

## APPENDIX 1

# ISLE OF WIGHT COUNCIL



## GAMBLING ACT 2005 SECTION 349

### Licensing Authority Draft Statement of Licensing Policy 2007 - 2010

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## Introduction

This document sets out the Isle of Wight Council's policy, for the next three years, commencing on 31 January 2007, in respect of its licensing functions under the Gambling Act 2005. Hereafter, the Isle of Wight Council shall be referred to as the 'Licensing Authority'. During this three year period the Policy will be kept under review and may be revised by the Licensing Authority at any time.

This Statement of Licensing Policy has been prepared having regard to the provisions of the Gambling Act 2005 and the Guidance issued by the Gambling Commission under Section 25 of the Act. Appropriate weight has been to the views of all consultees. A list of consultees is reproduced at Appendix B. In determining what weight to give a particular representation, the factors taken into account by the Licensing Authority included:

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

Where any amendments are considered necessary, these will only be made after consultation has taken place in accordance with Section 349(3) of the Act. Proper weight shall be given to the views of all those consulted. The Licensing Authority will only publish and consult on the revision and not the whole policy. Further licensing statements will be published every three years thereafter.

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

[Guidance 6.1; 6.2; 6.6; & 6.37]

## Advertising

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

- a) Specify the date on which the statement or revision is to be published;
- b) Specify the date on which the statement or revision will come into effect;
- c) Specify the internet address where the statement or revision will be published and the address of the premises at which it may be inspected; and

d) Be published on the authority's website and in/on one or more of the following places:

- A local newspaper circulating in the area covered by the statement
- A local newsletter, circular, or similar document circulating in the area covered by the statement;
- A public notice board on or near the principle office of the authority;
- A public notice board on the premises of public libraries in the area covered by the statement.

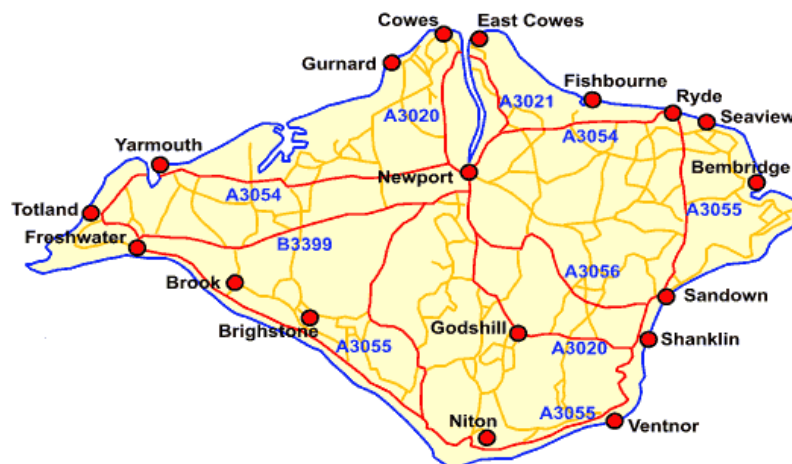
[Guidance 6.35]

## Publication

The statement or any subsequent revision of the statement will be published on the Isle of Wight Council website [www.iwight.com](http://www.iwight.com) . The statement or any subsequent revision of the statement is also available for inspection at Jubilee Stores, The Quay, Newport, Isle of Wight, PO30 2EH.

The Isle of Wight Council area covers the whole of the Isle of Wight which is 22.5 miles from east to west and 13.5 miles from north to south and is 147 square miles in area. There are 7 major towns which are Newport, Ryde, Sandown, Shanklin, Ventnor and Yarmouth, with Newport being the capital and centrally situated. The remaining areas are rural comprising of a number of small villages. The population of the Isle of Wight is approximately 133,000.

[Guidance 6.18 - 6.19 & Regulation 4(2) (a) & 4(3)]



## **1. Licensing Objectives**

- 1.1 When dealing with licensing matters the Licensing Authority will promote and have regard to the three licensing objectives set out in the Act. These are:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
  - Ensuring that gambling is conducted in a fair and open way; and
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling.

[Guidance 6.3 & 6.4]

## **2 Fundamental Principles**

- 2.1 The Licensing Authority recognises that the best means of promoting the licensing objectives is through the co-operation and partnership of local authorities, the police, local business, local people and those involved in child protection.
- 2.2 The Licensing Authority recognises that in regulating activities under this legislation, a balance must be struck between the legitimate objectives of applicants and the desires of the population as a whole, and in particular those members of the public living, working or engaged in normal activity in the area concerned. A balance must be struck between these, often conflicting positions, and all views will be taken into account when making licensing decisions or determining a course of action.
- 2.3 Licensing is about the appropriate control of betting premises, adult gaming centres, family entertainment centres, gaming and machine permits, temporary use notices, occasional use notices, and the people who manage them under an operating licence or who hold personal licences within the terms of the 2005 Act. The Licensing Authority shall aim to permit the use of premises for gambling in so far as it thinks fit and will regulate gambling in the public interest.
- 2.4 This policy does not comment on the need for gambling premises. Unmet demand is not a criterion in considering an application for a premises licence, and each application will be considered on its merits without regard for demand.
- 2.5 The location of premises will only be commented on in so far as the location relates to the licensing objectives. The Licensing Authority will

consider very carefully applications for premises licences in respect of certain gambling premises that are located close to:

- Schools and young persons establishments
- Establishments used or inhabited by vulnerable persons
- Centres established for assisting persons with a gambling addiction

2.6 Each application will however, be considered on its merits, and will depend to a large extent on the type of gambling that is proposed will be offered on the premises. If an applicant for a premises licence can show how licensing objective concerns can be overcome, that will be taken into account.

2.7 Where valid representations are made, the Licensing Authority will make objective judgements as to whether conditions need to be attached to a licence to secure achievement of the licensing objectives. Accordingly, any decision taken by the Licensing Authority or any conditions attached to the licence will centre on promoting the licensing objectives at the premises being used for licensable activities and within the vicinity of those premises. Whether or not an incident can be regarded as being in the vicinity of licensed premises will depend on the particular circumstances of the case.

[Guidance 6.5 – 6.13]

### **Integration of strategies and other legislation**

2.8 The Licensing Authority recognises that there should be a clear separation of the planning and licensing systems and licensing applications will be viewed independently of planning applications. To achieve this, close liaison will be maintained between the Licensing Committee (LC) and the Development Control Committee (DCC). Licensing applications will not be a re-run of the planning application and will not conflict with decisions taken by the DCC or following appeals against decisions made by that Committee. Where appropriate, the LC will provide reports to the DCC on the situation regarding licensed premises in the area including the general impact of gambling on the licensing objectives.

2.9 Prior to submitting an application to the Licensing Authority, the applicant should note that whilst the Licensing Authority may grant an extension to operating hours the responsibility lies with the applicant to ensure that any necessary planning consents are subsequently obtained for the hours and activities for which the application is being made.

- 2.10 The Licensing Authority will seek to avoid duplication with other regulatory regimes as far as possible. However, if other legislation does not cover the unique situations that may arise then additional controls such as conditions, may be imposed to secure the licensing objectives.
- 2.11 Premises must also comply with all other relevant legislation such as the examples given below, but it should be noted that the list is not exhaustive:
- Fire Precautions (Workplace) Regulations 1997 (as amended)
  - Food Safety Act 1990
  - Health & Safety at Work etc Act 1974
  - Disability Discrimination Act 1995
  - Environmental Protection Act 1990
  - Town and Country Planning Act 1990
  - Building Act 1984 and current accompanying regulations

[Guidance 6.5]

### **3 Consultation**

- 3.1 In accordance with Section 349(3), the Licensing Authority has consulted the following on this policy:
- The Chief Officer of Police for the Isle of Wight
  - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the Isle of Wight area, namely (insert details)
  - One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act, namely those people listed in Appendix B.
- 3.2 The Licensing Authority will also consult the above for any subsequent revision of the policy.
- 3.3 In determining its policy the Licensing Authority will always:
- Have regard to the Gambling Commission Guidance to Licensing Authorities
  - Give appropriate weight to the views of those it has consulted.
- 3.4 In determining what weight to give a particular representation on its policy, the factors to be taken into account will always include:
- Who is making the representation in terms of their expertise or interest;

- What their motivation may be for their views;
  - How many other people have expressed the same or similar views;
  - How far the representations relate to matters that the Licensing Authority should be including in its policy statement.
- 3.5 It will be for the Licensing Authority to ensure that it looks at the views of consultees and considers carefully whether they should be taken into account, and if so having regard to the above factors, to what extent.
- 3.6 The Licensing Authority will always give reasons for the decisions it has made following consultation, details of which can be viewed on the Isle of Wight Council Website [www.iwight.com](http://www.iwight.com) or by contacting the Licensing Section at Jubilee Stores, The Quay, Newport, Isle of Wight, PO30 2EH.

[Guidance 6.6 - 6.13 & Regulation 4 (2) (b)]

#### **4 Protection Of Children From Harm – Designated Authority**

- 4.1 In respect of licensing matters the Licensing Authority recognises the Isle of Wight Council's Children's Services Directorate together with the Safer Communities Team as the Responsible Authority in relation to the protection of Children from harm.
- 4.2 The Licensing Authority considered considers this body to be the most representational of all concerns relating to children in the authority's area from a cross section of organisations.

[Guidance 6.21 & Regulation 5 (a)]

#### **5. Responsible Authorities and Interested Parties**

- 5.1 When dealing with applications for premises licences and reviews of premises licences, the Licensing Authority will only consider representations from two categories of persons referred to as 'Responsible Authorities' and 'Interested Parties'.
- 5.2 Responsible Authorities in relation to premises are public bodies as defined by Section 157 of the Act.
- 5.3 The Licensing Authority will consider whether a person is an '*interested party*' with regard to particular premise on a case by case basis and will have regard to a number of factors. The following list is not exhaustive but an 'Interested Party' must be a person who



- Lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- Has business interests that might be affected by the authorised activities, or
- Represents either of the above persons.

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

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

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

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

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

- Residents and tenants associations
- Trade Associations
- Trade Unions
- Look at LA03 guidance

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

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

- Who is making the representation, and whether there is a history of making representations that are not relevant.
- Whether it raises a relevant issue

- Whether it raises issues specifically to do with the premises that are subject of the application.

[Guidance 6.22 – 6.24]

## **6 Compliance And Enforcement**

6.1 The Licensing Authority will establish protocols with the local Police and Gambling Commission on enforcement issues. This should enable more efficient deployment of Local Authority staff and Police officers. The aim of the protocol will be to target higher risk and problem premises while providing a lighter touch in respect of premises, which are well run. Inspections of licensed premises will not be undertaken routinely but when and if they are judged necessary.

6.2 In determining the level of risk in respect of premises the Licensing Authority shall be guided by complaints from the Gambling Commission; Responsible Authorities and Interested Parties.

The above criteria are subject to any further guidance, which the authority may be recommended to follow by any person or body authorised to issue guidance in respect of the authority's powers under the Gambling Act 2005.

6.3 Any enforcement action instigated by the Licensing Authority will be in accordance with Regulatory Compliance Code (previously called the Enforcement Concordat) and the Environmental Health Enforcement Policy.

6.4 In relation to its responsibilities, the Licensing Authority will follow the best practice as promulgated by the Better Regulation Executive and the Hampton review of regulatory inspections and enforcement.

6.5 Inspections and enforcement will be

- Proportionate: regulators should only intervene when necessary; remedies should be appropriate to the risk posed, and costs identified and minimised;
- Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
- Consistent: rules and standards must be joined up and implemented fairly
- Transparent: regulators should be open, and keep regulations simple and user friendly; and
- Targeted: regulation should be focused on the problem, and minimise side effects.

- 6.6 The Licensing Authority may institute criminal proceedings for offences listed under section 346 of the Act.  
[Guidance 6.25 – 6.30]

## **7 Consideration Of Applications**

- 7.1 In determining a licence application the overriding principle will be that each application will be determined on its individual merits.
- 7.2 When considering applications, the Licensing Authority will have regard:
- To the Licensing Objectives;
  - To this policy;
  - To any code of practice issued by the Gambling Commission under section 34 of the Act;
  - To any guidance issued by the Gambling Commission under section 25 of the Act;
- 7.3 Nothing in the Licensing Policy will:
- Undermine the rights of any person to apply under the Act for a variety of permissions and have the application considered on its individual merits.
  - Override the right of any person to make representations on any application or seek a review of a licence where they are permitted to do so under the Act.
- 7.4 The Licensing Authority will take the following factors and any other relevant matters into account when considering applications for premises licences, permits and other permissions. Relevance will be objectively decided.
- The proximity of gambling premises to schools/vulnerable adult centres
  - Proximity to residential areas with concentration of families with children
- 7.5 The Licensing Authority will take the following factors and any other relevant matters into account when determining whether to review a licence. Relevance will be objectively decided.
- Relevance
  - Not vexatious or frivolous
  - Addresses the licensing objectives
- 7.6 Conditions will be tailored to the individual characteristics of the premises and licensable activities concerned. Disproportionate and over burdensome conditions on premises will not be imposed.

Standardised conditions will be avoided where possible however, the Licensing Authority may draw upon a pool of conditions from which necessary and proportionate conditions may be attached in appropriate circumstances.

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

[Guidance 6.32]

## **8 Statement Regarding Casino Resolution**

- 8.1 Isle of Wight Council has not made a resolution in respect of casino premises within the authority area.

[Guidance 6.33]

## **9 Exchange Of Information**

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

[Guidance 6.34 & 6.35]

## **10 Statement Of Principles**

- 10.1 At present the licensing authority do not have a statement of principles in place in respect of applicants for FEC or Prize Gaming Permits. The authority intends to have regard to the licensing objectives in

considering such applications in addition to any guidance issued by the Gambling Commission.

[Guidance 6.36]

## **11 Registers**

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

[Guidance 6.47]

## **12 Fees**

- 12.1 The Licensing Authority shall ensure that information regarding the fees to be charged for premises licences and other permissions under the Act shall be available to the public.

[Guidance 6.47]

## **13 Applications**

- 13.1 The Licensing Authority shall produce guidance that provides information on how to make applications for licences and other permissions under the Act. The guidance shall be available from the Licensing Authority at [www.iwight.com](http://www.iwight.com) and from its offices situated at Jubilee Stores, The Quay, Newport, Isle of Wight, PO30 2EH between 8.30am and 5.00pm Monday to Thursday and 8.30am and 4.30pm Friday.
- 13.2 The guidance shall also include information on how to make representations and how to apply for a review of a premises licence.
- 13.3 Where appropriate, application forms and a full list of responsible authorities and their respective contact details shall be available on request as above.

[Guidance 6.50]

## **14 Delegation**

14.1 Information as to how functions are delegated under the Act is set out in Appendix A of this Licensing Policy.

[Guidance 6.51]

### Appendix A: Schedule of Delegations

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

## **Appendix B: Consultees**

### **Council Officers**

Joe Duckworth	Chief Executive Officer
Sue Lightfoot	Acting Director of Safer Communities
Rob Owen	Head of Consumer Protection
Warren Haynes	Environmental Health Manager
Richard Stone	Trading Standards Manager
Pat Szatter	Programme Lead – Internal Governance

### **Councillors**

Ivan Bulwer	Regulatory Chair
Mike Cunningham	Regulatory Vice Chair (Licensing)
David Whittaker	Regulatory Vice Chair (Human Resources and Misc.)
John Adams	Regulatory Committee member
Albert Taylor	Regulatory Committee member
William Burt	Regulatory Committee member
George Cameron	Regulatory Committee member
Charles Chapman	Regulatory Committee member
Jonathon Fitzgerald-Bond	Regulatory Committee member
Barbara Foster	Regulatory Committee member
Heather Humby	Regulatory Committee member
Muriel Miller	Regulatory Committee member
Brian Mosdell	Regulatory Committee member
Lady Sarah Pigot	Regulatory Committee member
Susan Scoccia	Regulatory Committee member
Ian Stephens	Regulatory Committee member
Julian Whittaker	Regulatory Committee member

### **Trade**

<b>Coastal Leisure (UK) Ltd</b>	Redstone Units, Marsh Close, Sandown, Isle of Wight PO36 8EU
<b>Newport Automatics</b>	1a, George St, Sandown, Isle of Wight PO36 8JB
<b>Breakout Operations Ltd</b>	Hillway Rd, Bembridge, Isle of Wight PO35 5PJ
<b>Ladbrokes Betting Shops</b>	38, Pyle St, Newport, Isle of Wight PO30 1XB
<b>Ladbrokes Betting Shops</b>	84-85, High St, Newport, Isle of Wight PO30 1BH



<b>Ladbrokes Betting Shops</b>	68, Union St, Ryde, Isle of Wight PO33 2LN
<b>Ladbrokes Betting Shops</b>	4, Regent St, Shanklin, Isle of Wight PO37 7AA
<b>Ladbrokes Betting Shops</b>	55, High St, Sandown, Isle of Wight PO36 8DF
<b>Wight Racing</b>	125, Perowne Way, Sandown, Isle of Wight PO36 9DY
<b>Ladbrokes Betting Shops</b>	5, The Arcade, West Cowes, Cowes, Isle of Wight PO31 7AR
<b>Ladbrokes Betting Shops</b>	27, High St, Ryde, Isle of Wight PO33 2HT
<b>Arcadia (Ryde) Ltd</b>	11-12, Esplanade, Ryde, Isle of Wight PO33 2DY
<b>Ryde Leisure</b>	5, St. Thomas Square, Ryde, Isle of Wight PO33 2PJ
<b>Gaiety Amusements</b>	Esplanade, Ventnor, Isle of Wight PO38 1JT
<b>Sandham Rides</b>	Fort St, Sandown, Isle of Wight PO36 8AU
<b>Peter Pan Playground</b>	Esplanade, Ryde, Isle of Wight PO33 1JA
<b>Wight City Leisure plc</b>	Culver Parade, Sandown, Isle of Wight PO36 8AT
<b>Amusement Arcade</b>	103, High St, Cowes, Isle of Wight PO31 7AT
<b>Shuffles Fun Casino</b>	1, Ranelagh Rd, Lake, Sandown, Isle of Wight PO36 8NX
<b>Commodore Bingo Club</b>	Star St, Ryde, Isle of Wight PO33 2JH

## **Solicitors**

<b>Gosschalk Sols</b>	<a href="mailto:Jackie_hatfield@gosschalks.co.uk">Jackie_hatfield@gosschalks.co.uk</a>
<b>Roach Pittis</b>	62-66, Lugley St, Newport, Isle of Wight PO30 5EU
<b>Matthews Henshaw Verrinder</b>	56, The Mall, Carisbrooke Rd, Newport, Isle of Wight PO30 1BW
<b>Glanvilles</b>	The Courtyard, St. Cross Business Park, Monks Brook, Newport, Isle of Wight PO30 5BF
<b>Robinson Jarvis Rolfe</b>	18, Melville St, Ryde, Isle of Wight PO33 2AP
<b>Walter Gray &amp; Co</b>	24a, High St, Sandown, Isle of Wight PO36 8DL
<b>Merry &amp; Co</b>	73, Union St, Ryde, Isle of Wight PO33 2LN
<b>Careless &amp; Kemp</b>	19, Church St, Ventnor, Isle of Wight PO38 1SN
<b>Wilks,Price,Hounslow</b>	9, Garfield Rd, Ryde, Isle of Wight PO33 2PS
<b>Poppleston Allen</b>	37 Stoney Street, The Lace Market, Nottingham, NG1 1LS

## **Town and Parish Councils**

Arreton Parish Council  
Bembridge Parish Council  
Brading Town Council  
Brighstone Parish Council  
Calbourne Parish Council  
Chale Parish Council  
Cowes Town Council  
East Cowes Town Council  
Freshwater Parish Council  
Gatcombe Parish Council  
Godshill Parish Council  
Gurnard Parish Council  
Lake Parish Council  
Nettlestone & Seaview Parish Council  
Newchurch Parish Council

Niton & Whitwell Parish Council  
Rookley Parish Council  
Sandown Town Council  
Shalfleet Parish Council  
Shanklin Town Council  
Shorwell Parish Council  
St Helens Parish Council  
Totland Parish Council  
Ventnor Town Council  
Wootton Parish Council

### **Public Libraries**

Lord Louis Library (Newport)  
Ryde Library  
Bembridge Library  
Brighstone Library  
Cowes Library  
East Cowes Library  
Freshwater Library  
Niton Library  
Sandown Library  
Shanklin Library  
Ventnor Library

### **Other**

Gambling Commission  
  
The Bingo Association  
  
British Beer & Pub Association  
  
Association of British Bookmakers (ABB)  
  
Business In Sport & Leisure  
  
Casino Operators' Association of the UK (COA (UK))  
  
Racecourse Association Limited  
  
BACTA  
  
British Casino Association (BCA)  
  
British Holiday & Home Parks Association

RAL Limited

British Greyhound Racing Board

Responsibility in Gambling Trust

GamCare

Gamblers Anonymous (UK)

### **Responsible Authorities**

Hampshire Constabulary

Isle of Wight Fire and Rescue Service

Isle of Wight Council Environmental Health Department

Children's Services

HM Revenue & Customs