



Report of the Licensing and Food and Safety Manager

Statutory Licensing Sub Committee - 15 January 2019

**Gambling Act 2005
Schedule 10 - Application for an Unlicensed Family
Entertainment Centre (uFEC) Permit**

- 1. Premises: 48 The Kingsway, Swansea, SA1 5HG**
- 2. Applicant : Mr Christopher J Mcghan**
- 3. Application For A Permit**
- 3.1 An application for an Unlicensed Family Entertainment Centre (uFEC) was received by this authority on the 24th September 2018. The applicant proposes that a family entertainment centre will be located on the ground floor of the premises and a laser escape room located in the basement area. The applicant has applied for a permit for the premises to be used for making gaming machines available for use at the premises. A copy of the supplementary information supplied with the application made in accordance with paragraph 32.2 of the Council's current Statement of the Licensing Principles is attached at **Appendix A**.

The Applicant proposes the following opening hours

Monday to Friday 1200 – 2000, Saturday and Sunday 1000 - 2200

- 4. Background**
- 4.1 A permit for a uFEC will have effect for 10 years if granted, unless it is surrendered or it is permitted to lapse. A uFEC is only entitled to make Category D machines available. An explanation of the Category D machines can be found in **Appendix B** to this report.
- 4.2 The premises relevant to this application for a uFEC permit is located on The Kingsway and was previously used as a Ty Hafan charity shop. A location plan is attached at **Appendix C**.

A plan of the proposed premises is attached at **Appendix D**.

5. Promotion of The Licensing Objectives

5.1 As Members will be aware, the Gambling Act 2005 aims to promote three licensing objectives:-

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

6. Relevant Representations

6.1 A list of the relevant Responsible Authorities and the responses received in relation to this application are as follows:

a) **South Wales Police**

Representations received.

b) **Interested Parties**

Representations have been received from:

Andy Edwards, Targeted and Specialist Services Manager, Swansea Young People Services

Damian Rees, Principal Officer for Safeguarding and Performance Quality

All responses are attached at **Appendix E** to this report.

7. Policy Considerations

7.1 In considering this application Members should have regard to the Council's current Statement of the Licensing Principles for the Gambling Act 2005 (Gambling Policy) adopted and last amended in December 2017. Specifically in relation to this application;

32.1 Where a premises does not hold a premises licence but wishes to provide only Category D gaming machines, an application may be made to the Licensing Authority for a permit.

32.2 The Licensing Authority will expect applicants to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will be considered on their merits. They may include training of staff regarding suspected truant school children, how to deal with unsupervised, very young children or children causing problems in and

around the premises. In accordance with the Guidance, applicants will be expected to demonstrate a full understanding of the maximum stakes and prizes of the gambling permissible in unlicensed FECs, that they have no relevant convictions and that staff are trained to have a full understanding of the maximum stakes and prizes.

32.3 Unlicensed FECs are premises which are wholly or mainly used for making gaming machines available, therefore, exclude any premises primarily used for any other purposes, e.g. canteens, fast food takeaways, leisure centres, garages and petrol filling stations, taxi offices.

32.4 The Licensing Authority cannot attach conditions to this type of permit.

39.4 Objective 3 - Protecting children and other vulnerable persons from being harmed or exploited by gambling.

39.4.1 The Authority has noted the Guidance that this objective means that children and young persons should be prevented from taking part in gambling and should be prevented from entering those gambling premises which are adult only environments. The Authority will therefore consider as suggested in the Guidance, whether specific measures are required at particular premises, regarding this objective.

39.4.2 The Authority is also aware of the Gambling Commission Codes of Practice in relation to specific premises.

39.4.3 It is noted that the Gambling Commission does not seek to define "vulnerable persons" but states that "it will for regulatory purposes assume 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 a mental impairment, alcohol or drugs." This Authority will consider this licensing objective on a case by case basis.

39.4.4 The Authority will seek to ensure that there are restrictions on advertising for premises so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children.

39.4.5 The Authority will consult with South Wales Police and the Principal Officer for Safeguarding Quality and Performance, Child and Family Services and the Principal Officer for Safeguarding and Wellbeing of the City and County of Swansea on any application that indicates there may be concerns over access for children or vulnerable persons

39.4.6 The Guidance sets out considerations that an operator must take into account in order to protect children and young people from accessing gambling premises.

39.4.7 The LCCP prescribe how operators must prevent children from using age restricted gaming or gambling activities, particularly where gaming machines are licensed.

39.4.8 The Authority will expect applicants to offer their own measures to meet the licensing objectives in respect of issues such as:

- *Proof of age;*
- *CCTV;*
- *Supervision of entrances/machine areas;*
- *Physical separation of areas;*
- *Locations of entry/gaming machines;*
- *Notices/signage;*
- *Specific opening hours;*
- *Self- Exclusion schemes i.e. when someone asks an operator to refuse to accept their custom to prevent them from gambling;*
- *Provision of information leaflets/helpline numbers for organisations such as Gamcare.*

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

7.2 A link to the full Policy can be found at
<https://www.swansea.gov.uk/gamblingpolicy>

8. Guidance Issued by the Gambling Commission

8.1 Members should also have regard to the relevant parts of the current guidance issued by the Gambling Commission (the Guidance) September 2015, in particular in relation to this application;

Part 24: Unlicensed family entertainment centres (uFEC) - Attached at Appendix F to this report.

9. Relevant Legislation

Unlicensed Family Entertainment Centre Permits may be issued under Schedule 10 of the Gambling Act 2005.

“8(1)On considering an application for a permit a licensing authority may—

- (a) grant it, or*
- (b) refuse it.*

(2)A licensing authority may not attach conditions to a permit.

(3)As soon as is reasonably practicable after granting an application a licensing authority shall issue a permit to the applicant.

(4)As soon as is reasonably practicable after refusing an application a licensing authority shall notify the applicant of—

- (a) the refusal, and*
- (b) the reasons for it.*

9A licensing authority may grant an application for a permit only if they—
(a) are satisfied that the applicant intends to use the premises as an unlicensed family entertainment centre, and
(b) have consulted the chief officer of police for a police area in which the premises are wholly or partly situated

10(1)A licensing authority may not refuse an application unless they have—

(a) notified the applicant of their intention to refuse the application and of their reasons, and

(b) given the applicant an opportunity to make representations.

(2)A licensing authority may satisfy sub-paragraph (1)(b) by giving the applicant an opportunity to make—

(a) oral representations,

(b) written representations, or

(c) both.

22(1)The applicant for or holder of a permit may appeal if the licensing authority—

(a) reject an application for the issue or renewal of a permit,

(b) give a notice under paragraph 14, or

(c) give a notice under paragraph 15(1)(b).

(2)An appeal under this paragraph must be instituted—

(a) in the magistrates' court for a local justice area in which the premises to which the appeal relates are wholly or partly situated,

(b) by notice of appeal given to the designated officer, and

(c) within the period of 21 days beginning with the day on which the appellant or holder receives notice of the decision against which the appeal is brought.

(3)On an appeal the magistrates' court may—

(a) dismiss the appeal;

(b) substitute for the decision appealed against any decision that the licensing authority could have made (with effect from such date and on such transitional or other terms as the court may specify);

(c) restore a permit (with effect from such date and on such transitional or other terms as the court may specify);

(d) remit the case to the licensing authority to decide in accordance with a direction of the court;

(e) make an order about costs.

(4)Sub-paragraph (1) applies to a decision of a licensing authority following remittal under sub-paragraph (3)(d).

(5)In relation to premises in Scotland—

(a) sub-paragraph (2)(a) shall have effect as if it referred to a sheriff within whose sheriffdom the premises are wholly or partly situated,

(b) sub-paragraph (2)(b) shall not have effect,

(c) the reference in sub-paragraph (3) to the magistrates' court shall have effect as a reference to the sheriff, and

(d) the reference in sub-paragraph (3) to costs shall have effect as a reference to expenses.”

10. Determination of the Application

- 10.1 The decision must be based on the individual merits of the application and the representations received. When considering the application Members need not (but may) have regard to the licensing objectives and shall have regard to the Guidance.
- 10.2 In arriving at a decision Members should have regard to the relevant provisions of the Council's Statement of the Gambling Policy.
- 10.3 Reasons must be provided for any departures from the Policy or Guidance.
- 10.4 In accordance with paragraph 9 above, officers have issued a notice to the applicant in accordance with Schedule 10 Section (10) stating the intention to refuse the permit. A copy of the intention and the reasons is attached at **Appendix G** to this report.
- 10.5 Members will be aware that in accordance with paragraph 15.1 of Council's current Statement of the Licensing Principles *"demand issues cannot be considered with regard to the location of premises. In accordance with the Guidance, this Authority will pay particular attention to the licensing objective relating to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. When considering the Licensing Objectives with regard to the location, the Licensing Authority may take into consideration the following facts*
- *Size and nature of premises;*
 - *Type of facilities applied for;*
 - *Nature of area in which premises is to be situated;*
 - *Potential impact of premises on area;*
 - *Any other reasonable factor."*
- 10.6 As Members will note, Schedule 10 Section (10) (1b) also gives the applicant the right to make representations to this intention.
- 10.7 On considering an application for a permit the Committee may:-
- a) Grant the permit
 - b) Refuse the permit

The Licensing Sub Committee's instructions are requested.

Background Papers:	Licence Application
Contact Officer:	Becca John
Extension:	01792 635600
Legal Officer:	Lyndsay Thomas