



GAMBLING ACT 2005

STATEMENT OF PRINCIPLES (as required by section 349 Gambling Act 2005)

Prepared following consultation with the neighbouring authorities of Wychavo, Worcester City, Wyre Forrest, Bromsgrove, Redditch and Herefordshire

Statement of Principles – Gambling Act 2005

Introduction

Malvern Hills District Council covers an area of 57,710 hectares in the southern part of the county of Worcestershire, with a population of approximately 72,000 and 31,294 households

The main towns are Malvern, Upton on Severn and Tenbury and, as a rural area, there are many small villages.

The three main towns are:

- Malvern, the main centre of population and well known for its mineral and spring waters and the Three Counties Show Ground
- Upton on Severn situated on the banks of the river Severn and the venue for several festivals.
- Tenbury Wells, a market town situated on the river Teme at the northern most end of the District.

The district's economy is primarily made up of agricultural activities, small enterprises, offices, retailing and tourism with some larger manufacturers and business parks and has excellent transport links by road and rail.

Malvern Hills District Council's overall vision is of "a district which has first class services and facilities, is clean, safe, healthy and prosperous, and has vibrant and active communities " This statement accords with that vision in seeking to promote the licensing objectives set out in the Act, which are:

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

We have produced this statement as required by S349 of the Gambling Act 2005 (referred to in this statement as "the Act") and having had regard to the Gambling Commission's formal guidance, issued under S25 of the Act and to the views of those that we have consulted. The list of those persons and organisations consulted is appended.

We intend that this document should provide information and guidance on the approach that we will take to licensing. A series of advice sheets with more specific guidance is available from our web site or will be sent on request; advice tailored to individuals is available by phone or to personal callers.

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

Gambling Act 2005

This policy reflects our corporate objectives which include "safe, healthy and active, prosperity shared by all and first class, good value services and facilities" (Malvern

Hills District Council - The Council Plan 2005) and is valid for up to three years from 31st January 2007, although we may choose to review or revise it at any time.

There are three licensing objectives which are central to the regulatory regime created by the Act. These are:-

- preventing gambling from being a source of crime and disorder, being associated with crime or disorder, or being used to support crime
- ensuring that gambling is conducted in a fair and open way
- protecting children and other vulnerable persons from being harmed or exploited by gambling

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

- licence premises for gambling activities,
- grant permits for gambling and gaming machines in clubs,
- regulate gaming and gaming machines in alcohol licensed premises,
- grant permits to family entertainment centres for the use of certain lower stake gaming machines,
- grant permits for prize gaming,
- consider notices given for the temporary use of premises for gaming,
- consider occasional use notices for betting at tracks, and
- register small societies lotteries.

The Gambling Commission regulates remote gambling and issues personal and operating licences for premises.

Spread betting is regulated by the Financial Services Authority.

The "National Lottery" is regulated by the National Lottery Commission.

The Gambling Commission

The Gambling Commission regulates gambling in the public interest. It does so by keeping crime out of gambling; by ensuring that gambling is conducted fairly and openly; and by protecting children and vulnerable people.

The Commission provides independent advice to the Government about the manner in which gambling is carried out, the effects of gambling, and the regulation of gambling generally. It also produces guidance under Section 25 of the Act detailing how local authorities should exercise their licensing functions.

In addition, the Commission's role is to issue codes of practice under Section 24 of the Act about the manner in which facilities for gambling are provided, and how those provisions might be advertised.

Information about the Gambling Commission can be found on the Internet at: www.gamblingcommission.gov.uk or by phone: 020 7306 6218.

Authorised Activities

'Gambling' is defined in the Act as either gaming, betting, or taking part in a lottery.

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

General Statement of Principles

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

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

We will not seek to use the Act to resolve matters that are better dealt with by other legislation. Licensing is not the primary mechanism for general control of nuisance and the antisocial behaviour of people once they are away from licensed premises.

We will ensure that in dealing with applications under the Act we follow the required procedures, and only take into account issues that are relevant. Specifically we will not have regard to "demand" when considering applications for gambling premises; nor will we consider the suitability of applicants for premises licences (which is a matter for the Gambling Commission). We will not reject an application on moral grounds. If we do decide to reject an application, we will make known our reasons for doing so.

Our current Council Constitution (including scheme of delegation) details the way that we will discharge our functions under this Act. Details are available from the licensing unit.

Where an application is for a new premises licence, we will usually visit to check that gambling facilities meet all necessary legal requirements.

Where there are no representations (objections), licences and permissions will be granted subject only to any appropriate mandatory conditions (S167 of the Act) and any conditions having at least the effect of appropriate default conditions made under S168.

If there are objections that can't be resolved informally, or we intend to impose extra conditions, we will hold a public hearing at which our licensing sub-committee will hear evidence and make a decision in accordance with the Act.

This Statement is not intended to override the right of any person to make an application under the Act, and to have that application considered on its merits. Equally, this Statement of Principles is not intended to undermine the right of any person to make representations about an application or to seek a review of a licence where provision has been made for them to do so.

Preventing gambling from being a source of crime and disorder

The Gambling Commission takes the leading role in preventing gambling from being a source of crime, and maintains rigorous licensing procedures aiming to prevent criminals from providing facilities for gambling. Applicants need an operating licence from the Commission before we will issue a licence to use premises for gambling.

Because we will not issue a premises licence to someone who does not hold an operator's licence, we are not generally concerned with the suitability of an applicant. Where concerns about a person's suitability arise we will bring those concerns to the attention of the Commission.

If an application for a licence or permit is received in relation to premises which are in an area noted for particular problems with organised crime, we will, in consultation with the Police and other relevant authorities, consider whether specific controls need to be applied to prevent those premises from being a source of crime. This could include a requirement for SIA registered door supervisors.

Disorder will only be considered under this Act if it amounts to activity which is more serious and disruptive than mere nuisance, and where it can be shown that gambling is the source of that disorder. A disturbance might be serious enough to constitute disorder if police assistance was required to deal with it; we will then consider how threatening the behaviour was to those who could see or hear it, and whether those people live sufficiently close to be affected or have business interests that might be affected.

"Disorder" is generally a matter for the Police; we will not use this Act to deal with general nuisance issues, for example, parking problems, which can be better dealt with using alternative powers.

When making decisions relating to disorder, we will give due weight to comments made by the police.

Ensuring gambling is conducted in a fair and open way

The Gambling Commission does not expect local authorities to become concerned with ensuring that gambling is conducted in a fair and open way. The Commission, through the operating and personal licensing regime, will regulate the management of the gambling business and the suitability and actions of an individual.

Because betting track operators do not need an operating licence from the Commission we may, in certain circumstances, require conditions of licence relating to the suitability of the environment in which betting takes place.

Protecting children and vulnerable people from gambling

The intention of the Act is that children and young persons should not be allowed to gamble, and should be prevented from entering those gambling premises which are 'adult-only' environments.

Codes of Practice – including advice about access by children and young persons - may be published by the Gambling Commission for specific kinds of premises. Applicants are expected to heed this advice where applicable.

We expect steps to be taken to prevent children from taking part in, or being in close proximity to, gambling. This may include restrictions on advertising to ensure that gambling products are not aimed at children, nor advertised in such a way that makes them particularly attractive to children.

When determining a premises licence or permit we will consider whether any additional measures are necessary to protect children, such as the supervision of entrances, the segregation of gambling from areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises like pubs, clubs and betting tracks.

In seeking to protect vulnerable people we will include people who gamble more than they want to, people who gamble beyond their means, and people who may not be able to make informed or balanced decisions about gambling, perhaps due to a mental impairment, alcohol or drugs.

We will always treat each case on its own individual merits and when considering whether specific measures are required to protect children and other vulnerable people will balance these considerations against the overall principle of aiming to permit the use of premises for gambling.

Premises licences

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

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

Premises can be 'any place' but the Act generally prevents more than one premises licence applying to any one place. A single building could be subject to more than one premises licence provided they are for different parts of the building and those parts can be genuinely regarded as being separate 'premises'.

Existing casino operators will effectively have 'grandfather' rights and will be entitled to a casino premises licence issued by us. There is Council Resolution (EC 749) that this authority does not make representation to the Casino Advisory Panel for the opportunity to issue casino licences

A particular requirement might be for entrances and exits from parts of a building covered by one or more licences to be separate and identifiable so that the

separation of the premises is not compromised and people are not allowed to 'drift' accidentally into a gambling area.

We will not turn down applications for premises licences where relevant objections can be dealt with through the use of licence conditions.

Other than an application for a betting premises licence for a track, we are not able to issue a premises licence unless the applicant holds the relevant operating licence from the Gambling Commission.

When considering applications for premises licences we will not take into account either the expected 'demand' for facilities or the likelihood of planning permission or building regulation approval being granted.

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

We will maintain a public register of applications received and licences granted on the Internet, at <http://www.malvern hills.gov.uk> . Applications may also be viewed at our offices in Malvern, during ordinary office hours which are generally Monday – Friday 9am until 5pm.

Responsible authorities

Responsible authorities are identified in the legislation, and have to be notified about licence applications so that they can identify where they need to take action under their own legislation. The responsible authorities that we recognise are listed below: contact addresses and telephone numbers for each of the responsible authorities identified are available on our web site, and will be sent on request.

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

Representations by a responsible authority will not be taken into account unless they are relevant to the application itself and to the licensing objectives. We will not take into account representations which are deemed to be irrelevant, i.e.:

- there are too many gambling premises in the locality,
- the premises are likely to be a fire risk,
- the location of the premises is likely to lead to traffic congestion,
- the premises will cause crowds to congregate in one area causing noise and nuisance.

Interested Parties

An interested party is someone who:

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

In determining whether someone lives sufficiently close to a particular premise so as to be affected, we will take into account, among other things:

- the size of the premises
- the nature of the premises
- the distance of the premises from the person making the representation
- the nature of the complaint
- the potential impact of the premises

In determining whether a person has a business interest which could be affected the Council will consider, among other things:

- the size of the premises
- the catchment area of the premises, and
- whether the person making the representation has business interests in the catchment area that might be affected

We will not consider objections about demand or competition as relevant representations as they do not relate to the licensing objectives.

We may consider a representation to be either frivolous or vexatious, and reject it. This will generally be a matter of fact given the circumstances of each individual case but, before coming to a decision we will normally consider:

- who is making the representation and whether there is a history of making representations that are not relevant,
- whether it raises an issue relevant to the licensing objectives, or
- whether it raises issues specifically to do with the premises which are the subject of the application.

Licence conditions

In particular cases we may find it necessary to impose conditions beyond appropriate mandatory and default conditions. Any such conditions will be relevant to the need to make the building suitable for use as a gambling facility; directly related to the premises and the type of licence applied for; fairly and reasonably related to the scale and type of premises and reasonable in all other respects. We will not have recourse to a pool of standard conditions.

Examples of some conditions which are likely to be attached in certain circumstances include those relating to opening hours, age limits, or keeping children and young persons away from gaming machines.

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

- which make it impossible to comply with an operating licence condition imposed by the Gambling Commission,

- relating to gaming machine categories or method of operation,
- which specify that membership of a club or other body is required, or
- in relation to stakes, fees, winnings or prizes.

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

Gaming Machines

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

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

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

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

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

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

Lotteries

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

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

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

Exchange of Information

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

Subject to the provisions of the Data Protection Act 1998, we will share any information we receive through the application process with the Gambling Commission and any relevant responsible authority. In doing so we will have regard to the Act itself, any guidance issued by the Commission and to any Regulations issued by the Secretary of State. People can access personal information that we hold about them by putting their request in writing to the Data Protection Officer, Malvern Hills Customer Service Centre, Graham Road, Malvern, WR14 2HU. You will need to provide your name and address, details of the services to which your enquiry relates and any other information that could help us find your information, a fee of £10 is charged.

We are committed to being open about what we do and how we come to our decisions, in accordance with the spirit of the Freedom of Information Act 2000 (FOIA). An important feature of the FOIA is the requirement for each public authority to produce a publication scheme setting out what information it will publish as a matter of course, how and when it will be published, and whether this information will be free of charge or on payment. Copies of our FOI publication scheme are available on the council's web site <http://www.malvern hills.gov.uk> and at the Malvern Hills Customer Service Centre, Graham road, Malvern, WR14 2HU. Telephone 01684 862151

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

Enforcement Protocols

The Gambling Commission will take the lead role on the investigation and, where appropriate, the prosecution of illegal gambling.

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

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

Our approach to enforcement will be in line with the hierarchy of measures detailed in our departmental enforcement policy. We will have regard to guidance issued by the Gambling Commission and Local Better Regulation Office.

(not part of policy)

List of Responsible Authorities:

Responsible authorities that we recognise in respect of premises licences are:

The Gambling Commission

4th Floor, Victoria Square House
Victoria Square
Birmingham B2 4BP

The Chief Officer of Police

C/o Licensing Officer
West Mercia Constabulary
Police Station
Castle Street
Worcester, WR1 3AD Phone 01905 331037
Email: licensing.southworcestershire@westmercia.pnn.police.uk
Internet: <http://www.westmercia.police.uk>

Hereford & Worcester Fire and Rescue Service,

Fire Safety Department,
The Fire Station,
Worcester Road,
Malvern Link,
Worcestershire. WR14 1TD Phone 01684 572948 Fax 01684 572190
Internet: <http://www.hwfire.org.uk>

Planning Services

Malvern Hills District Council
The Council House
Avenue Road
Malvern
Worcestershire
WR14 3AF
Phone 01684 862151
Fax 01684 574906
Email: worcestershirehub@malvernhills.gov.uk

Internet: <http://www.malvern hills.gov.uk>

Environmental Services

Malvern Hills District Council
The Council House
Avenue Road
Malvern
Worcestershire
WR14 3AF
Phone 01684 862151
Fax 01684 574906
Email: worcestershirehub@malvern hills.gov.uk
Internet: <http://www.malvern hills.gov.uk>

Worcestershire Safeguarding Children Board

c/o Child Protection Service Manager,
Safeguarding Quality and Assurance
Wildwood Way
Worcester, WR5 2NP Phone 01905 728841

Customs and Excise

HM Revenue & Customs
National Registration Unit
Portcullis House
21 India Street
Glasgow G2 4PZ

Consultees:

All responsible authorities as detailed above.

All Parish & Town Councils within the district.

All establishments currently involved in Gambling Activities within the Malvern Hills District.

Association of British Bookmakers

British Beer and Pub Association