect. In exchanging such information the Council will conform to the requirements of the Gambling Act, data protection and freedom of information legislation in accordance with the Council's existing policies.

Contact details of those persons making representations and details of the representations will be made available to applicants to allow for negotiation and, in the event of a hearing being held, will form part of a public document. Anyone making representation or applying for a review of a premises licence will be informed that these details will be disclosed.

Contact details of relevant authorities are given in Appendix C.

2. Legislation, Policies and Strategies

2.1 Legislation

In undertaking its licensing function under the Gambling Act 2005, the Council must also consider other legislation, including:

- Section 17 of the Crime and Disorder Act 1988
- Human Rights Act 1998
- Health and Safety at Work etc. Act 1974
- Environmental Protection Act 1990
- The Anti-Social Behaviour Act 2003
- Race Relations Act 1976 (as amended)
- Regulatory Reform (Fire Safety) Order 2005
- Licensing Act 2003

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

2.2 Relationship with Planning Policies

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

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

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

2.3 National Strategies

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

2.4 Local Strategies and Policies

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

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

2.5 Integrating Strategies

By consulting prior to this policy statement being published the Council will endeavour to secure proper integration with local crime prevention, planning, transport, tourism and cultural strategies.

3. Decision Making

3.1 Committee Terms of Reference

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

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

Every determination of a licensing decision by the Licensing Sub Committee shall be accompanied with clear, cogent reasons for the decision. The decision and the reasons for that decision will be sent to the applicant and those who have made relevant representations as soon as practicable.

The Council's licensing officers will deal with all other licence applications where either no representations have been received, or where representations have been received and it is agreed by the parties that a hearing is not necessary.

Decisions as to whether representations are irrelevant, frivolous or vexatious will be made by Council Officers, who will make the decisions on whether representations or applications for licence reviews should be referred to the Licensing Sub Committee. Where a representation is rejected, the person making that representation will be given a written reason as to why that is the case.

3.2 Allocation of Decision Making Responsibilities

The Council will be involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them.

Appreciating the need to provide a speedy, effective and cost-effective service to all parties involved in the licensing process, the Committee has delegated certain decisions and functions.

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

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

This form of delegation is without prejudice to officers referring an application to a Sub Committee or a Sub Committee to Full Committee, or Committee to Full Council, if considered appropriate in the circumstances of any particular case.

3.3 Licensing Reviews

The council will carry out a review of a premises licence where it has received a formal application for review in accordance with the Act that is relevant to one or more of the Licensing Objectives. Representations may be that activities, including the following, are taking place:

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

Due consideration will be given to all relevant representations unless:

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

A Premises Licence may also be reviewed by the Licensing Authority on its own volition.

3.4 Licence Conditions

In order to avoid duplication with other statutory regimes as far as possible the Council will not attach conditions to a licence unless they are considered necessary for the promotion of the licensing objectives. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

4. Local Standards

4.1 Applications

An application for a Premises Licence can only be made by a person who either holds an Operating Licence authorising him to carry out the activity in respect of which a Premises Licence is sought, or has made an application for an Operating Licence which has not been determined.

Applications for the grant, transfer or variation of a premises licence must be accompanied by an assessment that demonstrates how the applicant will promote all the Licensing Objectives in the form of a written Operating Schedule. The Applicant may ask the Council for advice as to the scope of information to be provided.

The level of detail to be provided will be advised by the Council and will be proportionate to the scale and nature of the application being made.

4.2 Assessment of Need

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

4.3 Conditions

Conditions will be applied to licences that are proportionate and appropriate to the business, organisation or individual concerned. The Council will principally draw upon the advice issued by the Gambling Commission and attach conditions relative to the circumstances of each individual case.

Conditions attached to the premises licences will, so far as possible, reflect local crime prevention strategies. For example, the provision of closed circuit television cameras may be appropriate in certain premises.

4.4 Enforcement

This Licensing Authority's principles are that it will be guided by the Gambling Commission's Guidance for local authorities and it will endeavour to be:

- Proportionate : regulators should only intervene when necessary, remedies should be appropriate to the risk posed, and costs identified and minimised;
- Accountable : regulators must be able to justify decisions, and be subject to public scrutiny;

- Consistent : rules and standards must be joined up and implemented fairly;
- Transparent : regulators should be open, and keep regulations simple and user friendly; and
- Targeted: regulation should be focussed on the problem, and minimise side effects.

This Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

This Licensing Authority will adopt a risk-based inspection programme based upon -

- the nature of the gambling activities carried out on the premises
- the location of the premises in relation to schools, etc.
- the procedures put in place by the management to meet the licensing objectives.

The main enforcement role for this licensing authority 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 of the Operator and Personal Licences. Concerns about the manufacture, supply or repair of gaming machines will not be dealt with by the Licensing Authority but will be notified to the Gambling Commission.

Decisions relating to enforcement will be made in accordance with the Public Protection Division Enforcement Policy.

4.5 Casinos

There is no resolution to prohibit casinos in the County at present. However, the Council reserves its right to review this situation and may, at some time in the future, resolve not to permit casinos or, if licensed casinos are already operating, resolve not to permit any additional casinos.

Should the Council choose to make such a resolution, this will be a resolution of Full Council following considered debate and the reasons for making the resolution will be given.

4.6 Unlicensed Family Entertainment Centres

Where a premises does not hold a Premises Licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit.

An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an Unlicensed Family Entertainment Centre, and if the chief officer of police has been consulted on the application. Relevant considerations to take into account would be the applicant's suitability, such as any convictions that they may have that would make them unsuitable to operate a family entertainment centre; and the suitability of the premises in relation to their location and issues about disorder.

4.7 Additional Information

- Details of gaming machine categories are given in Appendix F.

- A schedule of the gaming machines permitted in different types of premises are shown in Appendix G.

4.8 Small Society Lotteries

The Licensing Authority will follow Gambling Commission guidance in respect of small society lotteries.

5. Prevention of Crime and Disorder Objective

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

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

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

In considering licence applications, the Council will particularly take into account the following:

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

6. Ensuring that Gambling is Conducted in a Fair and Open Way Objective

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

If the Licensing Authority becomes aware of concerns that gambling is taking place contrary to this licensing objective it may pass these concerns to the Gambling Commission.

7. The Protection of Children and Other Vulnerable Persons Objective

7.1 Children

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

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

The Council will consult with the Local Safeguarding Children Board on any application that indicates there may be concerns over access for children.

The Council will judge the merits of each separate application before deciding whether to impose conditions to protect children on particular categories of premises. This may include such requirements as:

1. Supervision of entrances;
2. Segregation of gambling areas from areas frequented by children;
3. Supervision of gaming machines in non-adult gambling specific premises.

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

7.2 Vulnerable Persons

The Council does not seek to prohibit particular groups of adults from gambling in the same way that it seeks to prohibit children but it will assume, for regulatory purposes, that 'vulnerable persons' includes :

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

8. Complaints against Licensed Premises

The Council will investigate complaints against licensed premises in relation to matters relating to the licensing objectives for which it has responsibility. In the first instance,

complainants are encouraged to raise the complaint directly with the licensee or business concerned to seek a local resolution.

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

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

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



Appendix B

Table of Delegations of Licensing Functions

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

Matter to be Dealt With	Full Council	Licensing Sub-Committee	Officers
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	
Determination as to whether a person is an Interested Party			X
Determination as to whether representations are relevant			X
Determination as to whether a representation is frivolous, vexatious or repetitive			X

Contact Details for Relevant Authorities

Flintshire County Council	:	Licensing Section Public Protection Flintshire County Council County Hall Mold CH7 6NF
Gambling Commission	:	Victoria House Victoria Square Birmingham B2 4BP
North Wales Police	:	Licensing Officer North Wales Police East Division Headquarters Bodhyfryd Wrexham LL12 7BW
North Wales Fire & Rescue Service	:	County Safety Manager North Wales Fire & Rescue Service Flintshire Area Office Unit 4, Acorn Business Park Aber Road Flint CH6 5YN
Safeguarding Children Board	:	Head of Children's Services Flintshire County Council County Hall Mold CH7 6ND
HM Revenue and Customs	:	HM Revenue & Customs National Registration Unit Portcullis House 21 India Street Glasgow G2 4PZ

Gambling Act Policy Consultees

Members of Town and Community Councils

The Gambling Commission

North Wales Police

North Wales Fire & Rescue Service

Head of Planning, Flintshire County Council

Head of Children's Services, Flintshire County Council

HM Revenue & Customs

Flintshire Community Safety Partnership

Corbett Bookmakers

William Hill; Ladbrokes; Coral; Carefree Racing

Association of British Bookmakers

Mecca Bingo; The Bingo Association

Crown Leisure Limited; Leisure Link

City Vending UK Limited

Gamestec Leisure Limited

Parkers Leisure Holdings Limited

Poppleston Allen Licensing Solicitors

Gamcare

Faith Groups

Citizens Advice Bureau

Voluntary Groups and Community Organisations working with children and vulnerable adults

Glossary of Terms

Within this Statement of Policy, the following words and terms are defined as stated:

Act:	means the Gambling Act 2005.
Applications:	means applications for Licences or Permits defined in section 1.4 above.
Code of Practice:	means any relevant code of practice under section 24 of the Gambling Act 2005.
Council:	means Flintshire County Council
District:	means the area of Flintshire County Council – see map in Appendix A.
Interested Party:	<p>for the purpose of the Gambling Act 2005, a person is an interested party in relation to a premises licence if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, the person:</p> <ul style="list-style-type: none">▪ Lives sufficiently close to the premises to be likely to be affected by the authorised activities;▪ Has business interests that might be affected by the authorised activities; this could also include, for example, trade associations, charities, faith groups and medical practices.▪ Represents persons who satisfy either of the above; for example Residents' and Tenants' Associations. <p>When considering whether a person is an interested party, each case will be judged on its merits taking into consideration the relevant circumstances, including those contained in the Gambling Commission's Guidance to Local Authorities.</p>
Licences:	as defined in section 1.4 above.
Licensing Authority:	means Flintshire County Council.
Licensing Objectives:	as defined in section 1.1 above.
Mandatory:	means any specified condition provided by regulations to be attached to a licence.
Notifications:	means notifications of Temporary Use Notices and Occasional Use Notices.

Premises: means any place and includes a vehicle, vessel or moveable structure.

Regulations: means Regulations made under the Gambling Act 2005

Responsible Authorities: for the purposes of the Gambling Act 2005, the following are responsible authorities in relation to premises:

- The Licensing Authority (Flintshire County Council)
- The Gambling Commission
- North Wales Police
- North Wales Fire & Rescue Service
- Head of Planning, Flintshire County Council
- Head of Public Protection, Flintshire County Council
- Safeguarding Children Board : Lifelong Learning Directorate, Flintshire County Council
- HM Revenue and Customs

Gaming Machine Categories

Category of Machine	Maximum Stake	Maximum Prize
A	Unlimited	Unlimited
B1	£2	£4,000
B2	£100 (in multiples of 10)	£500
B3	£2	£500
B3A	£1	£500
B4	£1	£250
C	£1	£70
D non-money prize (other than crane grab machine)	30p	£8
D non-money prize (crane grab machine)	£1	£50
D money prize	10p	£5
D Combined money and non-money prize (other than coin pusher or penny falls machine)	10p	£8 (of which no more than £5 may be a money prize)
D Combined money and non-money prize (coin pusher or penny falls machine)	10p	£15 (of which no more than £8 may be a money prize)

Gaming Machines Allowed in Arcade Premises

Gaming machines allowed in arcade premises

Gaming machines fall into categories depending on the maximum stake and prize available. Arcades are allowed to offer a certain number of gaming machines from each category:

	Machine category			
	B3	B4	C	D
Adult gaming centre	Maximum of 4 machines in category B3 or B4 Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4*		No limit on category C or D machines	
Family entertainment centre (with premises licence)			No limit on category C or D machines	
Family entertainment centre (with permit)				No limit on category D machines

AGC premises are entitled to make available a number of Category B3/B4 gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises.

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

AGC premises licences granted on or after 13 July 2011 but before 1 April 2014 are entitled to a maximum of four Category B3/B4 gaming machines or 20% of the total number of gaming machines, whichever is the greater; from 1 April 2014, these premises will be entitled to 20% of the total number of gaming machines only.

All gaming machines sited in adult gaming centre (AGC) or family entertainment centre (FEC) premises must comply with the relevant Gaming Machine Technical Standards – June 2012.

Gaming Machines Allowed in Betting Shops

Gaming machines fall into categories depending on the maximum stake and prize available. A general betting (standard) operating licence, together with a betting premises licence, allows for up to four gaming machines from any of the following categories to be sited on that premises:

		Machine category				
		B2	B3	B4	C	D
Betting premises and tracks occupied by pool betting		Maximum of 4 machines in categories B2 to D				

Gaming machines can be sited on betting premises. All gaming machines sited on betting premises must comply with the Gambling Commission's gaming machines technical standards, and be tested to the appropriate standard by an approved test house.

Gaming Machines Allowed in Bingo Premises

Gaming machines can be sited on bingo premises. The rules for the positioning of gaming machines, in relation to other activities on a premises, are listed in the Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007 and the (Mandatory and Default Conditions) (Scotland) Regulations 2007.

All gaming machines sited on bingo premises must comply with the Gambling Commission's **Gaming Machines Technical Standards** and be tested to the appropriate standard by an approved test house.

What gaming machines can bingo premises offer?

Gaming machines fall into **categories** depending on the maximum stake and prize available.

	Machine category			
	B3	B4	C	D
Bingo premises	Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4*			No limit on category C or D machines

* Bingo premises are entitled to make available a number of Category B3/B4 gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises.

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

Bingo premises licences granted on or after 13 July 2011 but before 1 April 2014 are entitled to a maximum of eight Category B3/B4 gaming machines or 20% of the total number of gaming machines, whichever is the greater; from 1 April 2014 these premises will be entitled to 20% of the total number of gaming machines only.

Gaming Machines Allowed in Pubs & Clubs

Gaming Machines allowed in pubs, clubs, and other qualifying alcohol licensed premises

Gaming machines fall into categories depending on the maximum stake and prize available.

	Machine category		
	B4	C	D
Clubs or miners' welfare institute (with permits)	Maximum of 3 machines in categories B3A or B4 to D		
Qualifying alcohol-licensed premises		1 or 2 machines of category C or D automatic upon notification	
Qualifying alcohol-licensed premises (with gaming machine permit)		Number as specified on permit	

Permits for additional gaming machines

In addition to their automatic entitlement, pubs and other alcohol licensed premises may apply to their local licensing authority for a gaming machine permit which allows the provision of additional machines. The number of machines allowed will be specified on the permit.

Please note that the information provided in Appendices F and G was correct at the time of publication but may change from time to time. See the Gambling Commission website.