

West Lothian Licensing Board

STATEMENT OF PRINCIPLES - GAMBLING ACT 2005

2022 – 2025

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**WEST Lothian LICENSING BOARD
STATEMENT OF PRINCIPLES
GAMBLING ACT 2005
31 JANUARY 2022 TO 30 JANUARY 2025**

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FOREWORD

This statement of principles is published by West Lothian Licensing Board as required in terms of the Gambling Act 2005.

In preparing this statement the Board carried out an online public consultation and consulted a number of key stakeholders. The online consultation took place during the period 12 April 2021 to 12 June 2021.

A report providing details of responses to the consultation was considered by the Board at its meeting on the 8 October 2021. A copy of this report and all responses received by the Board to the consultation can be viewed on the Board's webpages, see link in Appendix 8.

This finalised version of the statement incorporates changes and updates to the previous statement which were approved by the Board on 10 December 2021 in light of responses to the consultation and advice from the Clerk to the Board.

This statement is effective from 31 January 2022 and will be in force for a period of three years. It will be kept under review and revised if appropriate during that period.

1. Introduction

- 1.1. West Lothian Licensing Board (“the Board”) is comprised of a Convener (who is elected at the first meeting after a council election and holds office until the next election) and a number of ordinary members. Details of current Board membership and other information related to the Board is available on the Licensing Board’s webpage and the Council’s information system (COINS), see links in Appendix 8.
- 1.2. The Board’s area is the West Lothian Council Local Government Area, a map of which is contained in Appendix 1. West Lothian is an area extending to 427 square kilometers bordered by the City of Edinburgh, Falkirk, North Lanarkshire, South Lanarkshire and Midlothian. The population of West Lothian has been steadily increasing over the last decade. As at 30 June 2020 its population was 183,820 and it is predicted to increase throughout the period to 2028 with the population predicted to be 192,812 by then (National Records of Scotland, see link in Appendix 8).
- 1.3. West Lothian has both urban and rural areas. There are five traditional towns, namely Armadale, Bathgate, Broxburn, Linlithgow and Whitburn as well as the former new town of Livingston where the council’s administration is based. In addition, West Lothian also has 26 villages, some of which have significantly increased in size in recent years.
- 1.4. The Board has a range of functions under the Gambling Act 2005 (“the 2005 Act”). This includes determining applications for premises licences and permits for different gambling activities and issuing licences and permits where such applications are granted. For premises licences this may include attaching conditions to a licence. The Board’s functions also include, for example, issuing notices permitting the temporary or occasional use of premises for gambling purposes. A summary of the activities that the Board is able to license or authorise is contained in Appendix 2.
- 1.5. Under the 2005 Act the issuing of operating and personal licences and the regulation of remote gambling (i.e. gambling in which persons participate by use of the internet, telephone, television, radio or any other kind of electronic or other technology for facilitating communication) do not fall within the Board’s remit, as these functions fall within the remit of the Gambling Commission.
- 1.6. In terms of section 349 of the 2005 Act, the Board is required to prepare and publish, before each successive period of three years, a statement of the principles it proposes to apply in exercising its functions under the 2005 Act during the relevant three-year period (a policy statement). This policy statement contains the principles the Board proposes to apply in exercising its functions under the 2005 Act in the period from 31 January 2022 to 30 January 2025.
- 1.7. The matters dealt with in this statement are summarised in Appendix 3.
- 1.8. In preparing this statement the Board has consulted with the persons listed in Appendix 4.
- 1.9. Nothing in this statement will override the right of any person to make an application to the Board under the 2005 Act or to have the application considered on its individual merits, nor shall anything in it undermine the right of

any person to make representations on an application or to seek a review of a licence where provision has been made for them to do so.

- 1.10. In terms of section 349(2) of the 2005 Act, the Board shall review this policy from time to time and, if it thinks it necessary in light of a review, shall revise it, publishing any revision before giving it effect.
- 1.11. In producing this policy statement, the Board declares that it has had regard to the licensing objectives set out in the 2005 Act, part 6 of the Gambling Commission's Guidance to licensing authorities (see link in Appendix 8) and any responses from those consulted on the statement. The Board carried out an online public consultation from 12 April 2021 to 12 June 2021. 41 respondents participated in the online consultation and their responses can be viewed at the Board's webpages, see link in Appendix 8. A number of other stakeholders submitted responses to consultation regarding this statement and their responses can also be viewed at the Board's webpages.
- 1.12. A number of responses to the online consultation highlighted the risks of gambling harm and expressed a desire for the Board to restrict further expansion of gambling and to limit the number of gambling premises in West Lothian. Unlike alcohol licensing legislation the Gambling Act 2005 does not empower the Board to refuse applications on the basis of overprovision. The Board shares concerns regarding harm that can flow from gambling however it notes that under the current regulatory scheme for gambling in the UK it has a duty to aim to permit gambling and has no legal power to restrict numbers and locations of gambling premises unless robust data and evidence is provided that the licensing objectives are engaged in relation to particular applications. The current number of premises in West Lothian and their locations can be found in the local area profile (see section 15 below). The number of gambling premises in West Lothian has been in steady decline for many years as gambling increasingly moves online and the Board recognises that it has not received any new applications for gambling premises for many years. The Board also recognises that it rarely receives any complaints or concerns linked to gambling generally in West Lothian and in particular in relation to gambling premises.
- 1.13. Whilst the Board shares concerns expressed in the consultation regarding gambling harm, especially in connection with children and vulnerable persons, it recognises that the Board has no power to apply tighter controls than allowed by law and in terms of its remit under the Gambling Act 2005 it has very limited powers that do not include powers to regulate online gambling, ban gaming machines or to ban or restrict gambling generally. The Board notes the wide-ranging UK Government review of the gambling regulatory regime in the UK that was launched in December 2020 and consulted upon in early 2021 and awaits the outcome. A link to information regarding the review can be found in Appendix 8.

2. Board Business

- 2.1. The Board is committed to conducting its business in an open and transparent manner. The meetings of the Board are held in public or whilst remote hearings are taking place due to the pandemic they will be broadcast with minutes taken. All minutes are published on the Council's information system (COINS). A link to the Board section on COINS is contained in Appendix 8 of this policy, where further information such as the current members of the Board, dates of scheduled meetings and quorum requirements can also be found.

- 2.2 In general, meetings of the Board take place on a monthly basis and are held in the Council Chambers within the Civic Centre in Livingston. All meetings of the Board are held in public with a microphone system used to aid the proceedings. Rules are in place setting out the process which will be followed at any hearing which takes place before the Board, a link to the Rules can be found in Appendix 8 of this policy. Currently due to the impact of the pandemic Board meetings are taking place on a monthly basis remotely through MS Teams and this will continue until further notice.
- 2.3 The Board would encourage applicants and anyone with an interest in gambling licensing in the West Lothian Board area, to visit the Board pages of the council's website where regularly updated information and guidance is available. There is a link to the Board's gambling webpages at Appendix 8 of this policy.
- 2.4 General guidance is also available from the Licensing Team to those who wish to apply for a licence or permit, make representations, or make an application for a review of a premises licence. Given the complexity of the legislation and the requirement to understand how that is affected by caselaw it is also strongly recommended that any applicant, or representor seeks independent legal advice.
- 2.5 A Scheme of Delegation is in place whereby decisions under the 2005 Act are delegated to the Clerk, Convener of the Board or nominee of the Convener. The Board's Scheme of Delegation in respect of its gambling functions is attached at Appendix 6.
- 2.6 The Board recognises the need to ensure that the licensing process is accessible to all. Reasonable adjustments will be made available on request for those who may require additional support to access any part of the process.

Section 149 of the Equality Act 2010 came into force in April 2011, introducing a Public Sector Equality Duty. The Public Sector Equality Duty requires public bodies in the exercise of their functions, to have due regard for the need to:

- eliminate unlawful discrimination, harassment and victimisation and other prohibited conduct
- advance equality of opportunity between people who share a relevant protected characteristic and those who do not
- foster good relations between people who share a protected characteristic and those who do not

For further information with respect to equality issues please refer to the Licensing Board's Mainstreaming Report and Outcome Plan, see link in Appendix 8.

- 2.7 The Board consulted on equality issues as part of the online consultation that took place between 12 April 2021 and 12 June 2021 referred to above at section 1.11. No responses were received that identified any equality issues with respect to the functions of the Board under the 2005 Act.
- 2.8 Under the terms of the 2005 Act the Board is required to keep a public register containing information relating to gambling applications. The information

contained within the register is available for public inspection and a copy of information held on the register can be requested by contacting the Licensing Team. Members of the public wishing to inspect documentation should contact the Licensing Team at West Lothian Council to arrange to attend at the Civic Centre in Livingston at a specific time to view the documentation. It is not possible to view documentation without an appointment.

- 2.9 All applications and notices received by the Board under the 2005 Act will be subject to a pre-processing check to ensure that the application is legally competent. This check is carried out by the Licensing Team. As part of the pre-processing check the application will be checked to ensure that the application form has been fully completed and the appropriate fee has been submitted and that it is accompanied by the necessary supporting documents.
- 2.10 If your application or notice is considered competent it will be accepted for processing and you will receive an acknowledgement. If you can provide an email address you will receive an acknowledgement quicker and it will also allow the Board to contact you if further information is needed.

3. The Licensing Objectives

- 3.1. Under section 153 of the 2005 Act the Board, in exercising its functions in relation to premises licences under the 2005 Act, shall aim to permit the use of premises for gambling insofar as the Board thinks it, among other principles, reasonably consistent with the three licensing objectives contained in section 1 of the 2005 Act-
- 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.
- 3.2. Under other provisions of the 2005 Act, including those applicable to temporary use of premises and permits including, for example, licensed premises gaming machine permits, the Board is either required or otherwise may have regard to the three licensing objectives in exercising its functions.
- 3.3. The Board expects all licence and permit holders to be able to inform the Board of any voluntary initiatives or similar they participate in to address issues such as underage access, staff safety and security, if requested.
- 3.4. **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime**
- 3.4.1. In having regard to this licensing objective, the Board may have regard, among other things, to the location of the premises, and whether any controls (such as by way of licence conditions) are necessary in order to prevent the premises being associated with or used to support crime.
- 3.4.2. In considering whether any premises have operated other than in accordance with this objective (see section 13 on premises licence reviews below), the Board may require to consider whether activity has constituted disorder which, in

accordance with guidance from the Gambling Commission, is generally considered to be more serious and disruptive than nuisance. The Board will consider each set of facts and circumstances on its own merits. Factors to which the Board may have regard include, but are not limited to, whether police assistance was required, and how threatening any relevant behaviour was to persons who could see or hear it.

- 3.4.3. In the event of persistent or serious disorder problems which the Board considers an operator could or should do more to prevent, or in the event of the Board receiving information during the course of considering a premises licence application or at any other time which calls into question the suitability of an applicant to hold an operating licence, the Board may bring this to the attention of the Gambling Commission (see section 25 on exchange of information below).

3.5. Ensuring that gambling is conducted in a fair and open way

- 3.5.1. The Gambling Commission has stated that it would not generally expect licensing authorities to find themselves dealing with issues of fairness and openness frequently. The Gambling Commission has explained that any issues in this area are likely to be concerned with gambling operating and personal licences, both of which fall within the Gambling Commission's remit.
- 3.5.2. However, if the Board suspects that gambling is not being conducted in a fair and open way, it may bring this to the attention of the Gambling Commission (see section 25 on exchange of information below). Should any such issues arise in relation to tracks, the Board may have more direct involvement due to the track owner not necessarily having an operating licence.

3.6. Protecting children and other vulnerable persons from being harmed or exploited by gambling

- 3.6.1. As with its alcohol licensing policy under the Licensing (Scotland) Act 2005, the Board considers supervision to be a key component in the operation of premises to which children and young persons have access. The Board considers that licence and permit holders should have due regard to the need to have sufficient safeguarding policies and procedures at gambling premises including procedures to be followed by staff when they witness harm towards children and vulnerable persons. For example, your safeguarding procedures should cover issues like how staff should respond to concerns about a child or young person and how you will make sure you recruit the right people to work with children and young people. A link to further information and guidance regarding safeguarding and child protection procedures can be found in Appendix 8.
- 3.6.2. The Board emphasises that supervision is relevant not only to premises which are age restricted i.e. to ensure that under 18s do not gain entry, but also to premises to which children and young persons do have access and in which gambling facilities are available.
- 3.6.3. The Board expects all licence and permit holders to be able to demonstrate that staff will be able to supervise gambling premises adequately, having regard to this objective. The Board also expects all licence and permit holders to be able to offer their own solutions where any impediment to supervision arises, in order to avoid this objective being compromised and to mitigate associated risks.

- 3.6.4. The Board may consider that specific measures are required at individual premises to promote this licensing objective. Appropriate measures may include supervision of access points or machines, or segregation of specific areas of the premises.
- 3.6.5. The term "vulnerable persons" is not defined for the purposes of gambling law but the Gambling Commission has stated that it assumes for regulatory purposes that this group includes:
- people who gamble more than they want to;
 - people who gamble beyond their means; and
 - people who may not be able to make informed or balanced decisions about gambling due to, for example, mental health, a learning disability or substance misuse relating to alcohol or drugs.
- 3.6.6. The Board does not seek to define vulnerable persons either, but expects licence and permit holders to have regard to this licensing objective and to comply with licence conditions and implement policies and procedures, as appropriate, which seek to mitigate the risks of harm or exploitation by gambling due to vulnerability, however such vulnerability may arise.

4. Designation of body which is competent to advise the Board about the protection of children from harm

- 4.1. Under section 157(h) of the 2005 Act, for the purposes of carrying out its functions in relation to premises licences, the Board is required to designate in writing a body that is competent to advise it about the protection of children from harm. The Board has discretion to determine the most appropriate competent body to advise it, and must consider which body best fulfils this function.
- 4.2. The Board designates the West Lothian Child Protection Committee ("WLCPC") for this purpose. In doing so the Board has had regard to the following considerations and principles:
- geography – WLCPC operates throughout the whole of the Board's area; and
 - knowledge and expertise – the Board considers that WLCPC has the relevant specialist knowledge and expertise to fulfil this role.
- 4.3. The Board will consult with WLCPC regarding applications, as required, in order to identify any concerns over access for children or vulnerable persons to the relevant premises.

5. Premises Licences in General

- 5.1. The Board notes that under section 159(3) of the 2005 Act an application for a premises licence may only be made by a person who either (a) holds an operating licence authorising them to carry on the activity in respect of which the premises licence is sought or (b) has made an application, which has not yet been determined, for an operating licence which authorises them to carry on the activity in respect of which the premises licence is sought. There is therefore a

relationship for gambling law purposes between operating licences issued by the Gambling Commission and premises licences issued by the Board.

5.2. Under Part 8 of the 2005 Act the Board is responsible for:

- processing and determining applications and issuing premises licences for the following classes of gambling premises:
 - adult gaming centres;
 - betting premises, including tracks;
 - bingo;
 - casinos (by law only certain Licensing Boards are authorised to issue casino licences. This does not currently include the Board);
and
 - family entertainment centres

which may include attaching conditions to any such premises licence issued;

- processing and determining applications to vary (change the details of) premises licences, which may include adding, amending or removing an authorised activity under the licence (the activities for which the licence authorises the premises to be used);
- processing and determining applications for transfer of premises licences from one licence holder to another;
- processing and determining any applications for reinstatement of premises licences which have lapsed; and
- processing and determining any applications for review of premises licences which may be made by a “responsible authority” or “interested party”, which could result in the relevant premises licence being:
 - revoked;
 - suspended for a period not exceeding three months; or
 - the conditions of the licence being changed (including the addition, removal or amendment of condition(s)).

(see Appendix 5 for list of responsible authorities. For the meaning of interested party, see section 14 below).

5.3. The 2005 Act sets out the procedure for the Board to determine premises licence applications. In terms of section 162 of the 2005 Act, in determining an application for a premises licence, unless the applicant and any interested party or responsible authority who has made (and not withdrawn) a representation agrees otherwise, the Board must hold a hearing if:

- an interested party or responsible authority has made (and not withdrawn) representations about the application;
- the Board proposes to attach a condition to the licence; and/ or

- the Board proposes to exclude a default condition which would otherwise be attached to the licence (for further information regarding premises licence conditions, please see section 9 below).
- 5.4. The Board's decisions regarding premises licences will be undertaken in accordance with the Scheme of Delegation contained in Appendix 6.
- 5.5. The Board notes that the Gambling Commission's Guidance to Local Authorities part 7 (see link in Appendix 8) states, in relation to applications for premises licences for premises which are still to be constructed or altered, that licensing authorities, in addition to the general requirements of the 2005 Act regarding determination of applications for premises licences, will need to consider if appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place. The Board also notes guidance from the Gambling Commission which states that, if changes to the pre-grant plans which accompanied the application are made, parties who have made representations should be able to comment on the changes made.

6. Provisional Statements

- 6.1. The Board notes that, under section 204 of the 2005 Act, a person may make an application to the Board in respect of premises that they expect to be constructed or altered or which they expect to acquire a right to occupy (known for the purposes of the 2005 Act as a "Provisional Statement").
- 6.2. Under section 205 of the 2005 Act, if a Provisional Statement has been issued in respect of a premises, and an application for a premises licence for the premises is subsequently made, the Board is required to disregard any representations made in relation to the premises licence application unless it considers that the representations:
- address matters that could not have been addressed in representations in relation to the application for a Provisional Statement; or
 - reflect a change in the applicant's circumstances.

The Board will consider each representation on its own merits for the purposes referred to above.

- 6.3. The Board notes that, under section 210 of the 2005 Act, in making a decision regarding a Provisional Statement (or premises licence application) the Board shall not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with the law relating to planning or building.

7. Gaming Machines in General

- 7.1. The 2005 Act and relevant Regulations identify a number of different categories of gaming machine and prescribe the number and type of machine permitted in different gambling premises. The categories referred to range from A to D, with category B divided into a further five subcategories. The Board notes that there is a minimum age of 18 for all players of category A, B and C machines, however there is no minimum age for players of category D machines.

- 7.2. The Board notes that section 172 of the 2005 Act prescribes the number and category of gaming machines permitted under the different classes of premises licence and that the Board does not have the power to set different limits or further expand or restrict the categories of machine that are permitted. The 2005 Act contains similar provisions regarding the number and category of gaming machines permitted under the different kinds of permit the Board is responsible for issuing under the 2005 Act.
- 7.3. The Board expects all gambling licence and permit holders to be familiar with the category and number of gaming machines permitted by their licence or permit and to comply with the requirements of the 2005 Act and Regulations in this regard. See link in Appendix 8 to the Gambling Commission's website for up to date information regarding Gaming Machine categories including permitted numbers and maximum stakes allowable.
- 7.4. The Board also notes that, under section 181 of the 2005 Act, a condition of a betting premises licence imposed by the Board may relate to the number of machines used on the premises for the purposes of making or accepting bets, the nature of those machines and the circumstances in which those machines are made available for use. In accordance with the Gambling Commission's guidance, the Board notes that such machines are separate from the categories of gaming machine referred to above, and are commonly referred to as self-service betting terminals ("SSBTs"). In considering whether to attach a condition to a licence for this purpose the Board will take account of factors including the size of the premises, the number of counter positions available for person to person transactions and the ability of staff to monitor the possible use of the machines by children or otherwise by vulnerable persons.
- 7.5. The Board also notes that, for alcohol licensed premises holding gaming machine permits (see section 22 below), under Paragraph 4(2) of Schedule 13 of the 2005 Act, the Board has discretion to specify the number of permitted gaming machines, including a smaller number of machines than that specified in the application, a different category of machines from that specified in the application or both. In accordance with the 2005 Act, in considering whether to exercise this power the Board will have regard to the licensing objectives, any relevant guidance issued by the Gambling Commission and such other matters as it thinks relevant, with each case being considered on its own merits.

8. Principles to be applied in relation to Premises licences

- 8.1. Under section 153 of the Act the Board, in exercising its functions in relation to Premises licences, shall aim to permit the use of premises for gambling in so far as the Board thinks it:
- in accordance with any relevant code of practice issued by the Gambling Commission (see link in Appendix 8);
 - in accordance with any relevant guidance issued by the Gambling Commission (see link in Appendix 8);
 - reasonably consistent with the licensing objectives referred to in section 3 above; and
 - in accordance with the contents of this statement.

- 8.2. Under section 153(2) of the 2005 Act the Board, in determining whether to grant a premises licence, may not have regard to the expected demand for the facilities which it is proposed to provide. In accordance with guidance from the Gambling Commission, the Board notes that premises licence applications should not be refused where relevant objections can be dealt with by way of licence conditions. The Board also notes that it has significant scope to request additional information for the purposes of determining applications, including in order to identify whether conditions are or are not required and, if so, what any such conditions should be. The Board notes that other considerations, such as moral or ethical objections, are not a valid reason to reject applications for premises licences.
- 8.3. Under section 152(1)(b) of the 2005 Act, subject to a specific exclusion in relation to tracks, a premises licence may not be issued in respect of premises if a premises licence already has effect in relation to the premises. Where applications seek a premises licence for premises which form part of a larger building, the Board may require to consider whether different parts of the building can reasonably be regarded as separate premises.
- 8.4. The Board in determining a premises licence application will have regard to the local area profile (see section 15 below) and will include considerations such as proximity of the premises to schools, and vulnerable adult treatment centres, or to residential areas where there may be a high concentration of families with children. Each application will be decided on its merits. Importantly, if an applicant for a premises licence can show how licensing objective concerns can be overcome, the Board will take that into account in its decision making. The Board will carefully consider whether there is a need for conditions to mitigate risks, in respect of certain kinds of gambling located very close to a school, college or treatment centre for those experiencing or at risk of gambling harm, in light of the third licensing objective.

9. Premises Licence Conditions

- 9.1. Under sections 167 to 169 of the 2005 Act, premises licences are subject to:
- premises licence conditions which apply automatically to specific classes of premises licence under the 2005 Act;
 - mandatory conditions prescribed under Regulations by the Scottish Ministers; and
 - default conditions prescribed under Regulations by the Scottish Ministers, which will apply to the relevant class or classes of premises licence unless excluded by the Board.

They may also be subject to conditions attached by the Board.

- 9.2. In determining premises licence applications, the Board may consider attaching some or all of the conditions contained in Appendix 7 to the licence. Each application will be considered on its own merits. Please see section 11 below for factors the Board may take into particular consideration in relation to different classes of premises licence for the purposes of determining whether any conditions should be attached to the licence.

- 9.3. The Board considers that the mandatory and default conditions, along with any other conditions applied automatically by the 2005 Act, will usually be sufficient and additional conditions will only be imposed where there is evidence that the automatic, mandatory and default conditions need to be supplemented.
- 9.4. Any condition(s) attached by the Board to a premises licence will be:
- relevant to the need to make the premises suitable as a gambling facility;
 - directly related to the premises (including the locality and any identified local risks) and the type of licence applied for;
 - fairly and reasonably related to the scale and type of premises; and
 - reasonable in all other aspects.
- 9.5. The Board may consider attaching specific conditions to premises licences for adjoining areas e.g. for adjoining areas within the same building. Such conditions may concern, for example, supervision of entrances, segregation of gambling and non-gambling areas frequented by children, the supervision of gaming machines and the display of notices highlighting age restrictions.
- 9.6. The Scottish Ministers have prescribed a range of mandatory and default conditions under The Gambling Act 2005 (Mandatory and Default Conditions) (Scotland) Regulations 2007, some of which apply to all premises licences and some to different classes of premises licence. Various sections of the 2005 Act contain conditions which apply automatically to premises licences, some of which apply to all premises licences and some to different classes of premises licence.
- 9.7. The Board expects all premises licence holders to know what conditions apply to their licence, and to comply with the relevant conditions. The Board reminds all premises licence holders that failure to comply with the conditions of their licence could lead to review of their licence by the Board (see section 13 below). The Board recommends that any licence holder who is unsure what conditions apply to their licence seeks legal advice immediately.

10. Door Supervision Condition

- 10.1. Premises licence conditions may include a condition for door supervision by virtue of a mandatory condition, a default condition or a condition imposed by the Board.
- 10.2. In terms of section 178 of the 2005 Act this means a condition requiring that one or more persons be responsible for guarding the premises against unauthorised access or occupation, against outbreaks of disorder or against damage.
- 10.3. The Board may consider imposing a door supervision condition on a premises licence if, for example, it is concerned that the relevant premises may attract disorder, or be subject to attempts for unauthorised access, for example, by children or young persons.

- 10.4. The Board reminds premises licence holders that, should their licence be subject to a door supervision condition, if a person carrying out the relevant supervision is required by the Private Security Industry Act 2001 to hold a licence under that Act authorising them to do so, by virtue of section 178(3) of the 2005 Act the requirement for any such person to be so licensed is treated for the purposes of the 2005 Act as if it were also a condition of their premises licence.

11. Specified Classes of Premises Licence

11.1. Adult Gaming Centres (“AGCs”)

- 11.1.1. The Board notes that AGCs are not permitted to admit children and young persons. The Board expects all AGC premises licence holders to be familiar with the prohibition under the 2005 Act on children and young persons entering their premises and the offences under the 2005 Act relevant to children and young persons and AGCs.
- 11.1.2. The Board will have regard to the location of and entry to AGCs to minimise the opportunities for children and young persons to gain access. The Board expects AGC premises licence holders to ensure and to be able to demonstrate that their policies and procedures take account of the structure and layout of their premises in order to prevent underage gambling. This may be of particular importance in areas where young people may be unsupervised, for example, in a shopping centre.
- 11.1.3. The Board expects all AGC premises licence holders to be familiar with the conditions attached to their licence (whether mandatory, default or otherwise) and to comply with them. The Board also expects all AGC premises licence holders to understand what categories of gaming machine and of what number are permitted on their premises and to comply with the requirements of the 2005 Act and Regulations in this regard.

11.2. Casinos

- 11.2.1. The Board has not passed a “no casino” resolution (resolving not to issue any Casino Premises licences) under section 166 of the 2005 Act.

11.3. Betting premises other than tracks

- 11.3.1. The 2005 Act contains a single class of licence for betting premises which, in the Board’s area, are most commonly comprised of betting shops.
- 11.3.2. With the exception of tracks, which are subject to specific rules, the Board notes that betting premises are not permitted to admit children and young persons. The Board expects all betting premises licence holders for premises other than tracks to be familiar with the prohibition under 2005 Act on children and young persons entering their premises and the offences under the 2005 Act relevant to children and young persons and betting premises.
- 11.3.3. The Board will have regard to the location of and entry to betting premises to minimise the opportunities for children and young persons to gain access. The Board expects all betting premises licence holders to ensure and to be able to demonstrate that their policies and procedures take account of the structure and layout of their premises in order to prevent underage gambling. This may be of

particular importance in areas where young people may be unsupervised, for example, in a shopping centre.

11.3.4. The Board expects all betting premises licence holders to be familiar with the conditions attached to their licence (whether mandatory, default or otherwise) and to comply with them. The Board also expects all betting premises licence holders to understand what categories of gaming machine and of what number are permitted on their premises and to comply with the requirements of the 2005 Act and Regulations in this regard.

11.4. **Tracks**

11.4.1. The Board notes that the law relating to betting premises licences for tracks differs from other premises licences in a number of material respects. The Board encourages applicants and licence holders to seek legal advice immediately if they are in any way unsure of their position.

11.4.2. In terms of section 353 of the 2005 Act, tracks include horse racecourses, greyhound tracks or other premises on any part of which a race or other sporting event takes place or is intended to take place.

11.4.3. In accordance with guidance from the Gambling Commission (see link in Appendix 8), the Board notes that there are a number of venues where sporting events do or could take place and which could include the accommodation of betting facilities (and which could therefore qualify as a track for the purposes of the 2005 Act even though they may not commonly be thought of as tracks):

- A point-to-point horserace meeting;
- Football, cricket and rugby grounds;
- An athletics stadium;
- A golf course;
- Venues hosting darts, bowls or snooker tournaments;
- A premises staging boxing matches;
- A section of river hosting a fishing competition; or
- A motor racing event.

11.4.4. The Board expects all betting premises licence holders for tracks to be familiar with the limited terms under section 182 of the 2005 Act upon which children and young persons may access their premises, and to take sufficient steps to comply with the requirements of the legislation. The Board expects betting premises licence holders for tracks to ensure and to be able to demonstrate that their policies and procedures set out how they will meet these requirements. Steps which they may wish to take include but are not limited to:

- locating all betting areas inside an area of the premises that is separated from the remainder of the premises by a physical barrier, thereby preventing access other than through a designated entrance;
- only admitting adults to the part of the track where betting areas are located, by establishing procedures for verifying customer ages and refusing entry to adult-only areas for those unable to produce an acceptable form of identification (and taking appropriate action where there are unlawful attempts to enter adult-only premises); and

- placing prominent notices in front of and inside each entrance stating that access to the area is prohibited to persons under 18.

11.4.5. The Board expects all betting premises licence holders for tracks to be familiar with the conditions attached to their licence (whether mandatory, default or otherwise) and to comply with them. The Board also expects all betting premises licence holders for tracks to understand what categories of gaming machine and of what number are permitted on their premises and to comply with the requirements of the 2005 Act and Regulations in this regard.

11.5. **Bingos**

11.5.1. The Board notes that children and young persons are allowed into bingo premises but that they are not permitted to participate in bingo and if category B or C machines are available for use these must be separated from areas to which children and young persons have access.

11.5.2. The Board expects all bingo premises licence holders to ensure and to be able to demonstrate that their policies and procedures take account of the structure and layout of their premises in order to meet these requirements and to prevent underage gambling.

11.5.3. The Board expects all bingo premises licence holders to be familiar with the conditions attached to their licence (whether mandatory, default or otherwise) and to comply with them. The Board also expects all betting premises licence holders to understand what categories of gaming machine and of what number are permitted on their premises and to comply with the requirements of the 2005 Act and Regulations in this regard.

11.5.4. The Board notes that bingo is permitted by the 2005 Act and can take place in commercial bingo-specific premises and is also permitted to take place in pubs and clubs subject to regulations regarding stakes and prizes. In light of this the Board considers that it has no power to restrict the advertising of bingo events and the number of bingo events taking place within premises in West Lothian. Further guidance regarding how bingo can take place in accordance with the 2005 Act can be found on the Gambling Commission's website, see links at Appendix 8.

11.6. **Family Entertainment Centres ("FECs")**

11.6.1. The Board notes that, although children and young persons are permitted to enter FECs to use category D machines, they are not permitted to use category C machines. The Board expects premises licence holders for FECs to ensure and to be able to demonstrate that their policies and procedures take account of the structure and layout of their premises in order to meet these requirements and to prevent underage gambling.

11.6.2. The Board notes that in its Guidance to Local Authorities (see link in Appendix 8) the Gambling Commission has stated, with reference to section 238 of the 2005 Act, that it is generally not permissible for FEC premises to correspond to an entire shopping centre, airport, motorway service station or similar. The guidance also states that typically the machines would be in a designated, enclosed area and that the Gambling Commission considers that it is not permissible for gaming machines which should be contained within FEC premises to be located within corridors and walkways which form part of a larger building.

- 11.6.3. The Board expects applicants to be able to demonstrate that the premises for which they are applying for a FEC premises licence will be wholly or mainly used for making gaming machines available for use. The Board also expects all applicants to be able to provide details of the measures they will take in order to protect children from being harmed by gambling, including the policies and procedures they will operate in this regard, if requested.
- 11.6.4. The Board expects all premises licence holders for FECs to be familiar with the conditions attached to their licence (whether mandatory, default or otherwise) and to comply with them. The Board also expects all premises licence holders for FECs to understand what categories of gaming machine and of what number are permitted on their premises and to comply with the requirements of the 2005 Act and Regulations in this regard.

12. Premises Plans

- 12.1. Under Regulation 4 of The Gambling Act 2005 (Premises Licences and Provisional Statements) (Scotland) Regulations 2007, applications for premises licences and provisional statements under section 159 of the 2005 Act must be accompanied by a scale plan of the premises which complies with the various provisions of the Regulations. Under the Regulations each plan must show:
- the extent of the boundary or perimeter of the premises;
 - where the premises include, or consist of, one or more buildings, the location of any external or internal walls of each such building;
 - where the premises form part of a building, the location of any external or internal walls of the building which are included in the premises;
 - where the premises are a vessel or a part of a vessel, the location of any part of the sides of the vessel, and of any internal walls of the vessel, which are included in the premises;
 - the location of each point of entry to and exit from the premises, including in each case a description of the place from which entry is made or to which the exit leads.
- 12.2. The Regulations contain a number of additional requirements for plans pertaining to specific classes of premises licence, including bingo premises licences, adult gaming centre premises licences and betting premises licences.
- 12.3. In addition, under Regulation 7 of the Regulations an application for variation of a premises licence, where the application includes a variation to the plan which forms part of the licence, must be accompanied by a scale plan which complies with the above requirements, as appropriate, and includes the variation(s) proposed.
- 12.4. In the Board's experience compliance with the requirements of such regulations can pose difficulties for applicants and licence holders. The Board recommends that any applicant or licence holder who is any way unsure of their position takes legal advice.
- 12.5. In accordance with guidance from the Gambling Commission, the Board notes that the precise location of where betting facilities are provided is not required to be shown on plans for tracks, but that licensing authorities should satisfy

themselves that the plan provides sufficient information to enable them to assess an application.

- 12.6. In accordance with guidance from the Gambling Commission, if premises are located within a wider venue, the Board will request a plan of the venue on which the premises should be identified as a distinct unit. For applications for multiple licences for a building or relating to a discrete part of a building used for other (non-gambling) purposes, the Board expects entrances and exits to be separate and identifiable, so that the separation of different premises is not compromised. The plan of the premises should clearly denote entrances and exits.

13. Premises licence reviews

- 13.1. As referred to at section 5 above, a “responsible authority” or “interested party” may apply to the Board for review of a premises licence. In addition, in terms of section 200 of the 2005 Act, the Board may review:

- in relation to premises licences of a particular class, the use made of the premises, including arrangements made by licence holders to comply with their licence conditions; or
- any matter connected with the use of premises in reliance on a premises licence, if the Board has reason to suspect that the premises may have been used in purported reliance on a licence but not in accordance with a condition of the licence.

- 13.2. In terms of section 198 of the 2005 Act, an application for review of a premises licence may be rejected by the Board if the Board thinks that the grounds on which the review is sought: -

- do not raise an issue relevant to the principles to be applied in terms of section 8 above;
- are frivolous or vexatious;
- will certainly not cause the Board to revoke or suspend the licence or to change the conditions of the licence;
- are substantially the same as the grounds specified in an earlier application in respect of the same premises licence; or
- are substantially the same as representations made in relation to the application for the premises licence.

- 13.3. The Board generally expects applications for review to identify the principle or principles the issue(s) they raise are relevant to, and what the relevance is. If the principle concerned is whether the permitted use of the premises for gambling is reasonably consistent with the licensing objectives, the Board generally expects applications for review to identify the relevant objective(s) and, why in their view, the permitted use of the premises for gambling is not reasonably consistent with that objective or those objectives.

- 13.4. In determining whether to exercise the power to reject an application for review on the basis that the grounds on which the review is sought are substantially the

same as the grounds specified in an earlier application in respect of the same premises licence or are substantially the same as representations made in relation to the application for the premises licence, the Board will take into account the length of time that has elapsed since the making of the earlier application or since the making of the representation.

14. Determination of whether a person is an interested party in relation to a premises licence or an application for or in respect of a premises licence

14.1. As referred to at section 5 above, in terms of section 158 of the 2005 Act an interested party in relation to a matter concerning a premises licence is a person who, in the Board's opinion:

- 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
- in either case, their representative

14.2. The Board will decide whether a person is an interested party with regard to particular premises on a case by case basis. The Board may have regard to the following (non-exhaustive) factors and principles:

- the location and size of the premises;
- the nature of the activities taking place on the premises;
- the times during which those activities take place;
- proximity and remoteness, both in terms of the location in which a person lives relative to whether they are likely to be affected by the authorised activities, or the business interests a person has that might be affected by the authorised activity.

15. Local Area Profile

15.1. The Gambling Commission has invited Licensing Authorities to consider including a local area profile in their policy identifying any gambling-related risks specific to their area or localities (see link in Appendix 8). In its Guidance to Licensing Authorities the Gambling Commission notes that information in local area profiles will help gambling operators effectively prepare and maintain their local risk assessments, see section 16 below for further information regarding local risk assessment.

15.2. As part of the online consultation prior to the preparation of this policy, the Board invited consultees to provide the Board with information regarding any gambling related risks considered to be specific to:

- West Lothian;
- any part of West Lothian; and/ or
- any population group within West Lothian

The Board also consulted a number of key stakeholders as part of the consultation. Responses to the consultation can be viewed at the link provided in Appendix 8.

- 15.3. The Board noted that some responses to the consultation raised concerns regarding the location of gambling premises in proximity to pubs, sports stadia, pharmacies, public transport routes, supermarkets and within areas of perceived socio-economic deprivation. The Board considered that insufficient supporting data or evidence was provided in the consultation in relation to these concerns to enable the Board to conduct further enquiry or investigation with a view to considering including such information in the local area profile.
- 15.4. The Board shares concerns raised about the potential risks that gambling, and the availability of gambling, create in relation to the protection of children and young persons and other vulnerable persons from gambling related harm. The Board may undertake further consultation in this area to further develop the local area profile should it consider it necessary or appropriate to do so and if specific data or evidence is provided to the Board in relation to gambling associated risks specific to West Lothian or any of its localities.
- 15.5. The Board having considered guidance from the Gambling Commission have prepared a local area profile containing relevant information regarding the West Lothian area and its localities including the locations of existing gambling premises, schools, colleges, addiction treatment centres and places of worship. The Board expects all applicants and licence/permit holders under the 2005 Act to have regard to the information/locations contained in the local area profile including when they make applications to the Board and when considering, preparing and updating their local risk assessments, see section 16 below for further information regarding local risk assessment.
- 15.6. Guidance from the Gambling Commission states that Boards may consider that it is best that the local area profile is not included in the body of the policy statement so that it can be reviewed and updated without the need for a further full consultation process. The Local Area Profile can be accessed at the Licensing Board's webpages on West Lothian Council's website, see link in Appendix 8.
- 15.7. The local area profile will be subject to review and updated as required in the future and operators should ensure that they consult the profile at regular intervals to be aware of any changes to the profile.
- 15.8. The Board invites licence and permit holders to share information with it for example in relation to test purchasing results or any incidents in premises which managers are likely to be required to report to Head Office. The Board would welcome information, for example, regarding numbers of self-excluded gamblers from premises which could help to develop its understanding about the risk of problem gambling in West Lothian and in particular localities.

16. Local Risk Assessments

- 16.1. The Board notes that under the Gambling Commission's Licence Conditions and Codes of Practice (LCCP), as amended (see link in Appendix 8), premises licence holders and applicants for premises licences will be required to:

- assess – and have policies, procedures and control measures to mitigate – local risks to the licensing objectives, taking account of the Board’s policy as contained in this statement; and
 - to share their risk assessment with the Board when applying for a new premises licence or to vary their licence, or on request.
- 16.2. The Board also notes that, under the relevant provisions of the LCCP, premises licence holders will be required to review their local risk assessment when there are significant changes in local circumstances or at the premises or when applying for a variation of the licence
- 16.3. The Board expects that licence holders shall ensure that local risk assessments are kept on the licensed premises.
- 16.4. The Board expects risk assessments to show due regard to the information contained in the local area profile (see section 15 above). In assessing local risk applicants and licence holders should have regard to the proximity of their premises to any non-gambling premises relevant to the licensing objectives e.g. schools, money advice centres or other premises which may be relevant to children and young persons or vulnerable persons as referred to in the 2005 Act.
- 16.5. The Board will expect risk assessments to cover the following broad headings:
- the risks the applicant or licence holder has identified with regard to the licensing objectives and the requirements of the 2005 Act and Regulations relevant to the class of premises licence they are applying for or hold, as referred to in this statement, and any specific local risks identified in relation to their premises;
 - how they propose to mitigate those risks; and
 - how they will monitor them.
- 16.6 In particular the Board expects that local risk assessments will address the following factors and considerations (non-exhaustive) and where necessary include information regarding appropriate control measures to be implemented:
- the location and proximity to the premises of services for children and young persons such as schools, colleges, playgrounds, leisure/community centres and other areas where children and young persons gather including places or areas where the presence of children and young persons should be expected such as youth clubs, parks, playgrounds, skate parks and entertainment venues such as bowling alleys, cinemas etc;
 - the location and proximity to the premises of any other premises or location where children congregate including bus stops, cafes, shops, and any other place where children are attracted;
 - the demographics of the local area in relation to vulnerable groups
 - the location and proximity to the premises of other gambling outlets, banks, post offices, refreshment and entertainment type facilities;

- the location and proximity to the premises of places which may be frequented by vulnerable people such as hospitals, residential care homes, medical facilities, doctors' surgeries, council housing offices, addiction clinics or help centres, places where alcohol or drug dependant people may congregate;
- matters of faith, including all religious or faith denominations including proximity of the premises to churches, mosques, temples or any other place of worship;
- how vulnerable people including people with gambling dependencies are protected;
- information held by the licence holder regarding self-exclusions and incidences of underage gambling;
- arrangement for localised exchange of information regarding self-exclusions and gaming trends;
- encouraging all customers to gamble responsibly and practical measures for identifying problem gamblers and guiding them to appropriate support services (see Appendix 8 for links to information and sources of support for problem gamblers);
- training for staff on how to intervene and direct problem gamblers to support services;
- appropriate safeguarding and child protection policies and procedures in place for staff at gambling premises including procedures to be followed by staff when they witness harm towards children or vulnerable adults;
- the introduction of Player Awareness Systems which use technology to track account-based player history data to allow earlier intervention with customers whose data displays known 'markers of harm';
- making information readily available to their customers on how to gamble responsibly, including the following-
 - any measures provided by the operator to help individuals monitor or control their gambling, such as restricting the duration of a gambling session or the amount of money they can spend;
 - timers or other forms of reminders or 'reality checks' where available;
 - self-exclusion options;
 - information about the availability of further help or advice (see links in Appendix 8);

- the information must be directed to all customers whether or not operators also make available material which is directed specifically at customers who may be ‘problem gamblers’;
- making information available in all areas where gambling facilities are provided and adjacent to ATMs;
- displaying information prominently using methods appropriate to the size and layout of the premises. These methods may include the use of posters, the provision of information on gambling products, or the use of screens or other facilities in the gambling premises;
- making information available in a form that may be taken away and may also be made available through the use of links to be accessed online or using smart technology;
- taking all reasonable steps to ensure that this information is also readily accessible in locations which enable the customer to obtain it discreetly.

16.7 The Board will expect applicants and licence holders to identify in their risk assessments that there will be sufficient measures in place to ensure that the provisions of the 2005 Act relating to children and young persons will be complied with, and what those measures will be. This will include, for example, what measures will be taken to ensure that children and young persons are not permitted access to the premises or, if limited access for children and young persons is permitted under the 2005 Act, how that will be managed.

16.8 The Board will expect licence holders to review and update their risk assessments to take account of significant changes in local circumstances, when there are significant changes at their premises that may affect mitigation of risks or if applying for variation of their licence.

17. Unlicensed Family Entertainment Centre Gaming Machine Permits

17.1. The Board notes that unlicensed family entertainment centres (“uFECs”) are able to offer category D machines by way of a gaming machine permit. Any operator who wishes to make category C machines available will require to obtain the relevant operating licence from the Gambling Commission and a premises licence from the Board.

17.2 The Board notes that, in its Guidance to Licensing Authorities (see link in Appendix 8) the Gambling Commission has stated, with reference to section 238 of the 2005 Act, that uFEC permits cannot be issued for entire shopping centres, airports or bowling alleys, for example. Under paragraph 7 of schedule 10 of the 2005 Act, in considering an application for a UFEC permit the Board may have regard to the licensing objectives, and shall have regard to any relevant guidance issued by the Gambling Commission.

17.3 The Board expects applicants to be able to demonstrate that the premises for which they are applying for a uFEC permit will be wholly or mainly used for making gaming machines available for use. Applications for uFEC permits can only be made by a person who occupies or plans to occupy the premises to be

used as an uFEC and cannot be made if a premises licence is in effect for the same premises. The Board also expects all applicants to be able to provide details of the measures they will take in order to protect children from being harmed by gambling, including the policies and procedures they will operate in this regard, if requested. Applicants may be asked to provide a plan of their premises, identifying the features of their operation relevant to the requirements of the 2005 Act and Regulations, to enable their application to be determined.

17.4 The Board may consider asking applicants to demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in uFECs;
- that they have no relevant convictions (as set out in Schedule 7 of the 2005 Act; and/ or
- that employees are trained to have a full understanding of the maximum stakes and prizes.

this will be determined on a case by case basis.

17.5 Under paragraph 14 of schedule 10 of the 2005 Act an uFEC permit lapses if the Board notifies the holder that the premises are not being used as an uFEC. The Board may consider applying this provision of the legislation if it is satisfied that, since the grant of a permit, other activities have been introduced in the premises meaning that the premises is no longer wholly or mainly used as an uFEC.

18. Prize Gaming Permits

18.1 Under section 288 of the 2005 Act gaming is identified as “prize gaming” for the purposes of the 2005 Act if neither the nature nor the size of a prize played for is determined by reference to (a) the number of persons playing or (b) the amount paid for or raised by the gaming.

18.2 Under the 2005 Act the Board can issue permits (prize gaming permits) authorising the provision of facilities for gaming with prizes on specific premises. Facilities for prize gaming can be provided without an offence being committed under the 2005 Act if they are provided in accordance with a prize gaming permit and the gaming provided satisfies the conditions contained in section 293 of the 2005 Act.

18.3 The Board notes that the provisions of the 2005 Act concerning prize gaming are relatively complex and encourages any person thinking of providing facilities for prize gaming who is in any way unsure of their legal position to seek legal advice, if required.

18.4 Under the 2005 Act, subject to specific conditions, certain premises licence and permit holders and travelling fair operators may be entitled to provide facilities for either prize gaming or equal chance prize gaming under their existing licence or permit, without requiring to hold a separate prize gaming permit. The Board recommends that any licence or permit holder who is in any way unsure of their position to seek legal advice, if required.

- 18.5 In considering applications for prize gaming permits, the Board will consider the suitability of the applicant and the premises and may have regard to the licensing objectives. The Board expects applicants for prize gaming permits to set out the type of gaming they are intending to offer in their application and to ensure and to be able to demonstrate that they understand the limits to stakes and prizes that are set out in the relevant regulations and that the gaming offered will be within the law. Applicants may be asked to provide a plan of their premises, identifying the features of their operation relevant to the requirements of the 2005 Act and Regulations, to enable their application to be determined.

19. Travelling Fairs

- 19.1 The Board notes that the types of fairs identified as travelling fairs for the purposes of the 2005 Act are those which (1) consist wholly or principally of the provision of amusements; (2) are provided wholly or principally by persons who travel from place to place for the purposes of providing fairs; and (3) are held in places no part of which has been used for the provision of a fair on more than 27 days in any calendar year. With regard to (3) above the Board notes that this applies to the relevant place regardless of whether it is the same or different travelling fairs which have occupied it.
- 19.2 The Board notes that, subject to each of the above requirements being met, under the 2005 Act travelling fairs may make one or more category D gaming machines available for use without committing an offence, provided that facilities for gambling (whether by way of gaming machine or otherwise) amount together to no more than ancillary amusement at the fair.
- 19.3 The Board notes that, in order to qualify for the above exemption, a number of requirements have to be met. The Board recommends that any travelling fair operator who is in any way unsure of their position seeks legal advice, if required.

20. Club Gaming and Club Machine Permits

- 20.1 For the purposes of the 2005 Act clubs are divided into two categories: (1) members' clubs (including miner's welfare institutes) and (2) commercial clubs. There are important differences between these two categories for the purposes of the 2005 Act, including the type of permit (club gaming or club machine permit) which can be applied for by each. The Board recommends that any club unsure of its gambling law requirements seeks legal advice, if required.
- 20.2 The Board requires to be satisfied that any club applying for a permit meets the requirements of the 2005 Act to obtain such a permit. Applicants may be asked to provide additional information, as required. This may include, but is not limited to:
- a copy of the club constitution; and
 - list of committee members.
- 20.3 The Board expects all applicants and permit holders for club gaming and club machine permits to understand what categories of gaming machine and of what number are permitted on their premises and to comply with the requirements of the 2005 Act and Regulations in this regard. In addition, the Board expects all club gaming permit holders to understand what additional gambling activities are

permitted on their premises and to comply with the requirements of the 2005 Act and Regulations in this regard.

- 20.4 The Board reminds applicants that the grounds of refusal contained in Paragraph 6 of Schedule 12 of the 2005 Act include that the premises on which the applicant conducts its activities are used wholly or mainly by children, by young persons or by both.
- 20.5 In considering applications for club gaming and club machine permits, the Board will consider the suitability of the applicant and the premises and may have regard to the licensing objectives. Applicants may be asked to provide a plan of their premises, identifying the features of their operation relevant to the requirements of the 2005 Act and Regulations, to enable their application to be determined.

21 Small Society Lotteries

- 21.1 Under the 2005 Act promoting or facilitating a lottery is illegal unless it is either (1) a licensed lottery licensed by way of an operating licence by the Gambling Commission or (2) an exempt lottery under Schedule 11 of the 2005 Act, which includes small society lotteries. In order to qualify for this exemption, the promoting society of a small society lottery must, throughout the period during which the lottery is promoted, be registered with the Board.
- 21.2 The Board does not consider that there is a clear legal definition of what constitutes a “society” for the purpose of small society lotteries. In the absence of a clear legal definition, the Board will rely on the dictionary definition of an organisation or club formed for a particular purpose or activity. Each application will be considered on its own merits. The Board will not accept applications from individuals for registration in their own name but will accept applications from individuals if they can demonstrate that they are an office bearer or authorised representative of a properly constituted non-commercial society (see paragraph 21.4 below).
- 21.3 In accordance with section 19 of the 2005 Act, the Board will require evidence from applicants that their society is non-commercial i.e. it is established and conducted:
- for charitable purposes;
 - for the purposes of enabling participation in, or of supporting, sport, athletics or cultural activity; or
 - for any other non-commercial purpose other than that of private gain.
- 21.4 The Board may also require evidence from applicants that they are properly constituted as a non-commercial society. Evidence which may be requested includes, but is not limited to:
- a copy of the society constitution; and
 - list of society members.
- 21.5 The Board reminds all lottery operators that participation in a lottery is a form of gambling and that lotteries require to be conducted in a socially responsible manner in accordance with the requirements of the 2005 Act, including the three licensing objectives. The Board notes that under the 2005 Act the minimum age

for participation in a lottery is 16. The Board expects all lottery operators to be familiar with the requirements upon them particularly in relation to children and to have in place effective procedures to minimise the risk of lottery tickets being sold to children, including procedures for:

- checking the age of purchasers of lottery tickets; and
- acting where there are unlawful attempts to purchase tickets.

The Board also expects all lottery operators to take reasonable steps to ensure that all those engaged in the promotion of lotteries understand their responsibilities in terms of the above.

- 21.6 In accordance with guidance from the Gambling Commission, the Board requests that all registered small society lottery operators maintain written records of any unsold and returned tickets for a period of one year from the date of their lottery draw.
- 21.7 In accordance with guidance from the Gambling Commission, the Board does not expect small society lottery tickets to be sold in the street unless from a static structure such as a kiosk or display stand.
- 21.8 In accordance with guidance from the Gambling Commission, the Board recommends that any lottery operator wishing to award items containing alcohol as prizes who is in any way unsure of their legal position seeks legal advice regarding the requirements of the Licensing (Scotland) Act 2005 before doing so.
- 21.9 For further information regarding lotteries please refer to the detailed guidance available on the Gambling Commission's website, see link in Appendix 8.

22 Premises licensed to sell alcohol

- 22.1 In accordance with the requirements of the Licensing (Scotland) Act 2005, the Board has a separate policy in relation to the carrying out of its functions for the purposes of licensing persons and premises for the sale of alcohol. A link to that policy can be found in Appendix 8.
- 22.2 The Board notes that, under section 282 of the Gambling Act 2005, on sales premises licence holders under the Licensing (Scotland) Act 2005 are permitted to make available two gaming machines of category C or D on their premises, subject to their providing the Board with the relevant notification and prescribed fee. The Board reminds all premises licence holders and persons to whom a premises licence may be transferred or who may apply for a premises licence to be transferred to them that this entitlement ceases when the holder of the licence who has made the notification ceases to hold the licence. Applicants for transfer of premises licences and new premises licences are therefore reminded that, should they wish to take advantage of this entitlement, a fresh notification is required.
- 22.3 Under the 2005 Act the Board may issue a licensed premises gaming machine permit to the holder of a premises licence under the Licensing (Scotland) Act 2005 authorising a number of category C or D machines on the premises. When considering applications for such permits the Board will have regard to the licensing objectives and guidance from the Gambling Commission. The Board may take account of matters considered relevant to the application, which may include the licensing history of the premises under the Licensing (Scotland) Act

2005. The Board reminds licensed premises gaming machine permit holders that they must comply with the Gambling Commission's Code of practice for gaming machines in clubs and premises with an alcohol licence.

23 Temporary Use Notices

- 23.1 Temporary Use Notices (TUNs) allow premises to be used temporarily for gambling without a premises licence. Applicants must hold an operating licence issued by the Gambling Commission.
- 23.2 The Board notes that TUNs are available for "premises" but that section 218 of the 2005 Act states that a "set of premises" may be the subject of more than one TUN in a period of 12 months (provided that the aggregate of the periods for which the TUNs have effect does not exceed 21 days), but may not be the subject of temporary use notification for more than 21 days in a period of 12 months. Section 218 of the 2005 Act does not define what "set of premises" means but states that a set of premises is the subject of temporary use notification (or of a notice) if any part of the premises is the subject of temporary use notification (or of a notice).
- 23.3 In determining any question of whether the relevant TUN limit has been reached the Board will consider factors include the ownership/ occupation and control of the relevant premises and any relevant guidance issued by the Gambling Commission and regulations issued by the Scottish Ministers in this regard. Each case will be considered on its own merits.

24 Occasional Use Notices

- 24.1 The Board notes that, under section 39 of the 2005 Act, betting on a track on eight days or less in a calendar year may be permitted by way of an Occasional Use Notice ("OUN").
- 24.2 The Board notes in terms of section 39 of the 2005 Act that OUNs are available to persons who are responsible for the administration of events on a track or are the occupier of the track, that an OUN must specify a day on which it has effect, and may not be given in respect of a track for a day in a calendar year if eight OUNs have been given in respect of that track for days in that year.

25 Exchange of Information between the Board and the Gambling Commission and between the Board and other persons

- 25.1 Under section 30 of the 2005 Act:
- the Gambling Commission may provide information received by it in the exercise of its functions to the Board for use in the exercise of the Board's functions; and
 - the Board may provide to the Gambling Commission for use in the exercise of its functions information received by the Board in the exercise of its functions.
- 25.2 Under section 350 of the 2005 Act, the Board may provide information to any of the following persons or bodies for use in the exercise of their functions under the 2005 Act:

- a constable or police force
- an enforcement officer
- a licensing authority (another licensing board in Scotland or local authority in England)
- Her Majesty's Commissioners of Customs and Excise (HMRC)
- The Gambling Appeal Tribunal
- The National Lottery Commission
- The Secretary of State
- The Scottish Ministers

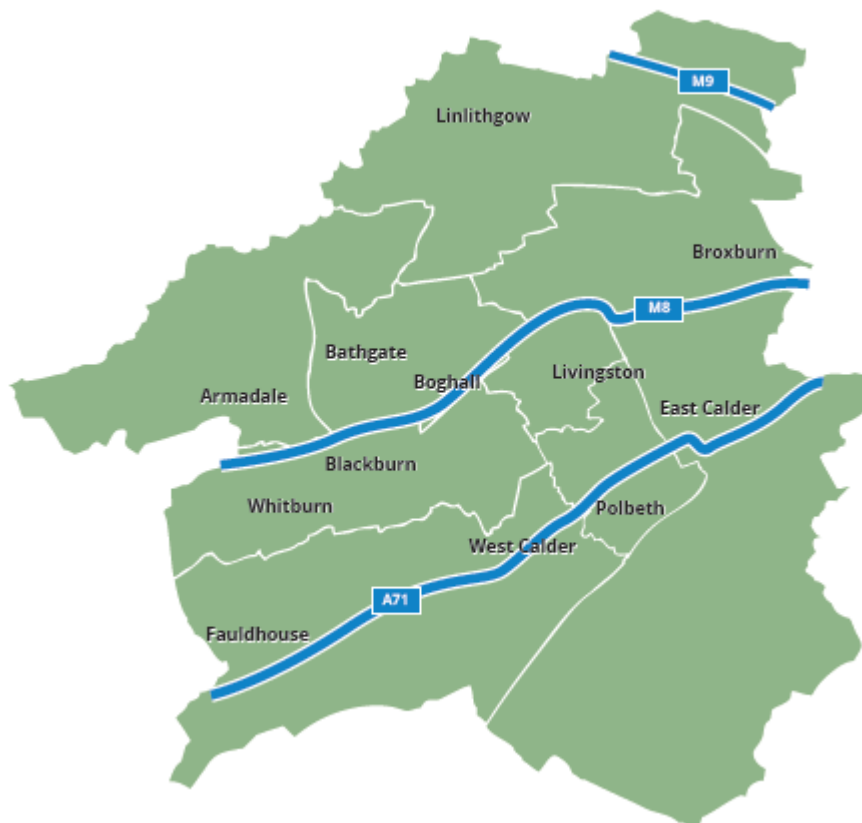
and provide information obtained in the course of the exercise of any of its functions under the 2005 Act to HMRC for use in the exercise of any function.

- 25.3 In fulfilling its functions and obligations under the 2005 Act, the Board will exchange relevant information with other regulatory bodies and will establish protocols as necessary. In exchanging such information, the Board will conform to the requirements of the Gambling Act, Data Protection and Freedom of Information legislation as well as the Gambling Commission's Guidance to Licensing Authorities.

26 Inspection of premises and criminal proceedings

- 26.1 In the first instance the Board wishes to foster a partnership approach to local regulation through working jointly with local businesses to tackle any issues linked to gambling premises.
- 26.2 Any inspection activities undertaken on behalf of the Board will be guided by the Gambling Commission's Guidance to Local Authorities and will be accountable, consistent, proportionate, targeted and transparent.
- 26.3 Inspection activities will generally only be undertaken for specific purposes including, but not limited to, the investigation of complaints e.g. due to non-compliance with licence conditions. Any wider inspection activities will generally form part of a co-ordinated or risk-based approach e.g. as part of a wider checking of compliance with a specific obligation applicable to all premises licence holders or licence holders of a particular class of premises licence, or where any general risk of gambling related harm and/ or non-compliance with a provision of the 2005 Act has been identified.
- 26.4 In serious cases where there is information to suggest that an offence may have been committed, the Board or its officers may require to provide such information to Police Scotland (see section 25 above on exchange of information).

MAP OF WEST LOTHIAN LICENSING BOARD AREA



SUMMARY OF ACTIVITIES THE BOARD IS ABLE TO LICENCE

- gaming in adult gaming centres
- betting in premises including betting shops and tracks
- playing bingo
- gaming in family entertainment centres
- gaming in clubs
- gaming on premises licensed to sell alcohol
- gaming at travelling fairs
- the promotion and facilitation of small society lotteries
- temporary use of premises for gambling
- betting for periods of eight days or less in a calendar year on tracks

SUMMARY OF MATTERS DEALT WITH IN THIS STATEMENT

- how the Board will apply the three licensing objectives relevant to its functions under the 2005 Act
- which body the Board has designated as competent to advise it regarding protecting children from harm
- what principles the Board will apply in relation to premises licences
- what conditions the Board will consider applying to premises licences
- how the Board will determine whether a person is an interested party in relation to a premises licence or an application for or in respect of a premises licence
- what principles the Board will apply and what factors it will have regard to in determining applications for premises licences including the different classes of premises licence available under the 2005 Act
- what principles the Board will apply and what factors it will have regard to in determining applications for the different kinds of permits available under the 2005 Act
- what factors the Board will have regard to in relation to premises licence reviews
- local area profile including information relevant to gambling licensing in West Lothian
- what the Board expects in relation to local risk assessments
- what factors the Board will consider in relation to small society lotteries, premises licensed to sell alcohol, travelling fairs, temporary use notices and occasional use notices
- the principles the Board will apply in relation to exchange of information with the Gambling Commission and other bodies
- the principles the Board will apply in relation to inspection of premises

LIST OF CONSULTEES

- the public – online consultation on the Board’s webpages advertised through West Lothian Council social media
- The Chief Executive, West Lothian Council
- West Lothian Council Heads of Service
- West Lothian Child Protection Committee
- West Lothian Health and Social Care Partnership
- The Gambling Commission
- The Local Senior Officer, Scottish Fire and Rescue Service
- The Chief Constable, Police Scotland
- HM Revenue & Customs
- NHS Lothian
- Association of British Bookmakers Limited
- Gambling Anonymous Scotland
- West Lothian Drug and Alcohol Service
- British Amusement Catering Trade Association
- Bingo Association
- West Lothian Licensing Forum
- GamCare
- Citizen Advice Scotland
- White Ribbon
- Gaming Standards Association
- GambleAware
- Gordon Moody Association
- Responsible Gambling Trust
- Current gambling licence holders in West Lothian

- Legal agents
- West Lothian Councillors, MSPs and MPs
- West Lothian Community Councils
- West Lothian Local Area Committees

LIST OF RESPONSIBLE AUTHORITIES

- West Lothian Licensing Board, West Lothian Civic Centre, Howden Road South, Livingston, West Lothian EH54 6FF
- The Gambling Commission, Victoria Square House, Victoria Square, Birmingham, B2 4BP
- The Chief Constable, Police Scotland, West Lothian Civic Centre, Howden Road South, Livingston, West Lothian EH54 6FF
- The Local Senior Officer, Scottish Fire and Rescue Service, West Lothian Civic Centre, Howden Road South, Livingston, West Lothian EH54 6FF
- West Lothian Council Development Management Service, West Lothian Civic Centre, Howden Road South, Livingston, West Lothian EH54 6FF
- West Lothian Child Protection Committee, West Lothian Civic Centre, Howden Road South, Livingston, West Lothian EH54 6FF
- H.M. Revenue & Customs, National Registration Unit, Portcullis House, 21 India Street, Glasgow G2 4PZ
- The Chief Executive, West Lothian Council, West Lothian Civic Centre, Howden South Road, Livingston, EH 54 6FF

SCHEME OF DELEGATION

Number	Function delegated	Convener	Clerk of the Board
1.	Determination of applications for grant of premises licences where representations have been made and not withdrawn.	X	
2.	Determination of applications for grant of premises licences where no representations made/ representations have been withdrawn.		X
3.	Determination of applications for variation of premises licences where representations have been made and not withdrawn.	X	
4.	Determination of applications for variation of premises licences where no representations made/ representations have been withdrawn.		X
5.	Determination of application for transfer of premises licences where representations have been made and not withdrawn.	X	
6.	Determination of application for variation of premises licences where no representations made/ representations have been withdrawn.		X
7.	Determination of applications for provisional statements where representations have been made and not withdrawn.	X	
8.	Determination of applications for provisional statements where no representations made/ representations have been withdrawn.		X
9.	Determination of applications for club gaming/ club machine permits where objections have been made and not withdrawn.	X	
10.	Determination of applications for club gaming/ club machine permits where no objections made/ objections have been withdrawn.		X
11.	Cancellation of club gaming/ club machine permits.	X	
12.	Determination of applications for other permits where there are no adverse comments received.		X
13.	Cancellation of licensed premises gaming machine permits.		X
14.	Consideration of Temporary Use Notice.		X
15.	Decision to give a counter notice to a Temporary Use Notice.	X	

STYLE CONDITIONS

The following is a list of conditions that the Board may attach to a premises licence and is for indicative purposes only and is not exhaustive i.e. the details of any condition(s) attached to premises licences by the Board will be determined on a case by case basis and may include a condition or conditions:

- (i) from below;
- (ii) from below, but with changes; or
- (iii) other than from below.

1. Security

- 1.1. No pre-planned single staffing after 8pm and, when this is unavoidable, for a Maglock to be in constant use.
- 1.2. A minimum of two members of staff after 10pm.
- 1.3. A minimum of two members of staff will be on duty throughout the whole day.
- 1.4. The premises will have an intruder alarm and panic button.
- 1.5. Maglock systems are employed and access is controlled.
- 1.6. Requirements for full-height security screens to be installed.
- 1.7. A requirement for 50% of the shop frontage to be clear of advertising so that staff have a clear view and can monitor the exterior of the premises.
- 1.8. The premises shall maintain a 'safe haven' to the rear of the counter.
- 1.9. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of Police Scotland. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of Police or an authorised officer throughout the preceding 31-day period.
- 1.10. A member of staff from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open to the public. This member of staff must be able to show a member of the police or authorised council officer recent data or footage with the absolute minimum of delay when requested.
- 1.11. A monitor shall be placed inside the premises above the front door showing CCTV images of customers entering the premises.
- 1.12. If at any time (whether before or after the opening of the premises), the police or licensing authority supply to the premises names and/or photographs of

individuals which it wishes to be banned from the premises, the licence holder shall use all reasonable endeavours to implement the ban through staff training.

2. Anti-social behaviour

- 2.1. The licence holder shall develop and agree a protocol with the police as to incident reporting, including the type and level of incident and mode of communication, so as to enable the police to monitor any issues arising at or in relation to the premises.
- 2.2. The licence holder shall take all reasonable steps to prevent street drinking of alcohol directly outside the premises and to ban from the premises those who do so.
- 2.3. The licence holder shall place a notice visible from the exterior of the premises stating that drinking alcohol outside the premises is forbidden and that those who do so will be banned from the premises.
- 2.4. Notices indicating that CCTV is in use at the premises shall be placed at or near the entrance to the premises and within the premises.
- 2.5. The licence holder shall place and maintain a sign at the entrance which states that 'only drinks purchased on the premises may be consumed on the premises'.
- 2.6. The licence holder shall implement a policy of banning any customers who engage in crime or disorder within or outside the premises.
- 2.7. The licence holder shall install and maintain an ultraviolet lighting system in the customer toilet.
- 2.8. The licence holder shall install and maintain a magnetic door locking system for the customer toilet operated by staff from behind the counter.
- 2.9. Prior to opening the licence holder shall meet with a Police Scotland Crime Prevention Officer in order to discuss any additional measures to reduce crime and disorder.

3. Underage controls

- 3.1. The licence holder shall maintain a bound and paginated 'Think 21 Refusals' register at the premises. The register shall be produced to the police or licensing authority forthwith on request.
- 3.2. Customers under 21 will have to provide ID.
- 3.3. Compulsory third-party test purchasing on a twice-yearly external system and the results to be reported to the Board and Police Scotland. In the first twelve months (from the date of the Review) two additional internal test purchase operations to be carried out.
- 3.4. A physical barrier (i.e. a supermarket metal type or similar) acceptable to the licensing authority, and operated in conjunction with the existing monitored alert system, to be put in place within 3 months from the date of the review.

- 3.5. No machines in the unlicensed family entertainment centre to be sited within one metre of the adult gaming centre entrance.

4. Player protection controls

- 4.1. Prominent GamCare documentation will be displayed at the premises.
- 4.2. There shall be no cash point or ATM facilities on the premises.
- 4.3. The Licence Holder shall train staff on specific issues related to the local area and shall conduct periodic refresher training. Participation in the training shall be formally recorded and the records produced to the police or licensing authority upon request.
- 4.4. New and seasonal staff must attend induction training. All existing staff must attend refresher training every six months.
- 4.5. An Infra-red Beam to be positioned across the entrance to the premises. To be utilised whenever:
 - (a) the first member of staff is not positioned within the Cash Box; or
 - (b) the second member of staff is not on patrol.

LINKS & FURTHER RESOURCES

Licensing Board report and responses to consultation dated 8 October 2021:

https://www.westlothian.gov.uk/media/51479/Licensing-Board-Report-8-October-2021-Gambling-Policy-Consultation-Responses/pdf/Licensing_Board_Report_8_October_2021_Gambling_Policy_Consultation_Responses.pdf?m=637751584140870000

West Lothian Licensing Board webpages:

<https://www.westlothian.gov.uk/article/34771/West-Lothian-Licensing-Board>

Licensing Board information on COINS:

<https://coins.westlothian.gov.uk/coins/committee.asp?bodyid=17&bodytitle=West+Lothian+Licensing+Board>

National Records of Scotland West Lothian Council Area Profile

https://www.nrscotland.gov.uk/files/statistics/council-area-data-sheets/west-lothian-council-profile.html#population_projections

Gambling Commission Guidance to licensing authorities Part 6:

<https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities/gla-part-6-licensing-authority-policy-statement>

UK Government Consultation Review of the Gambling Act 2005 Terms of Reference and Call for Evidence December 2020:

<https://www.gov.uk/government/publications/review-of-the-gambling-act-2005-terms-of-reference-and-call-for-evidence/review-of-the-gambling-act-2005-terms-of-reference-and-call-for-evidence#how-to-respond>

West Lothian Licensing Board rules published under the Licensing (Scotland) Act 2005:

<https://www.westlothian.gov.uk/media/1043/West-Lothian-Licensing-Board-Rules/pdf/boardrules.pdf?m=635326501032300000>

West Lothian Licensing Board's Gambling webpages:

<https://www.westlothian.gov.uk/article/34767/Gambling-Licences-and-Permits>

Licensing Board's Mainstreaming Report and Outcome Plan 2019-2023:

https://www.westlothian.gov.uk/media/1040/Licensing-Board-Mainstreaming-Report-and-Outcome-Plan-2019-2023/pdf/Mainstreaming_Report_and_Outcome_Plan_2019-2023.pdf?m=636929140657830000

Information and guidance regarding safeguarding and child protection:

<https://learning.nspcc.org.uk/safeguarding-child-protection/writing-a-safeguarding-policy-statement>

Gambling Commission's Guidance to Local Authorities part 7:

<https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities/gla-part-7-premises-licences>

Gambling Commission information regarding gaming machine categories and maximum stakes/prizes:

<https://www.gamblingcommission.gov.uk/licensees-and-businesses/guide/gaming-machine-categories>

Licence Conditions and Codes of Practice (Gambling Commission):

<https://www.gamblingcommission.gov.uk/licensees-and-businesses/lccp>

Gambling Commission guidance Tracks:

<https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities/gla-part-20-tracks>

Gambling Commission's Guidance regarding bingo:

<https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities/gla-part-18-bingo>

<https://www.gamblingcommission.gov.uk/licensees-and-businesses/guide/how-to-run-a-game-of-bingo>

Gambling Commission's Guidance to Licensing Authorities part 22 Licensed FECs

<https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities/gla-part-22-licensed-family-entertainment-centres>

Gambling Commission's Guidance to Licensing Authorities Local Area Profiles:

<https://www.gamblingcommission.gov.uk/manual/guidance-to-licensing-authorities/part-6-local-area-profile>

West Lothian Licensing Board - Local Area Profile Gambling Statement of Principles:

<https://www.westlothian.gov.uk/article/34767/Gambling-Licences-and-Permits>

Citizen Advice Scotland:

<https://www.cas.org.uk/>

Gamblers Anonymous:

<https://gascotland.org/>

NHS help for problem gambling:

<https://www.nhs.uk/live-well/healthy-body/gambling-addiction/>

Gamcare:

<https://www.gamcare.org.uk/>

GambleAware:

<https://about.gambleaware.org/>

Gambling Therapy:

<https://www.gamblingtherapy.org/en>

Help for problem gamblers:

<https://www.gordonmoody.org.uk/>

<https://www.priorygroup.com/addiction-treatment/gambling-addiction-treatment>

<https://pharmacistsupport.org/i-need-help-managing-my/mental-health-and-wellbeing/help-with-gambling/>

<https://www.helpguide.org/articles/addictions/gambling-addiction-and-problem-gambling.htm>

<https://www.ukat.co.uk/gambling-addiction/>

<https://www.nacro.org.uk/criminal-record-support-service/support-for-individuals/addiction-services/gambling-support-services/>

Guidance from Gambling Commission to Licensing Authorities Unlicensed FEC permits:

<https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities/gla-part-24-unlicensed-family-entertainment-centres>

Guidance from Gambling Commission regarding society lotteries:

<https://www.gamblingcommission.gov.uk/public-and-players/fundraising-and-lotteries>

<https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities/gla-part-34-small-society-lotteries>

West Lothian Licensing Board Alcohol Licensing Statement of Licensing Policy 2018 -2023:

https://www.westlothian.gov.uk/media/1039/West-Lothian-Licensing-Board-Statement-of-Licensing-Policy-2018-2023/pdf/policy_statement_2018-2023.pdf?m=637455182854700000

Gambling Commission's Guidance to Licensing Authorities Part 36 Compliance and Enforcement Matters:

<https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities/gla-part-36-compliance-and-enforcement-matters>

The Gambling Commission:

<https://www.gamblingcommission.gov.uk/Home.aspx>

Guidance from the Gambling Commission:

Prize Gaming-

<https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities/gla-part-27-prize-gaming-and-prize-gaming-permits>

Travelling Fairs-

<https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities/gla-part-30-travelling-fairs>

Club Gaming and Club Machine Permits-

<https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities/gla-part-25-clubs>

Premises Licensed to sell Alcohol-

<https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities/gla-part-26-premises-licensed-to-sell-alcohol>

Temporary Use Notices-

<https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities/gla-part-14-temporary-use-notices>

Occasional Use Notices-

<https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities/gla-part-15-occasional-use-notices>

Gambling Related Legislation:

<https://www.gamblingcommission.gov.uk/about-us/guide/gambling-related-legislation>

National Strategy to reduce Gambling harms

<https://www.gamblingcommission.gov.uk/about-us/reducing-gambling-harms>