

Isle of Wight Council  
**GAMBLING ACT 2005**  
**SECTION 349**

**Statement of Licensing Principles**  
**31 January 2013 – 31 January 2016**

# 1 Document Information

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## 2 Contents

|    |   |    |
|----|---|----|
| 1  | Document Information .....                          | 2  |
| 2  | Contents .....                                      | 3  |
| 3  | Introduction .....                                  | 4  |
|    | 3.1 Advertising .....                               | 4  |
|    | 3.2 Publication .....                               | 5  |
|    | 3.3 Geographical Information .....                  | 5  |
| 4  | Licensing Objectives .....                          | 6  |
| 5  | Fundamental Principles .....                        | 7  |
| 6  | Integration of Strategies & other Legislation ..... | 8  |
| 7  | Consultation .....                                  | 9  |
| 8  | Compliance & Enforcement .....                      | 12 |
| 9  | Consideration of Applications .....                 | 13 |
| 10 | Exchange of Information .....                       | 14 |
| 11 | Register .....                                      | 15 |
| 12 | Fees .....  | 16 |
| 13 | Applications .....                                  | 17 |
| 14 | Related Documents .....                             | 18 |
| 15 | Appendix A .....                                    | 19 |
| 16 | Appendix B .....                                    | 20 |

### 3 INTRODUCTION

This document sets out the Isle of Wight Council's policy, in respect of its licensing functions under the Gambling Act 2005 for three years, commencing on 31 January 2013, within this policy the Isle of Wight Council shall be referred to as the 'Licensing Authority'. During the three year period the policy may be reviewed and revised by the authority at any time in line with the process contained within the Gambling Act 2005.

This Statement of Licensing Policy has been prepared having regard to the provisions of the Gambling Act 2005 ("the Act") and the Guidance issued by the Gambling Commission under Section 25 of the Act.

Appropriate weight will be given to the views of all consultees. A list of consultees is at Appendix A. In determining how much weight to give a particular representation, the factors that may be taken into account by the Licensing Authority include:

- Who made the representation (including their expertise or interest)
- What that person's motivation may have been for their views
- How many other people expressed the same or similar views
- How far the representations relate to matters that the Licensing Authority should include in its statement of principles.

If amendments to the policy are required following a consultation, these will be made in accordance with Section 349(3) of the Act. Further consultation may be required in the event that changes are made to the policy. Any further consultation will only relate to the amendments made.

Further licensing statements will be published every three years thereafter.

The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling.

#### 3.1 ADVERTISING

Before publishing a statement or revision, the Licensing Authority will publish a notice of their intention to do so, no less than two weeks before the statement or revision is to be published. The notice will:

- a) specify the date on which the statement or revision is to be published;
- b) specify the date on which the statement or revision will come into effect;
- c) specify the internet address where the statement or revision will be published and the address of the premises at which it may be inspected; and
- d) be published on the authority's website and in/on one or more of the following places:
  - A local newspaper circulating in the area covered by the statement
  - A local newsletter, circular, or similar document circulating in the area covered by the statement;

- A public notice board on or near the principal office of the authority;
- A public notice board on the premises of public libraries in the area covered by the statement.

### 3.2 PUBLICATION

The statement or any subsequent revision of the statement will be published on the Isle of Wight Council's website:

[www.iwight.com/living\\_here/environment/environmental\\_health/Licensing/gambling.asp](http://www.iwight.com/living_here/environment/environmental_health/Licensing/gambling.asp)

and will also be available for inspection at Jubilee Stores, The Quay, Newport, Isle of Wight, PO30 2EH.

### 3.3 GEOGRAPHICAL INFORMATION

The Isle of Wight Council area covers the whole of the Isle of Wight which is 23 miles from east to west and 13 miles from north to south and is 147 square miles in area. The major towns are Newport, Cowes and East Cowes, Ryde, Sandown, Shanklin, Ventnor and Yarmouth, with Newport being the capital and centrally situated. The remaining areas are rural comprising of a number of small villages. The population of the Isle of Wight is approximately 140,500 (in mid-2010).



## 4 LICENSING OBJECTIVES

4.1 When dealing with licensing matters the Licensing Authority will promote and have regard to the three licensing objectives set out in the Act. These 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.

## 5 FUNDAMENTAL PRINCIPLES

- 5.1 The Licensing Authority recognises that the best means of promoting the licensing objectives is through the co-operation and partnership of local authorities, the police, local business, local people and those involved in child protection.
- 5.2 The Licensing Authority recognises that in regulating activities under this legislation, a balance must be struck between the legitimate objectives of applicants and the desires of the population as a whole, and in particular those members of the public living, working or engaged in normal activity in the area concerned. A balance must be struck between these, often conflicting positions, and all views will be taken into account when making licensing decisions or determining a course of action.
- 5.3 The aim of the licensing process is to ensure the appropriate control of betting premises, adult gaming centres, family entertainment centres, gaming and machine permits, lotteries, temporary use notices, occasional use notices, and the people who manage them under an operating licence or who hold personal licences within the terms of the Act. The Licensing Authority shall aim to permit the use of premises for gambling in so far as it thinks fit and will regulate gambling in the public interest.
- 5.4 This policy does not comment on the need for gambling premises. Unmet demand is not a criterion in considering an application for a premises licence, and each application will be considered on its merits without regard for demand.
- 5.5 The location of premises will only be commented on in so far as the location relates to the licensing objectives. The Licensing Authority will consider very carefully the proximity of the following in relation to applications for premises licences:
- Schools and young persons establishments
  - Establishments used or inhabited by vulnerable persons
  - Centres established for assisting persons with a gambling addiction
- 5.6 Each application will be considered on its merits and will depend to a large extent on the type of gambling activity that is proposed to be offered on the premises. If an applicant for a premises licence can show how licensing objective concerns can be overcome, that will be taken into account.
- 5.7 Where valid representations are made, the Licensing Authority will consider whether conditions need to be attached to a licence to ensure that the licensing objectives are met. Accordingly, any decision taken by the Licensing Authority or any conditions attached to the licence will centre on promoting the licensing objectives at the premises being used and the vicinity of those premises. Whether or not an incident can be regarded as being in the vicinity of licensed premises will depend on the particular circumstances of that incident.

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## **6 INTEGRATION OF STRATEGIES AND OTHER LEGISLATION**

- 6.1 The Licensing Authority recognises that there should be a clear separation of the planning and licensing systems and how licensing applications will be viewed independently of planning applications. To achieve this, liaison will be maintained between the Regulatory Committee and its Sub-Committees. Licensing applications will not be a re-run of any planning application.
- 6.2 Prior to submitting an application to the Licensing Authority, the applicant should note that whilst the Licensing Authority may grant an extension to operating hours the responsibility lies with the applicant to ensure that any necessary planning consents are subsequently obtained for the hours and activities for which the application is being made.
- 6.3 The Licensing Authority will seek to avoid duplication with other regulatory regimes so far as is possible. However, if other legislation does not cover the unique situations that may arise then additional controls such as conditions, may be imposed to secure the licensing objectives.
- 6.4 Premises must also comply with all other relevant legislation.

## 7 CONSULTATIONS

### Consultation - Policy

- 7.1 In accordance with Section 349(3), the Licensing Authority will consult the following on this Policy:
- The Chief Officer of Police for the Isle of Wight;
  - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the Isle of Wight area;
  - One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act.
- 7.2 The Licensing Authority will also consult the above and any other persons as may be appropriate for any subsequent revision of the policy.
- 7.3 In determining its policy the Licensing Authority will always:
- Have regard to the Gambling Commission Guidance to Licensing Authorities
  - Give appropriate weight to the views of those it has consulted.
- 7.4 In determining what weight to give a particular representation on its policy, the factors to be taken into account will always include:
- Who is making the representation in terms of their expertise or interest;
  - What their motivation may be for their views;
  - How many other people have expressed the same or similar views;
  - How far the representations relate to matters that the Licensing Authority should be including in its policy statement.
- 7.5 It will be for the Licensing Authority to ensure that it considers carefully the views of consultees and decides whether they should be taken into account, and if so having regard to the above factors, to what extent.
- 7.6 The Licensing Authority will always give reasons for the decisions it has made following consultation, details of which can be viewed on the Isle of Wight Council Website [www.iwight.com](http://www.iwight.com) or by contacting the Licensing Section at Jubilee Stores, The Quay, Newport, Isle of Wight, PO30 2EH.

### Consultation - Application

#### Responsible Authorities

- 7.7 When dealing with applications for premises licences and reviews of premises licences, the Licensing Authority will only consider representations from those defined in the Act as 'Responsible Authorities' and 'Interested Parties'.

7.8 Responsible Authorities in relation to premises are public bodies as defined by Section 157 of the Act.

### Interested Parties

7.9 The Licensing Authority will consider whether a person is an '*interested party*' with regard to particular premises on a case by case basis and will have regard to a number of factors. In the Act an '*Interested Party*' is a person or body who:

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

7.10 In determining what is '*sufficiently close to the premises*' the Licensing Authority will take the following factors into account:

- The size of the proposed premises;
- The nature of the activities taking place at the proposed premises;
- The distance of the proposed premises from the location of the person making the representation;
- The potential impact of the proposed premises from such factors as the number of customers and routes likely to be taken by those visiting the establishment.
- The interests of the person making the representation which may be relevant to the distance from the proposed premises.

7.11 In determining who are '*persons with business interests that could be affected*' the Licensing Authority will take the following factors into account:

- The size of the proposed premises;
- The broader geographical area from the proposed premises;
- The nature of the business interest;
- The distance of the proposed premises from the business interest.

7.12 In determining who is '*a person representing those*' in the above categories, the Licensing Authority shall consider each representation on its own merits and shall recognise persons from the following groups:

- Isle of Wight Council Elected Councillors;
- Parish Councils;
- Residents and tenants associations;
- Trade Associations;
- Trade Unions.

7.13 The Licensing Authority will only consider representations that are relevant to the licensing objectives or that raise issues under this policy statement.

7.14 Representations will be examined closely to ensure that they are not frivolous or vexatious. In determining if this is the case Licensing Authority will consider the following:

- Who is making the representation, and whether there is a history of making representations that are not relevant.
- Whether the representation raises a relevant issue
- Whether the representation raises issues specifically to do with the premises that are subject of the application.

## **PROTECTION OF CHILDREN – DESIGNATED AUTHORITY**

7.15 In respect of licensing matters the Licensing Authority recognises the Isle of Wight Council's Directorate of Community Well-Being & Social Care as the appropriate body competent to advise the authority about the protection of children from harm.

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## 8 COMPLIANCE AND ENFORCEMENT

- 8.1 The Licensing Authority will establish protocols with the local Police and liaise with the Gambling Commission on enforcement issues. The aim of the protocol will be to concentrate resources on the premises:
- which present a higher risk to the public; or
  - where evidence suggests have caused concern.

Inspections of licensed premises will not be undertaken routinely but when and if they are judged necessary.

- 8.2 In determining the level of risk in respect of premises the Licensing Authority shall be guided by complaints from the Gambling Commission, Responsible Authorities and Interested Parties.
- 8.3 The above criteria are subject to any guidance issued by any person or body authorised to issue guidance in respect of the Licensing Authority's powers under the Gambling Act 2005.
- 8.4 The Licensing Authority will have regard to any other recognised current Best Practice guidance.
- 8.5 Any enforcement action instigated by the Licensing Authority will be in accordance with Regulatory Services Enforcement Policy.

## **9 CONSIDERATION OF APPLICATIONS**

9.1 Each licence application will be determined on its individual merits.

9.2 When considering applications, the Licensing Authority will have regard to:

- the Licensing Objectives;
- this policy;
- any Code of Practice issued by the Gambling Commission under section 34 of the Act;
- any guidance issued by the Gambling Commission under section 25 of the Act;

9.3 Nothing in this policy will:

- undermine the rights of any person to apply under the Act for a variety of permissions and have any such application considered on its individual merits.
- override the right of any person to make representations on any application or to seek a review of a licence where they are permitted to do so under the Act.

9.4 Conditions if imposed by the Licensing Authority will be tailored to the individual characteristics of the premises and the licensable activities concerned. Additional conditions will only be attached in cases where specific risks or problems are associated with a particular locality or premises.

9.5 The Licensing Authority will not limit the use of premises for gambling except where it has necessary to do so due to a requirement to act in accordance with the Gambling Commission guidance or code of practice or if it is reasonably consistent with the licensing objectives.

### **STATEMENT REGARDING CASINO RESOLUTION**

9.6 The Licensing Authority has not made a resolution in respect of casino premises within its area. Any applications will be considered on its individual merits.

### **STATEMENT REGARDING FAMILY ENTERTAINMENT CENTRE AND PRIZE GAMING PERMITS**

9.7 At present the Licensing Authority does not have a statement of principles in place in respect of applicants for Family Entertainment Centre Permits or Prize Gaming Permits. The Licensing Authority intends to have regard to the licensing objectives in considering such applications in addition to any guidance issued by the Gambling Commission.

## **10 EXCHANGE OF INFORMATION**

- 10.1 The Licensing Authority will act in accordance with the provisions Sections 29, 30 and 350 of the Act with regard to the exchange of information.
- 10.2 The Isle of Wight Council (“the Council”) is the Data Controller of all personal information recorded for the purposes of this policy. The Council will process and hold that information in accordance with principles of the Data Protection Act 1998.
- 10.3 The information supplied and held may be disclosable in accordance with the Freedom of Information Act 2000 or Environmental Information Regulations 2004. Any person that believes their information should not be disclosed should notify the Council of the reasons for such belief.
- 10.4 The Licensing Authority will establish a protocol with local Police and other regulatory bodies in this regard.

## 11 REGISTER

- 11.1 The Licensing Authority will maintain a register of the premises licences that it has issued.
- 11.2 The register shall be available for inspection at its offices situated at Jubilee Stores, The Quay, Newport, Isle of Wight, PO30 2EH between 8.30am and 5.00pm Monday to Thursday and 8.30am and 4.30pm Friday.
- 11.3 The register shall also be available for public inspection on the Licensing Authority website at the following link:  
[www.iwight.com/council/departments/licensing/publicregisterlist.aspx](http://www.iwight.com/council/departments/licensing/publicregisterlist.aspx)
- 11.4 The Licensing Authority will charge for the provision of copies of the register. The cost of such charges will be available on request.

## 12 FEES

- 12.1 The Licensing Authority will ensure that information regarding the fees to be charged for premises licences and other permissions under the Act is made available to the public via the Council's website at;

[www.iwight.com/living\\_here/environment/environmental\\_health/images/GAMBLINGfees12.9.10.pdf](http://www.iwight.com/living_here/environment/environmental_health/images/GAMBLINGfees12.9.10.pdf)

or by contacting the Licensing Authority.

## 13 APPLICATIONS

- 13.1 The Licensing Authority shall produce guidance that provides information on how to make applications for licences and other permissions under the Act. The guidance shall be available from the Licensing Authority at:

[www.iwight.com/living\\_here/environment/environmental\\_health/Licensing/gambling.asp](http://www.iwight.com/living_here/environment/environmental_health/Licensing/gambling.asp)

and from its offices situated at Jubilee Stores, The Quay, Newport, Isle of Wight, PO30 2EH between 8.30am and 5.00pm Monday to Thursday and 8.30am and 4.30pm Friday.

- 13.2 The guidance shall also include information on how to make representations and how to apply for a review of the premises licence.
- 13.3 Application forms and a full list of responsible authorities and their respective contact details will be available on request from the Licensing Authority and on the Council's website.

## 14 Related Documents

- Corporate Plan [www.iwight.com/council/documents](http://www.iwight.com/council/documents)
- Gambling Act 2005 [www.legislation.gov.uk/ukpga/2005/19/contents](http://www.legislation.gov.uk/ukpga/2005/19/contents)
- Gambling Act Guidance to Licensing Authorities [www.gamblingcommission.gov.uk/licensing\\_authorities.aspx](http://www.gamblingcommission.gov.uk/licensing_authorities.aspx)

## Appendix A

### List of Consultees

#### Local Government

- Isle of Wight Member of Parliament
- Isle of Wight Council Elected Councillors
- Isle of Wight Parish and Town Councils

#### Responsible Authorities

- Hampshire Constabulary
- Isle of Wight Council Community Wellbeing and Social Care Directorate (Children's Services)
- HM Revenue and Customs
- Gambling Commission
- Isle of Wight Fire and Rescue Service
- Isle of Wight Council Environmental Health Department
- Isle of Wight Council Planning Department

#### Relevant Associations

- Association of British Bookmakers
  - British Beer and Pub Association
  - British Casino Association
  - British Holiday and Home Parks Association
  - Casino Operators Association of UK
  - Gamblers Anonymous (UK)
  - GamCare
  - Responsibility in Gambling Trust
  - British Amusement & Catering Trade Association
- 
- All Gambling Act 2005 Licence holders on the Isle of Wight

## Schedule of Delegations

## Appendix B

| Matter to be dealt with                                     | Full Council | Sub Committee of Regulatory Committee                        | Officers   |
|---|--------------|--|--|
| Three Year Licensing Policy                                 | ✓            |  |  |
| Policy not to permit casinos                                | ✓            |  |  |
| Fee Setting (when appropriate)                              | ✓            |  |  |
| Application for premises licence                            |              | Where representations have been received and not withdrawn   | Where no representations have been received/ representations have been withdrawn |
| Application for a variation to a licence                    |              | Where representations have been received and not withdrawn   | Where no representations have been received/ representations have been withdrawn |
| Application for a transfer of a licence                     |              | Where representations have been received from the Commission | Where no representations received from the Commission                            |
| Application for a provisional statement                     |              | Where representations have been received and not withdrawn   | Where no representations have been received/ representations have been withdrawn |
| Review of a premises licence                                |              | ✓  |  |
| Application for club gaming / club machine permits          |              |  | ✓  |
| Cancellation of club gaming / club machine permits          |              |  | ✓  |
| Applications for other permits                              |              |  | ✓  |
| Cancellation of licensed premises gaming machine permits    |              |  | ✓  |
| Consideration of temporary use notice                       |              |  | ✓  |
| Decision to give a counter notice to a temporary use notice |              | ✓  |  |