

STATEMENT OF LICENSING POLICY

This is the Statement of Principle ("Licensing Policy") the West Lothian Licensing Board ("The Board") proposed to apply in exercising their functions under the Gambling Act 2005 ("the Act) during the three-year period beginning on 31st January 2010. It will be kept under review and revised if appropriate, during that three-year period.

1. **Objective**

In exercising their functions under the Gambling Act 2005, West Lothian Licensing Board, as the licensing authority will have regard to the statutory licensing objectives, which are set out in section 1 of the 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.
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

Section 153 of the Act requires us, in making decisions concerning premises licences and temporary use notices, to aim to permit the use of premises for gambling in so far as we think it is: -

- In accordance with any relevant code of practice issued by the Gambling Commission.
- In accordance with any relevant guidance issued by the Gambling Commission.
- Reasonably consistent with the licensing objectives.
- In accordance with the Statement of Licensing Principles.

Nothing in the statement will override the right of any person to make an application under the Act or to have the application considered on its individual merits, undermine the right of any person to make representations on an application or to seek a review of a licence where there is a legal power to do so.

In terms of the Act, unmet demand is not a criterion for a licensing authority in considering an application banned in accordance with Gambling Commission guidance for licensing authorities, "moral objections to gambling are not a valid reason to reject applications for premises licences". Therefore we will consider any application in accordance with the Act, on its own merits without regard to demand or moral objection to gambling in general.

2. **Consultation on Statement of Licensing Principles**

In terms of section 349(3) of the Act, there is a requirement that the following parties are consulted by each licensing authority: -

- The Chief Officer of Police.
- One or more persons who appear to the authority to represent the interest of persons carrying on gambling businesses in the authority's area.
- One or more persons who appear to the authority to represent the interest of persons who are likely to be affected by the exercise of the authority's presumptions under the Gambling Act 2005.
- You will consult widely on this draft Statement of Principles before finalising and publishing it. A list of the persons we have sent this document to is attached as Appendix 1. The document is also available on the West Lothian Council Website at www.westlothian.gov.uk/content/council/266723.

3. **Declaration**

In producing the final licensing statement, this licensing authority declares that it will have regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission and responses from those consulted on the statement.

4. **Area Covered**

The geographical area covered by this licensing policy is the West Lothian Council Local Government Area.

5. **Responsible Authorities**

We are required under section 157(h) of the Act to designate, in writing, a body that is competent to advise the authority about the protection of children from harm.

We designate the West Lothian Child Protection Committee

We do so because it operates throughout the whole of the area covered by the licensing authority and because it has a specialist knowledge and expertise to fulfil this role.

The responsible authorities under the Gambling Act are: -

The West Lothian Licensing Board
 The Gambling Commission
 The Chief Constable, Lothian and Borders Police

The Chief Fire Office, Lothian and Borders Fire & Rescue Service
West Lothian Council Development and Regulatory Services
Child Protection Agency
HM Revenue & Customs

Subject to any other party being prescribed by regulation by the Secretary of State. The contact addresses for these authorities are shown at Appendix 2.

6. **Interested Parties**

The interested parties can make representations about license applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows: -

"A person who is an interested party in relation to an application for, or in respect of a premises licence if, in the opinion of the licensing authority which issues the license or to which the application is made, the person: -

- a. lives sufficiently close to the premises to be likely to be affected by the authorised activities;
- b. has business interests that might be affected by the authorised activities; or
- c. represents the persons who satisfy paragraphs (a) or (b).

We are required by regulations to state the principles we will apply in exercising our powers under the Gambling Act 2005 to determine whether a person is an interested party.

We will decide each case on its merits. We will not apply a rigid rule to our decision-making but will apply local knowledge and integrity to each decision. We will consider the examples provided in the Gambling Commission's guidance to licensing authorities.

7. **Exchange of Information**

In fulfilling its functions and obligations under the Gambling Act 2005, 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.

Contact details of those persons making representations and of their representations will be made available to applicants for a licence. Should a hearing take place it will form part of a public document. Any party who lodges representations or applies for a review of a premises licence will be informed that these details will be disclosed.

8. Enforcement

In exercising our functions under the Act with regard to the inspection of premises you will be guided by the Gambling Commission's guidance and our approach will be proportionate, accountable, consistent, transparent and targeted.

The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 will be to ensure compliance with the premises licences and other permissions, which it authorises.

According to the principle of transparency, if this licensing authority adopts any enforcement and compliance protocols, copies will be available upon request.

9. Licensing Authority Functions

Licensing authority will make decisions upon applications or notifications made for: -

- Premises Licences
- Temporary Use Notices
- Occasional Use Notices
- Amendments as required under the Act
- Registrations as required under the Act

This Statement of Principle relates to all those licensable premises, notices, permits and registrations identified as falling within the provisions of the Act namely: -

- Bingo premises
- Betting premises
- Tracks
- Adult Gaming Centres
- Licensed family entertainment centres
- Unlicensed family entertainment centres
- Club gaming permits
- Prize gaming and prize gaming permits
- Occasional use notices
- Temporary use notices
- Registration of small society lotteries
- Casinos

We will not be involved in licensing remote gambling. Regulation will fall to the Gambling Commission through operator licences.

10. Premises Licence

General Principles

Premises licences will be subject to the restrictions set out in the Gambling Act 2005 and regulations as well as to specific mandatory and default conditions which will be detailed in regulations issued under the Act.

We may exclude default conditions and also attach other conditions, where we believe it is appropriate.

In making decisions about premises licences, we will aim to permit the use of premises for gambling insofar as we think it is: -

- In accordance with any relevant code of practice issued by the Gambling Commission.
- In accordance with any relevant guidance issued by the Gambling Commission.
- Reasonable consistent with the licensing objectives.
- In accordance with this Statement of Licensing Principles.

Premises are defined in the Act as "any place". Different premises licences cannot apply in respect of a single premises at different times. We will assess each case on its individual merits to decide as a matter of fact, whether different parts of a building can properly be regarded as being separate premises. We note the Gambling Commissions' guidance in this area.

An applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the Gambling are constructed. The Gambling Commission guidance advises that reference to "the premises" is to the premises in which gambling may now take place, so the premises must be ready to be used for gambling. Each case will be a question of fact and degree.

In considering an application for a premises licence, no regard will be had to the expected demand for the facilities proposed to be provided in the premises for which a premises licence is sought.

In accordance with the Gambling Commissions' guidance we will pay particular attention to the protection of children and vulnerable persons from harm or exploitation by gambling, as well as to issues of crime and disorder.

This authority has not adopted any specific policy in relation to areas where gambling premises should not be located. Should any such policy be adopted, this statement will be updated and the policy will be publicly available.

Any future policy would not preclude an application for a premises licence being made; the onus will be upon the applicant to show how any potential concerns could be overcome.

The licensing authority will seek to avoid any duplication with other statutory/regulatory systems where possible, including the statutory planning regime.

Objective 1: Preventing Gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime

The Gambling Commission will take a leading role in preventing gambling from being a source of crime. Its guidance envisages that attention is paid to the proposed location of gambling premises in terms of this licensing objective.

We recognise the Gambling Commission's distinction between disorder and nuisance, disorder meaning activity, which is more serious and disruptive and mere nuisance, which is not a gambling licensing objective. We will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, to assess a disturbance.

In considering licence applications, this licensing authority will particularly take into account the following: -

The design and layout of the premises;

The training given to staff and crime prevention measures appropriate to those premises;

Physical security features installed in the premises, which may include matters such as position of cash registers or the standard of CCTV installed in the premises;

Where premises are subject to age restrictions, the procedures in place to conduct age verification checks; and

The likelihood of any violence, public order or policing problem if the licence is granted.

Objective 2: Ensuring that Gambling is Conducted in a Fair and Open Way

The Gambling Commission has stated that it would generally not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will relate either to the management of the business, therefore subject to an operating licence, or to an individual and therefore subject to a personal licence. Both of these are the responsibility of the Gambling Commission.

Objective 3: Protecting Children and Other Vulnerable Persons from being Harmed or Exploited by Gambling

The Gambling Commission Guidance for local authorities states that this objective relates to preventing children from taking part in gambling as well as restriction of advertising, so that gambling products are not aimed at children or are particularly attractive to them.

We will consider whether 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 areas. We will consult with the West Lothian Child Protection Committee on any application that indicates there may be concerns over access for children or vulnerable persons.

The term "vulnerable persons" is not defined but the Gambling Commission 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 licensing authority will consider the promotion of this licensing objective on a common sense, case-by-case basis.

Conditions on premises licences

Any conditions attached to licences will be proportionate and will be: -

- Relevant to the need to make the premises suitable 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.
- Reasonable in all other aspects.

Decisions on individual conditions would be made on a case-by-case basis. The control measures, which this licensing authority may consider using, include door supervisors and appropriate signage for adult only areas. This licensing authority will expect licence applicants to offer their own suggestions as to ways in which the licensing objectives can be effectively met.

We may consider specific measures for buildings, which are subject to multiple premises licences. Such measures may include the supervision of entrances, segregation of gambling and non-gambling areas frequented by children, the supervision of gaming machines and non-adult gambling specific premises and the display of notices regarding age restriction.

Door Supervisors

In accordance with the Gambling Commission Guidance this licensing authority may consider whether there is a need for door supervisors in terms of the licensing objectives relating to children and vulnerable persons and the prevention of crime.

The Gambling Act 2005 has amended the Security Industry Act 2001, so that door supervisors at casinos or bingo premises cannot be licensed by the Security Industry Authority.

This Board may formulate a policy relating to registration with the licensing authority of all door supervisors working at casinos or bingo premises. This would be in recognition of the nature of the work, which might include searching individuals, dealing with potentially aggressive and young and vulnerable persons. If so, the policy will be made available publicly.

11. **Adult Gaming Centres**

This licensing authority will have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that persons under 18 years of age do not have access to the premises.

Appropriate licensing conditions may cover issues such as proof of age schemes, CCTV, door supervisors, supervision of entrances/machine areas, physical separation of areas, location of entry notices/signage and specific opening hours.

Those listed may be indicative and not intended to exclude other conditions in appropriate cases.

12. **Family Entertainment Centres**

We will have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and would expect the applicant to satisfy the authority that there will be sufficient measures to ensure that persons under 18 years of age do not have access to the adult only gaming machine areas.

We would expect applicants as part of their application to offer their own measures to promote the licensing objectives. Appropriate licence conditions may cover issues such as CCTV, supervision of entrances/machine areas, physical separation of areas, location of entry notices/signage, specific opening hours, and measures/training for staff on how to deal with suspected school children on the premises.

This list is merely indicative and not intended to exclude other conditions in appropriate cases.

In accordance with the Gambling Commission Guidance, we will ensure that we are sufficiently aware of any conditions that apply to operating licences, for instance those covering the way in which the area containing the category C or higher machines, should be delineated.

The licensing authority will also make itself aware of any mandatory or default conditions on premises licences, when they have been published.

13. **Casinos**

This licensing authority has not passed a "no casino" resolution under Section 166 of the Gambling Act 2005 but it aware that it has the power to do so. This licensing authority reserves the right to review this situation.

14. **Bingo Premises**

This licensing authority notes that the Gambling Commission Guidance states:
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"It is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted licensing authorities should ensure that: -

- All such machines are located in an area of the premises separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- Only adults are admitted to the area where these machines are located;
- Access to the area where machines are located is supervised;
- The area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
- That the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18."

The Gambling Commission will issue further guidance on particular issues that should be taken into account in relation to the suitability and layout of bingo premises and we will consider such guidance when it is published.

15. **Betting Premises**

The Act contains a single class of licence for betting premises. There will be different types of premises which require licensing including betting offices on tracks, that have a separate premises licence from the track licence.

It is noted that the Gambling Commission Guidance for local authorities states "Section 181 contains an express power for licensing authorities to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence or to a casino premises licence (where betting is permitted in the casino)".

When considering whether to impose conditions to restrict the betting machines in particular premises, we will take into account the size of the premises, the number of counter positions available for person to person transactions and the ability of staff to monitor the use of machines by children and young people or by vulnerable persons.

16. **Tracks**

The Act contains rules, which apply to applicants for a premises licence in relation to a track. The applicant need not hold an operating licence because the betting which is provided upon the track will be provided by other operators, who come on-course. Since those people will require the necessary operating licences, the Act allows the track operator to obtain a premises licence without also having to hold an operating licence. This track premises licence then authorises anyone upon the premises with an operating licence to offer betting facilities.

Tracks are different from other premises that there may be more than one premises licence in effect, each covering a specified area of the track. In accordance with the Gambling Commission Guidance, this authority will especially consider the impact of the third licensing objective in this area.

There may be some specific considerations with regard to the protection of children and vulnerable persons from being harmed or exploited by gambling, the need to ensure entrances to each type of premises are distinct and that children are excluded from gambling or betting areas where they are not permitted to enter.

Children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog racing takes place, although they are still prevented from entering areas where gaming machines (other than category D machines) are provided. Premises licence applicants will have to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities.

Appropriate licensed conditions may include proof of age schemes, CCTV, door supervisors, supervision of entrances/machine areas, physical separation of areas, location of entry notices/signage, specific opening hours and the location of gaming machines.

This list is merely indicative and does not intend to exclude other conditions in appropriate cases.

The Gambling Commission will issue guidance addressing where such machines may be located on tracks and any special considerations that should apply to promote the licensing objectives.

We note the Commission's Guidance that licensing authorities need to consider the location of gaming machines at tracks, and applicants for licences at tracks will need to demonstrate that, where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, these machines will be located in areas from which children are excluded.

We have a power under the Gambling Act 2005 to restrict the number of betting machines, by nature and the circumstances in which they are made available, by attaching a licensed condition to a betting premises licence.

In accordance with the Gambling Commission's Guidance in relation to betting premises away from tracks, we will take into account the size of the premises and the ability of staff to monitor the use of the machines by vulnerable people when determining the number and nature of machines permitted.

This licensing authority also notes that the Commission Guidance is that it would be preferable for all self-contained premises operated by off course betting operators on track to be the subject of separate premises licences. This would ensure a clear division of responsibilities.

17. Condition on Rules being displayed

In accordance with the Commission Guidance we will attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public.

18. Applications and Plans

The Gambling Commission suggests that "to ensure that licensing authorities gain a proper understanding of what they are being asked to licence, they should, in their licensing policies set out the information that they will require, which should include detailed plans for the race track itself and the area that will be used for a temporary "on-course" betting facility (often know as the "betting ring") and in the case of dog tracks and horse race courses fixed and mobile pool betting facilities operated by the tote or track operator, as well as any other proposed gambling facilities".

We await regulations setting out these specific requirements for applicants for premises licences. However plans should make clear what is being sought for authorisation under the track betting premises licence and what other areas are to be subject to a separate application for a different type of premises licence.

19. Travelling Fairs

The licensing authority will consider whether the applicant falls within the statutory definition of a travelling fair. Where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, it will fall to this licensing authority to decide whether the statutory requirement, that the facilities for gambling amount to no more than an ancillary amusement at the fair, is met.

The 27-day statutory maximum for the land being used for a fair is per calendar year and applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land.

20. Provisional Statements

This licensing authority notes the Gambling Commission Guidance which states that "it is a question of fact and degree whether the premises are finished to a degree that they can be considered for a premises licence" and that "requiring the building to be complete ensures that the authority could, if necessary, inspect it fully".

In terms of representations about premises licence applications following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account by this authority unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances.

In addition, this authority may refuse the premises licence or grant it on terms different to those attached to the provisional statement only by reference to matters: -

- a. which could not have been raised at the provisional licence stage or
- b. which, in the authority's opinion, reflects a change in the operator's circumstances.

This authority has noted the Gambling Commission Guidance that licensing authorities should not take into account any relevant matters such as the likelihood of the applicant obtaining planning or building consent for the proposals.

21. Reviews

A premises licence may be reviewed by the licensing authority of its own accord for any appropriate reason or following the receipt of an application for a review by an interested party or responsible authority. It is for the licensing authority to decide whether the review should be carried out.

Section 200 of the Act provides that licensing authorities may initiate a review in relation to a particular class of premises licence or in relation to particular premises. Officers may be involved in the initial investigations of complaints leading to a review, or may try informal mediation or dispute resolution techniques prior to a full-scale review being conducted by the authority.

An application for a review may be rejected if the licensing authority is of the view that the grounds on which the review is sought: -

- are not relevant to the principles that must be applied by the licensing authority in accordance with Section 153;
- are frivolous or vexatious
- will certainly not cause the authority to revoke or suspend the licence or exclude, remove or amend a condition attached to the licence
- are substantially the same as the grounds specified in an earlier application in respect of the same premises or are substantially the same as representations made in relation to the application for the premises licence.

In determining whether to exercise the power to reject an application, we 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.

23. Unlicensed Family Entertainment Centre Gaming Machine Permits

Where premises do not hold a premises licence but wishes to provide gaming machines, they may apply to the licensing authority for this permit. The applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.

Unlicensed FEC's will be able to offer only category D machines and relies on a gaming machine permit. Any number of category D machines can be made available with such a permit. Permits cannot be issued to vessels or vehicles.

The licensing authority can grant or refuse a licence but cannot attach conditions to his type of permit.

The licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm is not limited to harm from gambling, but includes wider child protection considerations.

The Gambling Act 2005 states that a licensing authority may prepare a statement of principles that they propose to consider in determining the suitability of an application for a permit. This is mirrored in the Gambling Commission's Guidance. The efficiency of such policies and procedures will each be considered on their merits and may include a training policy.

Except as detailed above, this licensing authority has not adopted any further statement of principles, but it would do so if they will be made publicly available.

24. **Prize Gaming Permits**

The Gambling Act 2005 states that a licensing authority may "procure a statement of principles that they propose to apply in exercising their functions under this schedule". Which "may, in particular, specify matters that the licensing authority propose to consider in determining the suitability of the applicant for a permit".

The applicant should set out the types of gaming that he or she is intending to offer and should be able to demonstrate an understanding of the limits to stakes and prizes that are set out in regulations and should demonstrate that the gaming offered is within the law. In making a decision on the application for this permit we will have regard to any Gambling Commission Guidance.

There are conditions in the Gambling Act 2005 with which the permit holder must comply, that we as the licensing authority cannot attach conditions.

25. **Temporary Use Notices**

Temporary use notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. They may only be granted where a relevant operating licence has been granted.

We note the statutory guidance where "premises" is defined as including "any place" and we will look at amongst other things, the ownership/occupation and the control of the premises when considering any particular case.

A set of premises may not be the subject of a temporary use notification for more than 21 days in a period of 12 months. In our consideration of temporary use notice applications, we will apply any regulations made under the provisions of the Act.

26. **Occasional Use Notices**

Where there is betting on a track on eight days or less in a calendar year, betting may be permitted by an occasional use notice, without the need for a full premises licence.

We will ensure that the statutory limit of eight days in a calendar year is not exceeded. We will consider the definition of a "track" and whether the applicant is permitted to avail him/herself of this notice.

We will maintain a register of all applications

APPENDIX 1

SCHEDULE OF CONSULTEES TO THIS STATEMENT OF PRINCIPLES

This document was made available on the website of West Lothian Licensing Board
www.westlothain.gov.uk/content/council/266723

It was sent to all the consultees listed below and will be sent to any other interested parties on request.

At their meeting on 17th July 2009 the licensing board agreed to review their policy and copies of the current policy were sent to all of the consultees listed below and responses were requested by 1st October 2009. If anyone has any queries, please contact Licensing Dept., West Lothian Civic Centre, Howden South Rd, Livingston, EH54 6F.

1. All members of West Lothian Licensing Board
2. The Gambling Commission, Victoria Square House, Victoria Square, Birmingham, B2 4BP
3. The Chief Constable, Lothian & Borders Police, West Lothian Civic Centre, Howden South Road, South, Livingston, EH54 6FF
4. The Chief Fire Officer, Lothian & Borders Fire Service, Fire Station House, Craigshill, Livingston, EH54 5DT
5. West Lothian Council Development and Regulatory Services, County Buildings, High Street, Linlithgow , EH49 7EZ
6. West Lothian Child Protection Committee, Lead Officer Child Protection, Ground Floor North, Civic Centre, Howden South Road, Livingston, West Lothian, EH54 6FF
7. HM Revenue & Customs, National Registration Unit, Portcullis House, 21 India Street, Glasgow, G2 4PZ
8. Association of British Bookmakers Limited, Regency House, 1-4 Warwick Street, London W1B 5LT
9. The Chief Executive, West Lothian Council, West Lothian Civic Centre, Howden South Rd, Livingston, EH54 6FF
10. All Community Councils within West Lothian
11. All Betting Office Licenceholders within West Lothian
12. All Bingo Licenceholders within West Lothian

Appendix 2

SCHEDULE OF RESPONSIBLE AUTHORITIES

GAMBLING ACT 200

1. West Lothian Licensing Board, Civic Centre, Howden South Road, Livingston, EH546FF
2. The Gambling Commission, Victoria Square House, Victoria Square, Birmingham, B2 4BP
3. The Chief Constable, Lothian & Borders Police, West Lothian Civic Centre, Howden South Road, Livingston EH54 6FF
4. The Chief Fire Officer, Fire Station House, Craigshill, Livingston, EH54 5DT
5. West Lothian Council Development and Regulatory Services, County Buildings, High Street, Linlithgow, EH49 7EZ
6. West Lothian Child Protection Committee, Lead Officer Child Protection, Ground Floor North, Civic Centre, Howden South Road, Livingston, West Lothian, EH54 6FF
7. H.M. Revenue & Customs, National Registration Unit, portcullis House, 21 India Street,, Glasgow, G2 4PZ
9. The Chief Executive, West Lothian Council, West Lothian Civic Centre, Howden South Rd, Livingston, EH54 6FF