



HEREFORDSHIRE  
COUNCIL

**DRAFT**

**Statement of Principles**

**Gambling Act 2005**

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## Part I

# INTRODUCTION

### (A) General

The Gambling Act 2005 (“the Act”) requires licensing authorities to publish a Statement of Principles which they propose to apply when exercising their functions under the Act. The Statement of Principles must be published at least every three years and should be reviewed from “time to time” and any amended parts will be the subject of re-consultation. The Statement of Principles will then be republished.

This Statement of Principles has been prepared in accordance with the provisions of the Gambling Act 2005 and the guidance issued to licensing authorities by the Gambling Commission under Section 25 of the Act. Its purpose is to set out the principles that the licensing authority proposes to apply in exercising its functions under the Act. Accordingly, it gives weight to the views of the consultees listed in the main body of the Statement. Herefordshire Council as the licensing authority must carry out its functions with a view to promoting the gambling objectives and as such, these objectives provide a framework for the Statement of Principles. Each application will be considered on its own individual merits. The licensing objectives are:

It should be noted that the Gambling Commission has stated “*the requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling*”.

Herefordshire Council is aware, in accordance with Section 153 of the Act, that in making decisions about premises licences and temporary use notices, it should aim to permit the use of premises for gambling insofar as it is:

- In accordance with any relevant Code of Practice issued by the Gambling Commission;
- In accordance with any relevant guidance issued by the Gambling Commission;
- Reasonably consistent with the licensing objectives; and
- In accordance with the Authority’s Statement of Principles

### (B) Functions of the Gambling Commission

The Gambling Commission issues operator and personal licences to gambling operators and individuals who provide facilities for gambling. It also has responsibilities to regulate gaming machine manufacturers/suppliers and on line gaming operators. In undertaking its licensing responsibilities, the Gambling Commission is primarily concerned with the following areas in relation to gambling:

- Financial robustness (ensuring there are procedures concentrating on the protection of customer funds, cash handling and avoidance of money laundering).

- Protection of children and vulnerable persons – ensuring policy and procedures are in place concentrating on social responsibility, age and credit card verification, repetitive play and self exclusion.
- Fair and open play – ensuring gambling procedures comply with relevant legislation around fair gaming, games rules, voiding, late bets and maximum payouts
- Marketing – ensuring there is compliance with advertising codes of practices and rules around the provision of alcohol and gaming.
- Effective dispute resolution – ensuring operators keep records of complaints, disputes and have a dispute handling mechanism.
- Employers of gambling premises – covering issues around training, association between employees and customers, tipping and gambling by employees.
- The Gambling Commission shares enforcement responsibilities with the licensing authorities. It also issues guidance and codes of practice to which licensing authorities and operators must have regard.

### **(C) Licensing Authorities**

Herefordshire Council is the licensing authority, its key functions include:

- Preparing a Statement of Principles for Gambling and reviewing it every three years.
- Deciding whether or not to permit new casino premises in their area.
- Monitoring and inspection of premises to ensure the conditions of the gambling premises licence are complied with.
- Ensuring applications are adequately consulted upon with Interested Parties and Responsible Authorities.
- Holding licensing committee hearings for applications that receive representations.
- Licensing of premises for gambling activities.
- Considering notices for the temporary use of premises for gambling and occasional use notices for betting at tracks.
- Granting various permits for low level gaming.
- Registering small society's lotteries.

### **(D) Key Terms And Definitions**

#### **“Licensing objectives”**

- Preventing gambling from being 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.

#### **“Licensing Authorities”**

A generic term given to the bodies that administer the licensing functions with a regard to a particular area. Herefordshire Council is the licensing authority for the County of Herefordshire. Unless explicitly stated, the term will relate to the licensing authority under the Gambling Act.

### **“Licensing Committee”**

The Committee established under Section 6 of the Licensing Act 2003 in their capacity to determine premises licences under the Gambling Act 2005.

### **“Interested Party”**

A person is an Interest Party in relation to an application for, or in respect of a premises licence, if in the opinion of the Licensing Authority, the person:

- (a) lives sufficiently close to the premises likely to be affected by the authorised activity;
- (b) has business interests that might be affected by the authorised activity; or
- (c) represents persons who satisfy (a) or (b).

### **“Guidance”**

The guidance to the Licensing Authorities issued by the Gambling Commission.

### **“Statement of Principles”**

The Statement of Principles required to be prepared under Section 349 of the Act (ie this Statement of Principles).

### **“Premises”**

“Premises” means any place and includes a vehicle, vessel or moveable structure

### **“Responsible Authority”**

“Responsible Authority” means for the purpose of the Gambling Act 2005 the following are Responsible Authorities in relation to premises

- (a) Herefordshire Council as Licensing Authority
- (b) Gambling Commission
- (c) Police
- (d) Hereford & Worcester Fire & Rescue Authority
- (e) Herefordshire Council (Planning Services Section)
- (f) Herefordshire Council (Environmental Health Section)
- (g) H M Revenues and Custom
- (h) [*Some pan-Council Authority that represents the safeguarding of children*]

## Part II

### HEREFORDSHIRE COUNCIL

#### (A) Background

Herefordshire Council is situated in an area which is co-terminus with the historic County of Herefordshire. Herefordshire Council is a unitary authority. The Council has an area of 217973 hectares with a population of 178,800 making it the second largest populated non-metropolitan unitary authority in England with the least population density of 0.82 persons per hectare (2004).

The county is mainly rural with an administrative headquarters in the Cathedral City of Hereford. There are five other principal market towns, being Leominster, Ross on Wye, Ledbury, Bromyard and Kington.

Herefordshire Council has consulted widely upon this Statement of Principles before finalisation and publishing. A list of those persons consulted is provided below. It should be noted that in addition, unsolicited comments were received from other persons, but these have not been listed.

The Gambling Act requires that the following parties are consulted by Licensing Authorities:

- (a) Chief Officer of Police for the area.
- (b) One or more persons who appear to the Authority represent interests of persons carrying on gambling businesses in the Authority's area.
- (c) One or more persons who appear to the Authority to represent interests who are likely to be affected by the exercise of the Authority's functions and the Gambling Act 2005.

The list of parties this Authority consulted are:

- Police
- Social Services
- [*stipulate a trade association*]
- [*stipulate the residents' associations and/or parish councils*]

The consultation took place between [*insert date*] and [*insert date*], following the revised Code of Practice and the Cabinet Office Guidance and consultations by the public sector.

The policy was approved at a meeting of the full Council on [*insert date*] and was published via the Council's website.

Copies have been placed in public libraries as well as being available at the Council's administrative headquarters at Brockington, 35 Hafod Road, Hereford, HR1 1SH.

It should be noted that this Statement of Principles will not override the right of any person to make an application, make representations about an application or apply for a review of a licence, as each will be considered on its own merits and in accordance with the statutory requirements of the Gambling Act 2005.

Herefordshire Council declares that it has had regard to the licensing objectives to the Gambling Act 2005, the guidance issued by the Gambling Commission and any responses from those consulted in the making of this policy statement.

## **(B) Exchange of Information**

Licensing Authorities are required to include the principles to be applied by the Authority 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 of the exchange of information between it and persons listed in Schedule 6 of the Act.

The principle that Herefordshire Council applies is that it will act in accordance with the provisions of the Gambling Act 2005 and its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The Licensing Authority will also have regard to any guidance issued by the Gambling Commission to local authorities on this matter when it is published, as well as any relevant regulations issued by the Secretary of State under the powers provided by the Gambling Act 2005.

Should it be that any protocols are established with regard to information exchange with other bodies, then they will be made available.

## **(C) Enforcement**

Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

This licensing authority's principles are that:

It will be guided by the Gambling Commission's Guidance for local authorities 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 focused on the problem, and minimise side effects.

In accordance with the Gambling Commission's Guidance for local authorities this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

This licensing authority will also, as recommended by the Gambling Commission's Guidance for local authorities, adopt a risk-based inspection programme. Whilst the Gambling Commission's Guidance suggests that the criteria the authority will utilise in this respect are included in this statement, this has not been possible. At the time of writing the Gambling Commission has not published its risk criteria, nor are regulations such as mandatory / default conditions published, nor Codes of Practice. LACORS is working with the Gambling Commission to produce a risk model for premises licences and this authority will consider that model once it is made available.

The main enforcement and compliance 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 for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines will not be dealt with by the licensing authority but will be notified to the Gambling Commission.

This licensing authority will also keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

Bearing in mind the principle of transparency, this licensing authority's enforcement/compliance protocols/written agreements will be available upon request to the licensing section unit 10 Blackfriars street, Hereford, HR4 9HS, 01432260105 or by e-mailing the service on [licensing@herefordshire.gov.uk](mailto:licensing@herefordshire.gov.uk) At. Our risk methodology will also be available upon request.

*[A paragraph needs to be inserted depending whether or not the Council is going to pass a resolution that there be no casinos; make no resolution whether there should or should not be casinos; make a resolution that there should be a casino]*



## PART III

### LICENSING OBJECTIVES

#### PREMISES LICENCES

##### (A) Background

The first part of this section discusses the licensing objectives and some of the matters that the Herefordshire Licensing Authority may consider when determining applications. The second part discusses conditions and the Herefordshire Licensing Authority's approach to attaching conditions. This section should be read in conjunction with guidance issued by the Herefordshire Licensing Authority on making applications for licences.

When considering the matters in this section, the Herefordshire Licensing Authority will have regard to any guidance or codes of conduct issued by the Secretary of State and/or the Gambling Commission which may relate to a specific premises or category of premises.

Details of these requirements or matters relating to specific premises or categories of premises will be provided in applications procedures/information documents available on the Herefordshire Website [www.herefordshire.gov.uk/licensing](http://www.herefordshire.gov.uk/licensing)

In the interests of good practice, the Herefordshire Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives. Accordingly, the matters outlined in this section provide a non-exhaustive indication of what the Herefordshire Licensing Authority will be particularly concerned with in order to promote the licensing objectives.

The Herefordshire Licensing Authority will always treat each case on its own individual merits and when considering whether specific measures are required to promote the licensing objectives, will balance its considerations against the overall principle of aiming to permit the use of premises for gambling.

Where the applicant can show how they might overcome the licensing objective concerns, this will be taken into account.

##### (B) Crime and Disorder Objective

The Gambling Commission will play a lead role in preventing gambling from being a source of crime. It will maintain rigorous licensing procedures that aim to prevent criminals from providing facilities for gambling, or being associated with providing such facilities. The Gambling Commission have powers to investigate the suitability of applicants for operating and personal licences, and others relevant to the application.

Where a representation is made under the crime and disorder objective, the Herefordshire Licensing Authority will consider whether conditions are

required to ensure that the objective is promoted. In determining appropriate conditions, the Herefordshire Licensing Authority may consider the following:

- The design, layout or the look and feel of the premises – paying particular regard to steps taken to ‘design out crime’.
- Steps taken to address the reoccurrence of any historical crime and disorder issues.
- Any relevant council strategies that relate (or have aspects relating) to crime and disorder.
- Training given to staff around crime prevention measures appropriate to the premises.
- The physical security features installed in the premises. This may include matters such as the position of cash registers or the standard of CCTV that is installed.
- Where premises are subject to age restrictions what procedures or measure are in place to conduct age verification checks, supervised entrances/age restricted machines, whether there is physical separation of areas etc.
- Whether the premises has door supervisors or security, and/or
- The likelihood of any violence, public disorder or policing problem if the licence is granted.

The above list is not exhaustive and merely indicative of types of issues around crime and disorder the Herefordshire Licensing Authority may consider.

The Herefordshire Licensing Authority is aware of the distinction between disorder and nuisance. In delineating the two, it will consider factors such as whether police assistance was required and how threatening the behaviour was to those who witnessed it.

The Guidance provides that Licensing Authorities may not consider issues in relation to nuisance or public safety when determining applications for premises licences and that these matters must be addressed through other legislation. Where a nuisance or public safety issue is raised, the Herefordshire Licensing Authority will ensure that the concern is referred to the relevant statutory authority to ensure that the matter is addressed under the appropriate legislation/enforcement regime.

## **(C) Protection of Children and Vulnerable People Objective**

This licensing objective will be explained in two sections - Children and Vulnerable people.

### **Children**

The Herefordshire Licensing Authority notes the Gambling Commission’s Guidance states that this objective means 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).

We will consider, as suggested in the Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. For

example, appropriate measures may include supervision of entrances / machines, segregation of areas etc.

The Herefordshire Licensing Authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:

- All such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance.
- The premises is appropriately signed, indicating that access to that area is restricted to persons under the age of 18
- Only adults are admitted to the area where the machines are located
- Access to the area where the machines are located is supervised
- The area where the machines are located is arranged so that it can be observed by the staff or the licence holder.

These considerations will apply to premises including buildings where multiple premises licences are applicable. **Note:** Separate requirements apply to Alcohol Licensed Premises with category C gaming machines permissions; refer to Herefordshire's Statement of Principles on Permits, available on the Herefordshire Website [www.herefordshire.gov.uk/licensing](http://www.herefordshire.gov.uk/licensing).

In determining applications in relation to the above objective, the Herefordshire Licensing Authority may consider the proximity of the gambling premises to schools and / or areas where there may be a high concentration of children and/or families.

### **Vulnerable Persons**

The Herefordshire Licensing Authority does not seek to stop particular groups of adults from gambling in the same way that it seeks to stop children, but it will assume for regulatory purposes, that 'vulnerable persons' include:

- 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.

The Herefordshire Licensing Authority will pay particular attention to licence applications for premises near:

- schools
- where gamblers anonymous groups (or similar) meet.

## **(D) Ensuring Gambling is Conducted in a Fair and Open Way Objective**

The Guidance states '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 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.

In the case of a race track conditions might be imposed on a premises licence requiring the track operator to ensure that the rules are prominently displayed in or near to betting areas or that other measures are taken to ensure that they are made available to the public (for example being printed on the race card or made available in a leaflet from the track office). It will also fall to Licensing Authority to decide whether, where category D machines and/or equal chance prize gaming without a permit is to be made available for use at traveling fairs that the statutory requirement for gambling amount to no more than ancillary amusement at the fair is met. The Licensing Authority will also consider whether the applicant falls within the statutory definition of a traveling fair.

Generally the Herefordshire Licensing Authority will not need to concern itself with the suitability of a person applying for a premises licence as that person will have to hold an operating licence from the Gambling Commission. Where concerns about a person's suitability or business practices arise the Herefordshire Licensing Authority will bring this to the attention of the Gambling Commission.

## **(E) Conditions**

Conditions attached to Premises Licences by the Herefordshire Licensing Authority will be proportionate and will be:

relevant to the need to make the proposed building suitable as a gambling facility  
directly related to the premises and type of licence applied for  
fairly and reasonably related to the scale and type of premises reasonable in all other respects.

Appropriate measures / licence conditions may cover issues such as:

proof of age schemes  
CCTV  
supervision of entrances / machine areas  
physical separation of areas  
location of entry to the premises (matters detailed in the Guidance)  
notices / signage about under 18's not entering the premises  
opening hours  
self barring schemes; and/or  
provision of information leaflets / helpline number of gambling self help organisations.

This list is not mandatory or exhaustive and merely indicative of example measures.

The Herefordshire Licensing Authority will aim to not duplicate conditions that are attached to a premises licence by the Gambling Act, Gambling Commission or Secretary of State (unless they are default conditions which may be substituted accordingly) or conditions attached to an operators or personal licence.

### **Conditions on buildings with multiple licences**

The Herefordshire Licensing Authority will consider specific measures that may be required for buildings that have multiple licences. Such measures may include:

- the supervision of entrances
- segregation of gambling from non-gambling areas frequented by children; and/or
- the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives.

### **Betting machines**

Holders of a betting premises licence are permitted (subject to the Local Authority discretion) to have betting machines. A betting machine is different from a gaming machine as it is designed or adapted for use to bet on real events. For example, some premises may have betting machines that accept bets on live events, such as horse racing as a substitute for placing a bet in person over the counter.

Licensing Authorities have powers to restrict the number of betting machines in certain premises. In determining the number of betting machines, the Herefordshire Licensing Authority will consider the nature of the machine and the circumstances with which they are made available. This may include:

- the size of the premises
- the number of counter positions available for counter-to-counter transactions; and/or
- the number of staff to monitor the use of the machines by children and young persons or vulnerable people.

### **Matters that Licensing Authorities May Not Consider**

The Gambling Act and Guidance provides a number of matters that licensing authorities may not consider. These include:

- Moral objections – A Licensing Authority’s decision cannot be based on dislike of gambling, or a general notion that it is undesirable to allow gambling premises in an area.
- Planning – When determining an application, regard cannot, under the terms of the Gambling Act, be given to planning or building control permissions and/or any planning restrictions, refer to paragraphs 80 to 81.
- Demand – Licensing Authorities must not take into account issues around the demand for gambling premises.

### **Conditions that the Licensing Authority May Not Attach to Licences**

The Guidance provides a number of conditions which licensing authorities may not attach to premises licences. These are:

- Any condition on a premises licence which makes it impossible to comply with an operating licence condition.
- Conditions relating to gaming machines categories, numbers, or method of operation.

- Conditions which provide that membership of a club or body be required.
- Conditions in relation to stakes, fees, winnings or prizes; and
- A condition requiring door supervisors at casinos and bingo premises licensed under the Gambling Act to be Security Industry Authority (SIA) licensed.

## (f) Links to Other Policies

This section identifies related strategies and sets out how the Herefordshire Licensing Authority will integrate its licensing functions with these strategies.

### Enforcement

The Herefordshire Licensing Authority will be responsible for ensuring compliance with premises licences and other permissions such as notices and permits. The Gambling Commission will be the enforcement body for Operator and Personal licences, which also includes concerns around supply, manufacture and repair of gaming machines and online gaming.

The Herefordshire Licensing Authority will have regard to any guidance issued by the Gambling Commission on enforcement. Where no specific guidance exists the Herefordshire Licensing Authority will follow the principles on enforcement provided by the Better Regulation Executive and Hampton Review of regulatory inspections and enforcement. Overall, these provide that a regulator will be:

- Proportionate - intervene where necessary and where remedies are taken these will be appropriate to the risk posed and costs identified and minimised.
- Accountable – be able to justify decisions and be open to public scrutiny.
- Consistent – have rules and standards which are joined up and implemented fairly.
- Transparent – keep regulation simple, open and user friendly.
- Targeted - remain focused on the problem and minimise the side effects.

The Herefordshire Licensing Authority will adopt a risk-based enforcement programme. This means we will endeavour to target high-risk premises, which require greater attention, whilst operating a 'light touch' enforcement for those low risk premises who require less attention.

While the Guidance suggests that the criteria the licensing authority will use to risk rate premises is included in this policy, this has not been possible. At the time of writing the Gambling Commission has not published its risk criteria, nor are regulations such as mandatory / default conditions published, nor Codes of Practice. This section will be amended once the relevant information is made available.

Further detail regarding Herefordshire's approach to enforcement under the Gambling Act are detailed in Herefordshire's Gambling Act Enforcement Policy. Our enforcement policy is developed in accordance with the principles of the Regulatory Compliance Code.

In exercising enforcement functions under the Gambling Act, the Herefordshire Licensing Authority will endeavour to avoid duplication with other regulatory regimes as far as possible.

## **Reviews**

A premises licence may be reviewed by the Herefordshire Licensing Authority of its own volition or following the receipt of an application for a review. Applications for review may be made by Interested Parties or Responsible Authorities.

Whether a review is granted will be on the basis of whether the issues raised in the application for review:

- are substantially the same as previous representations or requests for review
- are in accordance with any relevant code of practice or guidance issued by the Gambling Commission
- are in accordance with any relevant guidance issued by the Gambling Commission
- are reasonably consistent with the Licensing Objectives; and/or
- are in accordance with this policy.

The Herefordshire Licensing Authority will also consider whether the request for a review is frivolous, vexatious, will certainly not cause the Herefordshire Licensing Authority to alter/revoke/suspend the licence or whether the request is substantially the same as previous representations or requests for review i.e. it is repetitive.

Further guidance regarding the reviews process is available on the Herefordshire Website [www.herefordshire.gov.uk/licensing](http://www.herefordshire.gov.uk/licensing)

## **Planning Policies**

When determining an application, the Herefordshire Licensing Authority cannot take into account the likelihood of the applicant obtaining planning permission, listed building consent or building regulations approval. However, applications for permanent premises (or variations to permanent premises) should normally be made where the operator already has the appropriate planning permissions and consents for the property concerned.

Although not part of this policy, applicants are reminded that there are various borough wide and area based planning guidance and strategies which may be relevant to the non-licensing components of any proposal. These include:

- The Town and Country Planning Act (1990) as amended
- Town and Country Planning (Use Classes) Order 1987 and subsequent amendments
- The Unitary Development Plan
- Food, Drink and Entertainment in Herefordshire Town

## **Crime and Disorder Policies**

This Gambling Policy has been written having regard to the Safer Herefordshire Strategy 2005-08. In supporting the aims of the strategy, the Herefordshire Licensing Authority will work in partnership with the police and other responsible authorities to ensure that crime and disorder issues around gambling premises are tackled effectively. This includes expanding the work of the Licensing Tasking Meeting to include a fortnightly examination of crime and disorder statistics around Gambling Premises and the taskings of the appropriate agencies to deal with identified issues where appropriate.

Further information about the Safer Herefordshire Strategy can be found at [insert website address]

## **Policies about Children and Young Persons**

The Herefordshire Licensing Authority will look to the Herefordshire Safeguarding Children Board to advise on issues around Protection of Children from Harm. Herefordshire's strategy around children and young people are found in the Herefordshire's Children and Young People's Plan 2006-2009. This plan underpins the functions of the Herefordshire Safeguarding Children Board to ensure young people and children achieve their full potential.

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