

Open

Licensing and Environmental Committee

Agenda

10.30am
Monday, 1st October 2018
Council Chamber
Wyre Forest House
Finepoint Way
Kidderminster



Licensing and Environmental Committee

Members of Committee:

Chairman: Councillor J Baker
Vice-Chairman: Councillor P Harrison

Councillor M Cheeseman
Councillor I Hardiman
Councillor K Henderson
Councillor F M Oborski MBE
Councillor J D Smith

Councillor P Dyke
Councillor J A Hart
Councillor V Higgs
Councillor M Rayner

Information for Members of the Public:

Part I of the Agenda includes items for discussion in public. You have the right to request to inspect copies of Minutes and reports on this Agenda as well as the background documents used in the preparation of these reports.

Part II of the Agenda (if applicable) deals with items of "Exempt Information" for which it is anticipated that the public may be excluded from the meeting and neither reports nor background papers are open to public inspection.

Declaration of Interests by Members – interests of members in contracts and other matters

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In addition, alongside the Register of Interest, the Members Code of Conduct ("the Code") requires the Declaration of Interests at meetings. Members have to decide first whether or not they have a disclosable interest in the matter under discussion.

Please see the Members' Code of Conduct as set out in Section 14 of this constitution for full details.

Disclosable Pecuniary Interest (DPI) / Other Disclosable Interest (ODI)

DPI's and ODI's are interests defined in the Code of Conduct that has been adopted by the District.

If you have a DPI (as defined in the Code) in a matter being considered at a meeting of the Council (as defined in the Code), the Council's Standing Orders require you to leave the room where the meeting is held, for the duration of any discussion or voting on that matter.

If you have an ODI (as defined in the Code) you will need to consider whether you need to leave the room during the consideration of the matter.

For further information:

If you have any queries about this Agenda or require any details of background papers, further documents or information you should contact Sian Burford, Assistant Committee Services Officer, Wyre Forest House, Finepoint Way, Kidderminster, DY11 7WF.
Telephone: 01562 732766 or email sian.burford@wyreforestdc.gov.uk

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* Unless there are no items in the open session

Wyre Forest District Council

Licensing and Environmental Committee

Monday, 1st October 2018

Council Chamber, Wyre Forest House, Finepoint Way, Kidderminster

Part 1

Open to the press and public

Agenda item	Subject	Page Number
1.	Apologies for Absence	
2.	Appointment of Substitute Members To receive the name of any Councillor who is to act as a substitute, together with the name of the Councillor for whom he/she is acting.	
3.	Declarations of Interests by Members In accordance with the Code of Conduct, to invite Members to declare the existence and nature of any Disclosable Pecuniary Interests (DPI's) and / or Other Disclosable Interests (ODI's) in the following agenda items and indicate the action that they will be taking when the item is considered. Please see the Members' Code of Conduct as set out in Section 14 of the Council's Constitution for full details.	
4.	Minutes To confirm as a correct record the Minutes of the meeting held on the 6th August 2018.	6
5.	Review of the Gambling Act 2005 To receive a report from the Head of Worcestershire Regulatory Services on behalf of Wyre Forest District Council on the responses received during the recent consultation on the revised Gambling Statement of Principles 2019–22, as part of the statutory triennial review in accordance with Section 349 of the Gambling Act 2005.	12
6.	To consider any other business, details of which have been communicated to the Solicitor to the Council before the commencement of the meeting, which the Chairman by reason of special circumstances considers to be of so urgent a nature that it cannot wait until the next meeting.	

7.	<p>Exclusion of the Press and Public</p> <p>To consider passing the following resolution:</p> <p>“That under Section 100A(4) of the Local Government Act 1972 the press and public be excluded from the meeting during the consideration of the following item of business on the grounds that it involves the likely disclosure of “exempt information” as defined in the paragraph 1 of Part 1 of Schedule 12A to the Act”.</p>	
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Part 2

Not open to the Press and Public

8.	<p>Application for the Grant of a Hackney Carriage/Private Hire Driver’s Licence</p> <p>To receive a report from the Corporate Director: Economic Prosperity and Place which asks the Committee to consider an application for the grant of a Hackney Carriage/Private Hire Driver’s Licence.</p>	-
9.	<p>To consider any other business, details of which have been communicated to the Solicitor to the Council before the commencement of the meeting, which the Chairman by reason of special circumstances considers to be of so urgent a nature that it cannot wait until the next meeting.</p>	

WYRE FOREST DISTRICT COUNCIL

LICENSING AND ENVIRONMENTAL COMMITTEE

COUNCIL CHAMBER, WYRE FOREST HOUSE, FINEPOINT WAY, KIDDERMINSTER

6th August 2018 (10.30am)

Present:

Councillors: J Baker (Chairman), P Harrison (Vice-Chairman), M Cheeseman, P Dyke, I Hardiman, J A Hart, K Henderson, V Higgs, F M Oborski MBE, M Rayner, J D Smith and S J Williams.

Observers:

There were no members present as observers.

LIC.10 Apologies for Absence

There were no apologies for absence.

LIC.11 Appointment of Substitutes

Councillor S J Williams was a substitute for Cllr Wilson's vacant position.

LIC.12 Declaration of Interests

No declarations of interest were made.

LIC.13 Minutes

Decision: The minutes of the meeting held on 11th June 2018 be confirmed as a correct record and signed by the Chairman.

LIC.14 Animal Establishment Licensing Reforms

The Licensing and Support Services Manager led the Committee through a report from the Corporate Director: Economic Prosperity and Place, on the upcoming reforms that were planned in relation to the licensing of various animal-related establishments as a result of the Animal Welfare (Licensing of Activities Involving Animals)(England) Regulations 2018. The new regulations were effective from the 1st October 2018. The purpose of the report was to inform Members of the reforms and to ask for delegation powers and to approve fees and charges. Worcestershire Regulatory Services administered these services for all six District Councils in Worcestershire and each had received the same report and been asked to adopt the same delegation, authorisations and agree items listed at section 2 of the report.

The Licensing and Support Services Manager explained what would be covered under the new regulations including animal boarding, including clearer

guidelines for 'doggie daycare', riding establishments, dog breeding establishments (previously 5 litters now 3 in a 12 month period), pet shops. Regulations would include performing animals which had previously been covered under County Council registration. As was previously the case dangerous wild animals and Zoo's were not included in the new licensing regime.

Licenses would be issued for a 1, 2 or 3 year period and given a star rating based on an assessment of risk which would determine when further inspections would take place. There would be more powers for licensing authorities to enable variations, suspensions or revoking of licences. There were 31 Licenses in place in the Wyre Forest area under the current licensing regime and this number was expected to considerably increase under the new regulations. The cost of implementing the new scheme had been calculated in the suggested new fees and included the time needed for officers to assess, administer and process applications and review applications, assess the suitability of applicants, site inspections, enforcement costs, contesting application and an additional officer resource to cover the increased workload.

Members questioned the Licensing and Support Services Manager on the fees and application charges which she explained in further detail. Members expressed their agreement with the number of litters being reduced for dog breeders and the number of inspections going up. It was clarified that new recourses would allow officers to carry out more frequent inspections on high risk establishments and it was anticipated that there would be an increase in applications, enforcement cases and investigations during the first year which had been taken into account under the new charging structure. Fees would be considered again in 12 months to ensure they are not prohibitive to businesses. Members asked for further details on how members of the public would be informed about these new regulations. The Licensing and Support Services Manager explained the strategy that was in place and agreed with Members request for a concise notice for inclusion in Councillors newsletters. She also clarified how the numbers involved in dog breeding and boarding would be established. Members were pleased to see that additional record keeping would be involved and that extra recourses were being recruited.

The Committee agreed to recommend to Council that:

- i) Determination of all licensing applications in respect of Animal Welfare Act 2006 were removed from para 3, Schedule 2, Part II (Matters not Delegated) of the Worcestershire Shared Services Agreement dated 1 April 2016**
- ii) The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 were added to Schedule 1 Appendix, Part II of the Worcestershire Shared Services Agreement dated 1 April 2016.**
- iii) The following wording was added to Part II "Animal Health and Welfare" section of Appendix 1- Statement of Partner Service Requirements to Worcestershire Shared Services Agreement dated 1 April 2016.**

Activity	Outcomes/ critical success factors	Performance measures/ key performance indicators and targets	Applicable policies, strategies, service standards, statutory codes or guidance
Licensing of Activities Involving Animals	Premises meet Licensing Conditions and License issued on time. Animal welfare issues addressed assured and protected. All appropriate persons and premises licensed.	Compliance with License conditions and standards.	The Animal Welfare Act 2006 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018

iv) Approval be given of the proposed fees and charges as detailed in the report at Appendix 2.

LIC.15 Exclusion of the Press and Public

Decision: Under Section 100A(4) of the Local Government Act, 1972 the press and public be excluded from the meeting during consideration of the following items of business on the grounds that they involve the likely disclosure of “Exempt Information” as defined in paragraphs 7 of Part I of Schedule 12A of the Act.

LIC.16 Application for the Grant of a Hackney Carriage/Private Hire Driver’s Licence

The Committee received a report from the Corporate Director: Economic Prosperity and Place that asked Members to consider an application for the grant of a Hackney Carriage/Private Hire Driver’s Licence.

A copy of the applicants DBS disclosure form was circulated to Members at the meeting.

The Technical Officer led Members through the report and highlighted the relevant convictions listed on the DBS disclosure form. She advised that the applicant had successfully passed the Knowledge Test, which was a requirement of Wyre Forest District Council, and had the right to work in the UK. She added that the applicant had undertaken the required medical examinations and had been declared medically fit to drive by a qualified Medical Practitioner and held a full driving licence which currently had no endorsements.

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The applicant then answered questions from the Committee to support his application. Members asked the applicant if he could clarify details of an offence that occurred in 2012 but the applicant was unable to recall the details.

Members questioned the applicant on the convictions listed on his application form as there appeared to be inconsistencies with dates he had given on the application form and the information provided on the DBS certificate. The applicant was unable to clarify why the information was different. Upon inspection of the information the Licensing and Support Services Manager offered that she believed the applicant had gotten confused with dates when completing the application form.

The applicant was asked to explain the situation behind his convictions but he could not recall the circumstances of each offence.

When given the opportunity to ask questions of the Committee the applicant asked why the application process had taken so long as he had submitted it last year. The Technical Officer informed the Committee that the applicant had taken some time to complete the knowledge test and that the DBS check had had to be completed again. The applicant also asked for clarification as to if his telephone conversations with Officers were recorded, which he was informed they were not.

The applicant was invited to speak in support of his application. He informed the Committee that this Licence was important to his family.

The Licensing and Support Services Manager, Technical Officer and applicant left the meeting at this point (11:24am), for Members to deliberate their decision. The solicitor and the Assistant Committee Services Officer stayed in the meeting whilst the Committee reached their decision.

The Licensing and Support Services Manager, Technical Officer and applicant re-entered the meeting at this point (11:39am). The Solicitor read out the decision of the Committee.

Decision: Having carefully considered the application to grant a Hackney Carriage/Private Hire Driver's Licence to the applicant, the Committee has decided:

That the application to grant a Hackney Carriage/Private Hire Driver's Licence to the applicant be refused on the grounds that the applicant did not appear to the Committee, with due consideration of the Council's "Guidelines relating to the Relevance of Convictions", to be "a fit and proper person" to hold such a Licence in light of:

- 1. The fact that the Applicant's attitude has not changed since his convictions.**
- 2. His demeanour in front of the Committee, which led the Committee to believe that he did not possess the necessary qualities to deal with the members of the public as a taxi/private hire vehicle driver.**
- 3. His failure to answer several questions about his convictions satisfactorily.**

The applicant left the Meeting at this point (11:41am) and the Hackney Carriage/Private Hire Driver for the next application entered the meeting (11:43am).

LIC.17 Review of a Hackney Carriage/Private Hire Driver's Licence

The Committee received a report from the Corporate Director: Economic Prosperity and Place that asked Members to review the Hackney Carriage/Private Hire Driver's Licence held by the licence holder.

The Technical Officer led Members through the report highlighting details of the licence holders history as a Hackney Carriage/Private Hire Driver and details of the investigation into him failing to renew the licence for his Hackney Carriage vehicle which resulted in a conviction.

The Technical Officer reminded the Committee that they needed to decide if the Licence Holder was a fit and proper person to continue to hold a Hackney Carriage/Private Hire Driver. She then provided clarification for Members on the dates and licences involved, and confirmed that it was up to the Committee to decide if the licence holder was able to continue holding his licence.

Members asked the licence holder to explain the situation behind the licence not being renewed. He also answered questions on how long he had held a Hackney Carriage/Private Hire Driver's licence and how long he had been driving a taxi for.

The Technical Officer confirmed for Members that the licence holder did have appropriate insurance in place but this was invalidated by the expired Hackney carriage vehicle licence.

The licence holder was then invited to address the Committee. He asked for Members to consider that he had missed the renewal because of family issues but had a good history as a driver prior to this.

The Licensing and Support Services Manager, Technical Officer and the licence holder left the meeting at this point (12:00pm), for Members to deliberate their decision. The solicitor and the Assistant Committee Services Officer stayed in the meeting whilst the Committee reached their decision.

The Licensing and Support Services Manager, Technical Officer and licence holder re-entered the meeting at this point (12:39pm). The Solicitor read out the decision of the Committee.

Having reviewed the applicants Hackney Carriage/Private Hire Driver's Licence and carefully considered whether the licence holder is a fit and proper person to continue to hold such a licence, the Committee have decided, with due consideration of the guidance contained in the Council's "Guidelines relating to the Relevance of Convictions", that the licence holders Hackney Carriage/Private Licence is suspended for 6 months.

In making this decision the Committee took into account the licence holders previous good service as a taxi driver and as such it was felt a 6 months suspension to be more acceptable than a revocation at this time.

There being no further business, the meeting ended at 12:40pm.

WYRE FOREST DISTRICT COUNCIL**LICENSING AND ENVIRONMENTAL COMMITTEE****1 October 2018****Review of the Gambling Act 2005
Revised Statement of Principles
Consultation Results**

OPEN	
DIRECTOR:	Head of Worcestershire Regulatory Services on behalf of Wyre Forest District Council
CONTACT OFFICER:	Niall McMenamin – 01905 822799 enquiries@worcsregservices.gov.uk
APPENDICES:	Appendix 1 – Revised Gambling Statement of Principles 2019-22 following consultation. Appendix 2 – Consultation response from Gosschalks Solicitors

1. PURPOSE OF REPORT

- 1.1 To ask committee to consider all of the responses received during the recent consultation on the revised Gambling Statement of Principles 2019–22, as part of the statutory triennial review in accordance with Section 349 of the Gambling Act 2005.

2. RECOMMENDATION

The Committee is asked:

- 2.1 **To consider all responses received during the recent consultation on the revised Gambling Act 2005 Statement of principles.**
- 2.2 **Recommend to Council that the revised Statement of Principles 2019–22 attached at “Appendix 1” be approved and published.**

3. BACKGROUND

- 3.1 Wyre Forest District Council is a licensing authority in accordance with the provision of the Gambling Act 2005.
- 3.2 Each licensing authority is required before each successive three year period, to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act during that period. This document is commonly referred to as the authority’s Statement of Principles.
- 3.3 The Council’s current Statement of Principles took effect on 31st January 2016. In accordance with the provisions of the Gambling Act 2005, the Council is required to prepare and publish a Statement of Principles every three years. Therefore a new

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Statement of Principles must now be prepared and published ready to take effect on 31st January 2019.

- 3.4 On the 9th April 2018 the Licensing and Environmental Committee considered the revised Statement of Principles as part of the Statutory Triennial review.
- 3.5 The report gave Members details of the changes which have been made to the Gambling Commission's Licence Conditions and the Codes of Practice (LCCP) which licensed operators have to comply with. Information was also provided on the updated Gambling Commission Guidance to Licensing Authorities (GLA).
- 3.6 Officers gave full details of how the revised Statement of Principles has been updated to:
- Include a new section providing information on the Gambling Commission and its responsibilities.
 - To reflect the fact that when it is published in January 2019, a Local Area Profile will have been finalised and will be available for gambling operators to have regard to when completing their own local risk assessments.
 - Include a section recognising the links between Public Health and gambling-related harms and how the Council would like to work together in partnership with the local Public Health team to try and better understand and address gambling-related harms in the area.
 - Include sections that set out in much more detail how the Council will approach its functions under the Act in relation to gambling activities in clubs and alcohol licensed premises.
 - Include sections that set out how the Council will approach its role in relation to the issuing and monitoring of Unlicensed Family Entertainment Centre Permits and Prize Gaming Permits.
 - Include a greatly expanded section on lotteries and how the Council will approach its role and responsibilities in relation to the registration and monitoring of Small Society Lotteries.
- 3.7 Having considered the above, Members approved the revised draft Statement of principles 2019 – 2022 for the purpose of consultation with relevant parties.

4. KEY ISSUES

Consultation

- 4.1 A full stakeholder Consultation took place over a 10 week period, with the final date for responses being 7th September 2018. As part of the consultation the following were consulted:
- The Chief Officer of West Mercia Police
 - The Gambling Commission
 - All other responsible authorities identified under the Act

- Relevant Trade Associations
- Organisations working with people who are problem gamblers
- Wyre Forest District Councillors
- Parish Councils
- Current Wyre Forest licence holders
- The general public

4.2 Details of the consultation were also made available on the Council's website.

4.3 Prior to the consultation exercise the Public Health Team at Worcestershire County Council requested some minor changes to the wording contained in the part of the original draft of the Statement of Principles relating to Public Health and Gambling in order to provide a firmer commitment to engagement with them in this area. The changes they requested were incorporated into the draft revised Statement of Principles circulated for consultation.

4.4 In response to the Consultation there was one substantive reply received during the consultation period, this was from Gosschalks Solicitors who act on behalf of Association of British Bookmakers (ABB). A copy of their response is attached at "**Appendix 2**".

4.5 In response to the first point raised, the revised Statement of Principles has now been amended at paragraph 1.5, by replacing the word "promote" with the word "pursue", which is inline with section 6.7 of the Gambling Commissions Guide to Licensing Authorities.

4.6 In response to the second point raised, officers do not believe that the first bullet point "*whether the premise is in an area of deprivation*" should be removed, as it is entirely reasonable and also relevant for this point to be considered in local risk assessments.

4.7 In response to the third point raised, the revised Statement of Principles has now been amended at paragraph 11.4, by removing the final bullet point relating to "*primary gambling activity*" as it is agreed that the phrase no longer appears in the Gambling Commission guidance to local authorities.

4.8 In responses to the forth and final point raised, officers have considered the request and have revised the Statement of Principles to include a further sentence which makes it clear when additional conditions will be imposed.

5. FINANCIAL IMPLICATIONS

5.1 The costs involved in carrying out the consultation have been met from existing budgets held by Worcestershire Regulatory Services.

6. LEGAL AND POLICY IMPLICATIONS

6.1 Section 349 of the Gambling Act 2005 requires that the licensing authority produce, consult on and publish a Statement of the Principles that it proposes to apply when exercising its functions under the Act.

- 6.2 The Act also requires that the Statement of Principles should be kept under review and must be re-published at least every three years.
- 6.3 When revising its Statement of Principles, the Council is required to consult with:
- the Chief Officer of Police for the Authority's area;
 - one or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area; and
 - 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 this Act.

7. RISK MANAGEMENT

- 7.1 Failing to prepare and publish a new Statement of Principles by 31st January 2019 would leave the Council in a position where it was failing to comply with its duties as a licensing authority under the provisions of the Gambling Act 2005.

7.2 Corporate/Policy Implications

All policies approved by Wyre Forest District Council comply with the Regulators Code. The Regulators Code seeks to promote proportionate, consistent and targeted regulatory activity through the development of transparent and effective dialogue and understanding between regulators and those they regulate.

7.3 Equality Implications

No Equality Implications have been identified.

7.4 Human Resources Implications

No human resource implications have been identified.

7.5 Health and Safety Implications

No Health and Safety implications have been identified.

8. EQUALITY IMPACT ASSESSMENT

- 8.1 The Licensing Committee will ensure it has regard to the desirability of exercising its functions with regard to the need to eliminate discrimination and to increase equality of opportunity.

9. CONCLUSION

- 9.1 Revision of the Councils Gambling Act 2005 Statement of Principles will result in the effective continuation of the delivery of this important area of regulatory work and will ensure that the Council meets its statutory responsibility under the Act.

10. CONSULTEES

- 10.1 Solicitor to the Council, Legal Services.

11. BACKGROUND PAPERS

- 11.1 Gambling Commission Guidance to Local Authorities.



Wyre Forest District Council

Draft - Statement of Principles

2019 – 2022

Gambling Act 2005

Wyre Forest District Council,
Wyre Forest House
Finepoint Way,
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Revised with effect from: 31st January 2019

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Statement of Principles – Gambling Act 2005

1. Introduction

- 1.1 Wyre Forest district is situated in North West Worcestershire and comprises the three distinctive riverside towns of Kidderminster, Bewdley and Stourport-on-Severn as well as surrounding countryside. It covers an area of 75 square miles. In 2011, the population totalled 98,100 (2011 census).
- 1.2 Kidderminster is the main business and commercial centre in the district offering industrial areas, shopping, offices and leisure facilities. Kidderminster is famous for carpet manufacture and is still closely associated with the carpet industry; though since the 1970s the industry has been in decline leaving the town in a process of economic diversification. Kidderminster is also the terminus of the Severn Valley Railway. The national tourist attraction – West Midland Safari Park – lies between the towns of Kidderminster and Bewdley.
- 1.3 Stourport-on-Severn is a popular tourist town. It was uniquely created as a canal port in 1766, when the Canal Navigation Act for Worcestershire received Royal Assent. The Georgian Market Town of Stourport has benefited from significant tourism and today continues to be a thriving market town and a successful visitor attraction.
- 1.4 Bewdley is a small riverside town built along the banks of the River Severn. It contains many fine Georgian buildings, has an award-winning museum and is a popular tourist destination.
- 1.5 The Council's overall vision is that Wyre Forest should be a place "where people have the opportunity to enjoy a good quality of life and want to live, work, visit and invest". This Statement accords with that vision in seeking to ~~promote~~ pursue the objectives set out in the Act, which are central to the regulatory regime created by 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.
- 1.6 The Licensing Authority has produced this statement as required by Section 349 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 Section 25 of the Act, the licensing objectives and to the views of those that we have consulted.
- 1.7 The Licensing Authority consulted widely upon this statement before finalising and publishing. The list of those persons and organisations consulted is appended. The consultation took place between April and June 2018 in line with current published Government consultation principles. Should you have any comments as regards this policy statement please send them via email or letter to: wrsenquiries@worcsregservices.gov.uk.

- 1.8 The Licensing Authority intends that this document should provide information and guidance on the general approach to licensing. A series of advice sheets with more specific guidance is available from the Council's website or will be sent on request. Advice tailored to individuals is available by phone or to personal callers.
- 1.9 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 the Licensing Authority's Statement of Principles below.

2. Gambling Act 2005

- 2.1 This Policy reflects the corporate aim to **make Wyre Forest a place "where people have the opportunity to enjoy a good quality of life and want to live, work, visit and invest"** and is valid for up to three years from 1st February 2019, although the Licensing Authority may choose to review or revise it at any time.
- 2.2 The Act provides for Gambling to be authorised in a number of different ways.
- 2.3 The Licensing Authority's main functions are to:
- license premises for gambling activities, including the issue of Provisional Statements
 - regulate and grant permits for gambling and gaming machines in clubs including commercial 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
 - receive and endorse notices given for the temporary use notices
 - receive occasional use notices for betting at tracks
 - register small societies lotteries
 - maintain public registers, and
 - provide information to the gambling Commission on the issue of Licences
- 2.4 The Gambling Commission regulates remote gambling and issues personal and operating licences for premises.
- 2.5 Spread betting is regulated by the Financial Services Authority.
- 2.6 The 'National Lottery' is regulated by the National Lottery Commission.
- ## **3. The Gambling Commission**
- 3.1 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.

- 3.2 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.
- 3.3 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.
- 3.4 Information about the Gambling Commission can be found on the Internet at: www.gamblingcommission.gov.uk or by phone: 0121 230 6666.

4 Local Area Profile

- 4.1 Alongside its Statement of Principles, the Licensing Authority ~~would like to work~~ **has worked** with the other Licensing Authorities in Worcestershire and other partners ~~during the lifetime of this Statement~~ to develop a "Local Area Profile" for the County as a means of mapping out local areas of concern, which can be reviewed and updated to reflect changes to the local landscape.
- 4.2 This Local Area Profile ~~is likely to~~ takes account of a wide range of factors, data and information held by the Licensing Authority and its partners. An important element of preparing the Local Area Profile ~~will be~~ **will be** proactive engagement with responsible authorities, as well as other organisations in the area that ~~can~~ **could** give input to 'map' local risks in the area.
- 4.3 These ~~are likely to~~ include public health, mental health, housing, education, community welfare groups and safety partnerships, and organisations such as GamCare or equivalent local organisations.
- 4.4 The aim of the Local Area Profile ~~will be~~ **is** to increase awareness of local risks and improve information sharing, to facilitate constructive engagement with licensees and a more coordinated response to local risks. The Local Area Profile will also help to inform specific risks that operators will need to address in their own risk assessments, which ~~will~~ **will** form a part of any new licence application, or ~~an~~ any application ~~made~~ to vary a licence. ~~from April 2016.~~
- ~~4.5 The creation of a Local Area Profile, however, is dependent on information and knowledge of the local area gathered by partner agencies and other relevant organisations that have the expertise and knowledge of the impact gambling has in the local area. Where evidence is submitted to the Licensing Authority which identifies the areas of concern it is intended to produce a Local Area Profile separate to this Policy.~~
- 4.5 ~~Once a Local Area Profile has been developed, it will be~~ **The Local Area Profile is** published on the Licensing Authority's website and ~~will be~~ **will be** updated on a regular basis to reflect changes to the local environment. **Holders of premises licences will be notified whenever the Local Area Profile is updated.**

5. Authorised Activities

- 5.1 'Gambling' is defined in the Act as 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.
 - 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.

6. General Statement of Principles

- 6.1 In carrying out the licensing functions in accordance with the Act, particularly with regard to premises licences, the Licensing Authority 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.
- 6.2 The Licensing Authority 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.
- 6.3 The Licensing Authority will ensure that in dealing with applications under the Act the Licensing Authority will follow the required procedures and only take into account issues that are relevant. Specifically the Licensing Authority will not have regard to "demand" when considering applications for gambling premises; nor will the Licensing Authority consider the suitability of applicants for premises licences (which is a matter for the Gambling Commission). The Licensing Authority will not reject an application on moral grounds. If the Licensing Authority does decide to reject an application, the Licensing Authority will make known the reasons for doing so.
- 6.4 The Council has delegated its licensing function to its Licensing Sub-Committee and Licensing Officers. In the remainder of this Statement of Principles they are referred to collectively as the 'Licensing Authority'.
- 6.5 Where an application is for a new premises licence, the responsible authorities will usually visit to check that gambling facilities meet all necessary legal requirements.
- 6.6 Where there are no representations (objections), licences and permissions will be granted subject only to any appropriate mandatory conditions (Section 167

of the Act) and any conditions having at least the effect of appropriate default conditions made under Section 168.

- 6.7 If there are objections that cannot be resolved informally, or the Licensing Authority intends to impose extra conditions, the Licensing Authority will hold a public hearing at which the Licensing Sub-Committee will hear evidence and make a decision in accordance with the Act.
- 6.8 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.

7. Preventing Gambling from being a Source of Crime and Disorder

- 7.1 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 the Licensing Authority will issue a licence to use premises for gambling.
- 7.2 The Licensing Authority will not issue a premises licence to someone who does not hold an operator's licence, and would not generally be concerned with the suitability of an applicant. Where concerns about a person's suitability arise the Licensing Authority will bring those concerns to the attention of the Commission.
- 7.3 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, the Licensing Authority 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 door supervisors registered by the Security Industries Association.
- 7.4 'Disorder' is generally a matter for the Police; the Licensing Authority will not use this Act to deal with general nuisance issues, for example, parking problems, which can be better dealt with using alternative powers. 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; the Licensing Authority 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.
- 7.5 When making decisions relating to disorder, the Licensing Authority will give due weight to comments made by the Police.

8. Ensuring Gambling is conducted in a Fair and Open Way

- 8.1 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.

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

9. Protecting children and vulnerable people from being harmed or exploited by gambling

- 9.1 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.
- 9.2 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.
- 9.3 The Licensing Authority expects 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.
- 9.4 When determining a premises licence or permit the Licensing Authority 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.
- 9.5 In seeking to protect vulnerable people the Licensing Authority 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.
- 9.6 The Licensing Authority 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.
- 9.7 The Licensing Authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm.

These principles are:

- The need for the body to be responsible for an area covering the whole of the Licensing Authority's area.

- The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

In accordance with the suggestion in the Gambling Commission's Guidance for local authorities, this authority designates the Worcestershire Safeguarding Children Board for this purpose.

10. Public Health and Gambling

- 10.1 The Licensing Authority agrees with the Gambling Commission's position that gambling-related harm should be considered as a public health issue.
- 10.2 Gambling is a legitimate leisure activity enjoyed by many and the majority of those who gamble appear to do so with enjoyment, and without exhibiting any signs of problematic behaviour. There are however significant numbers of people who do experience significant harm as result of their gambling.
- 10.3 For these problem gamblers, harm can include higher levels of physical and mental illness, debt problems, relationship breakdown and, in some cases, criminality. It can also be associated with substance misuse.
- 10.4 There can also be considerable negative effects experienced by the wider group of people around a gambler. The health and wellbeing of partners, children, and friends can all be negatively affected.
- 10.5 Therefore the Licensing Authority considers that Public Health teams, whilst not a responsible authority under the Act, can still assist the Licensing Authority to address gambling-related harms in its area.
- 10.6 The licensing authority would therefore like to engage with the local Public Health team in the future development of this Statement of Principles and the Local Area Profile. It is hoped that the Public Health team will be able to help the Licensing Authority:
 - Identify and interpret health data and evidence to inform the review of the Statement and develop locally tailored local area profiles.
 - Make decisions that benefit and protect the health and wellbeing of local communities.
 - Be clear on issues which they can have regard to when deciding on licenses for a wide range of gambling activities.
 - Identify and interpret health data and evidence to inform the review of the Statement;
 - Conduct a health-impact assessment of gambling in the local area or assess any existing information.

11. Local Risk Assessments

- 11.1 ~~From~~ Since 6 April 2016 ~~it will~~ it has been be a requirement for operators to assess local risks to the licensing objectives taking into account this Council's Policy. The operator must also have policies, procedures and control measures in place to mitigate these risks. Risk assessments must be reviewed whenever there are significant changes in local circumstances, or at the premises, or

when applying for a new licence or a variation of a licence. Risks in this context include actual, potential and possible future emerging risks to the licensing objectives.

- 11.2 The Licensing Authority will expect the local risk assessment to consider, for example:
- whether the premise is in an area of deprivation;
 - whether the premise is in an area subject to high levels of crime and/or disorder;
 - whether the premise is near an addiction treatment facility and in general consider the demographics of the area in relation to vulnerable groups;
 - the location of sensitive buildings such as schools, playgrounds, toy shops, leisure centres, libraries and other areas where children are likely to gather; and
 - how vulnerable persons as defined within this Policy are protected.
- 11.3 In compiling their local risk assessment the Licensing Authority shall also expect operators to take into account the general principles as set out in this Policy **and the Local Area Profile**.
- 11.4 Other matters that the risk assessment may include are, for example:
- Staff training, including refresher training, e.g. such as intervention when customers show signs of excessive gambling, in the mandatory licensing conditions, in location of the premises licence; in location of information relating to gambling care providers, etc.
 - Where installed, details of CCTV coverage and how the system will be monitored.
 - Layout of the premises to ensure staff have unobstructed views of persons using the premises or where this is not possible, evidence of how this can be achieved.
 - The number of staff employed at the premises at any one time taking into account any effects from seasonal trade in the area.
 - Where only one staff member is employed – in the case of smaller premises – what the supervisory and monitoring arrangements are when that person is absent from the licensed area or distracted for any other reason.
 - Provision of signage and documents relating to games' rules, gambling care providers.
 - The mix of gambling provided.
 - ~~Consideration of primary gambling activity and location of gaming machines.~~
- 11.5 Operators are expected to share their risk assessments with the Licensing Authority when applying for a new premises licence, applying for a variation to an existing licensed premise or otherwise upon request. These risk assessments must in any event be kept under regular review and updated as necessary. **The Licensing Authority expects a copy of the most recent local risk assessment to be kept on each premises that is subject to a premises licence under the Gambling Act 2005.**

- 11.6 The information contained within the risk assessment may be used to inform the decision the Licensing Authority makes about whether or not to grant the licence; to grant the licence with special conditions; or to refuse the application.
- 11.7 However, in all circumstances each application will be treated on its own merits with the onus on the applicant providing the Licensing Authority with sufficient information to make their determination with the underpinning statutory aim of permitting gambling subject to being reasonably consistent with the licensing objectives.
- 11.8 In its Guidance to Licensing Authorities, the Gambling Commission suggests that Licensing Authorities should adopt a 'Local Area Profile'. The Guidance suggests that a Local Area Profile is a process of gathering and presenting information about a locality and any particular areas of concern within that locality. It underpins and explains the approach that the Licensing Authority will apply when granting licences. ~~By developing a Local Area Profile it is likely to assist operators in identifying specific local risks within the area.~~ The Licensing Authority has created a Local Area Profile to assist applicants and licence holders to conduct their local risk assessments.
- 11.9 The Licensing Authority expects local risk assessments to be kept under review and updated as necessary. The Licensing Authority expect local risk assessments to be subject to a review whenever there is a significant change at or near the premises and in any event at least every twelve months.

12 Premises Licences

- 12.1 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
- 12.2 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 reasonably regarded as being separate 'premises'.
- 12.3 This will allow large multiple unit premises such as shopping malls or service stations to obtain separate premises licences, with appropriate safeguards in place. The Licensing Authority will pay particular attention if there are issues about sub divisions of a single building or plot and mandatory conditions relating to access between premises are observed. The Licensing Authority will not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises. Whether different parts of a building can properly be regarded as being separate premises will depend on the individual circumstances of the case.

- 12.4 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 separation of the premises is not compromised and people are not allowed to drift accidentally into a gambling area. It should normally be possible to access the premises without going through another licensed premises or premises with a permit. The Licensing Authority will also expect customers to be able to participate in the activity named on the premises licence.
- 12.5 The Secretary of State has appointed an independent Casino Advisory Panel to advise the Government on the areas in which small and/or large casinos may be located. Wyre Forest district has not been identified as a suitable location for a casino, consequently the Authority is prevented from granting a licence for casino premises at present.
- 12.6 The Council has not passed a resolution under section 166(5) of the Gambling Act 2005 to not issue casino premises licences. If such a resolution were considered in the future, the Council would carry out a full public consultation and consider all responses before passing such a resolution.
- 12.7 The Licensing Authority will not turn down applications for premises licences where relevant objections can be dealt with through the use of licence conditions.
- 12.8 Other than an application for a betting premises licence for a track, the Licensing Authority are not able to issue a premises licence unless the applicant holds the relevant operating licence from the Gambling Commission.
- 12.9 When considering applications for premises licences the Licensing Authority will not take into account either the expected 'demand' for facilities, or the likelihood of planning permission or building regulation approval being granted as well as moral objections to gambling. Equally, the grant of a premises licence will not prejudice or prevent any action which may be appropriate under the law relating to planning or building regulations.
- 12.10 The Licensing Authority will only issue a premises licence once it is satisfied that the premises is ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required. If the construction of a premises is not yet complete, or if any alteration, or the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made as having a right to occupy the premises is a pre-condition to making a Premises Licence application.
- 12.11 The Licensing Authority will apply a two-stage consideration process if there is outstanding construction or alteration works at the premises:
- Should the premises be permitted to be used for gambling?
 - Can appropriate conditions be imposed to cater for the situation that the premises is not yet in a state in which they should be before gambling takes place?
- 12.12 The Licensing Authority is entitled to decide whether or not it is appropriate to grant a licence subject to conditions.

- 12.13 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.
- 12.14 The Licensing Authority will maintain a public register of premises licence applications received which may be viewed at the Council offices during normal office hours which are generally Monday to Friday 9am – until 4.30pm.

13. Responsible Authorities

- 13.1 Responsible authorities are identified in the legislation and have to be notified about licence applications so that it can identify any risk. The responsible authorities that the Licensing Authority currently recognises are listed below:

- The Gambling Commission
- The Chief of Police for the area
- Fire & Rescue Service
- Wyre Forest District Council Development Control Section
- Worcestershire Regulatory Services – Community Protection, Business Compliance and Licensing
- Worcestershire Safeguarding Children Board
- HM Revenue and Customs
- Any other bodies identified in Regulation by the Secretary of State
- For vessels – the Environment Agency, British Waterways, Secretary of State

- 13.2 Contact addresses and telephone numbers for each of the responsible authorities identified are available on the Council's website, and will be sent with application packs and on request.

- 13.3 Any concerns expressed by a responsible authority cannot be taken into account unless they are relevant to the application itself and to the licensing objectives. However each representation will be considered on its own individual merits.

14. Interested Parties

- 14.1 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.

- 14.2 The Licensing Authority will generally require written evidence that a person/body, represents someone is either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting representations is sufficient. Whilst this may not apply to

elected Ward Members, Member of Parliament or Parish Councillors, those persons should be aware of the need to represent the whole of the community that they represent and not just the vocal minority.

14.3 In determining whether a person lives sufficiently close to particular premises as to be affected, the Licensing Authority 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; and
- the potential impact of the premises.

14.4 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.

14.5 If an existing gambling business makes a representation that it is going to be affected by another gambling business starting up in the area, the Licensing Authority would not consider this, in the absence of other evidence, as a relevant representation as it does not relate to the licensing objectives and instead relates to demand or competition.

14.6 The Licensing Authority 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 the Licensing Authority 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.

15. Licence Conditions

15.1 In particular cases the Licensing Authority may find it necessary to impose conditions beyond appropriate mandatory and default conditions. **Additional conditions will only be imposed where there is clear evidence of a risk to the licensing objectives, in the particular circumstance of the case.** 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. The Licensing Authority will not have recourse to a pool of standard conditions.

- 15.2 The Licensing Authority will ensure that category C machines or above that are on offer in premises to which children are admitted, are located in an area of the premises which is separated by a physical barrier. This should be to prevent access other than through a designated entrance: the designated area must be supervised and observed by staff or the licence holder.
- 15.3 Examples of some conditions which are likely to be attached in certain circumstances include those relating to opening hours, segregation of gambling from non gambling areas frequented by children, Security Industry Authority licensed door supervisors, appropriate signage for adult only areas, age limits, or keeping children and young persons away from gaming machines. The Licensing Authority will also expect the applicants to offer their own suggestions as to the way in which the licensing objectives can be promoted effectively.
- 15.4 The Licensing Authority 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.
- 15.5 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.

16. Gaming Machines

- 16.1 Gaming machines include all types of gambling activity, which can take place on a machine, including betting on 'virtual' events.
- 16.2 The Act itself prescribes the number and category of gaming machines that are permitted in each type of gambling premises.
- 16.3 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

- 16.4 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.
- 16.5 The Licensing Authority 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.

17. Gambling in Alcohol Licensed Premises

- 17.1 There are exemptions in the Act that provide for a limited amount of gambling activity to take place within premises that are subject to a relevant valid alcohol licence.
- 17.2 These exemptions only apply where a premises is subject to a licence that authorises the sale of alcohol for consumption on the premises and that has a bar at which alcohol is served without a requirement that alcohol is served only with food.
- 17.3 In all cases the licensing authority considers that gambling must remain ancillary to the main purpose of the premises.

Automatic entitlement to two gaming machines

- 17.4 Section 282 of the Act provides an automatic entitlement to alcohol licence holders to make available two gaming machines (of category C or D) for use in alcohol-licensed premises. To take advantage of this entitlement, the person who holds the on-premises alcohol licence must give notice to the Licensing Authority of their intention to make gaming machines available for use, and must pay the prescribed fee.
- 17.5 This is not an authorisation procedure. The Licensing Authority has no discretion to consider the notification or to turn it down. The only matter to determine is whether the person applying for the automatic gaming machine entitlement is the holder of the alcohol licence and whether the prescribed fee has been paid. There is no statutory requirement for pubs and other alcohol-licensed premises to display a notice of their automatic entitlement to gaming machines.
- 17.6 The Licensing Authority expects licence holders making machines available in accordance with their automatic entitlement to comply with the Gambling Commission's code of practice for gaming machines in clubs and premises with an alcohol licence.
- 17.7 The Licensing Authority can remove the automatic authorisation in respect of any particular premises by making an order under section 284 of the Act. The Licensing Authority can do so if:
- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives

- gaming has taken place on the premises that breaches a condition of s.282, for example the gaming machines have been made available in a way that does not comply with requirements on the location and operation of gaming machines
- the premises are mainly used for gaming
- an offence under the Act has been committed on the premises.

17.8 Before making an order, the Licensing Authority will give the licensee at least 21 days' notice of the intention to make the order and will consider any representations that they may make. The Licensing Authority will hold a hearing if the licensee so requests and will comply with any other procedural requirements set out in regulations. If there is no appeal, the order will take effect 21 days after notice of the intention was given. The Licensing Authority must give the licensee a copy of the order and written reasons for making it. The licensee may appeal to the Magistrates' Court.

Licensed Premises Gaming Machine Permits

- 17.9 Where the holder of a relevant alcohol licence wishes to make more than two gaming machines available, they may apply for a licensed premises gaming machine permit. Such a permit can authorise the provision of any number of category C or D gaming machines within the relevant licensed premises.
- 17.10 The Licensing Authority expects licence holders making machines available in accordance with a licensed premises gaming machine permit to comply with the Gambling Commission's code of practice for gaming machines in clubs and premises with an alcohol licence.
- 17.11 Applications must be made by a person or organisation that holds the on-premises alcohol licence for the premises for which the application is made and must include information on the premises to which it relates and the number and category of gaming machines sought.
- 17.12 The Licensing Authority may also require an applicant to submit a plan of the premises showing where the gaming machines are to be located and showing the position of the bar.
- 17.13 In determining an application, the Licensing Authority must have regard to the licensing objectives and to the Gambling Commission's Guidance to Licensing Authorities. The Licensing Authority may also take account of any other matters that are considered relevant to the application.
- 17.14 In particular the Licensing Authority will have regard to the size and nature of the premises, the number of gaming machines requested and the ability of the licence holder to comply with the relevant code of practice.
- 17.15 The application does not require notification to the Commission or police before determination, however, the Licensing Authority is able to specify this as a requirement should they see fit.

- 17.16 The Licensing Authority may grant or refuse an application. In granting the application, it may vary the number and category of gaming machines authorised by the permit. If granted, the Licensing Authority will issue the permit as soon as possible after that. Where they refuse the application they will notify the applicant as soon as possible, setting out the reasons for refusal. The Licensing Authority will not refuse an application, or grant it for a different number or category of machines, unless they have notified the applicant of their intention to do so and given the applicant an opportunity to make representations, orally, in writing, or both.
- 17.17 The Licensing Authority is able to cancel a permit. It may only do so in specified circumstances which include if the premises are used wholly or mainly by children or young persons or if an offence under the Act has been committed. Before it cancels a permit the Licensing Authority will notify the holder, giving 21 days notice of intention to cancel, consider any representations made by the holder, hold a hearing if requested, and comply with any other prescribed requirements relating to the procedure to be followed. Where the Licensing Authority cancels the permit, the cancellation does not take effect until the period for appealing against that decision has elapsed or, where an appeal is made, until the appeal is determined.
- 17.18 The Licensing Authority can also cancel a permit if the holder fails to pay the annual fee, unless failure is the result of an administrative error. The court may order forfeiture of the permit if the holder is convicted of a relevant offence.
- 17.19 The applicant may appeal to the Magistrates' Court against the Licensing Authority's decision not to issue a permit. The holder can also appeal against a decision to cancel a permit.

Exempt Gaming

- 17.20 Exempt gaming is generally permissible in any relevant alcohol licensed premises. Such gaming must be equal chance gaming and must be ancillary to the purposes of the premises. This provision is automatically available to all such premises, but is subject to statutory stakes and prize limits determined by the Secretary of State.
- 17.21 Equal chance gaming is gaming that does not involve staking against a bank and the chances of winning are equally favourable to all participants. It includes games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.
- 17.22 The Secretary of State has set both daily and weekly prize limits for exempt gaming in alcohol licensed premises and details of these can be found on the Gambling Commission's website.
- 17.23 The Licensing Authority expects exempt gaming in alcohol licensed premises to comply with the Gambling Commission's code of practice on equal chance gaming in clubs and premises with an alcohol licence.

17.24 The Licensing Authority can remove the automatic authorisation for exempt gaming in respect of any particular premises by making an order under s.284 of the Act, if:

- provision of the gaming is not reasonably consistent with the pursuit of the licensing objectives
- gaming has taken place on the premises that breaches a condition of s.279, for example the gaming does not abide by the prescribed limits for stakes and prizes, a participation fee is charged for the gaming or an amount is deducted or levied from sums staked or won
- the premises are mainly used for gaming
- an offence under the Act has been committed on the premises.

17.25 Before making an order, the Licensing Authority will give the licensee at least 21 days' notice of the intention to make the order and consider any representations that they may make. The Licensing Authority will hold a hearing if the licensee so requests and will comply with any other procedural requirements set out in regulations. If there is no appeal, the order will take effect 21 days after notice of the intention was given. The Licensing Authority must give the licensee a copy of the order and written reasons for making it. The licensee may appeal to the Magistrates' Court.

18.0 Gambling in Clubs

Defining Clubs

18.1 The Act creates a separate regime for gaming in clubs from that in other relevant alcohol licensed premises. It defines two types of club for the purposes of gaming:

- members' clubs (including miners' welfare institutes)
- commercial clubs.

18.2 This is an important distinction in respect of the gaming that may take place.

18.3 A members' club is a club that is not established as a commercial enterprise and is conducted for the benefit of its members. Examples include working mens' clubs, miners' welfare institutes, branches of the Royal British Legion and clubs with political affiliations.

18.4 Miners' welfare institutes are associations established for recreational or social purposes. They are managed by representatives of miners or use premises regulated by a charitable trust which has received funds from one of a number of mining organisations.

18.5 A commercial club is a club established for commercial gain, whether or not they are actually making a commercial gain. Examples include commercial snooker clubs, clubs established as private companies and clubs established for personal profit.

- 18.6 The Licensing Authority expects exempt gaming in clubs to comply with the Gambling Commission's code of practice on equal chance gaming in clubs and premises with an alcohol licence.

Exempt Gaming

- 18.7 Exempt gaming is generally permissible in any club. Such gaming must be equal chance gaming and be ancillary to the purposes of the club. This provision is automatically available to all such premises, but is subject to statutory stakes and prize limits determined by the Secretary of State.
- 18.8 Equal chance gaming is gaming that does not involve staking against a bank and the chances of winning are equally favourable to all participants. It includes games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.
- 18.9 The Secretary of State has set both daily and weekly prize limits for exempt gaming. Different higher stakes and prizes are allowed for exempt gaming in clubs than are allowed in alcohol-licensed premises and details of these can be found on the Gambling Commission's website.
- 18.10 Clubs may levy a charge for participation in equal chance gaming under the exempt gaming rules. The amount they may charge is as prescribed in regulations and the relevant details can be found on the Gambling Commission's website. However in order to qualify as exempt gaming, clubs may not charge a rake on games (a commission or fee deducted from the prize fund), or levy or deduct an amount from stakes or winnings.
- 18.11 The Licensing Authority expects exempt gaming in clubs to comply with the Gambling Commission's code of practice on equal chance gaming in clubs and premises with an alcohol licence.

Club Gaming Permits

- 18.12 The Licensing Authority may grant members' clubs and miners' welfare institutes (but not commercial clubs) club gaming permits which authorise the establishments to provide gaming machines, equal chance gaming (without having to abide by the stake and prize limits which would apply to exempt gaming in the absence of a permit) and games of chance as prescribed in regulations namely pontoon and chemin de fer. This is in addition to the exempt gaming authorisation detailed above.
- 18.13 Club gaming permits allow the provision of no more than three gaming machines. These may be from categories B3A, B4, C or D but only one B3A machine can be sited as part of this entitlement.
- 18.14 Where a club has gaming machines the licensing authority expects the club to comply with the Gambling Commission's code of practice for gaming machines in clubs and premises with an alcohol licence.

Club Machine Permits

- 18.15 If a members' club or a miners' welfare institute does not wish to have the full range of facilities permitted by a club gaming permit, they may apply to the Licensing Authority for a club machine permit under s.273 of the Act. This type of permit authorises the holder to have up to three gaming machines of categories B3A, B4, C and D.
- 18.16 Commercial clubs are also able to apply for a club machine permit, although such a permit does not allow the siting of category B3A gaming machines by commercial clubs.
- 18.17 Where a club has gaming machines the Licensing Authority expects the club to comply with the Gambling Commission's code of practice for gaming machines in clubs and premises with an alcohol licence.

Applications for Club Gaming Permits and Club Machine Permits

- 18.18 Applications for permits must be accompanied by the prescribed documents and fees and must be copied to the Gambling Commission and the Chief Officer of Police within the prescribed period. The Commission and the Police may object to the permit being granted and if such objections are received, the Licensing Authority will hold a hearing.
- 18.19 The Licensing Authority may grant or refuse a permit, but it may not attach any conditions to a permit.
- 18.20 The Licensing Authority can only refuse an application on the grounds that:
- a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied
 - b) the applicant's premises are used wholly or mainly by children and/or young persons
 - c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities
 - d) a permit held by the applicant has been cancelled in the previous ten years
 - e) an objection has been lodged by the Commission or the police.
- 18.21 If the Licensing Authority is satisfied that (a) or (b) is the case, it must refuse the application. The Licensing Authority will have regard to relevant guidance issued by the Commission and (subject to that guidance), the licensing objectives.
- 18.22 In cases where an objection has been lodged by the Commission or the police, the Licensing Authority is obliged to determine whether the objection is valid.
- 18.23 There is a fast-track procedure for clubs in England and Wales which hold a club premises certificate under s.72 of the Licensing Act 2003. Under the fast-track procedure there is no opportunity for objections to be made by the

Commission or the police, and the grounds upon which the Licensing Authority can refuse a permit are reduced.

- 18.24 This is because the club or institute will already have been through a licensing process in relation to its club premises certificate under the 2003 Act, and it is therefore unnecessary to impose the full requirements of Schedule 12.
- 18.25 Commercial clubs cannot hold club premises certificates under the Licensing Act 2003 and so cannot use the fast-track procedure.

Determining Applications for Club Gaming Permits

- 18.26 When determining applications for Club Gaming Permits the Licensing Authority will take steps to satisfy itself that the club meets the requirements of the Act and to enable this to happen, clubs may be asked to supply additional information and documents in support of their application.
- 18.27 The Licensing Authority is particularly aware of the potential for club gaming permits to be misused for illegal poker clubs.
- 18.28 In determining whether a club is a genuine members' club, the Licensing Authority will take into account the matters set out in relevant part of the Gambling Commission's Guidance to Licensing Authorities.
- 18.29 A visit to the premises before granting of the permit may also be undertaken to assist the Licensing Authority to understand how the club will operate.

Maintenance of Permits

- 18.30 Club Gaming Permits and Club Machine Permits will have effect for ten years, unless it ceases to have effect because it is surrendered or lapses or is renewed. However, a permit granted under the fast-track procedure does not expire, unless it ceases to have effect because it is surrendered, cancelled or forfeited or it lapses.
- 18.31 A permit will lapse if the holder of the permit stops being a club or miners' welfare institute, or if it no longer qualifies under the fast-track system for a permit. In addition, a permit will cease to have effect upon being surrendered to the authority. A notice to surrender must be accompanied by the permit or a statement explaining why it cannot be produced. The Licensing Authority must inform the Police and the Commission when a permit has been surrendered or lapsed.

Cancellation and forfeiture of permits

- 18.32 The Licensing Authority may cancel the permit if:
- the premises are used wholly by children and/or young persons
 - an offence or breach of a permit condition has been committed in the course of gaming activities by the permit holder.

- 18.33 Reference here to 'a permit condition' means a condition in the Act or in regulations that the permit is operating under.
- 18.34 Before cancelling a permit, the Licensing Authority will give the permit holder at least 21 days' notice of the intention to cancel and consider any representations that they may make.
- 18.35 The Licensing Authority will hold a hearing if the permit holder so requests and will comply with any other procedural requirements set out in regulations. If there is no appeal, the cancellation will take effect 21 days after notice of the intention to cancel was given. The Licensing Authority will notify the permit holder, the Commission and the police that the permit has been cancelled and the reasons for the cancellation.

Renewal of permits

- 18.36 In accordance with paragraph 24 of Schedule 12 of the Act, an application for renewal of a permit must be made during the period beginning three months before the licence expires and ending six weeks before it expires. The procedure for renewal is the same as for an application.
- 18.37 The duration of the permit will not be curtailed while a renewal application is pending, including an appeal against a decision not to renew.
- 18.38 If, at the time a permit is renewed, the applicant holds a club premises certificate, the fast-track procedure will apply as it does when application is first made for the permit.

19.0 Unlicensed Family Entertainment Centre Permits

Introduction

- 19.1 Unlicensed family entertainment centres (uFEC) are able to offer only category D machines in reliance on a gaming machine permit. Any number of category D machines can be made available with such a permit, although there may be other considerations, such as fire regulations and health and safety, to take into account. Permits cannot be issued in respect of vessels or vehicles.
- 19.2 uFECs are premises which are 'wholly or mainly' used for making gaming machines available. The permit cannot therefore be granted for an entire shopping centre, airport or bowling alley, for example.

Applications for Unlicensed Family Entertainment Centre Permits

- 19.3 The application for a permit can only be made by a person who occupies or plans to occupy the premises to be used as an uFEC and, if the applicant is an individual, he or she must be aged 18 or over. Applications for a permit cannot be made if a premises licence under the Gambling Act 2005 is in effect

for the same premises. The application must be made to the licensing authority in whose area the premises are wholly or partly situated.

- 19.4 The application must be submitted on Licensing Authority's standard form and be accompanied by the prescribed application fee. The Licensing Authority also requires the application to be accompanied by a plan of the premises that will be used as an uFEC, which shows the location of any gaming machines that will be provided if the permit were to be granted.
- 19.5 The Licensing Authority requires applicants for uFEC permits to provide a Basic Disclosure certificate issued by the Disclosure and Barring Service (DBS) within a period of one month before the application is made.

Consideration of Applications

- 19.6 The Licensing Authority can grant or refuse an application for a permit, but cannot add conditions. An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an uFEC, and if the chief officer of police has been consulted on the application.
- 19.7 When considering an application, the Licensing Authority will consider the suitability of the applicant. Given that family entertainment centres are likely to appeal particularly to children and young persons, the licensing authority will give particular weight to matters relating to the protection of children from being harmed or exploited by gambling.
- 19.8 In considering the application, the Licensing Authority shall have regard to the Gambling Commission's Guidance to Licensing Authorities and will also have regard to the licensing objectives.
- 19.9 The Licensing Authority may also consider asking applicants to demonstrate:
- that they have suitable policies and procedures in place for the safeguarding of children and young persons.
 - a full understanding of the maximum stakes and prizes of the gambling that is permissible in uFECs
 - that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act)
 - that employees at the premises are suitably vetted
 - that employees are trained to have a full understanding of the maximum stakes and prizes.
- 19.10 The Licensing Authority may not refuse an application unless it has notified the applicant of the intention to refuse and the reasons for it, and given them an opportunity to make representations orally or in writing or both.
- 19.11 The permit will have effect for ten years, unless it ceases to have effect because it is surrendered or lapses or is renewed. There is no annual fee for an uFEC gaming machine permit

19.12 The permit may lapse for a number of reasons, namely:

- if the holder ceases to occupy the premises
- if the Licensing Authority notifies the holder that the premises are not being used as an uFEC
- if an individual permit holder dies, becomes incapable by reason of mental or physical incapacity, becomes bankrupt, or sequestration of his estate is ordered
- if the company holding the permit ceases to exist, or goes into liquidation.

Renewal of a Permit

19.13 An application for renewal of an uFEC gaming machine permit must be made during the period beginning six months before the permit expires and ending two months before it expires. The procedure for renewal is the same as for an application. Licensing Authority may only refuse to renew a permit on the grounds that:

- an authorised local authority officer has been refused access to the premises without reasonable excuse
- renewal would not be reasonably consistent with the licensing objectives. In this respect, the licensing authority will have the benefit of having consulted the chief officer of police and will be aware of any concerns that have arisen about the use of the premises during the life of the permit.

19.14 The duration of the permit will not be curtailed while a renewal application is pending, including an appeal against a decision not to renew.

20.0 Prize Gaming Permits

20.1 Gaming is prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. Normally the prizes are determined by the operator before play commences.

20.2 A prize gaming permit is a permit issued by the Licensing Authority to authorise the provision of facilities for gaming with prizes on specified premises.

Applications for Prize Gaming Permits

20.3 An application for a permit can only be made by a person who occupies or plans to occupy the relevant premises and if the applicant is an individual, he must be aged 18 or over. An application for a permit cannot be made if a premises licence or club gaming permit is in effect for the same premises under the Gambling Act 2005. The application must be made to the Licensing Authority in whose area the premises are wholly or partly situated.

- 20.4 The application must be submitted on Licensing Authority's standard form and be accompanied by the prescribed application fee. The Licensing Authority also requires the application to be accompanied by a plan of the premises that will be used for gaming with prizes.
- 20.5 The Licensing Authority requires applicants for prize gaming permits to provide a Basic Disclosure certificate issued by the Disclosure and Barring Service (DBS) within a period of one month before the application is made.

Consideration of Applications

- 20.6 In considering an application, the licensing authority shall have regard to the Gambling Commission's Guidance to Licensing Authorities and will also have regard to the licensing objectives.
- 20.7 The Licensing Authority can grant or refuse an application for a permit, but cannot add conditions.
- 20.8 The Licensing Authority will grant a prize gaming permit only if they have consulted the chief officer of police about the application. The Licensing Authority will take account of any objections that the police may wish to make which are relevant to the licensing objectives.
- 20.9 Relevant considerations would include the suitability of the applicant in terms of any convictions that they may have that would make them unsuitable to operate prize gaming; and the suitability of the premises in relation to their location and any issues concerning disorder.
- 20.10 A permit cannot be issued in respect of a vessel or a vehicle.
- 20.11 The Licensing Authority will ask the applicant to set out the types of gaming that they are intending to offer and expects that the applicant should be able to demonstrate that:
- they understand the limits to stakes and prizes that are set out in regulations
 - the gaming offered is within the law.
- 20.12 The Licensing Authority will not refuse an application unless they have notified the applicant of the intention to refuse and the reasons for it, and given them an opportunity to make representations orally or in writing or both.
- 20.13 If granted, the permit will have effect for ten years, unless it ceases to have effect, lapses or is renewed. There is no annual fee for prize gaming permits.
- 20.14 The permit may lapse for a number of reasons:
- if the holder ceases to occupy the premises
 - if an individual permit holder dies, becomes incapable by reason of mental or physical incapacity, becomes bankrupt, or sequestration of his estate is ordered

- if a company holding the permit goes into liquidation
- if the holder (for example a partnership) otherwise ceases to exist.

Renewal of a Prize Gaming Permit

- 20.15 An application for renewal of a permit must be made during the period beginning six months before the permit expires and ending two months before it expires. The procedure for renewal is the same as for an application.
- 20.16 A permit will not cease to have effect while a renewal application is pending, including an appeal against a decision not to renew

21. Temporary Use Notices

- 21.1 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. The Licensing Authority would object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises. Premises that might be suitable for a temporary use notice would include hotels, conference centres and sporting venues. A temporary use notice may only be granted to a person or company holding a relevant operating licence.
- 21.2 Temporary use notices may only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single overall winner. Equal chance gaming is gaming which does not involve playing or staking against a bank and gives equally favourable chance to all participants. Example of equal chance gaming includes games such as: Backgammon, Mahjong, Rummy, Kalooki, Dominoes, Cribbage, Bingo and Poker.

22. Occasional Use Notices

- 22.1 Occasional use notices relate to particular activities at tracks. The Licensing Authority's only role is to ensure that the statutory limit of 8 days in a calendar year is not exceeded. Whilst tracks are normally thought of as permanent racecourses, this can also include land which has a number of uses for example agricultural land upon which a point-to-point meeting takes place. Land used temporarily as a track can qualify, provided races or sporting events take place or will take place there. The track need not be a permanent fixture.

~~18. Lotteries~~

- ~~18.1 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 society lotteries" which the Licensing Authority will allow, after registration. The Licensing Authority will maintain a register of small society lotteries.~~

~~18.2 A society will be allowed to register 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.~~

23.0 Lotteries

Introduction

23.1 A lottery is any arrangement that satisfies all of the criteria contained within the statutory description of either a simple lottery or a complex lottery, under s.14 of the Act.

23.2 An arrangement is a simple lottery if:

- persons are required to pay to participate
- one or more prizes are allocated to one or more members of a class
- the prizes are allocated by a process which relies wholly on chance.

23.3 An arrangement is a complex lottery if:

- persons are required to pay to participate
- one or more prizes are allocated to one or more members of a class
- the prizes are allocated by a series of processes
- the first of those processes relies wholly on chance.

23.4 The Gambling Act 2005 provides that promoting or facilitating a lottery is illegal, unless it falls into one of two categories of permitted lottery, namely:

- licensed lotteries – these are large society lotteries and lotteries run for the benefit of local authorities that are regulated by the Commission and require operating licences
- exempt lotteries – there are four types of exempt lottery that are expressly permitted under Schedule 11 of the Act, including the small society lottery.

23.5 The Licensing Authority is responsible for the registration of societies for the purpose of carrying on “small society lotteries.” Information on other forms of exempt lotteries is available from the Gambling Commission website.

23.6 The Licensing Authority defines ‘society’ as the society, or any separate branch of such a society, on whose behalf a lottery is to be promoted, and needs to understand the purposes for which a society has been established in ensuring that it is a non-commercial organisation.

23.7 Section 19 of the Act defines a society as such if it is established and conducted:

- for charitable purposes, as defined in s.2 of the Charities Act 2006
- for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity
- for any other non-commercial purpose other than that of private gain.

23.8 It is inherent in this definition that the society must have been established for one of the permitted purposes as set out in section 19 of the Act, and that the proceeds of any lottery must be devoted to those purposes. It is not permissible to establish a society whose sole purpose is to facilitate lotteries.

Registration Applications

23.9 The Licensing Authority with which a small society lottery is required to register must be in the area where their principal office is located. If the Licensing Authority believes that a society's principal office is situated in another area, it will inform the society and the other Licensing Authority as soon as possible.

23.10 Applications for small society lottery registrations must be in the form prescribed by the Secretary of State and be accompanied by both the required registration fee and all necessary documents required by the Licensing Authority to assess the application.

23.11 If there is any doubt as to the status of a society that makes application for registration to carry on small society lotteries, the Licensing Authority may require the society to provide documentary evidence in support of their application. The types of evidence that may be required include, but are not restricted to:

- A list of the members of the society
- The society's constitution or a similar document setting out the aims and objectives of the society and its governance arrangements
- A written declaration from the applicant stating that they represent a *bona fide* non-commercial society.

23.12 The Licensing Authority shall refuse an application for registration if in the period of five years ending with the date of the application—

- an operating licence held by the applicant for registration has been revoked under section 119(1) of the Act, or
- an application for an operating licence made by the applicant for registration has been refused.

23.13 The Licensing Authority may refuse an application for registration if they think that—

- the applicant is not a non-commercial society,
- a person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence, or

- information provided in or with the application for registration is false or misleading.

23.14 The Licensing Authority may only refuse an application for registration after the society has had the opportunity to make representations at a formal hearing. If the Licensing Authority is minded to refuse registration, it will inform the society of the reasons why it is minded to do so and provide it with an outline of the evidence on which it has reached that preliminary conclusion, in order to enable representations to be made.

23.15 Any representations received will be considered at a formal hearing and the following principles will be applied when reaching a decision:

- Whether allowing the registration of the society would be consistent with the Act
- Whether allowing the registration of the society would be consistent with the promotion of the licensing objectives
- Whether allowing the registration of the society would be consistent with any relevant code of practise issued by the Gambling Commission

Promotion of small society lotteries once registered

23.16 Participation in a lottery is a form of gambling, and as such the Licensing Authority requires societies that it registers to conduct their lotteries in a socially responsible manner and in accordance with the Act.

23.17 The Act requires that lottery tickets may only be sold by persons that are aged 16 or over to persons that are aged 16 or over.

23.18 As the minimum age for participation in a lottery is 16, the Licensing Authority expects those societies that it registers to have effective procedures to minimise the risk of lottery tickets being sold to children, including procedures for:

- checking the age of apparently underage purchasers of lottery tickets
- taking action where there are unlawful attempts to purchase tickets.

23.19 Lotteries may involve the issuing of physical or virtual tickets to participants (a virtual ticket being non-physical, for example in the form of an email or text message). All tickets must state:

- the name of the promoting society
- the price of the ticket, which must be the same for all tickets
- the name and address of the member of the society who is designated as having responsibility at the society for promoting small lotteries or, if there is one, the external lottery manager (ELM)
- the date of the draw, or information which enables the date to be determined.

23.20 The requirement to provide this information can be satisfied by providing an opportunity for the participant to retain the message electronically or print it.

- 23.21 The Licensing Authority expects all registered small society lottery operators to maintain written records of any unsold and returned tickets for a period of one year from the date of the lottery draw.
- 23.22 With regards to where small society lottery tickets may be sold, the Licensing Authority applies the following criteria to all small society lottery operators:
- 23.23 Lottery tickets must not be sold to a person in any street. For these purposes 'street' includes any bridge, road, lane, footway, subway, square, court, alley or passage (including passages through enclosed premises such as shopping malls) whether a thoroughfare or not. Tickets may, however, be sold in a street from a static structure such as a kiosk or display stand. Tickets may also be sold door to door. Licensees must ensure that they have any necessary local authority permissions, such as a street trading licence.
- 23.24 This approach is consistent with the operating licence conditions imposed upon operators of large society lotteries and local authority lotteries.

Financial Returns

- 23.25 As the purpose of permitted lotteries is to raise money for non-commercial causes, the Act requires that a minimum proportion of the money raised by the lottery is channelled to the goals of the society that promoted the lottery. If a small society lottery does not comply with these limits it will be in breach of the Act's provisions, and consequently be liable to prosecution.
- 23.26 The limits are as follows:
- at least 20% of the lottery proceeds must be applied to the purposes of the society
 - no single prize may be worth more than £25,000
 - rollovers between lotteries are only permitted where every lottery affected is also a small society lottery promoted by the same society, and the maximum single prize is £25,000
 - every ticket in the lottery must cost the same and the society must take payment for the ticket fee before entry into the draw is allowed
- 23.27 The Act sets out the information that the promoting society of a small society lottery must send as returns to the licensing authority with which it is registered, following each lottery held. This information allows the Licensing Authority to assess whether financial limits are being adhered to and to ensure that any money raised is applied for the proper purpose.
- 23.28 The following information must be submitted:
- the arrangements for the lottery – specifically the date on which tickets were available for sale or supply, the dates of any draw and the value of prizes, including any donated prizes and any rollover
 - the total proceeds of the lottery

- the amounts deducted by the promoters of the lottery in providing prizes, including prizes in accordance with any rollovers
- the amounts deducted by the promoters of the lottery in respect of costs incurred in organising the lottery
- the amount applied to the purpose for which the promoting society is conducted (this must be at least 20% of the proceeds)
- whether any expenses incurred in connection with the lottery were not paid for by deduction from the proceeds, and, if so, the amount of expenses and the sources from which they were paid.

23.29 The Act also requires that returns must:

- be sent to the Licensing Authority no later than three months after the date of the lottery draw, or in the case of 'instant lotteries' (scratch cards) within three months of the last date on which tickets were on sale
- be signed (electronic signatures are acceptable if the return is sent electronically) by two members of the society, who must be aged 18 or older, are appointed for the purpose in writing by the society or, if it has one, its governing body, and be accompanied by a copy of their letter or letters of appointment.

23.30 The Licensing Authority allows for returns to be sent to them both electronically and manually. The form of returns required can be downloaded from the Licensing Authority's website.

23.31 Where societies run more than one lottery in a calendar year, the Licensing Authority will monitor the cumulative totals of returns to ensure that societies do not breach the annual monetary limit of £250,000 on ticket sales.

23.32 The Licensing Authority will notify the Commission if returns reveal that a society's lotteries have exceeded the values permissible, and such notifications will be copied to the society in question.

Revocation of a registration

23.33 The Licensing Authority may determine to revoke the registration of a society if it thinks that they would have had to, or would be entitled to, refuse an application for registration if it were being made at that time.

23.34 Revocations cannot take place unless the society has been given an opportunity to make representations at a hearing. In preparation for this, the Licensing Authority will inform the society of the reasons why it is minded to revoke the registration and provide them with the evidence on which it has reached that preliminary conclusion.

23.35 Any representations received will be considered at a formal hearing and the following principles will be applied when reaching a decision:

- Whether allowing the registration of the society to continue would be consistent with the Act

- Whether allowing the registration of the society to continue would be consistent with the promotion of the licensing objectives
- Whether allowing the registration of the society to continue would be consistent with any relevant code of practise issued by the Gambling Commission.

24. Exchange of Information

- 24.1 To ensure the licensing objectives are met, the Licensing Authority will establish a close working relationship with the Police, the Gambling Commission and, where appropriate, other responsible authorities.
- 24.2 Subject to the provisions of the Data Protection Act 1998, the Licensing Authority will share any information it receives through the application process with the Gambling Commission, and any relevant responsible authority. In doing so the Licensing Authority will have regard to the Act itself, any guidance issued by the Commission and to any Regulations issued by the Secretary of State.
- 19.3 The Licensing Authority is committed to being open about what it does and how it comes to a decision, 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.
- 24.4 Individual requests should be made in writing via the Council's website foi@wyreforestdc.gov.uk.
- 24.5 Unless restricted by the Gambling 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.

25. Enforcement Protocols

- 25.1 The main enforcement and compliance role for the Licensing Authority in terms of the Gambling Act 2005 will be to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for the Operator and Personal Licences and will also take the lead role on the investigation and where appropriate, the prosecution of illegal gambling. Any concerns about manufacture, supply or repair of gaming machines will not be dealt with by the Licensing Authority but will be notified to the Gambling Commission.
- 25.2 The Licensing Authority will work with the Commission, the Police and other enforcing authorities, having regard to any specific guidance produced by the Gambling Commission, relevant codes of practice, the licensing objectives and this statement of principles, 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.

- 25.3 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.
- 25.4 We will also have regard to the Regulators' Code whilst carrying out our regulatory functions.
- ~~25.5 The Licensing Authority will also be mindful of future developments as regard the work of the Better Regulation Executive whilst carrying out its regulatory functions.~~
- 25.5 The Licensing Authority will endeavour to be proportionate, accountable, consistent, transparent and targeted, as well as avoiding duplication with other regulatory regimes so far as possible.
- 25.6 In order to ensure compliance with the law, the Licensing Authority will prepare a risk-based Inspection Programme and will carry out regular 'routine' day time programmed inspections, based on risk assessment in the categories high, medium and low and will also carry out 'non-routine' evening programmed inspections. Where a one-off event takes place under a temporary use notice or occasional use notice, the Licensing Authority may also carry out inspections to ensure the licensing objectives are being promoted.
- 25.7 High-risk premises are those premises that have a history of complaints and require greater attention with low risk premises needing only a lighter touch so that resources are effectively concentrated on problem premises.

26. Reviews

- 26.1 A request for a review of a premises licence can be made by interested parties or responsible authorities, however, the Licensing Authority will decide if the review is to be carried out on the basis of the following:
- In accordance with any relevant Code of Practice and/or guidance issued by the Gambling Commission
 - Consistent with the licensing objectives
 - In accordance with the statement of principles
- 26.2 The Licensing Authority will also consider whether or not the request for a review is frivolous, vexatious, or repetitious or whether it would wish to alter/revoke or suspend the licence.
- 26.3 The Licensing Authority can also initiate a review of a premises licence on the basis of any reason which it thinks is appropriate, including if a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

26.4 Once a valid application for a review has been received by the Licensing Authority, representations can be made by responsible authorities and interested parties during the statutory consultation period. The purpose of the review will be to determine whether it should take any action in relation to the licence. The options available are:

- add, remove or amend a licence condition;
- remove or amend a default condition, such as opening hours;
- suspend the premises licence for a period not exceeding 3 months; or
- revoke the licence.

Scheme of Delegation

The Licensing Authority is responsible for making licensing decisions but may delegate some of its powers to authorised officers. The table shows how it is proposed decisions will be made.

Matter to be dealt with	Full Council	Licensing Sub-Committee	Officers
Final approval of three year licensing policy	X		
Policy not to permit casinos	X		
Fee setting (where appropriate)			X
Application for premises licences		Where representations have been received and not withdrawn	Where no representations have been received or 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 or representations have been withdrawn
Application for a transfer of licence		Where representations have been received from the Commission	Where no representations have been received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations have been received or representations have been withdrawn
Review of a premises licence		X	
Application for club gaming/club machine permits		Where objections have been made (and not withdrawn)	Where no objections have been made or objections have been withdrawn
Cancellation of club gaming/club machine permits		X	
Applications for other permits			X

**Agenda Item No. 4
Appendix 1**

Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

Appendix A

List of Consultees

Chief Officer of West Mercia Police

Gambling Commission

All Other Responsible Authorities Identified in the Gambling Act 2005

Director of Public Health

District Councillors

Parish Councils

Holders of Premises Licences issued by the Council under the Gambling Act 2005

Gambling Trade Associations:

Association of British Bookmakers
British Amusement Catering Trade Association
Bingo Association
National Casino Forum
Lotteries Council
Hospice Lotteries Association

Organisations working with those who have a gambling problem:

GamCare
Gamblers Anonymous

Tourism Groups

Sporting venues



GOSCHALKS
SOLICITORS

BY EMAIL ONLY
Licensing Department
Wyre Forest District Council

Please ask for: Richard Taylor
Direct Tel: [REDACTED]
Email: [REDACTED]@gosschalks.co.uk
Our ref: RJT / MJM / 097505.00005
#GS2151064
Your ref:
Date: 4th September 2018

Dear Sir/Madam,

Re: Gambling Act 2005 Policy Statement Consultation

We act for the Association of British Bookmakers (ABB) and have received instructions to respond on behalf of our client to the current consultation on the Council's review of its gambling policy statement.

The Association of British Bookmakers (ABB) represents over 80% of the high street betting market. Its members include large national operators such as William Hill, Ladbrokes Coral and Paddy Power, as well as almost 100 smaller independent bookmakers.

Please see below for the ABB's response to the Council's current consultation on the draft gambling policy statement.

This response starts by setting out the ABB's approach in areas relevant to the local authority's regulation of betting shop premises, and its commitment to working with local authorities in partnership. The response finishes by highlighting matters within the policy statement which the ABB feels may need to be addressed.

Betting shops have been part of the British high street for over 50 years and ensuring a dialogue with the communities they serve is vital.

The ABB recognises the importance of the gambling policy statement in focusing on the local environment and welcomes the informed approach this will enable operators to take for example, with regard, to the new requirements for local area risk assessments and ensuring the right structures are in place in shops that are appropriate for that area.

Whilst it is important that the gambling policy statement fully reflects the local area, the ABB is also keen to ensure that the statutory requirements placed on operators and local authorities under the Gambling Act 2005 remain clear; this includes mandatory conditions (for instance, relating to Think 21 policies) and the aim to permit structure. Any duplication or obscuring of

these within new processes would be detrimental to the gambling licensing regime. The ABB also believes it is important that the key protections already offered for communities, and clear process (including putting the public on notice) for objections to premises licence applications, continue to be recognised under the new regime.

Any consideration of gambling licensing at the local level should also be considered within the wider context.

- the overall number of betting shops is in decline. The latest Gambling Commission industry statistics show that numbers as of March 2017 were 8,788 - a decline of 349 since March 2014, when there were 9,137 recorded.
- planning law changes introduced in April 2015 have increased the ability of licensing authorities to review applications for new premises, as all new betting shops must now apply for planning permission.
- successive prevalence surveys and health surveys tells us that problem gambling rates in the UK are stable (0.6%) and possibly falling.

Working in partnership with local authorities

The ABB is fully committed to ensuring constructive working relationships exist between betting operators and licensing authorities, and that where problems may arise that they can be dealt with in partnership. The exchange of clear information between councils and betting operators is a key part of this and the opportunity to respond to this consultation is welcomed.

LGA – ABB Betting Partnership Framework

In January 2015 the ABB signed a partnership agreement with the Local Government Association (LGA), developed over a period of months by a specially formed Betting Commission consisting of councillors and betting shop firms, which established a framework designed to encourage more joint working between councils and the industry.

Launching the document Cllr Tony Page, LGA Licensing spokesman, said it demonstrated the *"desire on both sides to increase joint-working in order to try and use existing powers to tackle local concerns, whatever they might be."*

The framework builds on earlier examples of joint working between councils and the industry, for example the Medway Responsible Gambling Partnership which was launched by Medway Council and the ABB in December 2014. The first of its kind in Britain, the voluntary agreement led the way in trialing multi-operator self-exclusion. Lessons learned from this trial paved the way for the national multi-operator self-exclusion scheme now in place across the country. By phoning a free phone number (0800 294 2060) a customer who is concerned they are developing a problem with their gambling can exclude themselves from betting shops close to where they live, work and

socialise. The ABB is working with local authorities to help raise awareness of the scheme, which is widely promoted within betting shops.

The national scheme was first trialed in Glasgow in partnership with Glasgow City Council. Cllr Paul Rooney, Glasgow's City Treasurer and Chairman of a cross-party Sounding Board on gambling, described the project as "*breaking new ground in terms of the industry sharing information, both between operators and, crucially, with their regulator.*"

Primary Authority Partnerships in place between the ABB and local authorities

All major operators, and the ABB on behalf of independent members, have also established Primary Authority Partnerships with local authorities. These partnerships help provide a consistent approach to regulation by local authorities, within the areas covered by the partnership; such as age-verification or health and safety. We believe this level of consistency is beneficial both for local authorities and for operators.

For instance, Primary Authority Partnerships between Milton Keynes Council and Reading Council and their respective partners, Ladbrokes and Paddy Power, led to the first Primary Authority inspection plans for gambling coming into effect in January 2015. By creating largely uniform plans, and requiring enforcing officers to inform the relevant Primary Authority before conducting a proactive test-purchase, and provide feedback afterwards, the plans have been able to bring consistency to proactive test-purchasing whilst allowing the Primary Authorities to help the businesses prevent underage gambling on their premises.

Local area risk assessments

Since April 2016, under new Gambling Commission LCCP provisions, operators have been required to complete local area risk assessments identifying any risks posed to the licensing objectives and how these would be mitigated. Licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy, and any local area profile, in their risk assessment. These must be reviewed where there are significant local changes or changes to the premises, or when applying for a variation to or for a new premises licence.

The ABB fully supports the implementation of risk assessments which will take into account risks presented in the local area, such as exposure to vulnerable groups and crime. The new requirements build on measures the industry has already introduced through the ABB Responsible Gambling Code to better identify problem gamblers and to encourage all customers to gamble responsibly.

This includes training for shop staff on how to intervene and direct problem gamblers to support services, as well as new rules on advertising including banning gaming machine advertising in shop windows, and the introduction of Player Awareness Systems which use technology to track

account based gaming machine customers' player history data to allow earlier intervention with any customers whose data displays known 'markers of harm'.

Best practice

The ABB is committed to working pro-actively with local authorities to help drive the development of best practice with regard to local area risk assessments, both through responses to consultations such as this and directly with local authorities. Both the ABB and its members are open and willing to engage with any local authority with questions or concerns relating to the risk assessment process, and would encourage them to make contact.

Westminster Council is one local authority which entered into early dialogue with the industry, leading to the development of and consultation on draft guidance on the risk assessment process, which the ABB and our members contributed to. Most recently one operator, Coral, has been working closely with the Council ahead of it issuing its final version of the guidance, which we welcome.

The final guidance includes a recommended template for the local area risk assessment which we would point to as a good example of what should be expected to be covered in an operator's risk assessment. It is not feasible for national operators to submit bespoke risk assessments to each of the c.350 local authorities they each deal with, and all operators have been working to ensure that their templates can meet the requirements set out by all individual local authorities.

The ABB would be concerned should any local authority seek to prescribe the form of an operator's risk assessment. This would not be in line with better regulation principles. Operators must remain free to shape their risk assessment in whichever way best meets their operational processes.

The ABB has also shared recommendations of best practice with its smaller independent members, who although they deal with fewer different local authorities, have less resource to devote to developing their approach to the new assessments. In this way we hope to encourage a consistent application of the new rules by operators which will benefit both them and local authorities.

Concerns around increases in the regulatory burden on operators

The ABB is concerned to ensure that any changes in the licensing regime at a local level are implemented in a proportionate manner. This would include if any local authority were to set out overly onerous requirements on operators to review their local risk assessments with unnecessary frequency, as this could be damaging. As set out in the LCCP a review should only be required in response to significant local or premises change. In the ABB's view this should be where evidence can be provided to demonstrate that the change could impact the premises' ability to operate consistently with the three licensing objectives.

Any increase in the regulatory burden would severely impact ABB members at a time when overall shop numbers are in decline, and operators are continuing to absorb the impacts of significant recent regulatory change. This includes the increase to 25% of Machine Games Duty, limits to staking over £50 on gaming machines, and planning use class changes which require all new betting shops in England to apply for planning permission.

Employing additional licence conditions

It should continue to be the case that additional conditions are only imposed in exceptional circumstances where there are clear reasons for doing so. There are already mandatory and default conditions attached to any premises licence which will ensure operation that is consistent with the licensing objectives. In the vast majority of cases, these will not need to be supplemented by additional conditions.

The LCCP require that premises operate an age verification policy. The industry operates a policy called “Think 21”. This policy is successful in preventing under-age gambling. Independent test purchasing carried out by operators and the ABB, and submitted to the Gambling Commission, shows that ID challenge rates are consistently around 85%. The ABB has seen statements of principles requiring the operation of Challenge 25. Unless there is clear evidence of a need to deviate from the industry standard then conditions requiring an alternative age verification policy should not be imposed.

The ABB is concerned that the imposition of additional licensing conditions could become commonplace if there are no clear requirements in the revised licensing policy statement as to the need for evidence. If additional licence conditions are more commonly applied this would increase variation across licensing authorities and create uncertainty amongst operators as to licensing requirements, over complicating the licensing process both for operators and local authorities

Other concerns

Where a local area profile is produced by the licensing authority, this be made clearly available within the body of the licensing policy statement, where it will be easily accessible by the operator and also available for consultation whenever the policy statement is reviewed.

Considerations specific to the Draft Statement of Principles 2019 – 2022

Paragraph 1.5 indicates that the Statement of Principles is seeking to “promote” the licensing objectives set out in Gambling Act 2005. In exercising most of its functions under Gambling Act 2005, the Licensing Authority is required to “have regard” to the licensing objectives and not to promote them. Accordingly, this paragraph, should be re-drafted.

Paragraph 11.1 contains a list of bullet points that the Licensing Authority expects to be considered when completing a local risk assessment. The first bullet point (“*whether the premise is in an area of deprivation*”) should be deleted as this is not relevant to an assessment of whether or not the operation of a premise is reasonably consistent with the licensing objectives unless the Licensing Authority has predetermined that persons within an area of deprivation are automatically vulnerable or more likely to commit crime as a result of gambling. We are certain that this predetermination has not been made and therefore this bullet point should be deleted.

Paragraph 11.4 also contains a list of bullet points, the final one of which should be deleted. This refers to “primary gambling activity” which is no longer a phrase used by the Gambling Commission and in any event would not be relevant to an assessment of risk to the licensing objectives.

We welcome the implicit acknowledgement within paragraph 15.1 that the mandatory and default conditions are usually sufficient to ensure operation that is reasonable consistent with the licensing objectives. This section would, however, be assisted if it was made clear that the “*particular cases*” where the Licensing Authority may find it necessary to impose additional conditions are those cases where there is clear evidence of a risk to the licensing objectives and the particular circumstances of a case.

Conclusion

The ABB and its members are committed to working closely with both the Gambling Commission and local authorities to continually drive up standards in regulatory compliance in support of the three licensing objectives: to keep crime out of gambling, ensure that gambling is conducted in a fair and open way, and to protect the vulnerable.

Indeed, as set out, the ABB and its members already do this successfully in partnership with local authorities now. This includes through the ABB Responsible Gambling Code, which is mandatory for all members, and the Safe Bet Alliance (SBA), which sets voluntary standards across the industry to make shops safer for customers and staff.

We would encourage local authorities to engage with us as we continue to develop both these codes of practice, which are in direct support of the licensing objectives, as well as our processes around local area risk assessments.

Yours faithfully,



GOSSCHALKS